

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

February 21, 1981

The 33rd 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.

The first order of business was consideration of Senate Bill 483. At February 20th's meeting a motion was made and carried to table this bill. Senator Towe made a motion that SB 483 be removed from the table. This motion carried, Sen. Manley dissenting.

Senator Towe Moved that the material on the bottom of page 12 and top of page 13 be deleted.

Senator McCallum asked why this was being changed as there are still two different manuals for this years' appraisals.

Larry Weinberg, Dept. of Revenue, said the DOR doesn't have any problem with reinstating the language, but the approach for handling property will be during a cycle (the present cycle is Jan. 1, 1979, to Dec. 31, 1983.) The next cycle starts Jan. 1, 1984 at which time the Dept. of Revenue will have put out a new manual.

Mr. Weinberg continued: Say Jan. 1, 1980, is the day to focus on. Our job in 1984 is to put every bit of real property on the books with the market price as of 1980. We don't want to get into the position of putting residential property as of 1980 and commercial as of 1983. When we put the market value on for the entire cycle, it will be as of some particular date. The question is when we get into each class and have to determine market value as of that date. We would like the option to see residential in one property class and commercial and industrial in another. It might be that it would be appropriate to use a completely different method. If one class involves using a 1972 manual and another a 1976 one, that's OK, provided we meet market value as of 1980.

Helen Peterson from STAB said the bill we're considering is supposed to be the product of the HJR 5 Committee. She continued saying if the bill was meant to follow the mandates of HJR 5, she didn't think it did. She said she had no objection to placing property in two different classes but didn't think it went far enough. She understood that someone from the Dept. of Revenue indicated to this committee that values come out the same when the Montana appraisal manual and the Marshall service are used, and she said this is not true. She handed out a summary of evidence, Attachment #1.

Sen. Turnage said he thought the problem is one of lack of understanding of the existing problem. We can't say this is the DOR's problem and we can't say it is STAB's. This is Montana's problem. What we started out to do was sever residential from commercial and industrial. He didn't think any one manual would fairly and adequately compare the properties.

Rep. Sivertsen: I would like to say that I hope you give this favorable consideration. I think we are going to have to use all the latest evidence possible and simply have to separate the two classes. There's no way you can use the same manual.

Rep. Mel Williams said he concurred with the approach of separating residential from commercial and industrial. He thought the problem of assessment should be treated outside this bill.

Sen. Elliott wondered about dividing of classifications and asked if anyone saw some divisiveness where, at a later date, the percentages of taxable value can be changed quite easily because a smaller group would be tackled. He asked Larry Weinberg if they use this year basis for each property classification.

Larry Weinberg: As far as permitting someone to come in at 8.55 to 10% that certainly is possible. To a certain extent this would make it easier because you would have an easier vehicle. There's nothing to stop anyone from doing that right now. Neither commercial or residential are small minority groups.

Jack Gribble, Administrator for Property Tax, STAB: About different year levels, it is our intent that we will use one date for the appraisal of all property. Part of the problem was that the state did not have a commercial manual and we had to go to an appraisal service. It is our full intent that we will have a Montana appraisal manual in place that will handle all classes of property.

Sen. Towe: I move to re-strike the material that was reinstated yesterday.

Sen. McCallum: Why?

Sen. Towe: The material put back in the bill includes the words "appraised on its market value in the same year." That was what they attempted to do; that is what STAB said they failed to do. The courts have gone along with STAB. Let's take the language out and not argue about the same year. We want to make sure everything will be taxed uniformly. Taking it out gives us a better chance in the courts.

Sen. Elliott wanted to make a substitute motion that he thought would meet his requirements. The motion would be to strike the existing paragraph 5 and insert new wording: "The market value of land and improvements during cycle under 15-7-111 through 15-7-114 shall be based on market value as of the same date as specified by the department by rule."

Sen. Towe said if he could make that amendment applicable to the next cycle he would go along with it.

McCallum to Towe: We're going to make it legal that there can be a 34% differential? Towe: Yes, from now on.

Sen. Goodover asked Sen. Turnage if he had any problem with either one or both motions.

Sen. Turnage said they were fairly close, but he thought Sen. Towe was correct--we don't want to muddy the waters. If that could apply to the next ensuing cycle, there is no problem but to make it retroactive. If you use that language, have it apply to the next cyclical appraisal. I think you are on the same track and I have no problems.

Severtsen: When we talk about the possibility of using two different base years, let's remember that the legislature can stipulate to the Dept. of Revenue that we will want to use the most up-to-date information they have in which to create a base to go on in this appraisal. The plan is to come up with a Montana manual. If we don't separate the classes, we have lots of problems.

Helen Peterson: Marshall valuation service covers both commercial and residential property. I have problems with what Sen. McCallum said because of what has been before this committee. I have no problem with future plans--I hope they are implemented in the next cycle. In discussing this legislation with my two attorneys, they have suggested that should the classes be separated and nothing done to equalize them, there would be a constitutional challenge.

Sen. Turnage said he thinks the legislature thrives on threats. We would be in the wrong business if we didn't.

Sen. Elliott said that what he sees here is a throwing of the commercial property owner to the wolves. They will have no leg to stand on in counting their valuations in the 1981 appraisals which will be coming up this March. Personally, I don't want to do that. Despite problems the state has, I don't think it's fair. But I will withdraw my motion so I don't infringe on whatever this committee wants.

McCallum: It just seems to me we aren't curing it. I think this is an unfair bill.

Sen. Towe moved that we add a new section to the bill which would be section 7 and renumber subsequent sections accordingly. On Page 13, line 10, after figure "(5)" put "and (7)". Page 14, line 18, following line 18 new subsection (6) and renumber accordingly. Put after the end of that page and make a new section 7 "In appraising any class of property the DOR may use a manual to determine the value in each class provided it is uniformly applied in each class. On page 13, line 9, change subsection to subsections.

Dennis Burr asked if by separating these two classes anything is solved. The way to solve that is to put in an exception.

Sen. Norman: In the commercial class there may be a type of specialized property that you would not know what it would sell for because it wouldn't sell that often and you don't know how to appraise it. Maybe they can

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find a manual that accurately describes how to appraise but it turns out to be a 1973 manual. They can go to property in that manual and then use some rational means of bringing it up to 1981 standards. If you say they have to use the current manual, I don't see how they could do it.

Sen. Elliott: I think the method should be left to the Department of Revenue. They are capable of appraising any property in the state one way or another. I think they should be able to use the full legitimate sources they have and not be tied as to source. What we are interested in is the base year.

Helen Peterson was asked by Sen. Goodover if she had any problem with this amendment or if she had a better idea.

Helen said she thought manuals based on replacement costs could be used to appraise anything. One of the things that might cause a problem is that mobile homes are appraised every year. Use of a mobile home is still the same as a single family dwelling, but that with proposed language she could see no problem.

Jack Gribble: We have manuals we use in other classes of property. As far as I can see, if we are saying we use manuals uniformly within a class it is all right. He asked if it was all right to use special manual for heavy cranes, etc, and the answer was yes.

Sen. Towe said in effect the amendment authorizes the Dept. of Revenue to use a manual and by saying it is an exception it is saying that we recognize manuals are only an approximation of 100% of market value, but we are permitting the Dept. to use it even though it isn't right on. The one thing we want is for a manual to be uniformly applied to every piece of property within a class.

Question on the motion: It was voted unanimously to accept the motion and give SB 483 a DO PASS, as amended.

With regard to the Statement of Intent. Sen. Turnage thought it could cause more problems than it would help, and recommended dropping the statement of intent.

Sen. Towe moved that the Statement of Intent be adopted. The motion carried with Sen. Elliott dissenting.

Sen. McCallum to Larry Weinberg: In the interim Finance Committee it was brought out that you are only about 5 to 10% complete on appraisal; the 90% appraisal you are going to come up with could be appraised at 34% more?

Larry Weinberg: The law could permit that. There are two processes going on now in the Dept. of Revenue: One is a reappraisal to come on the books at the start of the next cycle and the other, market values are being determined for taxation right now. The reappraisal process is to eliminate any problems with the two manuals so when the next cycle starts everyone is happy. For on-going market values, you will see them when you get the statement from your county assessor this year. The methods the Department has used for the past few years will continue until the end of the cycle.

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Jan. 1, 1986, when the new market values go on, ideally commercial, residential, and industrial will be treated the same.

Jack Gribble: The values you currently see on your tax bills were created during the last valuation cycle. The only thing that will be altered is if something is done to that value. Values of 1978 continue on through. The only appraisals we will be using are either new housing or commercials that are constructed, and they will be used only until we complete re-evaluation program. At the same time we are using the 1979 manual on other properties.

The Chairman said the bill sits before us with a recommendation to DO PASS, as amended. The motion carried by a 10-3 margin, Senators McCallum, Manley and Elliott dissenting.

#### DISPOSITION OF SENATE BILL 15

Sen. Towe suggested that we formally strike Section 15 from Sen. Mazurek's gray bill as Sen. Mazurek had said this section was left in inadvertently during amendment. Sen. S. Brown made a motion that we strike the reference to 20-9-440 in the title and strike Section 15 from the bill and renumber subsequent sections. He said the recommendation from the subcommittee was a DO PASS, as amended. The motion carried unanimously.

Sen. Goodover said he was told that this bill had been acted upon and that the amendment was part of the action. Sen. Goodover said D. A. Davidson's proposed amendment would have been to put in the Bond Buyer's Index. He said that isn't a government document--but a commercial document with high reliability. It proposes no interest should be charged for general obligation bonds over 1 1/2% of the BBI rate at the time of issuance of bonds and that no SIDs should be sold for more than 3% over the BBI.

Sen. Crippen said he had talked to Bruce MacKenzie and he had said that if we had to do it that way, that is the way to do it. Sen. Crippen said he would prefer not to have a ceiling on. Sen. S. Brown said the law is clear that they can set the limit when the bonds are issued, and they can reject if they want. He felt they really didn't care what interest rate they pay if there is a fire and need is vital to rebuild quickly.

Sen. Elliott: In discussion of another issue on a previous day we were given a sheet of paper showing an analysis. Montana was the third lowest state on multiple bond rates. He moved that we vote the amendment as proposed. The motion to adopt the amendment supplied by D. A. Davidson lost by a 3-10 vote. The motion to pass SB 15, as amended, passed by a 12-1 margin.

#### DISPOSITION OF SENATE BILL 412:

Sen. S. Brown mentioned that SB 412 needed a statement of intent.

Sen. Norman had a comment on the statement of intent saying some boards have a very small membership. One of the problems is if one of the people who

are licensed commits some indiscretion and the board wants to do something about it, that could be costly. Does the statement of intent contemplate that and what action will the board take?

S. Brown said this sets fee to set a reserve where you might have to pay a lawyer, but he sees a lot of disparity. He said the nurses have \$130,000 in reserve. The only alternative would be to have a general fund pot somewhere.

Sen. Goodover said there is no demand by the membership for this increase. It is requested by the bureaucrats on the board. They want to set up the fees for traveling, attending seminars, etc. He didn't like giving the boards the ability to set fees.

Sen. S. Brown said even though they set their fees they have to come back to us and get it appropriated. P&O has had a tough time getting money because of "emergency" stipulation. They had one disciplinary proceeding--got up against their limit, and it was concluded that just coming to a meeting wasn't an emergency. He further said it was a line-item budget.

It was mentioned that there was a motion before the committee on the statement of intent. Sen. Steve Brown moved the statement of intent be affixed to the bill.

Sen. Goodover made a substitute motion that we reconsider action taken yesterday in passing SB 412.

Sen. Towe to Sen. S. Brown: Bill 412 is recommended by the Audit Committee and takes out specific provision which now provides for fees of \$25, \$50, whatever, and says the board may set its own fee. The limitation is that they have to come to the legislature?

S. Brown answered that they set the fee but the legislature determines whether they need it or not.

Sen. Goodover to S. Brown: Your bill already has passed higher expenses for all the people on the boards. That will give them additional money for travel. On top of that, they can still ask for more money from their members.

Sen. S. Brown: It is an earmarked fund--they can't go any way except by budget amendment. About the \$40 increase--if the board can't afford to pay their members \$40 a day, they will come in and ask us to raise their fee. My feeling is that we have enough check on it through legislative process. If you increase money spent on those boards, they will have to address it to their members.

Sen. Towe to S. Brown: How is it we know they won't increase the fee and come in the next session and say "We have all this money, let's use it."

Sen. Brown said boards building up big reserves have not been authorized to spend it in the past.

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Sen. Goodover said we should tell them to go to their members and ask for the money.

Sen. Norman said the Board of Chiropractors have two dozen members. When you consider rental of office space, travel, litigation, and programs I don't see how those boards are going to be restrained from increasing their fees if they are going to have a functioning board.

Sen. Elliott: There are a few of us professionals governed by boards. The point I made yesterday was that our boards are controlled by a very select group of people and you don't have a true democratic process regarding fees and membership. I would speak against the bill, because I think we have a little more protection.

Sen. Eck wondered if it is by rule when they raise their fees. They have to have a hearing. Her feeling is when the boards were set up we put them in the law but didn't really intend to have to deal with them. She thought there were two places they could go--to the hearing and the appropriations hearing.

Sen. Elliott stated the board members are appointed by the Governor, and are a lot of non-professional people on the boards. He wasn't aware they had to adopt that by rule and he said it made it easier for him to accept the bill.

The substitute motion that SB 412 DO NOT PASS, with the statement of intent included--that neither be adopted--was put to a vote. The motion failed by a 5 to 8 vote. The motion was made to reverse the vote and give SB 412 a DO PASS, with the statement of intent attached. This motion carried by an 8 to 5 vote.

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

  
PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 2/21/81

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.

# STANDING COMMITTEE REPORT

February 21

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MR. **President**

We, your committee on **Taxation**

having had under consideration **Senate** Bill No. **15**

Respectfully report as follows: That **Senate** Bill No. **15**

(gray copy) be amended, as follows:

1. Title, line 9.

Following: "20-9-430,"

Strike: "20-9-440,"

2. Page 19, line 21.

Strike: Section 15 in its entirety.

Renumber subsequent sections.

And, as so amended,

DQ PASS

**Senator Pat M. Goodove:**

*P.A.*  
Chairman.

SENATE COMMITTEE

TAXATION

Date Feb. 21, 1981 Senate Bill No. 15 Time \_\_\_\_\_

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)		✓
SEN. BOB BROWN	✓	
SEN. STEVE BROWN		✓
SEN. CRIPPEN		✓
SEN. ECK		✓
SEN. ELLIOTT		✓
SEN. HAGER	<i>excused</i>	
SEN. HEALY		✓
SEN. MANLEY		✓
SEN. NORMAN		✓
SEN. OCHSNER		✓
SEN. SEVERSON		✓
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)	✓	

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Betty Dean

Secretary

Pat M. Goodover

Chairman

Motion: motion to adopt amendment supplied  
by D. A. Davidson

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

Date Feb 21, 1981 Senate Bill No. 15 Time 9:22

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)	✓	
SEN. BOB BROWN	✓	
SEN. STEVE BROWN	✓	
SEN. CRIPPEN	✓	
SEN. ECK	✓	
SEN. ELLIOTT	✓	
SEN. HAGER	<i>refused</i>	
SEN. HEAL	✓	
SEN. MANLEY	✓	
SEN. NORMAN	✓	
SEN. OCHSNER	✓	
SEN. SEVERSON	✓	
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)		✓

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Betty Dean  
Secretary  
Motion: To pass bill, as amended.

Pat M. Goodover  
Chairman

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

February 21

81

19

## PRESIDENT:

MR. ....

## TAXATION

We, your committee on .....

Senate

483

having had under consideration ..... Bill No. ....

Respectfully report as follows: That ..... Senate ..... 483  
Bill No. ....

be amended, as follows:

1. Page 13, line 9.

Following: "in"

Strike: "subsection"

Insert: "subsections"

Page 13, line 10

Following: "(5)"

Insert: "and (7)"

3. Page 15, line 4

Following: "property."

Insert: "(7) In appraising any class of property, the department of revenue may use a manual to determine the value in each class provided it is uniformly applied in each class."

And, as so amended,

DO PASS

# STANDING COMMITTEE REPORT

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MR. **PRESIDENT:** .....

We, your committee on **TAXATION** .....

having had under consideration **Statement of Intent, Senate** Bill No. **483** .....

Respectfully report as follows: That **Statement of Intent, Senate** Bill No. **483** .....

**be adopted.**

## STATEMENT OF INTENT RE: SB 483

The legislature is cognizant of the substantial litigation concerning the valuation of residential property and commercial and industrial property, the so-called "34% cases". Such protracted litigation and related proceedings are not in the interest of the taxpayer or the taxing authority. In order to eliminate similar litigation, the legislature considers it advisable to create separate classes of property for residential land and improvements and commercial and industrial land and improvements. By so doing the legislature intends to recognize that residential properties are typically held and exchanged as family dwelling units, while commercial and industrial properties are typically held and exchanged on the basis of their income-generating characteristics. These disparate uses prompt different appraisal considerations when estimating market value as provided in Section 15-8-111 MCA.

The legislature intends to leave the valuation of agricultural land unchanged from the present law. The percentages that convert productive capacity to taxable value remain unchanged.

~~XXXXXX~~

First adopted by the Senate Taxation Committee on the 21st day of February, 1981.

*Pa.*

SENATE COMMITTEE TAXATION

Date Feb. 21, 1981 Senate Bill No. 483 Time 8:40

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)		✓
SEN. BOB BROWN	✓	
SEN. STEVE BROWN	✓	
SEN. CRIPPEN	✓	
SEN. ECK	✓	
SEN. ELLIOTT		✓
SEN. HAGER	<i>excused</i>	
SEN. HEALY	✓	
SEN. MANLEY		✓
SEN. NORMAN	✓	
SEN. OCHSNER	✓	
SEN. SEVERSON	✓	
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)	✓	

Betty Dean

Secretary

Pat M. Goodover

Chairman

Motion: To ~~redelete~~ sub-paragraph 5 on  
Pages 12 and 13 of the bill.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

Date Feb. 21, 1981 Senate Bill No. 483 Time 9:05 a.m.

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)		✓
SEN. BOB BROWN	✓	
SEN. STEVE BROWN	✓	
SEN. CRIPPEN	✓	
SEN. ECK	✓	
SEN. ELLIOTT		✓
SEN. HAGER	<i>absent</i>	
SEN. HEALY	✓	
SEN. MANLEY		✓
SEN. NORMAN	✓	
SEN. OCHSNER	✓	
SEN. SEVERSON	✓	
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)	✓	

**10 - 3**

Betty Dean  
Secretary

Pat M. Goodover  
Chairman

Motion: No pass SB 483, as amended.

(include enough information on motion--put with yellow copy of committee report.)

# STANDING COMMITTEE REPORT

February 21

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**PRESIDENT:**

MR. ....

**TAXATION**

We, your committee on .....

Senate

Bill No. 412

having had under consideration .....

Senate

Bill No. 412

Respectfully report as follows: That .....

**(STATEMENT OF INTENT ATTACHED)**

*PA*

DO PASS

PAT M. GOODOVER

Chairman.

February 21 1981

It is the intent of the Legislature that fees set by licensing boards be reasonably related to the costs of the respective programs. "Programs" of the licensing boards are intended to be such areas of responsibility as applications, examinations, renewals, and reciprocity. "Reasonably related" is intended to mean that the department generally break down the costs associated with the various programs and set each fee at a level to cover these costs and the costs of maintaining the ongoing operations of the board. "Reasonably related" does not mean the department is required to maintain an exact system of actual costs, but rather means the department should generally allocate costs of the program equitably among the various fee categories.

First adopted by the Senate Taxation Committee on the 21st day of February, 1981.

*P.A.*

PAT M. GOODOVER.

Chairman.

# STANDING COMMITTEE REPORT

February 21

81

19.....

**PRESIDENT:**

MR. ....

## TAXATION

We, your committee on.....

Statement of Intent, Senate

412

having had under consideration ..... Bill No. ....

Statement of Intent, Senate

412

Respectfully report as follows: That..... Bill No. ....

be adopted.

### STATEMENT OF INTENT RE: SB 412

A statement of intent is required for Senate Bill 412 because it grants licensing boards within the Department of Professional and Occupational Licensing the authority to set fees.

Presently fees charged by most licensing boards are set by law. Wherever changed circumstances require a change in fees legislation is required. Each session several bills are introduced to modify board fees. By allowing boards to set their own fees, flexibility is provided the boards to meet changing circumstances. At the present time, fees set by law are not based upon actual costs incurred by licensing boards in carrying out their various functions.

XXXXXX  
DO PASS

(CONTINUED)

P.A.

Chairman.

SENATE COMMITTEE TAXATION

Date Feb. 21, 1981 Senate Bill No. 412 Time 9:50 a.m.

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)		✓
SEN. BOB BROWN	✓	
SEN. STEVE BROWN	✓	
SEN. CRIPPEN	✓	
SEN. ECK	✓	
SEN. ELLIOTT		✓
SEN. HAGER	<i>excused</i>	
SEN. HEALY	✓	
SEN. MANLEY		✓
SEN. NORMAN	✓	
SEN. OCHSNER	✓	
SEN. SEVERSON		✓
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)		✓

8 - 5

Betty Dean

Secretary

Pat M. Goodover

Chairman

Motion: That SB 412 be given a DO PASS,  
with Statement of Intent attached.

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

Date Feb 21, 1981 Senate Bill No. 412 Time 9:50 a.m.

NAME	YES	NO
SEN. McCALLUM (Vice-Chairman)	✓	
SEN. BOB BROWN		✓
SEN. STEVE BROWN		✓
SEN. CRIPPEN		✓
SEN. ECK		✓
SEN. ELLIOTT	✓	
SEN. HAGER		
SEN. HEALY		✓
SEN. MANLEY	✓	
SEN. NORMAN		✓
SEN. OCHSNER		✓
SEN. SEVERSON	✓	
SEN. TOWE		✓
SEN. GOODOVER (CHAIRMAN)	✓	

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Betty Dean  
Secretary  
Motion:

Pat M. Goodover  
Chairman

That SB 412 do not pass, statement of  
intent also do not pass.

(include enough information on motion--put with yellow copy of committee report.)