

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

April 12, 1985

The sixty-ninth meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8:05 am in Room 413-415 of the State Capitol.

ROLL CALL: All members of the committee were present except Senator Neuman who was excused.

CONSIDERATION OF HB 943: Representative Gene Donaldson was recognized as chief sponsor of the bill. He said that staff at the Office of Public Instruction had been reduced by 40 FTEs in the last years. This fee increase would be used to offset the loss of two FTEs in the secondary vocational education area. He said that the \$2.00 fee for certification had not been increased since 1964. This bill would raise the fee to \$5.00. He said the amount raised would not totally cover the two FTEs, but would help.

PROPOSERS

Mr. Bob Anderson, representing the Office of Public Instruction, said that the review process for certification was cyclical and that about 6000 teachers were recertified annually. He said that teacher education and standards were also considered by that function. He said other states had higher fees, such as Oregon at \$65.

OPPOSERS

None were heard at this time. At the end of the meeting Mr. Phil Campbell of the Montana Education Association testified against the bill.

Questions from the committee were called for.

Senator Brown asked why the money would go into the general fund instead of be earmarked. Representative Donaldson said that there was no desire to start a proprietary fund. He said that hopefully the two FTEs would be left in HB 500, but that if they were not, he would return to the committee and ask that this bill be killed. Senator Brown asked if the \$2 fee currently went into the general fund. Representative Donaldson said, yes.

Senator Lybeck asked why House Appropriations had moved the fee to \$10. Representative Donaldson said they felt that was more in line with the charges of other states, but that he had the figure reduced back to \$5 on the House floor. He said that would match the amount of federal funds lost.

Senator McCallum asked if the \$5 fee was charged how could the Legislature insure that those FTEs wouldn't be cut next session. Representative Donaldson said that it could happen as the Office of Public Instruction has a high percentage of federal money which could

April 12, 1985

be cut. He said that these FTEs are not even in teacher certification, but are secondary vocational education staff.

Senator Eck asked if the \$200,000 cost was related to the cost of certification. Mr. Anderson said, yes, but they draw from outside of that office to supplement the program. He said the bill would raise about \$82,000 a year. Senator Eck asked if the relative cost of fees for other licensed professions was similar. Mr. Anderson said they had not checked that.

In response to a question from Senator Towe, Representative Donaldson said that the Office of Public Instruction originally lost four FTEs but that two were back in. He said there is a feeling about not replacing federal dollars with general fund dollars. He said a reduction would severely cut the services. He said that without the money there would be an internal shuffling of staff.

Representative Donaldson closed asking the committee to hold the bill for a day or two to see what Finance and Claims did with the request for four FTEs. He said that a fee shouldn't go 20 years without review and if the money was appropriately used he felt the bill should pass.

CONSIDERATION OF HB 410: Representative John Harp was recognized as chief sponsor of the bill. He said that the bill seeks to set similar properties at the same rate. He said that Mountain Bell as been working to try to solve the problem of a rate that is not equitable with other utilities and that if this is not done there could be legal problems down the road.

#### PROPONENTS

Mr. Jim Hughes, representing Mountain Bell, said that they have attempted to solve the problem legislatively. He said that they currently collect \$120 per year in property tax for every phone. He said the Legislature out to look at equalizing taxes in the industry in general. He said this bill will not reduce the rates, but will take pressure to increase them off. He said that Montana pays significantly higher property tax for telephone systems than do surrounding states. He said the Mountain Bell anticipates about \$50 to 60 million in new construction and that because of that, the state would not experience a revenue decrease if this bill passes. He said that the bill simply addresses equity among centrally assessed utilities.

Mr. Dennis Burr, also representing Mountain Bell, said that he wanted to address the committee's previous concern about setting the rate at 12.8 percent. He said that utility company property taxes have raised about 16 percent a year since 1974. He said that the net and gross proceeds tax have jumped from 6 to 30 percent of the tax base. He said that the bill would reflect the increase in utility assessments and would not decrease the taxable value but would affect a slower increase. He noted also that to raise electric utilities from 12 to 12.8 percent would impact electric utilities substantially.

Mr. John McDonald, Northwest Telephone Systems, said that he would echo the previous testimony and support the bill.

#### OPPONENTS

Mr. Don Judge, Montana AFL-CIO, said that here is another attempt to give tax relief to the corporations and cause about \$5 million to be recouped at the local level.

Questions from the committee were called for.

Senator Towe asked for the amount of the total property tax bill of Mountain States Telephone. Mr. Hughes said that in 1984 it was just over \$17 million. Senator Towe asked how that was affected by divestiture. Mr. Hughes said that in 1983 with 20 percent more property they paid \$14 million in property tax. He said with a 20 percent decrease in valuation they paid \$3 million in additional tax.

Senator Towe asked him to comment on a 12.8 percent rate. Mr. Hughes said they oppose it because they do not want to increase the tax to their customers.

Senator Towe said it was hard to swallow giving \$5 million in property tax relief. Mr. Hughes said it was not that much and that the fiscal note includes railroads and airlines. He said that they will continue to expand and grow and will pay the same amount of taxes.

Mr. Groepper, Department of Revenue, said that the impact without railroads and airlines would be about \$4.8 million.

Senator Towe said that would be an enormous drop in revenue at the local level. Representative Harp said he didn't deny that, but at least a 14 percent increase in valuation would offset that. He said that this is not a decrease, but a decrease in the increase.

Senator Towe asked Ms. Marie McAlear, Montana Association of Counties, why they did not testify on this bill. Ms. McAlear said they would only monitor the bill.

Senator Towe asked Mr. Burr if he expected the increased rates paid by Mountain Telephone to continue at 16 percent a year. Mr. Burr said he would expect the increase to continue but that it would not be so great.

Senator Towe asked what the \$50 million in new construction represented? Mr. Hughes said that the investment was in rural telephone improvements, changing aerial lines to underground, and new switching systems. He said that the equipment is obsolete within ten years and so new equipment is constantly necessary. He noted too that the \$50 to 60 million includes labor and technology as well as property.

Senator Eck asked Mr. Groepper how the valuation could decrease by 20 percent and the tax paid could increase by \$3 million. Mr. Groepper said that there was a significant increase in millage. He said that during the construction process they arrive at a unit value and that is converted when the project is completed and capitalized. He said the end result is about one-third of the total value of the construction cost.

Senator Towe asked if some of the increase was not due to an increase in income. Mr. Hughes said that it wasn't a revenue increase in relation to property taxes.

Representative Harp closed saying that the bill tries to address a certain problem. He said it is not a solution for the entire package of problems, but it does solve one part of the classification trouble. He said that Mountain Bell had been trying to work this out without going to court and he hoped the committee could concur in the bill.

CONSIDERATION OF HB 198: Representative Jack Ramirez, House District 87, said that this bill was introduced at the request of the Revenue Oversight Committee. He said that it accomplished a reduction in the taxable percentage rate of class 3 and 4 properties. He said that after reappraisal if the rate is not adjusted property taxes will increase significantly. He said the rate plugged into the bill is intended to be a wash in terms of revenue. He said that the Revenue Oversight Committee introduced it at 0 percent, leaving the Legislature to plug in a figure. He said that the 5 percent figure applies to agricultural property as well and the committee may want to look at that. He also noted that the percent had not been changed from zero on page five, line 25.

#### PROPONENTS

Mr. Dennis Burr, representing the Montana Taxpayers Association, said that they support this one-time change. He said it was the first change since 1978.

Mr. Don Allen, Montana Woodproducts Association, said the concern is shared by the timber industry. He said this is another vehicle to insure that timber industry taxes don't rise out of control after adjournment. He said there are many problems in the marketing of timber, and the competition related to the shrinking land base for harvest. He said he supported the bill as it came into the Senate Taxation Committee.

Mr. Dave Goss, Billings Area Chamber of Commerce, said that this is a reasonable approach and helps local government from having wild increase in property tax values.

Mr. Alex Hansen, Montana League of Cities and Towns, said they had been following the bill throughout its eight months starting in the Revenue Oversight Committee. He said the increase is only an average and contrasted counties where property is increasing with Deer Lodge where only one new house has been built since 1980 and 68 homes have been torn down. He said that five percent won't balance the books,

but that it would help and was reasonable in terms of inflation. He said it would help stay even or reduce mill levies. He said it won't automatically mean higher taxes. He said that a valuation increase does not mean a tax increase.

Mr. Greg Jackson, Urban Coalition, said a resolution asking for a 10 percent figure had been passed by his organization, but that five percent was reasonable and would affect the continued reduction in tax base.

Ms. Marie McAlear, Montana Association of Counties, asked that tax revenue to local government not be lowered.

#### OPPONENTS

Mr. Don Judge, Montana AFL-CIO said that he was not a proponent or an opponent, just a "ponent". The mill levies will not decrease, he said. The short term reduction will be eaten quickly by federal tax cuts. He said because the Legislature has failed to address tax equity this bill must be passed. He said that there will be no impact at all on the commercial properties in Class 12.

He said that Class 4 property would be impacted with this legislation that would generate about \$10.7 million. He said that residential and agricultural taxpayers would absorb 78 percent of the increase.

Questions from the committee were called for.

Senator Eck said that reclassification was still the issue.

Senator Towe asked if the schedule was different from the formula. Representative Ramirez said that it could be done either way. Mr. Burr also said that the formula would have the same results as the schedule.

Senator Severson questioned a five percent raise in agricultural valuations when a 59 percent decrease could be justified and the status quo compromise had already been agreed upon. Mr. Burr responded saying that this is a recognition of the fact that this property has had the same taxable value since 1978. He said that this needed to be done.

Senator Towe asked Representative Ramirez to comment on Mr. Judge's testimony. Representative Ramirez said that there was a five percent increase for everyone equally.

Representative Ramirez closed without comment.

CONSIDERATION OF HB 943: Mr. Phil Campbell, representing the Montana Education Association, was recognized as an opponent of the bill. He said that this is a tax on teachers to bear the burden of OPI

April 12, 1985

budget cuts. He said the Legislature has an obligation to fund these things and that to pass that to teachers is unfair. He said that if the fee went directly into certification it might be okay, but that it was not going to be used for that. He said that the Association had come in with a bill that asked for increased fees to fund a teacher certification board and that OPI had in fact opposed that bill. He said teachers would have no voice and that their dollars should not go there. He said that new teachers have to pay a testing fee of \$50 and that meant they would pay \$52 and not just \$2 in their first year. He said that they have proposed working together to give professionals a voice in their own profession, but that this money was going directly into the general fund.

Questions from the committee were called for.

Senator Severson asked how long the certification period was. Mr. Campbell said that they are certified for five years at a time.

Senator Mazurek noted that the fee had not been raised for 20 years. Mr. Campbell said the increase was okay, but the use of the money was not.

Senator Severson said that bills had gone through requiring the Clerk and Recorder to charge \$5 for a single piece of paper.

Senator Brown agreed with Mr. Campbell that the reasoning of the bill was weak, but said the fee should probably be increased. Mr. Campbell said that OPI had asked for no budget increase in the area of teacher certification.

In response to a question from Senator Eck, Mr. Campbell said that MEA preference would be to establish a new board or at least to put a mechanism for teacher input into the status quo.

Chairman Towe closed the hearing on HB 943.

CONSIDERATION OF HB 851: A copy of further information from Representative Pistoria was distributed to the committee (Exhibit 1).

Senator Eck said that this bill would cost the school districts and that the status quo allows inequity among school systems.

Senator Brown said that people who own vehicles ought to pay and that it was hard to justify the exemptions.

Senator McCallum said a bus owner does it for a profit and the school doesn't earn any money with its bus systems.

Senator Goodover said that the taxpayers would have to buy busses if this bill passed.

MOTION: Senator Eck moved that HB 851 be not concurred in.

April 12, 1985

Senator Towe said that then this benefit would also be extended to churches, hospitals and others.

Senator Halligan said that the capital expense of schools was greater than that of the other institutions mentioned.

Senator Hirsch said that the bill would encourage the contractors to operate older, less safe busses.

Senator Towe asked how we could not extend the exemption to other kinds of property.

Question was called. Senators McCallum, Brown, Mazurek and Towe voted no, Senator Neuman was absent and all other committee members voted yes. The motion carried.

CONSIDERATION OF HB 704: Senator Towe presented the amendments found in Exhibit 2.

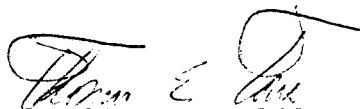
The committee discussed that Jefferson County had just rejected the levy for the high school district.

Senator Towe explained the amendments saying that they address the problem that exists when a windfall comes to a school district. He said they could have enough dollars to reduce the levy to zero. His amendments put all the money in the general fund of the state; 60 percent into the school foundation program. He said that after the settlement of a suit the county has 180 days to come to the Department of Revenue to make application for the dollars. The Department could refuse to allow them the money.

Senator McCallum asked who paid the money in the protest account. Senator Towe said in the case of the BPA protest it was the power companies. Senator McCallum asked if there were often cases where there was a protest of the full amount of the tax. Senator Towe said that generally only a portion was protested.

Senator Brown asked if Senator Towe had shown these amendments to Representative Marks, Senator Towe said no.

Chairman Towe adjourned the meeting at 10:02 am.

  
\_\_\_\_\_  
Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date April 12, 1985

Location -- Room 413-415

-----

Name Present Absent 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	✓		







FLATHEAD 4 - H FOUNDATION, INC.



"SERVING YOUTH - OUR MOST PRECIOUS RESOURCE"

March 26, 1985

*Recd. - Sat - Mar. 30, 1985  
Re H.B. 851*



H  
E  
A  
D

Paul Pistoria  
House of Representatives  
Capitol Building  
Helena, Montana 59601

Dear Rep. Pistoria,



H  
E  
A  
R  
T

The Flathead 4-H Foundation is very appreciative of your efforts supporting amendments to HB 851 which kept 4-H owned camp property tax exempt under Montana Law. The Flathead 4-H Foundation built a camp at Loon Lake near Bigfork in 1981-82 and it was an arduous task involving lots of volunteer labor and donated materials.

The camp has been a very useful facility for 4-H in Western Montana since all the western counties use it for camping programs. HB 851 as originally written would have placed the facility back on property tax rolls even though the Flathead 4-H Foundation has its own 501(c)3 federal tax exemption. We would have been treated differently than other youth group owned property. It would have forced large increase in our camp use fees, and we try to provide camping experience to youth at minimal cost.

Therefore, we thank you sincerely for your support and efforting in successfully amending HB 851.

In appreciation,

*Darrell Fenner*

Darrell E. Fenner, Extension  
4-H Program Coordinator  
Flathead County

*Marjorie Olsen*

Marjorie Olsen, Chairman  
Flathead 4-H Foundation



H  
E  
A  
L  
T  
H

Exhibit 1 -- HB 851  
April 12, 1985



Amend HB 704, 3rd Reading Copy

1. Title, line 11.

Following: "LEVIES;"

Insert: "PROVIDING FOR DISPOSITION OF SUCH PROTEST FUNDS UPON CONCLUSION  
OF A PROTEST PROCEEDING IN FAVOR OF THE TAXING JURISDICTION;"

Following: "7-6-2321,"

Insert: "15-1-402,"

2. Page 2, line 18.

Following: "proceeding,"

Insert: "so much of"

Following: "money"

Insert: "as is refunded to the county under 15-1-402(8)(c)"

3. Page 2.

Following: line 23

Insert: "Section 2. Section 15-1-402, MCA, is amended to read:

**" 15-1-402. Payment of taxes under protest — action to recover.**

(1) The person upon whom a tax or license fee is being imposed may proceed under 15-1-406 or may, before the tax or license fee becomes delinquent, pay under written protest that portion of the tax or license fee protested. The payment must:

- (a) be made to the officer designated and authorized to collect it; and
- (b) specify the grounds of protest.

(2) After having exhausted the administrative appeals available under Title 15, chapters 2 and 15, a person or his legal representative may bring an action in any court of competent jurisdiction against the officers to whom said tax or license fee was paid or against the county or municipality in whose behalf the same was collected and the department of revenue.

(3) Both the officers to whom the tax or license fee was paid or the county or municipality in whose behalf the same was collected and the department of revenue must be served with timely summons and complaint within the time prescribed.

(4) Any action instituted to recover any such portions of tax or license fee paid under protest shall be commenced and summons timely served within 60 days after the date of the final decision of the state tax appeal board.

(5) When any protested tax or license fee is payable in installments, then any subsequent installment portion considered unlawful by the state tax appeal board need not be paid and no action or suit need be commenced to recover the same, but the determination of the action or suit commenced to recover the first installment portion paid under protest shall determine the right of the party paying such subsequent installment to have the same or

any part thereof refunded to him or the right of the taxing authority to collect a subsequent installment not paid by the taxpayer plus interest from the date the subsequent installment was due.

(6) All portions of taxes and license fees paid under protest to a county or municipality shall be deposited by the treasurer of the county or municipality to the credit of a special fund to be designated as a protest fund and shall be invested in interest-bearing deposits in local banks or savings and loan associations and retained in such protest fund until the final determination of any action or suit to recover the same.

(7) Nothing contained herein prohibits the investment of the money of this fund in the state unified investment program. The provision creating the special protest fund does not directly to the state.

(8) (a) If no action is commenced within the time herein specified or if such action is commenced and finally determined in favor of the county or municipality or treasurer thereof, the amount of the protested portions of the tax or license fee shall be taken from the protest fund and deposited to the credit of the fund or funds to which the same property belongs.- , unless the taxable valuation of the property which is the subject of protest is excluded from the taxing jurisdiction's total taxable valuation during the protest proceedings.

(b) If the taxable valuation of the property which is the subject of protest is excluded from the taxing jurisdiction's total taxable valuation during the protest proceedings and the protest is finally determined in favor of the taxing jurisdiction, the amount of the protested portions of the tax or license fee shall be transferred from the protest fund to an agency fund within the department. After 180 days from the date of transfer, the department shall transfer the balance remaining after refunds pursuant to subsection(c) in the following manner:

(i) 60% to the school foundation program;

(ii) 40% to the general fund.

(c) A taxing jurisdiction whose protest funds are transferred to the department may apply within 90 days of the transfer for a refund of all or a portion of the taxing jurisdiction's transferred protest funds. If the department determines that the taxing jurisdiction or its taxpayers have suffered economic detriment during the period of the protest proceedings that is directly attributable to the protest, the department shall refund within 180 days from the date of transfer a sum equivalent to the economic detriment suffered, but not exceeding the total of the transferred protest funds of the taxing jurisdiction.

With regard to taxes placed in protest funds after August 5, 1985, economic detriment is considered to be suffered by a taxing jurisdiction only if it increased its mill levy or reduced its reserves, or both, because of the protest. The department shall condition any refund under this subsection on the taxing jurisdiction's compliance with the requirement to reduce future mill levies in relation to the refund money received.

~~(b)~~ (d) If such action is finally determined adversely to a county or municipality or the treasurer thereof, then the treasurer shall, upon receiving a certified copy of the final judgment in said action from the state tax appeal board, or from the district or supreme court, as appropriate, if the final action of the state tax appeal board is appealed in the time prescribed, refund to the person in whose favor such judgment is rendered the amount of such protested portions of the tax or license fee, with costs of suit and interest at the rate currently paid on short-term interest-bearing time deposits in banks in the county or 5% a year, whichever is greater, from the date of payment under protest. If such action was commenced for the purpose of recovering the first installment portions of any such tax or license fee and any subsequent installment thereof has been paid under protest as herein provided, then the county treasurer shall, at the time of refunding the amount of such first installment required by such judgment, also refund such portion of any subsequent installment as the person holding such judgment is entitled to recover, together with interest thereon at the rate of 6% a year from the date of payment under protest."

Renumber: subsequent sections

4. Page 3, line 22.

Following: "proceeding,"

Insert: "so much of"

Following: "money"

Insert: "as is refunded to the district under 15-1-402(8)(c)"

# STANDING COMMITTEE REPORT

April 12,

19 85

MR. PRESIDENT

**Taxation**

We, your committee on.....

**House Bill**

No. **851**

having had under consideration.....

**third**

reading copy (

**blue**

color )

**(Senator Towe)**

**PROPERTY USED FOR EDUCATION EXEMPT FROM PROPERTY TAX ONLY IF  
USER-OWNED.**

Respectfully report as follows: That.....

**House Bill**

No. **351**

**BE NOT CONCURRED IN**

~~XXXXX~~

~~XXXXXX~~

.....  
**Senator Thomas E. Towe,**

Chairman.