

MINUTES OF THE MEETING  
SENATE TAXATION  
MONTANA STATE SENATE

January 10, 1985

The third meeting of the Senate Taxation Committee was called to order at 8:08 am, by Chairman Thomas E. Towe in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Neuman.

Vice Chairman Mazurek assumed the chair for the hearing of SB 41.

CONSIDERATION OF SB 41: Senator Towe was recognized as the chief sponsor of the bill. The bill was introduced at the request of the Department of Revenue and the Revenue Oversight Committee as a result of ambiguities in the law resulting from the implementation of Initiative 95 in the last session. There are questions surrounding the 15 percent that is put back in the trust and how that 15 percent applies to the 25 percent that is reserved for investment in Montana. This bill then proposes excluding trust fund interest from in-state investment funds.

PROPOSERS

Senator Towe introduced Don Benson, Administrator of the Centralized Services Division, Department of Revenue. Mr. Benson said that there is approximately \$1,000,000 in limbo because of this uncertainty. He said the Department simply wants to clarify legislative intent.

There were no further proponents for SB 41.

OPPOSERS

There were no opponents to SB 41.

Questions from the committee were called for.

Senator Eck asked if that 15 percent was used to offset the difference in interest earned on loans to water projects. Senator Towe answered that yes, a loss was being incurred on those loans, but the 15 percent more than accounted for it. Senator Eck then asked if there was an investment loss due to enactment of Initiative 95. Senator Towe answered that the funds were doing a pretty good job, though some small loss may be incurred. Senator Eck was reassured that the 15 percent was more than adequate.

Senator Goodover asked what has been done with the 25 percent. Senator Towe responded that initially the money was deposited in certificates of deposit in Montana banks and that now about a third to a half of the money had been committed to other projects and investments were progressing.

Senator Neuman joined the committee at 8:15 am.

Vice Chairman Mazurek then recognized Dale Harris, Deputy Director of the Montana Economic Development Board asking for testimony on SB 41. Mr. Harris introduced Robert Pancich who is the director of that Board. Mr. Harris said they had come to offer information on SB 41, but not to support or oppose it. The Board of Economic Development has prepared a bill of thier own on the same topic, which would have the opposite effect. The issue, Mr. Harris said, would have two considerations. First, a reserve fund is needed to back the water bonds. While it delays investment of the monies for six months, Mr. Harris said they have no problem with that. Second, the withdrawal of those dollars is done from the 25 percent of their share and the 75 percent share of the Board of Investments. When that interest money is not returned it results in an absolute loss of principal to the Board of Economic Development. He said that the Board bill would ask that the money be returned proportionately. He said that in hard dollars the Board of Investments earns in excess of 13 percent on their investment, while the Board of Economic Development is earning 11.19 percent. However, he points out that increased income taxes as a result of Board loans result in an additional 5.6 percent to state revenues and return from secondary jobs is estimated at about 5.3 percent making the potential return on Board funds upwards of 22 percent.

Senator Towe stated that he had no objection to the Board of Economic Development Bill. Mr. Benson also said he had no objections.

Discussion followed that was related to the nature of the work of the Board of Economic Development and the nature of its investment but not related to SB 41.

Senator Towe closed by apologizing for the lack of communication about the matter between the Department of Revenue and the Economic Development Board. He said the matter would be considered and addressed by one bill.

CONSIDERATION OF SB 46: Senator Towe was recognized as chief sponsor of the bill introduced at the request of the Revenue Oversight Committee. The bill would raise the tax threshold for special fuel users' quarterly filing waiver from \$100 to \$200.

#### PROPONENTS

Norris Nichols, administrator of the Motor Fuel Tax Division, was recognized. He said that the main benefit would be to eliminate the necessity of filing quarterly and requiring bonds of persons who used vehicles principally on a seasonal basis. When the fuel tax was increased, the \$100 threshold was not changed and this bill would bring those two items back in alignment.

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There were no further proponents.

#### OPPONENTS

There were no opponents.

Questions from the committee were called for.

Senator Lybeck asked if the rancher would pay a penalty if he used more fuel than originally anticipated. Mr. Nichols said that if the liability exceeded the threshold a notice was sent to file in the future.

Senator Neuman asked about the gallonage required to reach the \$200 limit. Mr. Nichols figured it roughly at about 1000. He said that currently about 2,000 are now using this filing waiver.

Senator Goodover asked if this bill would affect state revenue. Mr. Nichols said there would be no loss, but that it might save a little in administrative costs.

Senator Hager asked if it would be best to increase the amount to \$500 and further eliminate administrative cost. Mr. Nichols said that enforcement and compliance would be an issue if the dollar amount was raised.

Senator Eck asked about the nature of the bond required. Mr. Nichols said no bond is required of Montana residents and that others must be bonded for \$1,000 or twice their quarterly tax liability whichever is greater.

Senator Towe closed and returned to the chair. He recognized Dennis Burr of the Montana Tax Foundation for the purpose of giving a copy of the Montana Property Tax Mill Levies book to the committee.

CONSIDERATION OF SB 49: Senator Bob Brown, Senate District 2, was recognized as chief sponsor of the bill introduced at the request of the Department of Revenue and the Revenue Oversight Committee. The bill, he said, would require the state auditor to withhold payments on other state contracts to parties delinquent in their taxes. It would prevent the state from paying out dollars to delinquent taxpayers. The state auditors office would not object to the bill, he said.

#### PROPONENTS

Mr. Ken Morrison, Administrator of the Income Tax Division of the Department of Revenue was recognized to discuss the bill. Section One outlines the Department's responsibilities. Section Two outlines the state auditor's responsibilities and Section Three clarifies other law.

There were no further proponents.

OPPONENTS

There were no opponents to SB 49.

Questions from the committee were called for.

Senator Hager asked how this would work in dealing with disputed income tax. Mr. Morrison said that a hearing would be provided to settle the tax issue before the offset was made.

Senator Mazurek asked about lines 20 and 21 on page 1. He questioned the wisdom of offsetting any other claims and making the Department of Revenue first. He asked about the work done by a subcontractor when the contractor was delinquent. Mr. Morrison said that Senator Turnage had already excluded wages and benefits when the bill was considered in the Revenue Oversight Committee. Senator Mazurek again questioned the right of the Department to take priority over other claims. Mr. Morrison believed it was more effective than allowing the auditor's office to make an arbitrary decision.

Senator Towe raised the same question. Mr. Morrison said that the Department would like priority but was not trying to bump out others with valid claims.

Senator Goodover asked how this would affect taxes paid under protest. Mr. Morrison said it would not apply to those cases as it deals only with income tax law.

Senator McCallum asked if the bill allowed for due process of law. Mr. Morrison said that giving due process for the hearing involving the tax dispute was enough. He pointed out that the state now has nearly \$11 million in accounts receivable and that amount is growing all the time.

Senator McCallum asked if it was necessary to include parking violations in the bill.

Senator Eck asked if the state could do this for local governments as well. Mr. Morrison said he couldn't comment on that without further study.

Senator Hager asked about line 18 on page one. He wanted to know if the money could be withheld from a farmer who had a winter road plowing contract with the state. Mr. Morrison said, yes.

Senator Towe asked about disputed claims. Mr. Morrison said that any collection action would be held until the dispute was settled.

Senator Mazurek asked about the definition of delinquent.

Senator Towe asked about Section Two and why discretion was being taken from the state auditor. Mr. Morrison said that with the existing language the state auditor had chosen in every case not to offset the delinquent tax. The discretionary power was only a problem, he felt. He said it would be used only with

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those who had a serious and long-standing delinquency.

Senator Towe again noted the bill's provision allowing offset for parking violations of students and faculty.

Senator Brown closed on the bill. Senator Mazurek was excused.

CONSIDERATION OF SB 51: Senator Brown was recognized as chief sponsor of the bill introduced at the request of the Department of Revenue. This bill would increase the fines for willfully, deliberately not paying taxes or filing a return.

PROPOSERS

Ken Morrison, Department of Revenue, was recognized. He again discussed the problem of accounts receivable and those who deliberately refuse to file or pay taxes. The bill would impact those who purposely and knowingly did not pay over a three-year period.

There were no further proposers.

OPPOSERS

There were no opposers.

Questions from the committee were called for.

Senator Goodover commented that this bill could hurt a little old lady in Polson.

Senator Halligan asked about the percentage of chronic offenders. Mr. Morrison said that the bill would address only about 500 or fewer taxpayers and employers, but added that the Department must now invest a large amount of time in collecting from that small group.

Senator Severson asked if this would deal with large or small taxpayers. Mr. Morrison said that many of the offenders here are employers. Senator Towe answered that the larger taxpayers are already under a 25 percent penalty, thus this bill would affect the smaller taxpayer.

Senator Towe asked for a definition of "purposely and knowingly". Mr. Morrison said that the track record is three times in three years before a taxpayer is regarded as a habitual offender.

Senator Goodover asked if the percentage applied to the penalty and the tax. Mr. Morrison said it would apply to the tax only.

Senator Hager asked if the Department pursues liens against business property in the case of delinquent taxes. Mr. Morrison said, yes.

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Senator Towe pointed out that if three quarterly returns were not filed the "knowingly and purposely" definition could be invoked after only a year.

Senator Goodover said if the state pays heating bills in the winter for those who can't pay, why doesn't it also pay these taxes. Senator Hirsch responded that income tax liability is based on an ability to pay.

Senator Brown closed on SB 51.

Senator Towe said that the committee would plan to take executive action on some bills at the next meeting. He said there would be no meeting on Monday morning, January 14, and then the meeting was adjourned.



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Thomas E. Towe, Chairman

# ROLL CALL

## SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 10 January 1985

Location -- Room 413-415

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Name	Present	Absent	Excused
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Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman		✓	
Senator Severson	✓		
Senator Towe	✓		