

MINUTES OF THE MEETING
FINANCE AND CLAIMS COMMITTEE
MONTANA STATE SENATE

SPECIAL SESSION II

June 24, 1982

The second meeting of the Special Session II Finance and Claims Committee met at 10:50 a.m. with Senator Hims1 as chairman. Roll Call is attached.

Senator Hims1 said that the purpose of this meeting was to hear Senate Bill 3 and asked Senator Mike Anderson to present his bill.

CONSIDERATION OF SENATE BILL 3: Mike Anderson, Senator from District 40 Gallatin, said this bill had been discussed with Senator Turnage and he said it was within the scope of the call. He said he felt it was more a taxation bill than a finance bill, but that he had copies of the federal statutes with him and under them there are several areas where this could fall. Senator Anderson's testimony is attached.

Dorothy Eck spoke as an opponent of the bill. She said it is a good concept trying to find jobs for ex-convicts. It is drawn too hurriedly for such a concept to be accepted by the Legislature without a study by people who are more closely working with taxation problems. It appears to me in just glancing through this bill that an employer could hire ex-convicts and really be out nothing. That convict would be free to them for the first year. A 50% tax credit under the federal bill and 50% under the state bill. Maybe it is a good thing. It could encourage some new industry, but we may be just giving a big tax break to someone who does not need it. Maybe they could be out for 10 or 12 years and still be an ex-con. In taxation, I have watched them work on the bills with people who know the federal laws and can give it the attention it deserves to find out the total impact it might be on Montana.

There were no further opponents and the Chairman asked if the committee had any questions.

Sen. Regan: Have you ran this by the revenue department and did they have any comments about it?

Sen. Anderson: I talked to two of the people there; their comments were more what they felt in terms of my suggesting that it cost \$15,000 to house a person in prison. The costs of housing are the cost of food, etc., and the direct costs corresponds with what I suggested. They say someone replaces them and if you

only had one in there you would have to apply all the costs against the one, etc.

Sen. Regan: It is an erroneous assumption that if you don't get someone to hire them, then the alternative is that he is back in the pen. It is perfectly possible to get a job without the tax credit thing, but to say the only way is through tax credit is not necessarily so. Specifically, what did the department indicate to you about the philosophy of the bill excluding the arithmetic?

Sen. Anderson: Maybe I am confused. OBPP, not revenue department that I talked to. They wanted it prepared on a very minute cost.

Sen. Regan: Was the department notified that this bill would be heard? Are there any implications we do not know about here?

George Harris, OBPP was present and Senator Regan asked him, - - did the department express any concerns?

George Harris: I am not too familiar with it, the fiscal note was prepared by Mr. Lewis. We can get someone in here on it.

Sen. Keating: In the presentation there is a maximum of \$6,000 in the first year and \$3,000 in the second year. On page 2 it says 50% of the first year's wages and 35% of the second year's wages and limits the amount. First year's wages maximum not to exceed \$6,000; there is no limit on the second year. I can find no place in the bill that specifically limits the second year to \$3,000.

Sen. Anderson: I did go to Cort Harrington who is an attorney for the taxation committee.

Sen. Keating: My trouble is understanding the fiscal note on paragraph 5 -- 50% of the qualified first year and 25% of the second year's wages. This implies that the person is going to be there for two years. If the person leaves the job, within the first year, is the tax credit pro rated?

Sen. Anderson: This program has been in place for several years in the federal, and I am sure it is. I have used some of the students to get the tax credit. You take the letter along with the withholding statement for the tax credit.

Sen. Keating: Even though only a few people qualified for this proposal, there is still room for abuse with 50% and 25% on first and second years. You may get into a position where he can go to a second job within that period and that person get a tax credit also.

Sen. Anderson: But why did he keep the individual for the second and third years? Because he is doing a good job.

Sen. Jacobson: I would ask a question to Senator Towe. Can you clear up some of these things about the rates?

Senator Towe: I endorse the concept, but there may be some mechanical things that should be looked at. You may want the taxation committee to take a look at it. Senator Towe explained the 50% and 25% would have some trouble, that a different formula must be used to achieve the effect that is desired here. He said it is involved with how much state tax an employer pays, and it could be possible to have one big employer take up the whole tax credit for the state the way it is written. He said the approximate equivalent would be 10% on federal and 2% on state. If left as it is in the present bill, it would give approximately five times bigger tax credit than the federal would have for the same program.

Sen. Regan: Could you make the amendments for this bill in about 5 minutes?

Sen. Hims1: I am not too comfortable with this bill. It has a real noble purpose but it needs a good look at by the taxation committee. I am not comfortable nor confident. This is a revenue bill and another area than those heard here. I don't think even Senator Towe could whip out an amendment in five minutes.

Sen. Regan: I realize the taxation committee has to be activated to hear this bill. It seems to me at 1:30 they could assemble long enough to hear this bill and make sure it does the things that Towe and Anderson say it will do. I don't want to see it die but I do not feel competent to address it nor do I feel comfortable in passing it.

Don Bucks, Dept. of Revenue, came in and said we do not have any position on the merits of the legislation but some features of the bill have problems if it is enacted. I understand there is a statement of intent to go with this and perhaps it will explain what I am going to address. We have three critical concerns. 1.) The bill provides for a credit for a certain portion

of wage paid. Those wages will be also allowed to the employer as a business expense. It is our understanding when a credit is allowed, you add the same wages back so that it is not taken twice. If you take it as a credit, you add it back to the expenses, so it is not double. 2.) The wages are paid by a business or corporation but by the business indirectly. The individual is the one filing the credit, but the credit cannot be taken by the individual taxpayer. That is in the small business investment credit to allow for this credit or pass through to allow for it. 3.) We have some question about whether or not in hiring the economically disadvantaged one could be employed by more than one employer or maybe more than one at a time. It is not clear how this would work. The taxpayer is entitled to the credit but what about two or three of them. Could an individual man exceed \$6,000 or what?

Again, we have no position in respect to this legislation. There are comments we would raise that might be addressed.

Sen. Story: If the Feds already have a motivator, then why add another one to it. Is more better? Is there any advantage in having both a federal and a state motivator? Is the theory that if you get more motivation you will get more people hired or what?

Sen. Anderson: It was explained by Senator Towe that we parallel the federal investment credit. The idea is it will provide an incentive to business. I felt good about this if a little is good, then more is better. We are addressing these concerns such as job experience. It is double, true, but has been used to get all kinds of deprived a job. To compare this with an inventory tax credit that was a function of county government rather than an income tax is like comparing apples and oranges.

Sen. Story: You think there is a real need for this and that this bill could tip the scales? You think with this incentive that an employer will think with this extra it will tip the balance? Sen. Anderson: He should.

Sen. Hims1: I have employed parolees and not even known such a thing and it did not enter into it.

A man came in from the OBPP office and Senator asked: Have you had a chance to look at this?

Terry Johnson: No, I prepared the fiscal note.

Sen. Story: The investment credit is something we use. This other we may be giving \$300,000 a year or whatever and not motivate anyone to do anything he would not have done anyway.

Sen. Anderson: If we do it and it fails we still have the same people waiting that can't get jobs. Senator Towe raised the question about corporations taking advantage of this. I don't know the percentage of corporations in Montana. They certainly don't add up to too much in Montana -- maybe three or four major corporations. The tax break is substantially different. If 6% corporation tax and not pay much tax, and get an opportunity to hire an individual for a break - you go to the pen for tax fraud, not evasion. This is a double break. I don't care what it costs, if it employs these people. This bill is addressed like the federal statute that is already in place. It is nothing new. I have put in a statement of intent. The question of an individual having more than one employer in a five-year period. The DECA students have been on this program for some time. They stay until they are eligible for college.

Senator Hims1 declared the hearing closed.

Senator Regan: Mr. Chairman, is there any chance that we could ask for the bill to be referred to taxation committee?

Discussion was held on the pro's and con's of activating the taxation committee through the President of the Senate's office. Senator, since the rules committee had already approved the bill as being in the scope of the call.

Motion by Senator Regan to have the chairman check with the leadership to see if this is possible. Voted and passed. It was decided that if the taxation committee could not be activated, the committee would come back and take some action on it.

Motion made to adjourn subject to the call of the chair. Voted and passed. The meeting was closed at 11:32 a.m.

Senator Hims1, Chairman

47th LEGISLATIVE SPECIAL SESSION # II

ROLL CALL

FINANCE AND CLAIMS COMMITTEE

10:

-- 47th LEGISLATIVE SESSION -- 1981 -- Date 6-24-82

NAME	PRESENT	ABSENT	EXCUSED
Senator Etchart	✓		
Senator Story	✓		
Senator Aklestad	✓		
Senator Nelson	✓		
Senator Smith	✓		
Senator Dover	✓		
Senator Wolf	✓		
Senator Keating	✓		
Senator Boylan	✓		
Senator Regan	✓		
Senator Thomas		✓	
Senator Stimatz	✓		
Senator Van Valkenburg	✓		
Senator Haffey	✓		
Senator Jacobson	✓		
Senator Himsl	✓		

Statement of Intent

SB ____ authorizes both the Department of Revenue and the Department of Labor and Industry to adopt rules to implement SB ____.

It is the intent of the legislature that the tax credit provided to employers who employ economically disadvantaged exconvicts be identical to the credit for employing economically disadvantaged exconvicts allowed by sec. 44B and sec. 51 through 53 of the Internal Revenue Code as the sections read on the effective date of SB ____.

It is the intent of the legislature that all rules adopted pursuant to the authority granted by SB ____ must be consistent with sec. 44B and sec. 51 through 53 of the Internal Revenue Code and the regulations adopted by the Secretary of the Treasury under those provisions of the Internal Revenue Code, as those statutes and regulations read on the effective date of this bill.

_____ BILL NO. _____

THIS BILL WILL PROVIDE INCOME TAX CREDITS TO EMPLOYERS WHO HIRE DISADVANTAGED EX-CONVICTS.

A SIMILAR PROVISION ALREADY EXISTS IN THE FEDERAL TAX LAW. THIS WOULD SIMPLY PROVIDE THE SAME TAX BENEFITS TO MONTANA TAXPAYERS.

THE RULES AND REGULATIONS ARE ALREADY IN PLACE WITHIN THE MONTANA DEPARTMENT OF LABOR IN ORDER THAT THE FEDERAL TAX CREDIT MAY BE UTILITIZED BY EMPLOYERS. IT SHOULD NOT CREATE ANY ADDITIONAL WORK FOR ANY STATE DEPARTMENT AND IT IS MY INTENTION THAT THE FEDERAL FORMS EVEN BE COPIED TO SIMPLIFY THE USE OF THIS BILL.

SEN. PAT RYAN REPORTS THAT THE TAX CREDIT AT THE FEDERAL LEVEL IS ONE OF THE STRONGEST POINTS FOR GIVING AN EX-CONVICT EMPLOYMENT. HE FEELS, AND SO DO I, THAT THIS ADDITIONAL INDUCEMENT WILL ASSIST IN GETTING JOBS.

THERE IS A MAXIMUM LIMIT OF \$6,000.00 OF TAX CREDIT THAT MAY BE USED IN THE FIRST YEAR OF EMPLOYMENT, A MAXIMUM CREDIT OF \$3,000.00 DURING THE SECOND YEAR AND THEN NO FURTHER CREDITS.

A STATEMENT OF INTENT PROVIDED FOR THE DEPARTMENT OF REVENUE AND THE DEPARTMENT OF LABOR AND INDUSTRY TO ADOPT RULES FOR THE EMPLOYMENT OF THIS BILL. THE STATEMENT OF INTENT FURTHER REQUIRES THAT ALL THE RULES MUST BE CONSISTENT WITH THE INTERNAL REVENUE CODE AND THE REGULATIONS ADOPTED BY THE SECRETARY OF THE TREASURY.

ALL OF THE INTERPRETATIONS AND APPLICATIONS OF THIS JOB TAX CREDIT ARE WELL KNOWN TO ALL THE VARIOUS AGENCIES AND OFFICERS OF THE COURT, SO THERE SHOULD BE NEARLY MINIMAL EXPENSE IN PUTTING IT INTO EFFECT.

FURTHER, IN ADDRESSING THE FISCAL NOTE, I THINK IT IS IMPORTANT TO REMEMBER THAT IF AN EX-CONVICT WORKS A FULL YEAR AT A JOB AND HIS EMPLOYER IS ENTITLED TO THE MAXIMUM TAX CREDIT OF \$6,000, THE DEPARTMENT OF REVENUE WILL OF COURSE LOSE \$6,000, BUT THE DEPARTMENT OF INSTITUTIONS WILL NOT HAVE TO SPEND \$15,000 TO HOUSE HIM IN THE PENITENTIARY, A NET GAIN TO THE STATE OF \$9,000, FOR EVERY SUCCESSFUL JOB APPLICANT.

AT THIS TIME IT HAS BEEN REPORTED TO ME/^{BY DAN RUSSELL,} THAT THERE ARE CURRENTLY 20 TO 25 INMATES ELIGIBLE FOR EARLY RELEASE THAT CANNOT BE RELEASED UNTIL THEY HAVE A JOB.

IN CLOSING, THIS BILL IS ONE OF THE MOST POSITIVE STEPS TOWARD GETTING A JOB FOR AN EX-CONVICT.

te 6-23-82 S Bill No. 3 Time 11:28

NAME	YES	NO	ABSENT	EXCUSED
Senator Etchart	✓	✓		
Senator Story	✓	✓		
Senator Aklestad	✓			
Senator Nelson	✓			
Senator Smith	✓			
Senator Dover	✓			
Senator Wolf	✓			
Senator Keating		✓		
Senator Boylan		✓		
Senator Regan	✓			
Senator Thomas			✓	
Senator Stimatz	✓			
Senator Van Valkenburg	✓			
Senator Haffey	✓			
Senator Jacobson	✓			
Senator Himsl	✓			

Ma Kinsey
Secretary

Senator Himsl
Chairman

Report: Regan-Motion: Sen Himsl check with the leadership to see if they will call the Taxation Committee in to hear this bill. It is a revenue bill.