MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 2, 1985

The twentieth meeting of the Taxation Committee was called to order by Chairman Thomas E. Towe at 8:06 am in Room 413-415.

ROLL CALL: All members of the committee were present except Senators Hager and Mazurek. Senator Hager joined the committee at 8:10 am, Senator Mazurek at 8:12 am.

CONSIDERATION OF SB 246: Chairman Towe recognized Senator R. J. Pinsoneault, Senate District 27, as the chief sponsor of SB 246. Senator Pinsoneault said that he was carrying the bill at the request of the Department of State Lands. He explained that the statute as written requires deposit of certain funds in the "state permanent revenue fund" when in fact there is no such fund. The bill simply aligns the law with the current practice of putting the collected monies in the general fund unless otherwise specified by the law.

PROPONENTS

Dennis Hemmer from the Department of State Lands presented Exhibit 1 to the committee. He explained that there is a statutory conflict and this bill would eliminate that. Current practice would not change as a result of the bill.

OPPONENTS

None were heard.

Questions from the committee were called for.

Senator Neuman asked if fires were fought from general fund dollars. Mr. Hemmer said, yes.

In response to another question Mr. Hemmer explained that the Department of State Lands sometimes brokers sales and leases for other departments. Senator Eck asked about the lease rates of state lands. Mr. Hemmer said that on oil and gas leases the rate was 13 percent, slightly higher than the prevailing rate. Other lands the Department is involved with include the Highway Proprietary Account, some prison lands, agricultural experiment station lands and old water board lands from the Department of Natural Resources.

In conclusion Mr. Hemmer said that this bill would erase any ambiguity about how those funds are to be distributed.

Senator Pinsoneault closed without comment on the bill.

MOTION: Senator Severson moved that SB 246 do pass. The motion carried unanimously.

FURTHER CONSIDERATION OF SB 48: Senator Towe presented Exhibit 2 to the committee. It runs examples of the effects of SB 48. He discussed the exhibit with the committee. The examples were based on 200 mils, the statewide average is 191 mils. Separation of residential and commercial tax classes was illustrated on the final page of the exhibit.

MOTION: Senator Goodover moved that SB 48 be amended to keep residential and commercial properties in the same tax classification.

Chairman Towe asked committee researcher Jim Lear to address how that would specifically change the bill. Mr. Lear lead the committee through the page and line changes that would implement the motion.

Senator Towe recognized Larry Schuster, attorney for the Department of Revenue to discuss the classification separation. He presented Exhibit 3 to the committee and discussed it. The three issues involved are equal protection, the tax classification systems and the assessment levels or equalization. He addressed all three areas with his written material.

Senator Towe then recognized Mr. Stan Kaleczyc, attorney for the Burlington Northern Railroad. Mr. Kaleczyc said that all options comply with the 4R act. He pointed out in item 4B of Exhibit 3, that separation of the classes may not solve the equalization problem. He said even if assessment is annual, the assessors will need to be audited and the assessment must relate to the market value.

Second, he said a decrease in taxes paid by the railroads would not be a foregone conclusion as Exhibit 2 indicates. He challenged the assumptions of that exhibit.

Finally, he said that Burlington Northern does want some legislation that would comply with the 4R act.

There was some discussion of the valuation of utility properties. It was not, however, relevant to this amendment.

Senator Hirsch asked Dennis Burr to comment. He said that in the court decisions on the 34 percent cases the court said that comparable and similar properties must be related for an appeal to have standing.

Senator Brown spoke to the bill. He said that he questioned all of the figures presented as they were only estimates of what might happen. He said they do not prove the future. Reappraisal does not have to occur annually, he said, and adjustments can be made for inflation. He said that to separate residential and commercial properties is a departure from the status quo and that the separation is done to discriminate. He said that it invites and makes possible inequity. He said the other tax breaks given to business can be changed if that is necessary. He concluded saying that the legislation should comply with the 4R act, avoid the 34 percent case problems and remain with the status quo classifications.

Mr. Greg Groepper was asked to comment on the amendment offered by Senator Goodover. He said that if it were adopted the Department would opt to the higher end of the fiscal notes because appraisal work would be more difficult. Nonetheless, he said that either HB 240 or SB 48 would eliminate alot of problems.

Senator Brown asked him if his only reason for wanting the classes separate was to minimize legal problems. Mr. Groepper answered, yes, that administratively the separation would be easier to implement. Senator Brown said that legal problems could exist in any event and that the considerations of the committee must be broader than administrative concerns.

Senator McCallum asked if the Goodover amendment would require reappraisal every year. Mr. Groepper said the same taxable value would have to be generated by appraisal and/or adjustment. Senator McCallum asked if a property was valued at $100,000 in one cycle and $125,000 in the next cycle if the rate would drop. Mr. Groepper answered, yes.

Senator Eck said that despite legal problems the basic issue is philosophical. She said residential taxpayers have been assuming an increasing load and they should not have to do that.

The question was called by Chairman Towe on Senator Goodover's motion to amend SB 48. With Senators Brown, Goodover, Hager, McCallum and Severson voting yes; Senators Eck, Halligan, Hirsch, Lybeck, Mazurek, Neuman and Towe voting no; the motion failed.

MOTION: Senator Eck moved the amendments to SB 48 indicated in Exhibit 4.

Senator Brown said that once again the big guys were being taken care of. He said if these amendments passed it would help defeat SB 48 on the floor.

Chairman Towe said the committee would reconvene at 8:30 am, Monday, February 4. He adjourned the meeting at 9:17 am.

Thomas E. Towe

Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date February 2, 1985

Location -- Room 413-415

- -

Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	8:10am		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	8:13am		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

DATE February 2, 1985

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Oppose
Dennis Hemmer	Dept of State Lands	SB 244	✓	

(Please leave prepared statement with Secretary)

TESTIMONY FOR S.B. 246

DENNIS HEMMER, COMMISSIONER OF STATE LANDS

The Department of State Lands supports Senate Bill 246. The changes to 77-3-436, MCA, as provided in Senate Bill 246 eliminate the confusion on how revenues from oil and gas production on non-trust state owned lands will be distributed. The current law requires that the Department deposit 50% of the oil and gas revenue earned on non-trust state owned lands in the general fund and 50% in the "State permanent revenue fund." The State permanent revenue fund does not exist. If the law was followed as it appears in the above section, we would have to deposit oil and gas earnings from Highway Department lands, which were purchased with gas tax or federal revenues, into the State General Fund even though other law directs us to place it in the Highway fund and the non-existent "State permanent fund" on a 50-50 basis. This would conflict with the statutes that authorize the Highway Department to lease lands and we couldn't follow the letter of the law because the "State permanent fund" doesn't exist. We deposit oil and gas revenue earned on non-trust lands purchased with general fund money in the general fund. For example, oil and gas revenue earned on the prison ranch properties has and always will be deposited in the General Fund. It is done this way because the laws that authorized the Department of Institutions to lease lands require that the revenue derived from leasing be deposited in the General Fund.

Changing the law as provided in Senate Bill 246 will not reduce income to the General Fund and it will eliminate the confusion over the disposition of oil and gas revenue received from non-trust state owned lands.

EXHIBIT 1 -- SB 246
February 2, 1985

THOMAS E. TOWE
Senator - District 46
February 1, 1985

SENATE BILL 48

```
Assume a house at $50,000  --  current appraised value.
                   x    8.55% -current classification
                   ----------
                    4,275     -taxable value
                   x  200     -mills
                   ----------
                   $  855     -tax

Reclassification - on line 1 Jan. 86:      50,000
                                            x 219 %
                                            -------
                                          $109,500

          At current classification: 8.55%
                                       ----------
                                     $  9,362.25

          At 200 mills:                    .200
                                       ----------
                                     $  1,872.45

But make adjustment under SB 48:     $109,500    -new value
                                       x    3.897%
                                     -------------
                                        4,267.21 -taxable
                                                   value
                                       x  200    -mills
                                     -------------
                                     $    853.44 -tax

If combined with Commercial Property:  $109,500    -new value
                                            4.03 %
                                       -------------
                                          4,412.85  -taxable
                                                      value
        882.57    new tax                    x  200-mills
        853.44    old tax                   -------------
        ------                         $    882.57  -tax
      $ 29.13 extra tax if residential
              and commercial property
              is combined
```

EXHIBIT 2 -- SB 48
February 2, 1985

Assume a commercial building value now--$100,000 appraised

$100,000	
x 8.55%	-current classification
$ 8,550	-taxable value
200	-mills
$ 1,710	-tax

Increase in appraisal on 1 Jan. '86

$100,000	
x 193%	
$193,000	-new appraised value
x 4.428%	-new classification number
$ 8,546.04	-taxable value
200	-mills
$ 1,709.21	-tax

But if combined with residential property:

$193,000	-new appraised value
x 4.04%	
7,797.20	-taxable value
x 200	-mills
$ 1,559.44	-tax

$1,709.21	old tax
$1,559,44	new tax
$ 149.77	<u>less</u> <u>tax</u> if residential and commercial <u>property</u> is combined

Other reasons to separate residential and commercial property:

1) To comply with 4Rs act (Railroads) and TEFRA (airlines) we must reappraise commercial property every year or railroads and airlines reduce their tax accordingly.

--If inflation is 16% in commercial buildings we must raise $193,000
x 116%

$223,880

--Then we can use the formula to reduce classification from 4.428% to 3.719% so they pay the same tax

--For commercial property only it will cost $245,000 the first year and $145,000 each year thereafter. $390,000 for the biennium. Administrative cost to administer the bill.

--If we have to do the same for residential property it will cost $2,450,000 the first year and $1,450,000 thereafter. $3,900,000 for the biennium to administer the bill.

--If we don't reappraise commercial property every year--

BN will demand a 16% tax reduction
$8,000,000 -total tax by BN
x 16%

$1,280,000 -deduction
$6,720,000 -total paid by BN after deduction.

2) After the last appraisal cycle, nearly every commercial property owner sued claiming they were appraised too high compared to residential property.

--34% cases.
--6,000 cases -- still over 900 left to resolve.

--Same thing will happen again unless residential and commercial property is placed in separate classes.

3) Residential property has already taken most of the tax increases caused by reductions of tax on commercial property since 1973.

--Loss of taxable value since 1973.

1983	--Business Inventory --------	37.0 million
1982	--Settlement of 34% cases----	66.6 million
1973	--Household Furniture--------	17.4 "
1979	--Financial Institutions-----	21.8 "
1983	--Railroad Settlement--------	24.8 "
1981	--Oil & Gas Windfall Profit Tax---------	118.0 "
1981	--Livestock Reduction--------	52.0 "
1981	--Retail to Wholesale Value for vehicles-------	16.0 "
	Total	$353.9 "

Total Residential	17.4 million
Total Commercial	336.5 million
Total Business Inventory & 34% cases only	103.6 million

I.

EQUAL PROTECTION

Hilger v. Moore

Larson v. State

Significant Points

1. Tax classification systems are constitutionally permissible.

2. Equal protection as to property within a particular tax class means at least two things.
   (a) It must carry the same tax rate
   (b) It must be valued according to a similar valuation methodology.

Class Four Property

Commercial Buildings	8.55%
Residential Buildings	8.55%
(valued cyclically)	
(reproduction cost depreciated)	

Class Eleven Property

Railroad Allocation	15%
(valued annually)	
(Unit method)	

EXHIBIT 3 -- SB 48
February 2, 1985

II.

TAX CLASSIFICATION SYSTEM

Class One	-net proceeds of mines	100% of annual net proceeds
Class Two	-gross proceeds of metal mines -gross proceeds of coal mines -gross proceeds of coal strip-mines	3% AGP 331/3% AGP 45% AGP
Class Three	-agricultural land	30% production capacity
Class Four	-land -all improvements -golf courses	8.55 % 8.55 % 4.275%
Class Five	-rural electric cooperatives -rural telephone cooperatives -air and water pollution control equipment -new industrial property -property used in gasohol production	3%
Class Six	-livestock/penalty -unprocessed agricultural products -certain items of personal property held for lease	4%
Class Seven	-telephone communication property (rural towns) -electric and telephone cooperatives serving less than 95% of certain users -electric transformers and other property used by non-centrally assessed companies	8%
Class Eight	-agricultural implements -mining machinery and equipment -manufacturing machinery and equipment -ore haulers -motorcycles -watercraft -aircraft -all-terrain vehicles -all other machinery	11%

Class Nine	-buses 3/4 ton to 1½ tons -truck toppers (more than 300 pounds) -commercial furniture and fixtures -x-ray, medical and dental equipment -citizens band radios	13%
Class Ten	-radio and TV broadcasting equipment -cable TV systems -trucks capacity more than 1½ tons -trailers more than 18,000 lbs. maximum gross loaded weight -theater projection equipment -all other property not in preceding nine classes	16%
Class Eleven	-centrally assessed companies, allocations	15%
Class Twelve	-trailers or mobile homes used as residences	8.55%

<u>Example - Tax Rates</u>

Rod mill	100,000 x 11% x .300 mills =	3300
Commercial building	100,000 x 8.55% x .300 mills =	2565
Railroad allocation	100,000 x 15% x .300 mills =	4500

<u>Federal Legislation</u>

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds that tax rate applicable to commercial and industrial property in the same assessment jurisdiction."

III.

ASSESSMENT LEVELS
(EQUALIZATION)

Full Level Assessment	$\frac{100,000}{100,000}$	Assessment market value
Fractional Assessment	$\frac{80,000}{100,000}$	Assessment market value

$\frac{\text{Assessed Value}}{\text{Market Value}}$ = Assessment Ratio

15-7-111. Periodic revaluation of taxable property. The department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 5 years. A comprehensive written plan of rotation shall be promulgated by the department fixing the order of revaluation of property in each county on the basis of the last revaluation of taxable property in each county prior to July 1, 1974, in order to adjust the disparities therein between the counties. The plan of rotation so adopted shall provide that all property in each county shall be revalued at least every 5 years or that no less than 20% of the property in each county shall be revalued in each year. The department shall furnish a copy of the plan and all amendments thereto to each county assessor and the board of county commissioners in each county.

15-8-111. Assessment - market value standard - exceptions.

(1) All taxable property must be assessed at 100% of its market value <u>except as provided in</u> subsection (5) of this section and in 15-7-111 through 15-7-114.

<u>Example</u>

Commercial building	$\frac{1976}{1978}$
Residential building	$\frac{1972}{1978}$
Commercial building	$\frac{1982}{1986}$
Residential building	$\frac{1982}{1986}$

<u>Significant Points</u>

1. All property except Class Four property is valued on an <u>annual</u> basis.
   (a) Rod mill
   (b) Restaurant furniture and fixtures
   (c) Railroad allocation

2. Building and land assessed values are static. (Frozen as of January 1, 1986 through January 1, 1991.)

3. Market value of property is not static.

<u>Assessment Ratio Examples</u>

Rod Mill

1986	$\frac{100{,}000 \text{ AV}}{100{,}000 \text{ MV}}$	=	100%
1987	$\frac{90{,}000 \text{ AV}}{90{,}000 \text{ MV}}$	=	100%

Commercial Building

1986	$\frac{80,000}{90,000}$	AV	=	88%
1987	$\frac{80,000}{100,000}$	AV	=	80%

1. For Class Four property, the numerators (assessed values) remain constant during the appraisal cycle.

2. For other types of property, the numerators (assessed values) change each year.

3. If the numerator remains constant for Class Four property, but the denominator changes according to the market, the assessed to market ratio decreases.

4. If the numerator changes according to the market for other classes of property, and the denominator changes according to the market, the assessment ratio will be closer to 100%.

Federal Legislation

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transporation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

IV.

Solutions to Federal Law

1. Put all commercial and industrial property in the same tax class.
   (a) Solves tax rate problem
   (b) Does not solve valuation methodology problem.

2. Apply equalization multipliers to commercial property within Class Four as presently codified.
   (a) Solves equalization problem
   (b) May discriminate against residential property in Class Four.

3. Freeze the value of all property as of a given date.
   (a) Damaging to all taxpayers (no depreciation afforded).
   (b) Inconsistent with valuation theory.
   (c) Does not solve equalization problem.

4. Separate commercial and residential property from Class Four into separate tax classes and value it annually. Value all commercial and industrial property annually.
   (a) Solves tax rate problem.
   (b) Solves equalization problem.
   (c) Preserves sanctity of different valuation methodologies for different property in different tax classes.

Amendments to Senate Bill No. 48

Amend SB 48, introduced copy

1. Page 18, lines 6 and 7.

Following: "property" on line 6

Strike: "described in 15-6-141(1)(a), (1)(b),(1)(d) and (1)(e)"

Insert: "included in class eleven"

2. Page 18, line 8.

Following: "of"

Strike: "the"

Insert: "class eleven"

Following: "property"

Strike: "described in those subsections"

3. Page 18, line 9.

Following: "provided in"

Strike: "15-6-141(2)(a)"

Insert: "15-6-141"

4. Page 18, line 11.

Following: "property"

Strike: "described in 15-6-141(1)(c)"

Insert: "included in class thirteen"

5. Page 18, line 12.

Following: "value of"

Strike: "the"

Insert: "class thirteen"

6. Page 18, line 13.

Following: line 12

Strike: "described in 15-6-141(1)(c)"

EXHIBIT 4 -- SB 48
February 2, 1985

7. Page 18, line 14.
Following: "in"
Strike: "15-6-141(2)(b)"
Insert: "[section 11]"

8. Page 18, line 16.
Following: "nine"
Strike: "and"

9. Page 18, line 17.
Following: "eleven"
Insert: ", and class thirteen"

10. Page 19.
Following: line 11
Strike: lines 12 through 22 in their entirety
Renumber: subsequent subsections

11. Page 20, lines 9, 10 and 11.
Following: "taxed" on line 9
Strike: the remainder of line 9 through "taxed" on line 11

12. Page 20, line 11.
Following: "~~12%~~"
Strike: "12.8%"
Insert: "12%"

13. Page 20.
Following: line 12
Strike: lines 13 through 15 in their entirety

14. Page 22.
Following: line 2
Insert: "NEW SECTION. Section 11. Class thirteen property -- description -- taxable percentage. (1) Class thirteen property includes centrally assessed companies' allocations except: (a) electric power and natural gas companies' property;

(b) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five;

(c) property owned by organizations providing telephone communications to rural areas and classified in class nine;

(d) motor carrier, airline, and railroad transportation property included in class ten; and

(e) centrally assessed property specifically included in class eleven.

(2) Except as provided in 15-23-202, class thirteen property is taxed at 15% of its market value."
Renumber: subsequent sections

15. Page 31, line 24.
Following: "except section"
Strike: "19"
Insert: "21"

16. Page 32, line 1.
Following: "Section
Strike: "19"
Insert: "21"

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
48th Legislative Session -- 1985

Time 9:12 am Date February 2, 1985 Room 413-415

Motion: That SB48 be amended as described in minutes to put residential and commercial properties in same tax class. Goodover.

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

February 2, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 246

first reading copy (white)
color

TO CREDIT INCOME FROM SOME NONTRUST LANDS TO GENERAL FUND

Respectfully report as follows: That Senate Bill No. 246

DO PASS

~~DO NOT PASS~~

Thomas E. Towe, Chairman.