

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 10, 1981

The 65th meeting of the committee was called to order at 8:05 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members present, except Senator Elliott who was excused and Senators Norman and Towe who were absent.

CONSIDERATION OF HOUSE BILL 160:

"AN ACT TO INCLUDE IN CLASS FIVE PROPERTY THE DWELLING HOUSE OF AN HONORABLY DISCHARGED, DISABLED VETERAN; AMENDING SECTION 15-6-135, MCA."

Representative Walter Sales, District 79, said until last session veterans had a preferred category and this bill gives them back what was neglected to be continued in the last session. This puts them in the 3% instead of 8.55% category. There are no ties to any income figures. If HB 34 goes through, they would receive 100% until they reached the limit and then the 3% takes over.

PROPOSERS: Bob Durkee, Veterans of Foreign Wars; Fred John McIntosh, Senior Vice-Commander, Disabled American Veterans; and Dan Antonetti, Veteran's Employment Division.

There were no opponents or questions from the committee, so the hearing was closed on HB 160.

CONSIDERATION OF HOUSE BILL 27:

"AN ACT TO RAISE THE INDIVIDUAL INCOME TAX BASE EXEMPTION FROM \$800 TO \$1,000; AMENDING SECTIONS 1, 3, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 698, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Representative Keyser, District 81, said this is an act to raise the exemption to \$1,000. A page of proposed amendments, Attachment #1, was offered with the explanation that the language has been added to make the initiative comply with the Attorney General's opinion. The price tag is 20 million dollars plus on this bill.

PROPOSERS: Ken Nordtvedt spoke as a proponent and went through the proposed amendments for the committee. Questions were called from the committee.

B. BROWN: If we accept the amendments, then we will say an act to "set" at \$800. That's not the intent of the bill as it was introduced. I wonder about a rules problem with this.

KEYSER: I would say not. If you raise or set the exemption you

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are still changing to a higher figure.

GOODOVER: If nothing is done, and in view of possible Governor veto, something has to be done to set it back at \$800. What's the wording of Senate Bill 44?

NORDTVEDT: The drafter of Keyser's bill and Elliott's bill was the same and identical bills were drafted.

B. BROWN: I think we had better talk to somebody on the rules committee so we are sure we don't have a constitutional challenge.

ECK: Maybe we could make it a committee bill.

NORDVEDT: "Change" might be a good word if you don't like "set". What this bill achieves is changing the \$1,250 to \$800.

GOODOVER: If it is necessary, we could adopt it as a committee bill, or is that proper?

ECK: Does this also set the standard deduction?

NORDTVEDT: No, that's in a different bill.

GOODOVER: Possibly we could have you return SB 44 and we could work on that as a substitute bill. We will check with the rules committee and see what we can do to make it legal.

DISPOSITION OF HOUSE BILL 155:

SEVERSON: There is a move to combine this bill with SB 126 and amend 126 to cars and pickups alone.

McCALLUM: Do you know whether this bill will affect the county tax base?

SEVERSON: The intent here if this thing is amended into 126--this will be a refunding where whatever that 40 mills costs the foundation program will all go to one spot. It would be a very easy type of refunding process--all back into the foundation.

McCallum: The tax would be just about equal to what it has been for county governments?

SEVERSON: Coupled with 126 it will give you 50% of what you presently pay.

B. BROWN: The idea is to reduce the cost of getting a license. When Representative Nordtvedt was here he indicated he would have no objection if we amended to include the University levy.

SEVERSON: That's right. The chart I gave you only went to the 40 mills. I don't want to call it revenue sharing because it all goes to one spot.

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GOODOVER: We should put some sort of amendment on to make sure it goes back to the House.

SEVERSON: I would suggest we amend to put the 6-mill University levy in.

McCALLUM: On page 7 where it speaks about 25 mills and on page 9 where it speaks about 15 mills, you could add another subsection in there where you could mention the 6-mill University levy, also the title.

B. BROWN: I move HB 155 be amended to include the 6-mill University levy. We will assume Cort will prepare amendments to do this, also in the title.

The vote was in favor, except for Senator Crippen who dissented.

SEVERSON: I move the bill as amended. The vote was unanimous. Severson will carry the bill on the floor.

S. Brown moved to reconsider HB 155.

SEVERSON: I move we add an amendment to make the effective date January 1, 1982.

S. BROWN: Until this issue is resolved in the summer, I don't think we should send it back. If we hold it here we could amend the bill here. The motion to have an effective date of January 1, 1982 carried unanimously. It was decided to hold the bill in committee until amendments had been firmed up.

CONSIDERATION OF HOUSE BILL 859:

"AN ACT TO PROVIDE FOR THE DEDUCTION OF CHARITABLE CONTRIBUTIONS AND GIFTS MADE BY CORPORATIONS IN COMPUTING NET INCOME AND CORPORATE LICENSE TAX LIABILITY; AMENDING SECTION 15-31-114, MCA."

Representative Fagg said HB 859 was at the request of the Billings Chamber of Commerce. The heart of the bill is on the last 7 lines allowing charitable contributions to be deducted. The bill is geared to help one specific project--the Billings Fox Theatre which a group of citizens are attempting to buy and re-design into a community theatre. Only 4 or 5 states do not have these deductions. The fiscal impact would be about 1/2 million dollars.

PROPOSERS: Dave Goss, Billings Area Chamber of Commerce; Dennis Burr, Montana Taxpayers Association; Russ Ritter, Montana Chamber of Commerce; and Senator Tom Hager, who had a letter from George Zellick urging strong support of the bill.

There were no opponenets and no questions from the committee, so the hearing was closed on HB 859.

CONSIDERATION OF HJR 52:

"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING THE DEPARTMENT OF REVENUE TO REACH A SETTLEMENT WITH TAXPAYERS WHO HAVE APPEALED THEIR PROPERTY TAXES ON THE BASIS OF A DISPARITY BETWEEN MANUALS USED FOR RESIDENTIAL PROPERTY AND THAT USED FOR COMMERCIAL AND INDUSTRIAL PROPERTY."

Jack Gribble, Administrator of the Property Tax Division, Department of Revenue, said this bill is one that came out of the select committee to arrive at a solution of the property tax appraisal problems in the State of Montana. He said the two studies used by the committee, when they considered the issue, were a sales ratio study and an analysis of residential compared to commercial. That analyses determined there was a 10% difference. The sales ratio indicated there was a 12% difference. These basically are the basis for the recommendation.

GOODOVER: This gives the Department the starting point they need to get some of these cases off the books.

CRIPPEN: Does that mean you would have to settle at 14%?

GRIBBLE: I would have to agree with Senator Goodover.

McCALLUM: If you go to the Tax Appeal Board, there is a possibility that you could have a reduction of 34%? But the county tax appeal board--they automatically grant the 34%. If you can settle for 12% I think we ought to turn you loose. If you can settle for anything, do it. But if it is tied to 12% with the 34% hanging out, it may be that a lot of people who don't have much money will settle, but those that have a large bill will go all the way.

GRIBBLE: I think there are a lot of folks who got on the bandwagon.

MANLEY: As far as I can tell, the 34% is more or less established by someone with authority. Where do we get off coming in here and saying 12% is it? Seems we have a bunch of people not knowing what they are doing.

CRIPPEN: The 34% is there. How it got there is beside the point. We are trying to give direction for some sort of compromise. The one concern I have is what's going to be the posture of the DOR if a taxpayer says I am not going to settle for 12% and it's a substantial taxpayer?

GRIBBLE: I think your position is what we would adopt. The Supreme Court said everyone should be heard on an individual basis. We would submit we would certainly be receptive to information submitted to the Tax Appeal Board substantiating their position. We would be duty-bound to put them in line with everyone else. The intent is to establish equity.

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CRIPPEN: What's your stand?

BURR: We think 12% is the average difference between residential and commercial property. If the average is 12% there are some who should get more and some less. What STAB will do is take taxes down 12%, those who feel they should get more than 12% will reapply.

CRIPPEN: Are you saying your organization will support?

BURR: Not necessarily. STAB essentially put a notice in the paper saying come in and get 34%.

ECK: We have a lot of taxpayers who didn't appeal. What's going to happen to them? Will they have automatic decrease?

GRIBBLE: No, this would be just for those who filed an appeal.

GOODOVER: The first year I didn't file an appeal. The next year I was told to do so by the assessor.

HAGER: Getting a 34% settlement in tax appeals court doesn't mean you will get the money back. There are a couple of lawyers who are handling lots of these cases. Did they appear in the House hearing?

SIVERTSEN: Three towns are handling the majority.

GOODOVER: Maybe you could tell us what is happening in some of the areas.

GRIBBLE: Basically the property record cards themselves should be treated as private information. The person's right to privacy exceeds the public right to know. What triggered the most appeals this time was the fact that a former employee is taking information, compiling mailing lists, and mailing to people saying we will appeal your valuation for you. I think they should have some release from the property owner before we give that kind of information.

HEALY: Can an attorney do this?

S. BROWN: Is the guy who is doing this an attorney?

GRIBBLE: No, but he can do this at the appeal level.

HAGER: I would like to have this hearing continued, at least until Monday.

B. BROWN: I agree with what has been said. I think the 34% problem is with us, but I wonder how important any specific reference to 12% is?

MANLEY: DOR has no basis for 12%. Why have the 12% in it if you want to have DOR settle?

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GRIBBLE: There has to be some basis for settlement. The sales ratio study is something that is difficult to manipulate. We think it is highly important to have someplace to start from.

McCALLUM: I think it is important for DOR to settle. I would just as soon see "not more than 34%" wording.

GRIBBLE: Senator Hager has a strong concern, but I would think if this lawyer is strongly concerned about this resolution he can come up with his view. We could hold this until Monday.

SEVERSON: How long has this been scheduled on the board? It seems to me if it had been scheduled they should have had notification. Has anyone got any kind of feeling if it goes in at 12% what kind of percentage we will get to settle?

SIVERTSEN: They don't know. They'll shoot for the highest figure. Some are saying 20%.

S. BROWN: Who have you had conferences with? Are you dealing with people who don't have lawyers but who jumped on the band wagon? People who have lawyers know that a resolution isn't law. Some people who don't have a lawyer will think 12% is all they are getting.

GRIBBLE: I would refer back to something Dennis said. The ideal thing would be all 3,300 cases that way. This was an attempt by the select committee to set a basis if it is a general-type settlement. The basic evidence is the sales manual. That's why the 12%. We have had conferences with attorneys, and before the joint resolution they said they are standing firm.

S. BROWN: You still have to convince them your figures are valid. Have they looked at that?

BURR: The problem with STAB...They have gone outside their authority and something should be done to change the makeup or policy of that board.

McCALLUM: If we strike the 12% and DOR writes to all these protestors and asks if they would settle--then you would know who you would have to go after in court.

SEVERSON: I move that we give the resolution a DO PASS.

MANLEY: A substitute motion that we remove the 12%.

HAGER: I would request we wait until Monday.

MANLEY: Speaking on the motion. I have come to the conclusion that this resolution sets the ceiling at 12%. I do not believe this committee or this legislature should be judge and jury for these people that had enough courage to challenge.

S. BROWN: I don't think Sivertsen said that or that 12% should be a ceiling. I think we ought to wait until Senator Hager's attorney

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could come. I am probably going to vote for the resolution, but I think we ought to accomodate Tom.

McCALLUM: I will make a motion, usurping all motions, to hold this until Monday. The motion carried unanimously.

DISPOSITION OF HOUSE BILL 428:

S. BROWN: Let's wait and see what's negotiated out. Let's hold until 155 is heard.

DISPOSITION OF HOUSE BILL 42:

Senator Goodover read from the fiscal note. Maximum would be decrease of 6.6 million in each biennium. It allows for credit if you reinvest within 1 year. It delays payment of tax on capital gains until you no longer reinvest it.

CLARK: Livestock is probably an investment credit. If you sell a herd and reinvest you can have the credit.

Senator McCallum moved to strike on page 3, lines 15-17 in their entirety and renumber subsequent sections. The motion carried unanimously.

ELLIOTT: Without having heard the discussion I oppose the bill because it distorts our Montana income away from our federal income. There are several provisions in the IRC that will allow exchanges to be made. For the instances John and McCallum are talking about they don't like the thought of reinvesting because that is the purpose of their selling, to get an easier life. Another reason I oppose it is because the DOR doesn't have the auditing staff if would take. They rely on the IRS for a major part of their auditing effort.

CLARK: What Senator Elliott said is true--we depend on revenue reports from the feds. It could get to be quite a number of returns, and we're not going to be able to handle it.

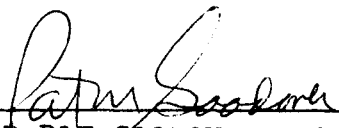
OCHSNER: There are lots of farmers who are selling out in order to increase their family holdings. I would move that we omit the word "not" on line 16.

It was decided that this amendment would make the bill very restricted.

ELLIOTT: I would move to table the bill. The roll call vote showed that the motion did not carry.

A motion was made that SB 42 BE CONCURRED IN, as amended. The motion carried by a 6-5 vote. Senator Goodover will carry.

The meeting adjourned at 10:00 a.m.



SENATOR PAT. GOODOVER, Chairman

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date Apr. 10, 1981

| 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.

Exposition

COMMITTEE

• BILLS 27,160,859
- and HJR 52

VISITORS' REGISTER

DATE Apr. 10, 1981

Please note bill no.

(check one)

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

STANDING COMMITTEE REPORT

April 10 19 81

PRESIDENT:

MR.

TAXATION

We, your committee on

having had under consideration House 27 Bill No.

Keyser (Goodover)

Respectfully report as follows: That House 27, Bill No.
third reading copy, be amended as follows:

1. Title, line 5 and 6.

Following: "TO"

Strike: remainder of line 5 and all of line 6

Insert: "CLARIFY THAT THE INDIVIDUAL INCOME TAX BASE EXEMPTION IS \$800"

2. Page 5, line 13.

Following: "(2)"

Insert: "of 15-30-103"

3. Page 5, line 16.

Following: "(8)"

Insert: "of 15-30-112"

4. Page 5, line 19.

Following: "(2)"

Insert: "of 15-30-122"

XXXXXASS

(CONTINUED)

5. Page 9, lines 1, 4, 10, 14, and 22,
Page 10, lines 1, 20, and 25

Following: "~~\$800~~"

Strike: "\$1,000"

Insert: "\$800" on each line

6. Page 13, line 3.

Following: "~~\$940~~"

Strike: "\$1,180"

Insert: "\$1,000"

7. Page 13, line 6.

Following: "~~\$1,800~~"

Strike: "\$2,360"

Insert: "\$2,000"

8. Page 13, line 11.

Following: "~~\$800~~"

Strike: "\$1,000"

Insert: "\$800"

9. Page 15, line 23.

Following: "by"

Strike: "\$50"

Insert: "\$250"

10. Page 16, line 3.

Following: "by"

Strike: "\$250"

Insert: "\$450"

and, as so amended,

BE CONCURRED IN

STANDING COMMITTEE REPORT

April 10

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PRESIDENT:

MR.

TAXATION

We, your committee on

having had under consideration House Bill No. 42

Nordtvedt (Goodover)

Respectfully report as follows: That House Bill No. 42
Third reading copy, be amended as follows:

1. Page 3, line 15.
Following: line 14
Strike: subsection (a) in its entirety.
Renummer subsequent subsections.

And, as so amended

BE CONCURRED IN

XXXXX
DO PASS

GA

SENATE COMMITTEE TAXATION

Date Apr. 10, 1981 House Bill No. 42 Time 10:00 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

Pat M. Goodover

Chairman

Motion: I he concurred in as amended.

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

SENATE COMMITTEE TAXATION

Date Apr. 10, 1981 House Bill No. 42 Time 10:10 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: to table.

Pat M. Goodover
Chairman

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

STANDING COMMITTEE REPORT

April 10 81

19.....

PRESIDENT:

MR.

TAXATION

We, your committee on

having had under consideration House Bill No. 63

Moore (Goodover)

Respectfully report as follows: That House Bill No. 63,
third reading copy, be amended as follows:

1. Page 2, line 5.

Following: "in excess of"

Strike: "\$3,600"

Insert: "\$360"

2. Page 2, line 7 through line 13.

Following: "system" on line 7

Insert: ";

Strike: Remainder of text through line 13.

And, as so amended,

BE CONCURRED IN

~~XXXXXX~~

if