

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

February 3, 1981

The eighteenth meeting of the committee was called to order at 8:00 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present with the exception of Senator Healy.

CONSIDERATION OF HOUSE JOINT RESOLUTION 7: Representative Ken Nordtvedt presented the bill saying it is a request to the Congress of the United States and the President of the United States to index the federal personal income tax system for inflation. Because of the graduated nature of the federal tax, the federal government reaps huge profits from revenue collected because of "bracket creep." The second part of the bill calls on Congress to act on all changes in tax rates in an open and above-board manner. This resolution is to put the Legislature on record as saying the same thing. There were no proponents or opponents or questions from the committee, so the hearing was closed on HJR 7.

Senator Severson made a motion that we take action on Senate Bill 47, the bill that puts livestock and poultry into Class VI for property taxation purposes. Senator Elliott wanted to be on record as understanding that Senator Severson meant he would be getting a 4% rather than an 8% tax rate. Senator Severson agreed that that was what he meant. Senator Severson made a motion that Senate Bill 47 be given a DO PASS. The motion carried, and the vote was unanimous in favor of the DO PASS.

CONSIDERATION OF SENATE BILL 172: Senator Manley, the bill sponsor, gave some history on why Senate Bill 172 was being introduced. The title of his bill is: "AN ACT TO TAX PRIVATELY GENERATED ELECTRICITY TRANSPORTED THROUGH A PUBLICLY OWNED TRANSMISSION SYSTEM; ALLOCATING TAXABLE VALUES TO COUNTIES; PROVIDING FOR PAYMENT OF THE TAX; REQUIRING REGISTRATION OF ELECTRICITY TRANSPORTERS; PROVIDING FOR INSPECTION OF BOOKS; AND PROVIDING A PENALTY FOR FAILURE TO REGISTER." He said from the west boundary of the State of Montana, the Bonneville Power Administration has an existing right-of-way through the Flathead Indian Reservation. Montana Power and Washington Power have attempted to use the Bonneville existing right-of-way through the reservation. The tribe decided the government had the right-of-way and the power companies

didn't. So BPA said they would build a power line, but when they got to the Flathead reservation they decided that they would continue the line to Townsend and the line would be under their jurisdiction and controlled by the federal government. This bill will attempt to tax the privately-owned generated energy at Colstrip 3 and 4, and the tax will be pro-rated to bring the counties the same amount of revenue that they would get if it were privately built. That is not federal energy going through that line; it belongs to Montana Power, Washington Power, and other companies in this agreement, according to Senator Manley.

PROPOSERS: Mike Stephen, Montana Association of Counties. He thinks energy in Montana and its pattern of development means many of the counties should be able to cash in on a revenue source when it directly affects them. He felt Montana would be constantly called upon to provide corridors for these natural resources. Steve Doherty, Northern Plains Resource Council, attachment #1. There were no further proponents.

OPPOSERS: John Alke, Montana-Dakota Utilities. He stated that MDU does not have an interest in Colstrip, but that this bill will impact them because many companies use the policy of peeling power. Gene Phillips, Pacific Power and Light, Kalispell, said it appeared to him there would be both public and private power on these lines and wondered how one distinguished.

Senator Manley closed by saying that the counties that are putting up this land have given the land to pipelines, telephone lines, railroads, and highways and that they should have revenues from taxes on these lines. Since there were no more opponents, questions were called for from the committee: Senator Towe asked about the tax classification on the line. Senator Manley said he wanted a tax assessment that would equal what would have been paid on the power line if it had been privately built. The fiscal note refers to Class 11 which is the catch-all for utility properties, but Senator Manley thought it would be at 16%.

The hearing was closed on Senate Bill 172.

CONSIDERATION OF SENATE BILL 183:

"AN ACT REPEALING THE ROLLBACK TAX ON AGRICULTURAL LAND; DECLARING CERTAIN TAXES UNCOLLECTABLE; AMENDING SECTION 15-7-209, MCA; REPEALING SECTIONS 15-7-204, 15-7-205, 15-7-207, 15-7-210, 15-7-211, 15-7-214, 15-7-215, and 15-7-403, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." Senator Hammond,

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District 3, said the reason for this bill is that it was intended to discourage the use of agricultural land for development, as far as towns and cities are concerned. A buyer is not made aware of the fact that there is such a tax until the development is completed. After the land is developed, it is assessed at developed value and the tax is rolled back for 4 years. This tax is not paid by the developer or the farmer who sold the land, but passed on to the home owner. He felt this discourages people from buying lots or building a home. Further, he thought this part of the law should be repealed, and that's what 183 will try to do.

PROPONENTS: Ruth Baenen, assessor, felt it had been a bad bill. She didn't think it fair to put new taxes on the new owner; further, she felt the bill has been hard to implement and collect on. Angus Fulton, representing Llewellyn Association, in Yellowstone County, and also representing property owners in Billings who have a class action suit protesting the rollback, said: 1) the main purpose of the tax has not been fulfilled, 2) there have been problems in imposing and enforcing the tax collection, because of ambiguities in the law, 3) there is lack of uniform enforcement, and 4) the roll-back tax is a penalty tax and she questioned its constitutionality. Jim McLean, Attorney from Bozeman, favored repeal because it does not curtail development on agricultural land, but only raises cost to the ultimate buyer.

Dennis Burr, Montana Taxpayer's Association, supports repeal. He felt one of the main problems is that all land in the state has to be classified.

Glenn Buss, Bozeman, said that two segments of state government have opposing views on it. STAB has labeled the present roll-back as unconstitutional, while the Revenue Department wants to enforce the law. He favored repeal rather than fighting it out in the courts.

Tom Harrison, Montana Home Builder's Association, would like to see an amendment to address all the problems this tax has created.

Scott Curey, Montana Association of Realtors.

Gene Cook, Bozeman real estate person, felt there was no consistent policy in defining agricultural land.

Senators Elmer Severson and John Manley expressed their support of the bill.

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OPPONENTS: Ruth Sjelvik, Helena, representing herself, felt roll-back tax is unfair and selectively rolled-back. She questioned the constitutionality of repealing penalties for a law while it's been in effect and felt that repealing 207 takes away the procedure for use change under the same ownership.

Larry Weinberg, Department of Revenue, was in a neutral position as far as the bill is concerned, but felt that amendments needed to be considered. His suggested amendments are attached, attachment #1.

The hearing was closed on Senate Bill 183.

CONSIDERATION OF SENATE BILL 192: Sponsoring Senator Roger Elliott said his bill deals with appraisals. The bill, "AN ACT TO EXTEND THE TAXABLE PROPERTY REVALUATION CYCLE FROM 5 YEARS TO 20 YEARS; AND TO REMOVE THE REQUIREMENT THAT A SET PERCENTAGE OF PROPERTY BE REVALUED EACH YEAR OF THE CYCLE; AMENDING SECTION 15-7-111, MCA," will direct the Department of Revenue in specific rules. He said 15-17-111, 112, and 113 are keys to the equalization problem, and his bill would allow the Department of Revenue to use the year 1979 for a period of twenty years to determine new assessment values. This would save the taxpayers much money and also give adequate time for assessment. He felt it would be much simpler to amend maximum mill levies than to continually reappraise all property in the State of Montana.

PROPONENTS: Ruth Baenen, Assessor from Lincoln County, felt that 20 years was too long and said she would like to see the bill amended to give a shorter reappraisal time, say 2-5 years.

OPPONENTS: Larry Weinberg, Department of Revenue, said he also thought the 20-year period was too long. In answer to a question from Senator Towe about present appraisal techniques, Mr. Weinberg told him that there are two pieces of information being recorded. One is the market value based on the 1978 method, which will be the basis for this tax, and then simultaneous information is being taken that would allow that house to be converted to a different value at the end of 1983. Senator Elliott suggested that the bill be amended to 10 years. The hearing was closed on Senate Bill 192.

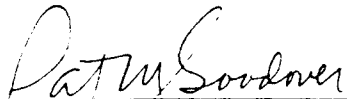
DISPOSITION OF SENATE BILL 42: Senator Eck said she had decided not to introduce the bill she had been thinking of that would be similar to this bill, but that Senator Van Valkenburg had a bill which is tied to the discount rate. It was decided to hold this bill until Senator Van Valkenburg's bill came in.

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DISPOSITION OF SENATE BILL 85: Senators Steve Brown and Cort will get together to work up some amendment language for Senate Bill 85, which would deal with cash prizes in raffles.

The meeting was adjourned at 10:00 a.m.

  
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PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/03/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"		✓	
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

DATE February 3, 1981COMMITTEE ON TAXATION

## VISITORS' REGISTER

NAME	REPRESENTING	Senate BILL #	Check One			
			Support		Oppose	
			172	183 192	172	183 192
John Alke	Mont.-Oak Val					✓
K. Ruth Baenen	Assessor		✓	✓		
Glen Buss	Self	183		✓		
Gene Cook	Self	183		✓		
Jim McLean	Self	183		✓		
Neil Wtetch	Mont. Home Builders Assoc	183		✓		
Larry Winberg	D.O.R.	172, 183, 192	← Neutral →			
W <sup>M</sup> M. Spilker	SELF	183		✓		
Ingus Fulton	Llewellyn Assoc	183		✓		
Tom Harrison	Mont. Home bu. Hous Assoc	183		✓		
Mike Stephen	MT Assoc. of Counties		✓			✓
Scott Currey	MT. ASSOC OF REALTOR			✓	✓	
Steve Osherty	NPRC		✓			

(Please leave prepared statement with Secretary)

# STANDING COMMITTEE REPORT

February 3

1981

MR. **President**

We, your committee on **Taxation**

having had under consideration **Senate** Bill No. **47**

Respectfully report as follows: That **Senate** Bill No. **47**

DO PASS

*He.*

**Senator Pat M. Goodover**

Chairman.



# STANDING COMMITTEE REPORT

February 3, 1981

MR. CHAIRMAN

## TAXATION

We, your committee on

having had under consideration Senate Bill No. 148

Respectfully report as follows: That Senate Bill No. 148

DO NOT PASS

~~XXXXX~~  
DO PASS

JRF

COMMENTS ON SB 183

From Larry Weinberg, DOR, Feb. 3, 1981

1. Sec. 15-7-403 proposed for repeal deals with rollback taxes on residential property. Either this section should be deleted out of SB 183 or the title should be amended.
2. Section 2 of the bill needs clarification. If a refund of protested taxes is required, it should be stated. Also, it would be advisable to discharge all tax debts based on rollback taxes.
3. Sec. 15-7-207 is proposed for repeal. It might be advisable to retain the first sentence, eliminating the reference to taxation.
4. Sec. 15-7-210 is proposed for repeal. It might be advisable to retain the language concerning breaking off a parcel of land for a non-agricultural use.

Senator Norman requested this be typed out for the committee's use in considering this bill.

My name is Rut Ejelvik, I live in Helena, and I'm representing myself. I oppose SB 183, not because I favor the rollback tax, but because I feel it is unfair to <sup>or</sup> rescind the tax for those who have not paid or who have paid under protest. What about people who have paid without protest? This bill seems to say they don't deserve a break because they were dumb enough to quietly obey the law. I also question the wisdom and possible constitutionality of repealing penalties for a law while it's been in effect.

Third point: repealing section 207 takes away any criteria or means for determining use change after the initial assessment if the land remains under the same ownership, as I interpret it.

I hope that you will address these questions in your discussions.

Whether or not you have a rollback tax, the necessity for determining change in use remains. Otherwise land will be taxed as agricultural that is not agricultural land.

DEPARTMENT OF REVENUE

Legal Division

MEMORANDUM

Date:

TO: Senate Taxation Committee

FROM: Larry Winkler

Comments on SB 183

1) § 15-7-403 proposed for repeal deals with rollback taxes on residential property. Either this section should be deleted out of SB 183 or the title should be amended.

2) Section 2 of the bill needs clarification. If a refund of protested taxes is required, it should be stated. Also, it would be advisable to discharge all tax debts based on rollback taxes.

(over)

3) § 15-7-207 is proposed for repeal. It might be advisable to retain the first sentence, eliminating the reference to taxation.

4) § 15-7-210 is proposed for repeal. It might be advisable to retain the language concerning breaking off a parcel of land for a non-agricultural use.

# NORTHERN PLAINS RESOURCE COUNCIL

Main Office  
419 Stapleton Bldg  
Billings, Mt. 59101  
(406) 248-1154

Field Office  
P.O. Box 886  
Glendive, Mt. 59330  
(406) 365-2525

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL on SB 172  
**SENATE TAXATION COMMITTEE** February 3, 1981

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The Northern Plains Resource Council and its three affiliate organizations located in the Boulder, Deer Lodge, and Missoula areas have been long and intimately involved with the controversy surrounding the construction and siting of transmission lines by the Bonneville Power Administration.

The abuses that local citizens and governments have suffered at the hands of the BPA are many. Perhaps one of the more flagrant examples of federal authority is found in the case of the disappearing tax benefits.

As the Colstrip project was originally proposed there were to be tax benefits to those counties in which the the transmission lines were to be located. Unfortunately in late 1977 the Montana Power Co. requested the BPA to construct a portion of the lines. Less than six weeks later, in December of 1977, the BPA, without holding Congressional hearings, acceded to the request.

BPA sought full Congressional authorization and received it one year later. There is no mention of any hearings on the differing impacts of public vs. private corporation construction of the lines. It simply was not examined. In fact, federal environmental impact statements filed in January and July of 1979 mention the possibility of BPA construction, when it was in fact, a reality.

We view SB 172 and all other bills like it as a legitimate attempt by Montanans to garner tax revenue which they were led to believe would follow the lines. We urge that the committee give this bill a "do pass" recommendation.