

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE  
April 12, 1983

The meeting was called to order at 9:00 a.m. by acting Chairman Williams. Roll call was taken and all committee members were present except Representatives Dozier, Harrington, Neuman and Yardley, who were excused.

This meeting was a hearing on SJR 23. Executive action was taken on SJR 23 and on SB 414.

SENATE JOINT RESOLUTION 23

SENATOR PAT GOODOVER, District 22, sponsor of the resolution, told the committee that SJR 23 was presented at the request of the Senate Taxation Committee. Senate Joint Resolution 23 is a joint resolution of the Senate and the House of Representatives requesting an interim study of tax credits, tax deductions, tax exclusions, and tax exceptions; and requiring a report of the findings of the study to the 49th Legislature. Senator Goodover said SJR came about because of the continuous debates we have had on tax credits. This is a continuous problem with the legislature. It is to the point you do not know what one bill will do to another bill. We would like to know what bills are in the mill so we do not have six bills on the same subject.

Proponents

DENNIS BURR, representing the Montana Taxpayers Association, said they support the resolution. If nothing else, a listing of all the tax credits, exemptions, etc., would be of value to the legislature.

There were no opponents testifying on SJR 23.

SENATOR GOODOVER closed on his presentation of SJR 23.

Questions were heard from the committee at this time.

REPRESENTATIVE NORDTVEDT said the wording "the cost to the state" on page 1, line 18 of the bill, implies, to him, that people's income is the property of the state. He asked the sponsor of the bill if he would mind deleting that wording and inserting "the effect on state revenue". Senator Goodover said he would not mind.

CHAIRMAN WILLIAMS said the title of the resolution says "interim study" and on page 2, line 12, it says the study will be done by the Revenue Oversight Committee (ROC). Senator Goodover said the study was meant to be done by an interim committee. If you want to remove ROC and insert interim committee, that would be fine.

CHAIRMAN WILLIAMS asked if that change was necessary to make.

REPRESENTATIVE NORDTVEDT said the resolution should be changed to say interim committee or Revenue Oversight Committee. It should be one or the other.

SENATOR GOODOVER suggested amending the resolution to make the body of the resolution consistent with the title of the resolution.

REPRESENTATIVE NORDTVEDT asked Senator Goodover why he didn't think the ROC should do this study. Senator Goodover said it would not make difference who did the study but it seems the study to be done by the ROC on the classification system will be a large study and he didn't know if that committee would have the time to do this study as well.

REPRESENTATIVE BERTELSEN said being as they took out the funding for that classification study, maybe it would be wise to have an interim committee do the study contained in SJR 23.

REPRESENTATIVE KEENAN said this study should be a priority on the study list but if it is done by an interim committee there could be a chance that it may not be chosen to be done.

SENATOR GOODOVER said he would go along with whatever this committee decides to do. He said because the title of the resolution doesn't say "Revenue Oversight Committee", it might be easier to pass the resolution without amendments because the body of the resolution says the study will be done by the Revenue Oversight Committee.

REPRESENTATIVE NORDTVEDT moved to amend the resolution on page 1, line 18, by striking "cost to" and inserting "effect on".

The motion was voted on and PASSED unanimously.

REPRESENTATIVE NORDTVEDT moved SJR 23 BE CONCURRED IN, AS AMENDED.

The motion was voted on and PASSED unanimously.

#### SENATE BILL 414

SENATOR ROGER ELLIOTT, District 8, sponsor of the bill, asked if this committee would consider some amendments to SB 414. He said SB 414 is a bill that brings the Subchapter S laws in Montana in compliance with the federal laws. If we do not pass SB 414 or HB 621, we will have a situation where corporations are eligible for Subchapter S status on the federal level but not on the state level. Senator Elliott said SB 414 is now tabled in this committee and HB 621 is tabled in the Senate Taxation Committee. One of those two bills should be passed.

SENATOR ELLIOTT passed out copies of the proposed amendments. (See EXHIBIT 1.) He said the amendments will take away some of the objections voiced by the Department of Revenue.

REPRESENTATIVE SWITZER moved to take SB 414 OFF THE TABLE AND RECONSIDER PREVIOUS ACTION.

The motion was voted on and PASSED unanimously.

SENATOR ELLIOTT read a letter from the Department of Revenue that outlined problems with SB 414 and HB 621. (See EXHIBIT 2.)

SENATOR ELLIOTT said Montana statutes are tied to the federal codes, corporation income tax section. If we are going to exempt Subchapter S from that requirement, we will be stepping away from a practice we have had in the past. He said there may be a few corporations in the state who may not have elected to have Subchapter S status but those situations are rare.

DAN BUCKS, Deputy Director of the Department of Revenue, said the amendments are essential to making SB 414 workable from an administrative standpoint. The amendments are necessary if the Department of Revenue is to have an effective record on the state level as to which corporations are Subchapter S and which ones are not. If the department finds a taxpayer that is not conforming to the rules, the department should be able to enforce those rules rather than waiting for the Internal Revenue Service to enforce them.

With the proposed amendments, SB 414 and HB 621 would mean about the same to the department. The difference between the bills comes down to a legal point. The department was advised by one of their attorneys that it was preferable to conform to the federal laws by actually enacting the federal language or referring to the language in effect at the time of action by the legislature. That is what HB 621 does. Senate Bill 414 says Montana law will change in the future whenever federal law changes. The department believes that it is beneficial to follow the Internal Revenue codes. The difference between the bills is whether you can conform prospectively to any changes in the future and if that can be done constitutionally. House Bill 621 puts current federal Subchapter S laws into the state laws; any future federal changes would have to be added by legislative action. With SB 414, those changes would automatically be added to the state laws.

REPRESENTATIVE DEVLIN asked Senator Elliott if he went over the proposed amendments with the sponsor of HB 621. Senator Elliott said he did and the sponsor of HB 621 was agreeable with the amendments.

CHAIRMAN WILLIAMS asked what is the handicap of how the law is being enforced now. Senator Elliott said the state law would be in disparity with the federal law. Taxpayers would have to pay accountants more to keep two separate records - one for the state and one for the federal.

MR. BUCKS said either HB 621 or SB 414 should be enacted.

REPRESENTATIVE SWITZER moved the proposed amendments to SB 414  
DO PASS.

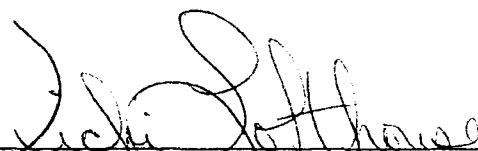
The motion was voted on and PASSED unanimously.

REPRESENTATIVE SWITZER moved SB 414 BE CONCURRED IN, AS AMENDED.

The motion was voted on and PASSED. All committee members voted  
yes except Representatives Bertelsen, Keenan and Ream, who voted  
no.

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

  
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MEL WILLIAMS, Chairman

  
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Vicki Lofthouse, Secretary

# STANDING COMMITTEE REPORT

April 12, 19 83

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **SENATE JOINT RESOLUTION** No. **23**

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color

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF TAX CREDITS, TAX DEDUCTIONS, TAX EXCLUSIONS, AND TAX EXEMPTIONS; AND REQUIRING A REPORT OF THE FINDINGS OF THE STUDY TO THE 49TH LEGISLATURE.

Respectfully report as follows: That **SENATE JOINT RESOLUTION** No. **23**

be amended as follows:

1. Page 1, line 18.  
Following: ", the"  
Strike: "cost to"  
Insert: "effect on"

~~DISPENSE~~ **AND AS AMENDED  
BE CONCURRED IN**