

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 22, 1985

The eleventh meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8 am in Room 413-415 of the Capitol Building.

ROLL CALL: All members of the committee were present except Senator Brown who joined the committee at 8:10 am.

CONSIDERATION OF SB 33: Senator Severson was recognized as chief sponsor of the bill. He explained that the bill grew out of a bipartisan study committee during the interim and a Governor's advisory committee dealing with the issue of agricultural land values. He explained how agricultural land is assessed and valued. He said it would not be done differently except that irrigated land value, with water costs deducted, could not go below the value of nonirrigated land. Capitalized net income was the value that the committee agreed on; and that would reduce the value of farm land about 59 percent. Senator Severson explained that with other property values increasing and taxes going up, the committees finally agreed that a moratorium on increased farm value would be fair, rather than decreasing the valuation by the 59 percent even though it could be justified. Senator Severson said Representative Dean Switzer would co-sponsor the bill from the House side.

PROPOSERS

Nancy Espy, Chairman of the Governor's advisory committee, said that SB 33 summarizes the work of that committee. She said the bill has agreement and support from all parts of the agricultural community.

John LaFaver, Director of the Department of Revenue, emphasized the administration's strong support for the bill. He said the bill represents clearly a good compromise for not hurting the tax base and being protective of Montana agriculture.

Mons Teigen, Montana Stockgrowers, said that the committee should expect HB 168, a companion bill which deals with capitalized net income beyond the 1986 revaluation cycle. He said that the Office of Budget and Program Planning said agriculture lost \$121 million in 1981, \$151,983,000 in 1982, and that the 1983 figure would probably be worse. He said that agriculture cannot be overtaxed and that the situation would be helped by SB 33 and HB 168.

Senator Leo Lane who worked on both committees developing SB 33 supported the bill. He said the agricultural land valuation would be even lower if it were done with equity, but the committees wanted to be fair to other taxpayers.

Pat Underwood of the Montana Farm Bureau supported the bill, saying they would also support HB 168 (Exhibit 1).

Keith Anderson, President of the Montana Taxpayers Association, said that lands in Montana are classified as they should be and that his association supported the bill.

OPPONENTS

There were no opponents to SB 33.

Questions from the committee were called for.

Senator Neuman asked if current inequities would be frozen by this bill. Senator Severson responded that they were trying to play fair ball with other taxpayers and to avoid a shift between rural and residential urban taxpayers.

Senator Eck asked if the bill defined bona fide agricultural properties. Senator Severson said that definition need not be contained in this bill as it would be coming in under other legislation.

Senator McCallum asked about the valuation schedule dated January 12, 1984, and Mr. Les Saisbury, Department of Revenue, said that it represented no change.

Senator Goodover asked about a mechanical defect indicated by the fiscal note. Senator Severson said that separation of timber from agricultural land was not a committee idea, but that the Department of Revenue felt the separation necessary. He pointed out, however, that christmas trees were considered an agricultural crop and not taxed as timber. Mr. Saisbury was recognized and said that it was necessary to look at them separately to stop the kinds of problems that lead to the 34 percent cases.

Senator Brown asked for clarification of the irrigated land values. Mr. Saisbury said that under existing schedules it could be valued at less than nonirrigated land, and that the bill corrects this. Senator Severson said that it was to insure that dry land would not be taxed higher. He said that land was to be taxed on its basic ability to produce without the improvements made by good farmers. If they make it produce more they should not be taxed for that. At no time, he said, should irrigated land be taxed at less than dry land of the same classification. Mr. Saisbury said that a small amount of acreage would be affected by this change.

Senator Neuman asked about fertilizer being allowed as a capitol cost. Mr. Saisbury said that represented dollars used to increase production and should not be taxed.

Senator Eck asked if timber and agricultural lands were adequately separated by the bill. Mr. Saisbury said, yes.

Nancy Espy was recognized and again stressed the unity that farm groups have in support of this bill.

Senator Towe asked about HB 168. Senator Neuman explained that bill would allow capitalization as a factor on which to base

January 22, 1985

valuation. He said it would suggest to the Department how the capitalization rate should be determined. After 1986 the Department would bring a new cycle of agricultural land value into play.

Senator Severson said in closing that the committees worked to leave a good record of what and why and how this bill had been written.

Chairman Towe closed the hearing on SB 33.

FURTHER CONSIDERATION OF SB 43: Senator Towe reviewed the forms showing how and why the state is losing revenue from a loophole this bill would close. Mr. Ken Morrison of the Department of Revenue was recognized and said that the bill would pick up dollars lost because the piggyback system of the state on the federal system was incomplete.

MOTION: Senator Eck moved that SB 43 do pass. The motion carried unanimously.

FURTHER CONSIDERATION OF SB 51: Senator Towe said that he wanted amendments to the bill to address those people who cannot pay being treated differently from those people who will not pay.

Senator Halligan said that those deliberate, purposeful, chronic offenders must be addressed.

Senator McCallum said those who cannot pay would be treated the same by this bill as those who would not pay. Senator Eck asked Mr. Morrison what would happen to people who cannot pay. Mr. Morrison said that the Department was always willing to work out payment arrangements.

Senator Neuman said that if a \$100 penalty was a deterrent, that perhaps an even stiffer penalty would help more.

Senator Brown said the bill addressed a "real and disgusting problem" of the protesters not paying to harass the system. He said the committee needed to define "who needs to get got".

The problem of the smaller taxpayer and of the employer not sending in withholding were also discussed by the committee. Chairman Towe asked Senator Brown and Mr. Morrison to develop language that would overcome committee concerns.

FURTHER CONSIDERATION OF SB 49: Mr. Morrison was recognized and presented to the committee amendments drafted by the Department to answer the committee's concern that taxpayers have a right to be heard before an offset occurs (Exhibit 2). Senator Towe asked to have that hearing tied to the Administrative Procedures Act.

Mr. Morrison presented to the committee the applicable statute regarding offset of wages needed for support (Exhibit 3).

January 22, 1985

Another of the Department amendments addresses the Legislative Auditor's exception to the Department practice regarding the use of in-state collection agencies. Exhibit 4 shows that exception.

Senator Hager said that he still wanted cost exempt from the offset. Mr. Morrison said if that were done the bill would be ineffectual. There was some further discussion about existing powers of the Department to offset tax refunds and garnish wages.

MOTION: Senator Brown moved that SB 49 be amended as follows:

1. Title, line 10.

Following: "AGENCY;"

Insert: "AND TO CLARIFY THE USE OF COMMERCIAL COLLECTION AGENCIES;"

2. Page 1, line 17.

Following: "taxes"

Insert: "after the time for appeal has expired"

3. Page 1, line 19.

Following: "except"

Strike: "state employees'"

Following: "wages"

Insert: "subject to the provisions of 25-13-614"

4. Page 1, lines 20 and 21.

Following: "benefits." on line 20

Strike: remainder of lines 20 and 21 in their entirety

5. Page 2.

Following: line 2

Insert: "(5) The department must provide the taxpayer with notice of the right to request a hearing under the contested case procedures of Title 2, Chapter 4, on the matter of the offset action or the department intent to file a claim on behalf of a taxpayer. A request for hearing must be made within 30 days of the date of the notice and such hearing, if requested, must be held within 20 days."

6. Page 2, lines 13 and 14.

Following: "state" on line 13

Strike: remainder of line 13 through "state" on line 14

The motion to amend SB 49 carried unanimously.

MOTION: Senator Halligan moved that SB 49 do pass as amended.

With Senators Brown, Eck, Halligan, Hirsch, Lybeck, Mazurek and Towe voting, yes; and Senators Goodover, Hager, McCallum, Neuman and Severson voting, no; the motion carried.

FURTHER CONSIDERATION OF HB 56:

MOTION: Senator Goodover moved that HB 56 be amended as is indicated in the Standing Committee Report attached here. The motion carried

January 22, 1985

unanimously.

MOTION: Senator Goodover moved that HB 56 as amended do pass.
The motion carried unanimously. Senator Goodover said that ne
would carry HB 56 on the Senate floor.

FURTHER CONSIDERATION OF SB 32: MOTION: Senator McCallum moved
that SB 32 do pass.

Senator Towe called to the attention of the committee an Attorney
General's opinion dated December 31, 1984, saying that sugar
beets constitute business inventory.


Charles Gravely representing the County Treasurer's Association
was recognized and pointed out the distinction between producer-
held and refinery-held sugar beets. Mr. Greg Groepper of tne
Department of Revenue said that the test is if a corporation is
holding a product for resale, rather than a producer holding it
for sale, it is then business inventory.

Senator Severson said the committee should either tax all inven-
tory, or no inventory and not further fragment the tax system.

Senator Eck said she would need to see all such proposals before
voting on this one.

MOTION: Senator Mazurek moved as a substitute motion for all
motions pending that the committee adjourn. The motion carried
unanimously.

Senator Towe adjourned the meeting.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 22 January 85

Location -- Room 413-415

Name	Present	Absent	Excused
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Senator Brown	8:10		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

DATE _____

COMMITTEE ON Senate Payroll

NAME _____

REPRESENTING

BILL #

Check One

Support	Oppose
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MT. FARM BUREAU

33

✓

Wm Farm Bureau

Dept. of Revenue

Wt-Stackgrowers Assn

33

✓

[Signature]

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✓

Adm. Council -

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Love

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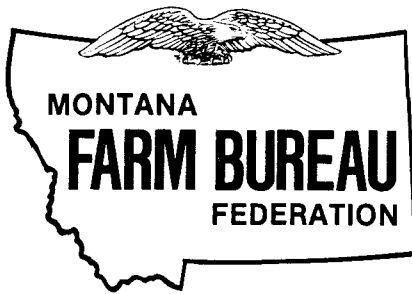
(Please leave prepared statement with Secretary)

NAME Wons Teyen BILL NO. SB 33
ADDRESS Helena DATE 1/22/85
WHOM DO YOU REPRESENT Mont. Stockgrowers Ass'n
SUPPORT X OPPOSE _____ AMEND _____
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

We support this bill along with HB 168. The
plight of agriculture is severe. Tax returns
show a negative agric income in 1981 of \$121,099.106
and in 1982 \$ 151,983,652

Agriculture deserves this help.



502 South 19th

Bozeman, Montana 59715
Phone (406) 587-3153

TESTIMONY BY: Pat Underwood

BILL # SB # 33 DATE Jan 22, 1985

SUPPORT X OPPOSE

The Montana Farm Bureau supports SB # 33. Members of our organization have had input into this bill since the 1983 session, through the interem committee's work and up until the present. We urge this committee to give this bill a do pass.

Thank You.

EXHIBIT 1 -- SB 33
Senate Taxation Committee
January 22, 1985

Pat Underwood
SIGNED

— FARMERS AND RANCHERS UNITED —

Amendments to Senate Bill 49

1. Title, line 10
Following: "AGENCY"
Strike: ";"
Insert: "AND CLARIFY THE USE OF COMMERCIAL COLLECTION AGENCIES;"
2. Page 1, line 19
Following: "Except"
Strike: "state employees"
Following: "wages"
Insert: "subject to the provisions of 25-13-614,"
3. Page 1, lines 20 through 21
Following: "benefits."
Strike: Remainder of lines 20 through 21 in their entirety.
4. Page 2, line 2
Following: Line 2
Insert: "(5) The department must provide the taxpayer with notice of the right to request a hearing on the matter of the offset action or the department intent to file a claim on behalf of a taxpayer. A request for hearing must be made within 30 days of the date of the notice and such hearing, if requested, must be held within 20 days."
5. Page 2, lines 13 through 14
Following: "state"
Insert: "."
Strike: Remainder of lines 13 through 14 in their entirety.

*The hearing shall
be held as
provided for
a contested case
under MAPA.*

(c) all courthouses, jails, public offices, and buildings, lots, grounds, and personal property, the fixtures, furniture, books, papers, and appurtenances belonging and pertaining to the courthouse, jail, and public offices belonging to any county of this state; and

(d) all cemeteries, public squares, parks, and places, public buildings, town halls, public markets, buildings for the use of fire departments and military organizations, and the lots and grounds thereto belonging and appertaining owned or held by any town or incorporated city or dedicated by such city or town to health, ornament, or public use or for the use of any fire or military company organized under the laws of the state.

(2) No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions.

History: En. Sec. 1222, C. Civ. Proc. 1895; amd. Sec. 2, Ch. 8, L. 1905; re-en. Sec. 6825, Rev. C. 1907; re-en. Sec. 9428, R.C.M. 1921; re-en. Sec. 9428, R.C.M. 1935; R.C.M. 1947, 93-5814(part).

Cross-References

Payment of judgments against the state, 2-9-315.

Payment of judgments against governmental entities, 2-9-316.

Attachment and execution against governmental entity, 2-9-318.

Payment of costs by governmental entities, Title 25, ch. 10, part 7.

Judgments against county or county officers, 25-13-205.

Garnishment of public officers, 25-13-504.

25-13-614. Earnings of judgment debtor. (1) Except as provided in this section, the earnings of the judgment debtor for his personal services rendered at any time within 45 days next preceding the levy of execution or attachment, when it appears by the debtor's affidavit or otherwise that such earnings are necessary for the use of his family supported in whole or in part by his labor, are exempt.

(2) Earnings for personal services are exempt under this section from judgments or orders for maintenance or child support only to the extent allowed by 15 U.S.C. 1673.

(3) Whenever debts are incurred by any such person or his wife or family for gasoline and for the common necessities of life, then the one-half of such earnings are nevertheless subject to execution, garnishment, and attachment to satisfy debts so incurred.

(4) The words "his family", as used in this section, except to the extent that these words include a person covered by a judgment or order under subsection (2), are to be construed to include:

(a) the judgment debtor's spouse;

(b) every person who resides with the judgment debtor under his care or maintenance and who is:

(i) a minor child of the judgment debtor or of his spouse or former spouse;

(ii) a minor grandchild, brother, or sister or minor child of a brother or sister of the judgment debtor or of his spouse;

(iii) a father, mother, grandfather, or grandmother of the judgment debtor or of his spouse or former spouse;

(iv) an unmarried sister, brother, or any other relative of the judgment debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself.

History: En. Sec. 1222, C. Civ. Proc. 1895; re-en. Sec. 6825, Rev. C. 1907; amd. Sec. 1, Ch. 48, L. 1913; re-en. Sec. 9429, R.C.M. 1921; amd. Sec. 1, Ch. 3, L. 1933; re-en. Sec. 9429, R.C.M. 1935; amd. Sec. 1, Ch. 77, L. 1939; R.C.M. 1947, 93-5816; amd. Sec. 7, Ch. 370, L. 1981; amd. Sec. 1, Ch. 153, L. 1983.

Compiler's Comments

1983 Amendment: At beginning of (1), inserted exception clause; at end of (1), deleted "but where"; inserted (2); at beginning of (3), inserted "Whenever"; and in (4), inserted exception clause referring to (2).

1981 Amendment: Substituted (2) (now (4)) for "the words "his family", as used in this section, are to be construed with the words "head of family", as used in 70-32-102."

25-13-615. Homestead. The homestead of a judgment debtor exempt from execution is provided for in Title 70, chapter 32.

History: En. Sec. 1223, C. Civ. Proc. 1895; re-en. Sec. 6826, Rev. C. 1907; re-en. Sec. 9430, R.C.M. 1921; re-en. Sec. 9430, R.C.M. 1935; R.C.M. 1947, 93-5818.

25-13-616. Life insurance benefits. (1) In addition to the property mentioned in 25-13-611, there shall be exempt to all judgment debtors who are married or who are heads of families all moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance on the life of the debtor if the annual premiums paid do not exceed \$500.

(2) No article, however, or species of property mentioned in this section is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage lien thereon, and no person not a bona fide resident of this state shall have the benefit of these exemptions.

History: En. Sec. 1222, C. Civ. Proc. 1895; amd. Sec. 2, Ch. 8, L. 1905; re-en. Sec. 6825, Rev. C. 1907; re-en. Sec. 9428, R.C.M. 1921; re-en. Sec. 9428, R.C.M. 1935; R.C.M. 1947, 93-5814(part).

25-13-617. Truck or automobile. (1) In addition to all other exemptions, one truck or automobile of the value of not more than \$1,000 is exempt from attachment or execution where the debtor is the head of a family or over 60 years of age; but where debts are incurred by any such debtor or his wife or family for the common necessities of life, then such truck or automobile is nevertheless subject to attachment and execution to satisfy debts so incurred.

(2) The words "his family", as used in this section, are to be construed to include:

- (a) the debtor's spouse;
- (b) every person who resides with the debtor under his care or maintenance and who is:
 - (i) a minor child of the debtor or of his spouse or former spouse;
 - (ii) a minor grandchild, brother, or sister or minor child of a brother or sister of the debtor or of his spouse;
 - (iii) a father, mother, grandfather, or grandmother of the debtor or of his spouse or former spouse;
 - (iv) an unmarried sister, brother, or any other relative of the debtor mentioned in this section who has attained the age of majority and is unable to care for or support himself.

History: En. Sec. 2, Ch. 120, L. 1933; re-en. Sec. 9430.2, R.C.M. 1935; amd. Sec. 1, Ch. 48, L. 1941; R.C.M. 1947, 93-5820; amd. Sec. 8, Ch. 370, L. 1981.

Compiler's Comments

1981 Amendment: Increased the auto exemption from \$300 to \$1,000 in (1); substituted (2)

for "The words "his family", as used in this section, are to be construed with the words "head of family", as used in 70-32-102."

Compliance

Section 17-4-105(1), MCA, states "the department may contract with commercial collection agencies for recovery of debts owed the state by debtors residing outside the boundaries of the state." Department policy is that all accounts over \$100 are considered for transfer to a private collection agency, regardless of in-state or out-of-state debtor status.

Department personnel felt that if the law did not specifically prohibit the use of collection agencies for in-state debtors that it was alright to do so. The collection bureau should include in-state debtors in its collection efforts or change the law to allow these accounts to be handled by a collection agency. The cost of using a private collection agency and the recovery statistics versus the use of the collection bureau should be considered in the decision. If all accounts over \$100 are consider

collection agency and accounts less 1
write-off, use of state employees to
within state government could be redu

EXHIBIT 4 -- SB 49
Senate Taxation Committee
January 22, 1985

RECOMMENDATION #7

WE RECOMMEND THE DEPARTMENT EITHER COMPLY WITH
THE LAW OR SEEK LEGISLATION TO ALLOW TRANSFER OF
IN-STATE DEBTOR ACCOUNTS TO COLLECTION AGENCIES.

Collections vs. Cost of Bad Debts

The department has not evaluated the costs associated with collecting bad debts. Based on past collectibility and the cost to

STANDING COMMITTEE REPORT

January 22

19. 85

MR. PRESIDENT

We, your committee on **Taxation**

having had under consideration **Senate Bill** No. **43**

first reading copy (**white**)
color

**SMALL BUSINESS CORP INCOME; INCLUDE IN MONTANA
INCOME PORTION THAT ESCAPES TAX**

Respectfully report as follows: That **Senate Bill** No. **43**

DO PASS

~~DO NOT PASS~~

Senator Tom Towe,

Chairman.

STANDING COMMITTEE REPORT

Page 1 of 2

January 22

1935

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 49

first reading copy (white)
color

COLLECTION OF DELINQUENT TAXES AND OTHER FUNDS DUE THE STATE

Respectfully report as follows: That Senate Bill No. 49

be amended as follows:

1. Title, line 10.

Following: "AGENCY;"

Insert: " AND TO CLARIFY THE USE OF COMMERCIAL COLLECTION AGENCIES;"

2. Page 1, line 17.

Following: "taxes"

Insert: "after the time for appeal has expired"

3. Page 1, line 19.

Following: "except"

Strike: "state employees"

Following: "wages"

Insert: "subject to the provisions of 25-13-614"

4. Page 1, lines 20 and 21.

Following: "benefits." on line 20

Strike: remainder of lines 20 and 21 in their entirety

5. Page 2.

Following: line 2

Insert: "(5) The department must provide the taxpayer with notice of the right to request a hearing under the contested case procedures of Title 2, Chapter 4, on the matter of the offset action or the department intent to file a claim on behalf of a taxpayer. A request for hearing must be made within 30 days of the date of the notice and such hearing, if requested, must be held within 20 days."

XXXXXX

XXXXXX

Chairman.

6. Page 2, lines 13 and 14.

Following: "state" on line 13

Strike: remainder of line 13 through "state" on line 14

AS AMENDED
DO PASS

Thomas B. Towe, Chairman

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
48th Legislative Session -- 1985

Time 9:45 am Date 1-22-84 Room 413-415

Motion: _____

That SB 49 do pass as amended.

Halligan

Name	Yes	No	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover		✓	
Senator Hager		✓	
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum		✓	
Senator Neuman		✓	
Senator Severson		✓	
Senator Towe	✓		

STANDING COMMITTEE REPORT

January 22

85

19

MR. PRESIDENT

Taxation

We, your committee on

House Bill

56

having had under consideration

No.

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REDUCE RECORD RETENTION PERIOD RELATING TO SPECIAL FUEL

Respectfully report as follows: That

House Bill

56

No.

be amended as follows:

1. Title, line 6.

Following: "DEALERS;"

Insert: "REDUCING THE STATUTE OF LIMITATIONS TO 3 YEARS FOR
ASSESSMENT OF DEFICIENCIES IN TAX REPORTED BY SPECIAL
FUEL USERS AND DEALERS;"

Following: "AMENDING"

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-70-323"

Insert: "AND 15-70-335"

2. Page 1, following line 22.

Insert: "Section 2. Section 15-70-335, MCA, is amended to read:
"15-70-335. Statute of limitation. Except in the case
of a fraudulent return or of neglect or refusal to make
a return, every deficiency shall be assessed under 15-70-331
within 3 years after the 25th day of the next succeeding
calendar month following the monthly period for which the
amount is proposed to be determined or within 5 years after
the return is filed, whichever period expires later."

Remember subsequent section.

AND AS AMENDED
BE CONCURRED IN

X50XKX6

X6XKXKX6

Thomas E. Towe,

Chairman.