

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 28, 1987

The fifty-second meeting of the Senate Taxation Committee was called to order at 8:05 A.M. on March 28, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 222: Representative Thomas, House District 62, presented this bill to the committee. This bill is a consolidation of returns for state income tax filings in Montana. This is similar to federal tax codes. It allows corporations in an affiliated group to file a consolidated corporation income tax return if all corporations are incorporated in Montana, owned by Montana residents and filing a consolidated federal return. The reason that we have a situation that we should change is that people use the corporation as a way of legally limiting their liability. In a lot of ways this is another answer for the business environment in Montana because it would allow somebody to consolidate their tax filings, if they are going to have a new venture, to incorporate that venture. They would be able to consolidate the profit or loss of that new venture.

PROPOSERS: Jerry Foster, Department of Revenue, gave testimony in support of this bill. This bill, as written, will take away discrepancies with respect to consolidating returns. In addition, it will create some tax savings for the small, family affiliated corporations at a time when they can probably use it. There are some amendments that we thought would make it clearer but it is still workable the way it is.

Gary Carlson, representing the Montana Society of CPA's, gave testimony in support of this bill. There may be a technical correction needed on page 2, line 14, the numeral (a) should be inserted to show the fact that the Department of Revenue has the discretion to cause the filing of the consolidated return, but under (b) it would be at the discretion of the taxpayer as far as the ability to file the consolidated return. In his opinion this will have very narrow application in the state of Montana from the standpoint of allowing the filing of consolidated returns at the corporate level. They are

concerned with the definition "operated exclusively in the state of Montana", as amended on second reading in the House. He does not know what the word "exclusively" means. Agriculture clients take yearling steers to Iowa to be sold in the state of Montana. Did that person operate exclusively in Montana. For truckers, other states are requiring those truckers to apportion their income to other states. We can have a person who is actually a Montana truck operator, apportion his income to another state, so he is not operating exclusively in Montana. Radio/TV broadcasting companies have air waves that cover North Dakota and they receive some advertising in North Dakota, are they operating exclusively in Montana. That wording has to have some definition so we know what the rules are going to be. We support this bill with those concerns expressed.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Lybeck asked Jerry Foster to enlarge on the fiscal impact. The fiscal note says it is impossible to estimate the magnitude of these losses.

Jerry Foster said we think the revenue would be less than \$100,000 a year. The bill provides provisions where financial institutions would not be allowed to consolidate and that is where the bulk of the revenue loss from consolidation would be. We do not know who is eligible. Our best guess is it would be approximately \$100,000 a year.

Senator Neuman said Gary Carlson brought up some questions about a trucking company that files in several states but is based in Montana. He asked Jerry Foster to respond.

Jerry Foster said that is exactly what it says, operates exclusively in Montana. They have to have 100% of sales, payroll and property in Montana and 100% of income to Montana. A trucking company would not qualify. If a farmer hauls his cattle to Iowa, Iowa would have no jurisdiction over that sale. If you do not operate exclusively in Montana, this statute does not apply to you.

Senator Eck asked Jerry Foster if he would speak to the amendment suggested by the Department of Revenue in the House.

Jerry Foster said we had some amendments which made the bill clearer. As far as they are concerned, that language is no longer necessary.

Senator Severson said quite often we have people that take cattle to Colorado for 4 months before they are sold. Would they be exclusively in Montana.

Jerry Foster said in that particular instance, the state of Colorado would have jurisdiction over some of that income.

Senator Severson said he is sure those cattle are not taxed, as far as the Montana owner, in Colorado.

Jerry Foster said that would be true, but the corporation would be doing business in Colorado. They would have an inventory in that state. Colorado should be taking a percentage of the income. He is not saying that Colorado would be going after them, but technically they have a connection with that state.

Senator Hirsch asked if the affiliated group has to be two corporations or more.

Jerry Foster said they could be 15 corporations as long as they are owned by the parent company.

Jim Lear does not understand Gary Carlson's proposed amendment.

Gary Carlson said it should be at the discretion of the corporation as to whether they file, not that the Department has the authority to force that.

Representative Thomas closed by stating this will work the way it is, without amendments.

DISPOSITION OF HB 222: Senator Severson made a motion that HB 222 BE CONCURRED IN.

The motion carried with Senator Lybeck absent from the hearing at the time of the vote.


DISPOSITION OF HB 700: Senator Neuman made a motion that HB 700 BE CONCURRED IN.

The motion carried with Senator Lybeck absent from the hearing at the time of the vote.

Senate Taxation
March 28, 1987
Page Four

DISPOSITION OF HB 47: Senator Mazurek made a motion that HB 47 BE CONCURRED IN. The motion carried 7-4, see attached roll call vote.

ADJOURNMENT: The meeting adjourned at 8:40 A.M.


SENATOR GEORGE McCALLUM, Chairman

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 3-28-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

COMMITTEE ON

Senate Taxation

DATE March 28, 1987

VISITORS' REGISTER

HB 222

NAME

REPRESENTING

BILL #

Check One

Support

Oppose

Harry B. Carlson

MT Society of CPAs

X

NAME: Gary B Carlson DATE: 3/28/87

ADDRESS: P.O. Box 1147 Helena

PHONE: 442-3540

REPRESENTING WHOM? MT Society of CPAs

APPEARING ON WHICH PROPOSAL: HB 222

DO YOU: SUPPORT? AMEND? ^{Consider} OPPOSE?

COMMENTS:

Possible technical correction -
June 14 page 2 insert (a) behind 2

? what is the definition Exclusive?

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date March 28, 1987 Bill No. HB 47 Time 8:37 AM

NAME	YES	NO
SENATOR CRIPPEN		✓
SENATOR NEUMAN		✓
SENATOR SEVERSON	✓	
SENATOR LYBECK	absent	
SENATOR HAGER		✓
SENATOR MAZUREK	✓	
SENATOR ECK	✓	
SENATOR BROWN	✓	
SENATOR HIRSCH	✓	
SENATOR BISHOP		✓
SENATOR HALLIGAN, VICE CHAIRMAN	✓	
SENATOR McCALLUM, CHAIRMAN	✓	

Aggie Hamilton
Secretary

Senator George McCallum
Chairman

Motion: Senator Mazurek's motion that HB 47
BE CONCURRED IN. Motion carried 7-4.

STANDING COMMITTEE REPORT

March 23

19 37

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 222

third reading copy (blue)
color

THOMAS (SEVERSON)

**ALLOW CERTAIN MT. CORPS. TO FILE CONSOLIDATED CORPORATION
INCOME TAX RETURN**

Respectfully report as follows: That HOUSE BILL No. 222

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR GEORGE MCCALLUM, Chairman.

STANDING COMMITTEE REPORT

March 23 1937

MR. PRESIDENT

SENATE TAXATION

We, your committee on.....

HOUSE BILL

having had under consideration..... No. 700

third reading copy (blue)
color

BRADLEY (NEUMAN)

PROVIDE AUTHORITY TO ISSUE SCIENCE AND TECH. DEV.
SEED CAPITAL FUND BONDS

Respectfully report as follows: That..... HOUSE BILL No. 700

BE CONCURRED IN

~~DO NOT PASS~~

~~DO NOT PASS~~

..... SENATOR GEORGE McCALLUM, Chairman.

STANDING COMMITTEE REPORT

March 23

1937

MR. PRESIDENT

We, your committee on..... **SENATE TAXATION**

having had under consideration..... **HOUSE BILL** No. **47**

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color

HARRINGTON (MAZUREK)

20% PENALTY FOR MOVING MOBILE HOME WITH UNPAID PROPERTY TAXES

Respectfully report as follows: That..... **HOUSE BILL** No. **47**

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

.....
SENATOR GEORGE McCALLUM,

Chairman.