

MINUTES OF THE MEETING
TAXATION COMMITTEE
SECOND SPECIAL 49TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 27, 1986

The second meeting of the taxation committee was called to order by chairman Gerry Devlin in room 312-1 of the capitol at 11:02 a.m.

ROLL CALL: All members were present as were Dave Bohyer, legislative researcher for the legislative council, and Alice Omang, secretary.

CONSIDERATION OF HOUSE BILL 19: Representative Peck, house district 15, distributed proposed amendments to the committee. See exhibit 1. He stated that this is a compromise in that this bill moves up from the one proposed by the governor and is somewhat below the bill proposed by Representative Williams. He explained that the average rate would be 10.5 or 10.8 over the period of time that this bill proposes. He indicated that he thought the governor's bill was going to go down and the agreement with the railroad will be null and void. He felt that this bill would meet the requirements of the 4Rs act.

PROPONENTS: Representative Bachini, house district 14, stated that they feel that this is a compromise bill for the committee to study along with the other two bills and they can determine if this will take care of the taxation issue.

Les Loble, representing Northwest Airlines, Inc., testified that Northwest Airlines is basically in support of this bill; he briefly looked at the amendments and he believed that the airlines would also be in agreement with them. He suggested an amendment on page 1, lines 19 and 20, which would restore the language that has been stricken - in other words, this bill would not sunset in 1989. He explained that there would be a built-in lawsuit or disagreement at the end of the period if this language was kept in. He informed the committee that there were days and days of difficult negotiations with Mr. LaFaver, they have established a good-faither relationship with the department and they have gone a long way to heal some of the animosity that has existed between the two parties over the years.

There were no further proponents.

OPPONENTS: Stan Kaleczyc, representing Burlington Northern, stated that this bill falls short of solving all the problems involved and even if inflation is kept low, there is going to be some growing disparity during that point. He indicated that he felt it is an improvement over Representative William's bill and he thought that SB 8 provides a far better solution and is in the best interest of the state and the taxpayer.

There were no further opponents.

QUESTIONS ON HOUSE BILL 19: Representative Ream asked what the reaction of the airlines would be to HB 15 in relation to HB 19.

Mr. Loble replied that they support Representative William's bill and they would be satisfied with either one with the amendments he suggested.

Representative Keenan asked if they are putting this at about 10% with this formula.

Representative Peck answered that it should be around 10.5 to 10.9 and Mr. Kaleczyc is saying over 11% and it could be 11%. He explained that they get the R and then apply the factors that are in this bill.

Representative Keenan asked if he was still including net proceeds in this with the 10%.

Representative Peck replied that they are not making any changes in SB 8.

Representative Keenan asked if this is based on the \$3.2 billion value that was agreed upon between the railroad and the governor's office.

Representative Peck responded that they used the same value.

Representative Sands noted that it was said that as years go on, the equalization factor becomes less and he asked if that did not mean that they would assume that the property is going to appreciate.

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Representative Peck replied that he supposed that may be, but they are taking this in view of a possible straight 12 and this bill basically phases it in to a straight 12.

In answer to some questions by Representative Sands, Representative Peck responded that he is looking at this from a different perspective than he (Peck) is and he is looking at the purpose of phasing this in at 12% and he felt that any taxpayer would be more accepting of a tax increase if it is phased into rather than doubled the first year.

Representative Gilbert asked a question concerning the interpretation of the 4Rs act.

Mr. Kaleczyc clarified that, if you are strictly complying with the 4Rs act, you would each year calculate the classification rate based upon the means for all other properties and each year you would calculate the equalization rate based upon sales ratio studies and those numbers could vary year to year or they might remain constant.

Representative Gilbert asked about the possibility of litigation if the governor's bill is not ratified.

Mr. Kaleczyc responded that, if anything but SB 8 comes out of this body, then there is a requirement for good-faith negotiations to see if a new settlement can be arrived at, and if no settlement can be achieved, litigation remains a possibility.

Representative Asay asked if the question were resolved as to whether it is reasonably acceptable in the equation, is it then a matter of determining what the proper rate is in relation to other property.

Mr. Kaleczyc answered that if net and gross proceeds were taken out of the classification rate equation or formula, he thought that they would be a lot closer to an agreement between the railroad and the state of Montana as to how the 4R act should be implemented.

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Representative Asay indicated that in 1983, a bill was passed whereby a taxpayer could hire an independent appraiser and he was curious as to if this could be resolved if the valuation was established and there was a fair and equitable rate compared to other industries.

Mr. Kaleczyc replied that he did not know if he could be responsive to this question other than to say that if net and gross proceeds came out that would remove what the railroad considers to be a major problem.

Representative Harp asked if the intention for litigation would strictly be on the class 4 problem and the sales ratio factor.

Mr. Kaleczyc responded that that is right and it would be far preferable to argue on that relatively narrow issue of law that involves fewer dollars than something that involves a substantial amount of money.

Representative Sands asked Mr. LaFaver if he was concerned if this formula would comply with the 4Rs act.

John LaFaver, director of the department of revenue, stated that the administration's recommendation is to accept a certainty and the department and the railroad do not have the same view as to what equalization is. He said they would make the argument that equalization is included in the 12% rate and he views this bill as a vehicle to phase in the 12%.

Representative Sands asked if the sales assessment ratio studies are an equalization factor.

Mr. Kaleczyc answered that they yield a factor to adjust and on which to equalize.

Representative Sands contended that this bill applies a factor only until 1990 and he asked if they aren't saying, in effect, that they don't have to equalize until 1990.

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Mr. Kaleczyc replied that his assumption was that the bill left in place the equalization formula in HB 240 and capped it at 12% and then phased in the 12% over five years. He contended that, if that is what it does, than the phasing in is not an equalization adjustment.

Representative Raney asked Mr. LaFaver if he believes now that HB 240 is undefensible in court.

Mr. LaFaver replied, "No, it is not undefensible. I would not argue any differently on HB 240 than we did last session." He concluded that, if they were left with HB 240, they would defend it.

There were no further questions.

Representative Peck summarized that the intent and purpose of this bill is to phase in this rate; this is a compromise bill and he has no problems with the suggestions made by Mr. Loble.

The hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 15: Representative Schye made a motion that this bill DO PASS.

Representative Ellison commented that he did not see where they are any better off than HB 240 - if they are going to gamble, they might just as well gamble and leave it at 14%. He said they know that they will contest it anyway.

Representative Gilbert contended that they only have two choices - they can accept any one of these two bills or leave HB 240 alone and accept the fact that they will be in litigation very shortly; or they can accept SB 8, the governor's agreement, and know that they will stay out of court for six years. He indicated that the question is which do they prefer.

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Representative Schye said that they have no idea what is going to happen to SB 8; it is not in the house - it is in the senate and they do not know if it will come out of the senate.

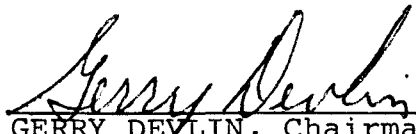
Representative Keenan noted that they came back under the impression that they were talking 12% and she thought to act in a responsible way, they should put 12% out there to both houses and talk about it. She indicated her personal feelings were with Representative Ellison to keep it at 14%, but she would vote for the 12%.

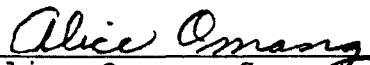
Representative Sands said that he felt the best way to proceed is to adopt SB 8, but SB 8 might not pass and this bill is closer to something that can be defended in federal court than what they have today.

A vote was taken on the DO PASS motion and it passed 11 to 9. See roll call vote.

DISPOSITION OF HOUSE BILL 19: Representative Schye moved that this bill be TABLED. The motion carried unanimously.

ADJOURNMENT: There being no further business, the meeting adjourned at 11:56 a.m.


GERRY DEVLIN, Chairman


Alice Omang, Secretary

DAILY ROLL CALL

TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1986

Second Special

Date March 27, 1986

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, Gerry, Chairman	✓		
WILLIAMS, Mel, Vice-Chairman	✓		
ABRAMS, Hugh	✓		
ASAY, Tom	✓		
COHEN, Ben	✓		
ELLISON, Orval	✓		
GILBERT, Bob	✓		
HANSON, Marian	✓		
HARRINGTON, Dan	✓		
HARP, John	✓		
IVERSON, Dennis	✓		
KEENAN, Nancy	✓		
KOEHNKE, Francis	✓		
PATTERSON, John	✓		
RANEY, Bob	✓		
REAM, Bob	✓		
SANDS, Jack	✓		
SCHYE, Ted	✓		
SWITZER, Dean	✓		
ZABROCKI, Carl	✓		

STANDING COMMITTEE REPORT

March 27, 1966

Mr. Speaker: We, the committee on TAXATION

report HOUSE BILL 15

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

GERRY DEVLIN

Chairman

TO LIMIT THE TAX RATE APPLICABLE TO CLASS FIFTEEN PROPERTY;

First

white

reading copy ()
color

ROLL CALL VOTE

TAXATION

COMMITTEE

Date: March 27, 1986

^{HB}
Bill # 15

Number

Motion: Do Pass

Name	Aye	Nay
DEVLIN, Gerry, Chm.		✓
WILLIAMS, Mel, V.Chm.	✓	
ABRAMS, Hugh	✓	
ASAY, Tom		✓
COHEN, Ben	✓	
ELLISON, Orval		✓
GILBERT, Bob		✓
HANSON, Marian		✓
HARRINGTON, Dan	✓	
HARP, John	✓	
IVERSON, Dennis		✓
KEENAN, Nancy	✓	
KOEHNKE, Francis	✓	
PATTERSON, John		✓
RANEY, Bob		✓
REAM, Bob	✓	
SANDS, Jack	✓	
SCHYE, Ted	✓	
SWITZER, Dean		✓
ZABROCKI, Carl	✓	
Totals	11	9

Exhibit 1
HB 19
Rep. Peck

PROPOSED AMENDMENTS TO HOUSE BILL NO. 19
First Reading (White) Copy

1. Page 1, lines 23 and 24.
Strike: "(5), except that the maximum percentage rate
"R" may not exceed 12%"
Insert: "(6)"
2. Page 2.
Following: line 10
Insert: "(4) If, after the adjustment provided for in
subsection (3), the percentage rate "R" exceeds 12%,
the maximum tax rate applicable to class fifteen
property is limited to 12%."
ReNUMBER: subsequent subsections and internal
references as necessary
3. Page 2, line 13.
Following: "subsection"
Strike: "(5)"
Insert: "(6), or 12%, whichever is less"
4. Page 3, line 13.
Strike: "(6)"
Insert: "(7)"
5. Page 3, line 14.
Strike: "(5)"
Insert: "(6)"
6. Page 3, line 16.
Strike: "(6)"
Insert: "(7)"

(This sheet to be used by those testifyin on a bill.)

Exhibit 2
HB 19
3/24/86

NAME: Lester H. Lubke, II DATE: 3/27/86

ADDRESS: PO Box 176 Helena

PHONE: 442 0070

REPRESENTING WHOM? Northwest Airlines, Inc

APPEARING ON WHICH PROPOSAL: HB 19

DO YOU: SUPPORT? ☒ AMEND? ☒ OPPOSE? ☐

COMMENT: Restore deleted language on page 1
lines 19 & 20; eliminate inserted new
language on the same page and lines.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HOUSE BILL 19

DATE March 27, 1986

SPONSOR REPRESENTATIVE PECK

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.