

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 16, 1983

The forty-eighth meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Brown.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 224: Representative Ray Jensen, House District 25, said this bill was heard in Education Committee a couple of weeks ago. It merely allows the school districts to use the accrual basis rather than the cash basis of accounting for budgeted funds. The National Association of CPAs recommends that all units use the accrual method. If you fill out your own tax returns, you put down expense and income figures. With the accrual method, you show inventory, etc., and have a more complete financial picture. HB 224 will require the school districts to keep accounts receivable and accounts payable. Line 17 (new subsection (b) under 20-9-209(1), MCA) speaks of obligations being recorded with the county treasurer. This transfers the information from the school district to the county treasurer if the district is using the accrual basis of accounting.

PROPOSERS

Bob Stockton, representing the Office of Public Instruction, said they requested this bill. They have been working with the auditors for a new accounting system for the school districts. The school districts are not unused to the accrual method because they use it for federal accounting purposes. Rulemaking will be done in the administrative rules. There should be paperwork indicating the accounting has been done properly. They plan to implement this on July 1, 1983, if the bill passes.

OPPOSERS

Dennis Burr, representing the Montana Taxpayers Association, said the state government has a modified accrual basis for the expenditure side of accounting. He was not sure if this allowed accrual on the revenue side. If the state spends against delinquent taxes that are due, it will end up further in the hole. The modified accrual system allows them to encumber budgeted funds. It provides that they end each year with a zero balance. If the accrual basis is extended to the revenue side, it could be a major departure from the way it has been run in the past.

Questions from the committee were called for.

Senator Elliott asked if this was going to be mandatory or permissive. Representative Jensen said he did not know of any law that disallows them to do this. Mr. Stockton stated it would not be mandatory. It allows the school districts to liquidate certain obligations after the end of the fiscal year.

Senator McCallum felt that if a school district attended to business, they would try to have a cash balance at the end of the year. Mr. Stockton replied that if materials are ordered in May, it sometimes takes four months for the order to arrive so it can be paid for. They use last year's budget to pay for this year's expenses.

Mr. Burr said when it gets to be April or May and you have funds left over, it is easier to spend every penny, and the school districts do spend their budgets.

Senator Turnage felt there would be no control over the school districts' decisions under HB 224. The term "obligation" is all-inclusive. They could obligate in the area of salaries in the future. This involves more than just school books. There will never be another dime lapse under this bill.

Senator Elliott said that when they obligate, they have to do a purchase order and that is when the funds become encumbered. He said he has sat on school district boards before and he doesn't think they will abuse the system.

Senator Turnage suggested limiting the obligations referred to in (b) to personal property. Senator Goodover remarked that office equipment businesses sell most of their office equipment right before the end of the fiscal year.

Senator Turnage moved the following amendment to HB 224:

Page 1, line 17.

Following: "obligation"

Insert: "for the purchase of personal property ordered but not paid for during the current fiscal year and"

The motion was seconded.

Senator Hager wondered if that included food bought by the cafeteria, and Senator Turnage replied affirmatively.

Senator Lynch asked for Mr. Stockton's comments on Senator Turnage's proposed amendment. Mr. Stockton felt the motion would take care of 99% of the cases. The biggest problem, he said, is with personal property.

Committee members also wondered about payroll taxes, which may not be known for ten days, and unpaid janitors' contracts.

Senator Towe stated that capital contracts are not covered here, and Mr. Stockton agreed with him on that point. Payroll taxes would be with personnel, Senator Towe thought, so they are not covered here.

Representative Jensen, in closing, said he did not object to Senator Turnage's amendment. Future salaries are not on accounts payable unless they are already incurred, he said.

Senator Turnage felt there was nothing to prevent them from taking next year's budget for payroll taxes and paying this year's taxes with it.

A roll call vote was taken on Senator Turnage's motion to amend, and it passed 10-4 (roll call vote sheet attached to standing committee report).

Senator Towe then moved that HB 224 BE CONCURRED IN AS AMENDED. The motion was seconded and passed unanimously. Senator Gage will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 570: Ken Peterson from Northern Rockies Rental Association (formerly Montana Rental Association) said \$5,000 is a realistic figure for the value of an item. A rototiller is nearly \$1,000, and that is wholesale. A pressure washer is around \$2,000. He said he was speaking of items rented to homeowners rather than items such as backhoes, etc., rented to businesses. Equipment rented by homeowners is much more sophisticated these days. He submitted statistics on the business inventory tax paid by rental companies in 1982, and it is attached as Exhibit A.

Senator Lynch asked how lease-purchase situations, like a company renting a TV to someone for a couple of months, were taxed. Mr. Peterson replied that rental stores have not gone into rent-purchase agreements. Tru-X will do this, though (will rent, but will sell if someone wants to buy). In rental stores, the equipment rented is also for sale. In one rental store in Spokane, the guy buys two of everything, and if a renter wants to buy something, he has an extra one he can sell. He said the economy of a town has a lot to do with the taxes a rental company pays. For example, in a university town, they rent more household furniture, and several 2-cu.-ft. refrigerators.

Senator Turnage felt the prior law was being misinterpreted. He quoted 15-6-136, MCA (description of class six property).

Senator Crippen said if he is in the leasing business and leases to an individual, then the property is leased. It is inventory to him (Senator Crippen) but not to the individual.

Senator Mazurek said that a dealer is responsible for paying the taxes on a vehicle sitting on his lot, but when the vehicle is leased to an individual, the individual is responsible for paying the taxes.

Senator Elliott said the committee was talking about a principle of accounting. "Inventory" is items held for sale where you intend to transfer title. If you do not transfer title, it should be separated in the accounting records.

Senator Crippen didn't think accounting procedure could be applied to this feature. If HB 570 doesn't pass, then are Mr. Peterson's goods going to be exempt from the business inventory tax? Gregg Groepper, from the Property Assessment Division of the Department of Revenue, said that is how they would interpret it. That is why they put goods for lease in that class.

Senator Towe stated that under the old business inventory tax, it was 4%; under HB 570, as amended, it is 11%. We should go back to these items and put in 4%. We should amend 15-6-136, MCA, by adding a subparagraph (c) with Mr. Weingartner's limitations (see Mr. Weingartner's proposed amendments attached as Exhibit B).

Senator Turnage was concerned that there was no monetary limit. Senator Elliott wondered if there might be a constitutional challenge if a \$5,000 limitation on value were included. Senator Towe pointed out that Mr. Weingartner's amendments provide that no more than 10% income comes from any one person.

The committee asked Cort Harrington to draft the appropriate language for the amendments, and a subcommittee consisting of Senators Elliott and Towe, and Cort Harrington, was appointed to work on the amendments to HB 570.

CONSIDERATION OF HOUSE BILL 702: Gregg Groepper, Property Assessment Division of the Department of Revenue, said that the consensus is that the educational exemption on real property applies to developmentally disabled (DD), but not to foster care agencies. The big items in SRS are DD and foster care. HB 702 doesn't address foster care. We should continue to grant the exemption to Helena Industries and other places like that. Senator Mazurek said that when we talk about foster care, we are talking about the Attention Home, the Deaconess Home, and places like that. He wondered if they pay taxes now in the community. Mr. Groepper replied that some do and some don't. The department is trying to clean up those exemptions.

Senator McCallum pointed out that a lot of private homes are used in foster care. Mr. Groepper stated that those private homes are not allowable exemptions. Their rules don't tie the IRC 501(c)(3) status into the statutes. Senator Towe felt the state would get back into lawsuits on public charity over this. He said he didn't understand that DD homes would qualify under the exemption. The developmentally disabled go away to school during the day and come back to be cared for after school, so it is not exclusively educational, and we are back to the problem we are trying to solve.

Mr. Groepper said his understanding was that sheltered workshops were where the developmentally disabled went to school.

Senator Mazurek stated that the homes have not been taxed before at all, and that is the reason for concern. This will hurt every county in the state. They do use the county services (garbage, etc.), but for this to happen right now when no money is being appropriated to pay for the services is going to be a problem.

Mr. Groepper said an institution of purely public charity is funded solely from private funds. Rulings in other states on the same subject support their position. If an institution is funded by any public money, it is not a purely public charity. The other possibility is coming under 15-6-201(c), MCA.

Senator Eck said she approves of what SRS is doing, and there are budget constraints. It would be a good policy that the homes pay property taxes or enter into an agreement with the counties on provision of services. The Deaconess Home (Helena) deserves a tax break more than the Hillcrest Retirement Home (Bozeman), and there has been a court case on that.

Senator Turnage moved that the committee reconsider its action taken on HB 702 for the purpose of further amendment. The motion was seconded and passed unanimously.

Senators Towe and Mazurek were appointed to work with Gregg Groepper and Joe Roberts on further amendments to HB 702.

CONSIDERATION OF HOUSE BILL 58: HB 58 was transferred to the Taxation Committee from second reading and was originally heard in Local Government Committee. Senator McCallum said he felt the bill should be amended so the tax increase would be voted upon by the people. Section 3 of the bill (amending 7-34-2134, MCA) seems open ended, he said. HB 798, heard in Local Government Committee yesterday, relates to this bill. That bill would transfer the authority from the county commissioners to SRS.

Beverly Gibson, representing the Montana Association of Counties, stated that HB 798 is a county option for state exemption of welfare. There may be 8 to 12 counties which opt to have SRS take over their county welfare. If they do, over a period of time, their levy will be 12 mills. There is a grandfather clause saying that any county paying less than 12 mills has 5 years to continue on that mill levy support. The state picks up the difference. Right now, a county may levy within the poor funds for hospitals or nursing homes. That becomes difficult if a county is also supporting a hospital under section 1 (new section--levy of county taxes) of HB 58. HB 58 will separate the levy of mills for hospitals and nursing homes from the poor fund.

Sections 2, 3, and 4 (7-34-2133, -2134, and -2417, MCA) relate to hospital districts. A hospital district can be small or countywide, or there can be more than one in a county. When raising mill levies, in Chouteau County, for instance, where they have two hospital districts, the raise may be only within one district. The hospital mill levy gives the district the ability to support the hospital with as much as it takes to keep the doors open. If a levy is not sufficient, a district can ask that it be raised for a two-year period, and then they have to go back at the end of the two years to ask to exceed the budget authority again if they still need additional funds.

Senator McCallum noted that the county poor fund is separate under HB 58.

Mrs. Gibson stated that she did not want section 1 (levy of county taxes) in the bill anyway; that came from another bill. If hospital districts are established, they cannot also collect out of the poor fund.

Chairman Goodover appointed a subcommittee of Senators McCallum and Towe and the committee's staff attorney, Cort Harrington, to review the whole chapter and arrive at recommendations for the committee to act on.

CONSIDERATION OF SENATE JOINT RESOLUTION 23: Senator Turnage felt the study should include credits, exemptions, exclusions, deductions, and so on. Chairman Goodover appointed a subcommittee of Senators Mazurek, Towe and Turnage to come up with amendments to present to the committee for review and action.

CONSIDERATION OF HOUSE BILL 730: Senator Crippen moved that HB 730 BE CONCURRED IN, and then withdrew his motion.

Senator Towe noted that this is the highway reconstruction account, which consists of severance tax collections, oil and gas royalties, and now the gas tax.

Gary Wicks from the Department of Highways agreed with Senator Towe.

Senator Towe moved that the following amendment be adopted:

Page 3, line 2.

Strike: "subsection"

Insert: "subsections (2) (a) and"

The motion was seconded and passed unanimously.

Mr. Wicks stated that they were in the process of consolidating the present 12 financial districts to 5 districts. He said he was sure the governor would sign the bill regarding the districts (HB 7). They received additional funds for the highway program

which could be used in the primary system. Their object was to minimize the impact on the Montana taxpayer. There are a couple of projects in financial districts 5 and 3 which would overrun what is allowed by present law (\$358,000 for the project in district 5 in 1984 and \$1.2 million for the project in district 3 in 1985). There is no other bill that would accommodate them. See Exhibit C, a map of the highway projects scheduled.

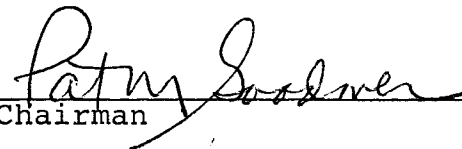
Senator Elliott moved that the following amendments, suggested by the Department of Highways, be adopted:

Page 3, line 10.
Following: line 9
Insert: "(1)"

Page 3.
Following: line 21
Insert: "(2) In order to accommodate changes in the financial district structure and implementation of the reconstruction program, the department may suspend the 25% overrun limitation on the allocation of federal aid primary funds for fiscal years 1984 and 1985."

The motion was seconded and passed unanimously.

The committee adjourned at 10 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/16/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN			✓
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

1982 Business Inventory
tax paid by Rental Companies

Billings

1922

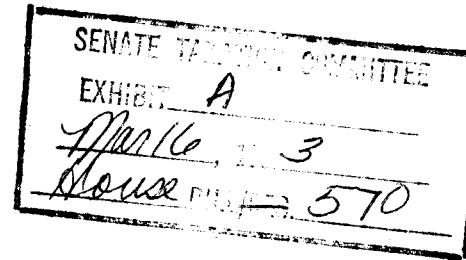
202

3786

12

426

$$6348 \times .27447 = \$1742$$



Bozeman

7823

3400

$$11,223 \times .33723 = \$3785$$

Columbia Falls

$$1006 \times .33698 = \$339$$

Glasgow

$$768 \times .33898 = \$260$$

Great Falls

4,085

1,452

1,534

187

$$7,258 \times .35845 = \$2602$$

Butte
0

Hamilton

1568

1720

$$3288 \times .29195 = \$960$$

Huore

322

180

$$502 \times .28369 = \$142$$

Helena

2230

3194

$$5424 \times .35573 = \$1930$$

Kalispell

1548

640

$$2188 \times .34476 = \$754$$

Lewistown

$$723 \times .34304 = 248$$

Livingston

$$1568 \times .32367 = 507$$

Missoula

3300

1496

1949

$$6745 \times .36428 = 2457$$

Sidney

$$3677 \times .20426 = 751$$

Total tax dollar loan \$16,477

March 16 1983House Bill 570PROPOSED AMENDMENT TO HOUSE BILL 570

Submitted by the Montana Rental Association: J.C. Weingartner

Page 2

Line 4

After the word "lease," insert the following language:

"excluding those goods and equipment that satisfy all of the following criteria:

(a). the full and true value is less than five thousand (\$5,000) dollars, and

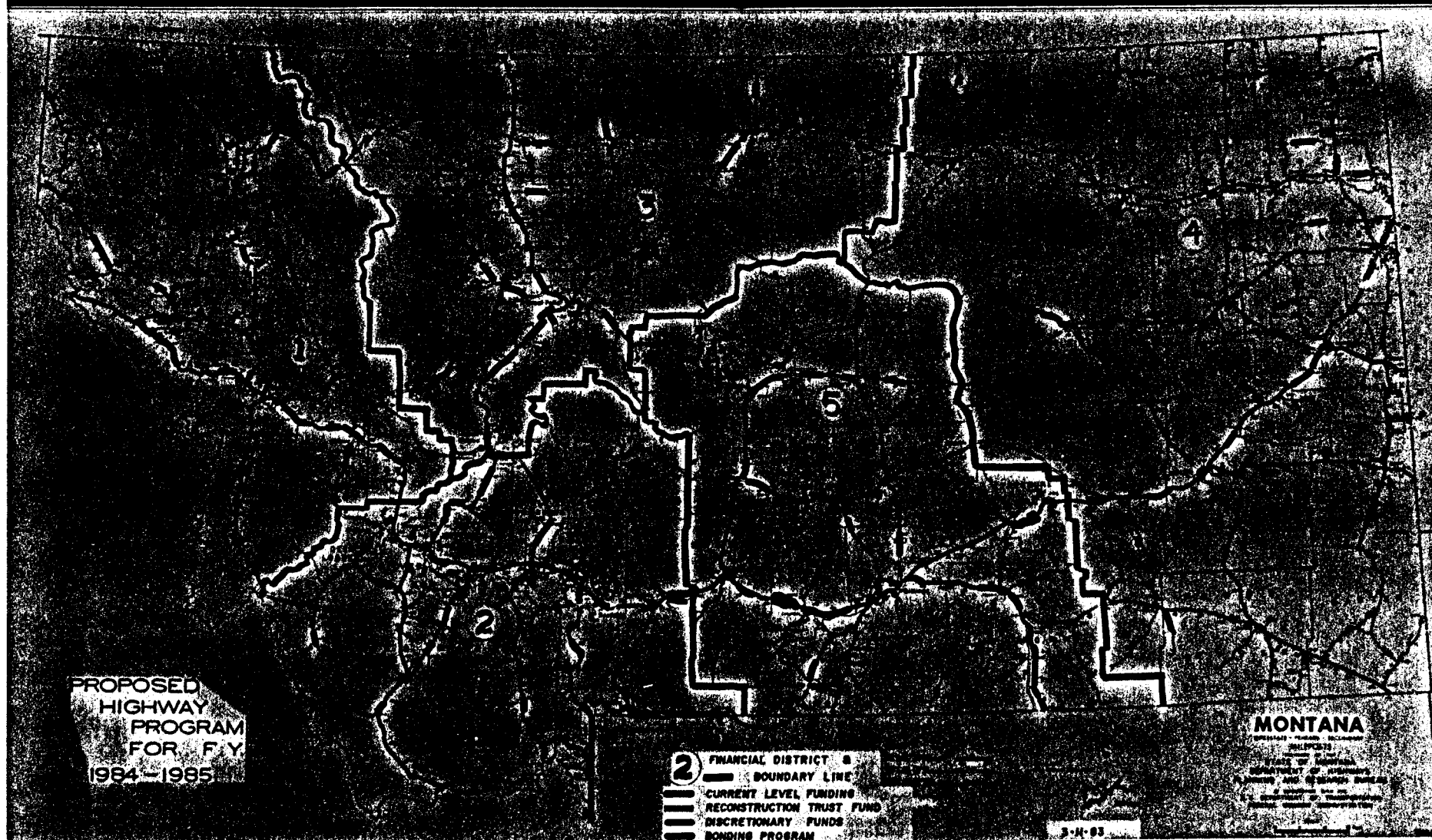
(b). owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the lessor accounts for more than ten percent (10%) of the total rentals during a calander year, and

(c). the lease of said equipment is generally on an hourly, daily, or weekly basis, but in no instance to exceed one month, being provided that if the lease is to be renewed for a period in excess of one month the goods or equipment must be returned to the business premise of the lessor before an additional rental or lease agreement can be executed, and

(d). the business of the lessor is open to the general public, and

(e). the goods and equipment available for lease are available to the general public, and

(f). the goods and equipment available for lease can be used by the general public."



SENATE TAXATION COMMITTEE
EXHIBIT C
MARCH 16, 1983
HOUSE BILL 730

STANDING COMMITTEE REPORT

March 16

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **224**

R. Jensen (Gage)

Respectfully report as follows: That **House** Bill No. **224**

third reading copy, be amended as follows:

1. Page 1, line 17.

Following: **"obligation"**

Insert: **"for the purchase of personal property ordered but not paid
for during the current fiscal year and"**

And, as so amended

BE CONCURRED IN

~~XXXXXX~~

He

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date Mar 16. 1983 House Bill No. 224 Time 8:34

NAME	YES	NO
SENATOR GOODOVER, CHAIRMAN	✓	
SENATOR McCALLUM, VICE CHAIRMAN	✓	
SENATOR BROWN	A	
SENATOR CRIPPEN	✓	
SENATOR ELLIOTT	✓	
SENATOR GAGE		✓
SENATOR TURNAGE	✓	
SENATOR SEVERSON	✓	
SENATOR HAGER		✓
SENATOR ECK		✓
SENATOR HALLIGAN	✓	
SENATOR LYNCH		✓
SENATOR NORMAN	✓	
SENATOR TOWE	✓	
SENATOR MAZUREK	✓	

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

Turnage's amdmnts

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