

MINUTES OF THE MEETING  
SENATE TAXATION COMMITTEE  
SPECIAL SESSION  
47TH LEGISLATIVE SESSION

The second meeting of the Senate Taxation Committee, Special Session 1981, was called to order by Chairman Pat M. Goodover in Room 415 of the State Capitol Building at 8:00 a.m., November 23, 1981.

All members of the committee were present.

"A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE INTEREST FOR DELINQUENT PROPERTY TAX PAYMENT FROM 5/6 OF 1 PERCENT PER MONTH FOR THE FIRST \$3,000 PER TAXPAYER OF EACH YEAR'S DELINQUENT TAXES AND 1 PERCENT PER MONTH FOR EACH YEAR'S DELINQUENT TAXES IN EXCESS OF \$3,000 PER TAXPAYER TO 1 PERCENT PER MONTH FOR ALL DELINQUENT PROPERTY TAXES UNTIL SUCH TAXES ARE PAID; AMENDING SECTIONS 15-16-101, 15-16-102, AND 15-17-303, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

Representative Jay Fabrega, District 44, sponsor of the bill passed out Exhibit #1 which he said contained the essence of his bill. Exhibit #1 is attached. He felt that Senate Bill 42, passed in the last regular session, should be corrected to eliminate the two-tier tax mechanism which was causing administrative nightmares in County Treasurer's offices. He said he would like to see the bill amended, perhaps at the next regular session, but for the present time only wanted the two-tier provision removed from the law.

PROponents: Ellen Feaver, Director of the Department of Revenue; Doris Shepherd, Montana Association of Counties; and Chris Tweeten, Attorney General's Office.

There were no opponents to the bill.

Questions and Comments from the Committee:

CRIPPEN: Is the only way you can protest a tax by paying the tax first?

FEAVER: It is my understanding that you have to pay the tax to put them under protest.

CRIPPEN: Would the penalty apply to those who protested should the appeal be lost?

TOWE: It is a possibility, but I don't think this has been litigated.

MCCALLUM: What did you find on your study about people using their tax money for investment instead of paying their tax?

FEAVER: We surveyed the County Treasurers. Four percent of all taxes levied statewide are delinquent. There is a difference be-

tween urban and rural collections with a very low delinquency rate in rural.

MANLEY: Do you have any proof the money is being invested?

FEAVER: No.

Senator McCallum wondered about extending the November 30th due date to December 30.

Senator Brown felt amendments ought to be ignored as they might jeopardize the bill in the Senate.

SEVERSON: Do you have the percentage of dollars between what you call the small and large taxpayer?

FEAVER: In Missoula County 18% of large taxpayers and 26% of small taxpayers were delinquent.

Senator Goodover said in Cascade County, in the last two years, most properties have been transferred by contract for deed; the original owner is no longer the owner on record.

Senator Crippen objected to the large wealthy developer being accused of being delinquent and also having to be saddled with SID's.

Senator McCallum wondered if property tax protestors, such as BN, had to pay penalty and interest from the time of protest, or if they paid upon the decision of the court.

Sen. Towe said if you pay under protest, then you are not subject to the penalty.

MCCALLUM: By penalizing and raising interest, do you think you are going to make people pay these taxes?

FABREGA: No, just to ensure that the interest rate counties have to pay to register warrants are met so that others are not penalized for non-payers of taxes. This session is too short to get into this other area. The most important thing is to get rid of the two-tier system.

NORMAN: If the taxpayer keeps taxes current, but does not pay the SID's, what recourse would the city have?

MIZNER: The city can set the SID's and collect them themselves. They can say it becomes due and payable immediately as they put it on the property and you cannot pay a part of it. You must pay all the taxes.

Representative Fabrega closed by saying that only the old (because their homes are paid for) or the rich have the ability to pay their taxes. He felt that in the past when banks would loan money for taxes at 7%, people borrowed from the bank to pay. He said the property taxpayer is the captive taxpayer with no relationship to the ability to pay.

Senator Steve Brown made a motion that House Bill 15 BE CONCURRED IN.

Senator McCallum made a motion to amend the bill to change the amount of the interest to 5/6 of 1 percent, with a penalty of 2%.

A voice vote on Senator McCallum's motion failed with Senators Manley and McCallum voting no.

A roll call vote was taken on Senator Brown's motion that the bill be concurred in. The vote count was 11-3 in favor of the motion.

The meeting was adjourned at 9:30 a.m.

  
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Senator Pat M. Goodover, Chairman



*The Big Sky Country*

## MONTANA STATE HOUSE OF REPRESENTATIVES

W. Jay Fabrega (R)  
Representative Dist. #44  
COMMITTEES:  
Business & Industry Chairman  
Highways and Transportation

HOME ADDRESS:  
812 Grizzly Drive  
Great Falls, MT 59404

### HB 15 - DELINQUENT TAXES

It was imperative for this special session to expand the call and take positive action on HB-15 because the two-tier interest schedule established by SB-42 of the 1981 regular session is in practicality almost unworkable.

#### THE PROBLEM:

The two-tier interest schedule requires the county treasurer to verify that the taxpayer's delinquent parcel in question has no relation in ownership, (total or partial) to any of all the other delinquent parcels in that county, in order to determine whether the individual taxpayer is, at the time of attempted payment of delinquent taxes on the parcel in question, above the \$3,000.00 delinquent tax level or not.

If the taxpayer is above the \$3,000.00 delinquency tax level, the county treasurer has to collect interest at the rate of 1% per month or if the taxpayer is in the \$3,000.00 tax delinquent level, the county treasurer has to collect interest at the rate of 5/6 of 1% per month.

The above-stated procedure to determine applicable interest rate on the delinquent tax is "an administrative nightmare" that county treasurers can hardly justify for the difference in income provided by the scheduled interest rates established by SB-42 of the last session.

### THE SOLUTION

HB-15, as introduced, established a single interest rate of 12% per annum, compounded annually, and eliminated the 2% penalty which has been traditionally added to delinquent property taxes, "to inspire taxpayers to pay on time" and to cover additional cost to the county in preparing the extra paperwork associated with delinquent taxes, which is expensive.

HB-15 was amended in House Taxation Committee to state the interest rate as 1% per month and to not allow compounding the interest on an annual basis. Also re-established was the 2% penalty to "inspire the taxpayer to pay on time."

### SECONDARY PROBLEM:

I have philosophical problems with the penalty being the same rate whether you are late one day or three years, and the effect it has on an annualized interest rate if you convert the penalty to an interest factor. The inequity is aggravated by not compounding the interest on annual basis.

One solution to the above-stated secondary problem would be the adoption of the attached schedule of penalties, which will increase the penalty percentum as the time of delinquency increases, and if the penalty and not the avoidance of interest is what provides the "inspiration" for paying your taxes when due, the proposed schedule provides "ever-increasing dosages of delinquent tax payment inspiration." I am "inspired" to request that you leave that problem to the "enlightened solution" of the 1983 session, because, in my opinion:

- a. The amendment is outside the title and original intent of HB 15.
- b. It needs practicality input from county treasurers who administer this law, and
- c. This secondary problem is not significant enough to extend the length of this special session, since the taxpayers of Montana have lived with this inequity for many many years and will only have to endure for less than two more years if the '83 session enacts an equitable solution.

An additional secondary problem is the fact that the interest rate presently charged on delinquent taxes, even under HB 15 as is before you, is not high enough to discourage the IMMORAL PRACTICE of not paying your taxes when due and investing the money due for taxes in high-yield interest securities which produce a net gain to the individual taxpayer and negative impact to all the other taxpayers who pay their taxes on time and have to absorb, thru higher mill levies or reduced services, the differential between the low interest paid by delinquent taxpayers and the higher interest rate the county has to pay for the money it has to borrow thru the registered warrant procedure.

Increasing the penalty rate in relationship to the length of delinquency appears to also solve this problem. If the penalty is converted to an annualized interest rate, it indicates that the long-term effective interest rate increases with the passage of time, which should serve as a DISINCENTIVE to the alleged current practice of not paying your taxes and instead investing the tax money due, which produces a profit for the individual and a loss to the taxing jurisdictions that has to be MADE UP by the already overburdened taxpayers who pay their taxes when due.

HOUSE BILL 15

1% per month interest plus 2% penalty

Tax Delinquent	Time Delinquent	Effective Annual Rate
\$100	1-Day	1102%
\$100	30-Days	36.25%
\$100	1-Year	14.25%
\$100	3-Years	12.9%

Amend House Bill 15

- 2% Penalty after 6 months delinquent
- 5% Penalty after 12 months delinquent
- 10% Penalty after 24 months delinquent

Effect of amendment on annualized interest rate.

Tax Delinquent	Time Delinquent	Effective Annual Rate
\$100	6 months	12%
\$100	7 to 12 months	14.25% @ 12 Months
\$100	13 to 24 months	15% @ 24 Months
\$100	25 to 36 months	18% @ 25 Months 16.53% @ 36 Months

Information supplied by  
Rep. Jay Fabrega

TAX DELINQUENT AMOUNT	LENGTH OF TIME DELINQUENT	INTEREST at 1% per MONTH	TAX DUE PLUS INTEREST	PENALTY at 2%	TOTAL OF TAX & INTEREST PLUS PENALTY	INTEREST PLUS PENALTY	TIME FACTOR	ANNUALIZED RATE OF EFFECTIVE INTEREST
\$100	1 day	\$ 1.00	\$101.00	\$2.02	\$103.02	\$3.02	X 365 days	= 1102.00%
\$100	1 month	\$ 1.00	\$101.00	\$2.02	\$103.02	\$3.02	X 12 months	= 36.24%
\$100	12 months	\$12.00	\$112.00	\$2.24	\$114.24	\$14.24	X 1 year	= 14.24%
\$100	24 months	\$24.00	\$124.00	\$2.48	\$126.48	\$26.48	÷ 2 years	= 13.24%
\$100	36 months	\$36.00	\$136.00	\$2.72	\$138.72	\$38.72	÷ 3 years	= 12.9%
Effect of 3-Tier scheduled time Penalty rate								
\$100	1 day	\$ 1.00	\$101.00	none	\$101.00	\$ 1.00	X 365 days	= 365.00%
\$100	1 month	\$ 1.00	\$101.00	none	\$101.00	\$ 1.00	X 12 months	= 12.00%
\$100	6 months	\$ 6.00	\$106.00	none	\$106.00	\$ 6.00	X 2 semester	= 12.00%
\$100	12 months	\$12.00	\$112.00	\$2.24 (7 to 12 mo. = 2%)	\$114.24	\$14.24	X 1 Year	= 14.24%
\$100	24 months	\$24.00	\$124.00	\$6.20 (13 to 24 mo. = 5%)	\$130.20	\$30.20	÷ 2 years	= 15.1 %
\$100	36 months	\$36.00	\$136.00	\$13.60 (over 25 mo. = 10%)	\$149.60	\$49.60	÷ 3 years	= 16.53%

10 ÷ 30 = 1/3% per month

15% ÷ 30 months = 1/2% per months

SENATE COMMITTEE TAXATION

Date Nov. 23, 1981 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	✓	
SEN. HEALY	✓	
SEN. MANLEY		✓
SEN. NORMAN		✓
SEN. OCHSNER	✓	
SEN. SEVERSON	✓	
SEN. TOWE	✓	
SEN. GOODOVER (CHAIRMAN)	✓	

Betty Dean Pat M. Goodover 11 - 3  
 Secretary Chairman  
 Motion: That HB 15 BE Concurred in.

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

# STANDING COMMITTEE REPORT

November 23

81

..... 19.....

**PRESIDENT:**

MR. ....

**Taxation**

We, your committee on .....

**House**

**15**

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

**Fabrega (S. Brown)**

**House**

**15**

Respectfully report as follows: That .....

BE CONCURRED IN

~~XXXXXXXX~~

*[Handwritten initials]*