

## MINUTES

### MONTANA SENATE 51st LEGISLATURE - SPECIAL SESSION

#### COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on July 10, 1989, at 1:00 p.m., Room 413-15, Capitol

#### ROLL CALL

Members Present: Senator Bob Brown, Senator Al Bishop, Senator Bruce Crippen, Senator Dorothy Eck, Senator Del Gage, Senator Tom Hager, Senator Mike Halligan, Senator John Harp, Senator Joe Mazurek, Senator Bill Norman, Senator Elmer Severson, Senator Mike Walker

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin

#### Announcements/Discussion:

Chairman Brown announced that the committee will hear SB8, and that the related companion bill, SB1, may also be discussed. He then announced that they will depart from standard procedure a little bit, that Senator Crippen, the principal sponsor of SB8, has asked that Senator Farrell be recognized first.

#### HEARING ON SB 8

#### List of Testifying Proponents and What Group they Represent:

Senator William E. Farrell

#### Testimony:

Senator Farrell pointed out that, if the committee will notice, he just set a box on the table, and stated that is equalization, that all they have to do is look through it, and figure out what they want. He reported that is what the Senate Education Committee has been going through for the last six months, that the box is full of all the different plans, all the spread sheets and all the amendments, and that he

wanted the committee to know that the Senate Education Committee has a lot of work invested in that, but they have run into a road block.

Senator Farrell reported that they spent about two days working on a guaranteed tax base plan, that, last Saturday, they took a straw vote, and it seems nobody on the Education Committee liked the guaranteed tax base, that the more they worked on that plan, the further in the hole they got with it, so he made the motion that they take a look at a sales tax. He indicated that he thinks any one of the plans in the box will probably work, that the only problem is where the money is going to come from, and how are they going to pay for it.

Senator Farrell indicated that the sales tax should be in this debate, that it has been ignored all of the special session, and they ask that this Taxation Committee take a serious look at the sales tax plan and see if there is an alternative to the property tax and income tax raises. He noted that, if they would like to dig through the box, he will leave it there, that there is an equalization plan in there and all they have to do is figure out how to pay for it.

Presentation and Opening Statement by Sponsor:

Senator Bruce Crippen indicated that should start them off on the right note. He pointed out that SB8 will be discussed in the context of old SB469, which was a bill before them in the last session, on which Representative Bradley was one of the sponsors, adding that Representative Ramirez worked on the bill, as well as a number of others. He indicated that this is not just a bill fashioned by himself over the interim, but is a continuation of the good work done previous to the end of the last session, which almost made it through the Legislature, but ran out of time. He indicated that he hopes, in the committee discussions in executive session, they will pretty much focus their attention on SB469 because they are familiar with that, that it is easy to talk about, and is almost identical to SB8, which the committee has before them, noting that there are some difference, which he will get into later on.

Senator Crippen stated that SB8 is a gross receipts tax, that he uses that name in an attempt to fashion a compromise for those who are hung up on form rather than substance. He indicated that, instead of giving a compromise, they got a lot more polarization, and this sometimes happens, so he is going back to the old name sales tax, which is the same thing, that

it is the same bill. He added that, throughout the discussion, they will talk about sales tax.

Senator Crippen reported that, in SB469, all sales of goods and services, except those which are specifically exempt, will be taxed, noting that is the retail end of it. He added that all goods purchased elsewhere, and brought into the state, of course, are subject to a use tax. He indicated that the rate will be 4%, and exempted goods and services are kept at a minimum in an effort to broaden the tax base. He pointed out that was done for two reasons; number one, to try to create some type of equity among those for whom goods and services will be subject to tax, to keep the tax rate down, and to be consistent with most sales taxes, gross receipts taxes, and the like, in other states. He stated that only specific goods or services will be exempted; that food is an example, and medical services, including doctors and health services, will be exempt, prescription drugs are exempt, inter-state transportation services, motor fuels, wages, dividends, interest and service premiums. He indicated that it is the same as they had before, and he is sure all of the committee members, and others, remember, verbatim, what was in there.

Senator Crippen stated that the sales tax is designed only to tax final goods or services, noting that is important because they talked about gross receipts, and it is important that they understand it is on final sales, only. He pointed out that one of the problems they had in dealing with the sales tax was that some people say it is a regressive tax, some people say it is not a regressive tax, and they took the approach to try to make it as non-regressive as they can to the low income tax people, and provided, in SB469, that there would be low-income household rebates based on a threshold of \$13,000. He indicated that, in addition, in SB469 and also in SB8, they coordinated this legislation with income tax relief, or reform. He stated that, as he mentioned earlier to the press, this bill has always been more than just one to deal with the education problems they are faced with in the special session, that it is dealing with tax reform, which he thinks is so desperately needed in this state.

Senator Crippen then indicated that SB1 is similar to old SB463, which he is sure everybody remembers, and that it increases the standard deduction, the personal exemption, and also takes the top 10% and 11% marginal tax rates, and reduces those down to 8% and 9%, so they end up with three tax rates, 3%, 6% and 9%, noting that Dr. Nordtvedt may want to comment a little bit more on the effect of that. He pointed out that this is the administration's proposal in the last session,

and is similar to the administration's proposal in the special session, adding that it is important for the committee and the people assembled here to understand that they are talking about broad-based tax reform in these particular pieces of legislation.

Senator Crippen then referred to the cash distribution, and indicated he will use the 12-month fiscal year 1992 figures. He noted that a lot will depend on when this bill goes into effect, that they might be looking at an 11-month year but, for purposes of illustration, he thinks they have to use a full 12-month year. He stated that 1% yields about \$80 million, gross, a little bit over, and that the 4% they have used is a figure of \$329 million, adding that this bill provides for approximately a \$4.9 million vendor rebate, and has a cap, which he thinks is \$1 million of sales, so that a large vendor will not make money by administrating the sales tax, that they will save some back for his or her services but, on the other hand, it will protect the small vendor, and provide some money for that person's administration and collection of the sales tax. He added that it provides low-income rebates in the amount of \$29 million, and that the property tax replacement feature amounts to \$53 million. He pointed out that, as the committee may recall, that deals with taking the personal property classifications, with the exception of the railroads and utilities, all down to one class at 4%. He indicated that, in the original bill, SB469, it was 3.5% and, as it came out of the Senate and went to the House, it was 4%, and that, combined with Senator Halligan's residential household exemption that the first \$15,000 would not be subject to property taxes, amounts to approximately \$53 million. He added that this will leave a remainder from a 4% sales tax of \$242.1 million.

He reported that the allocation of that amount in SB469, as it left the Senate, was as follows: \$142.83 million went to the foundation schedule program, which is, for most, direct property tax relief; 15% of the remainder, \$36.31 million, went to higher education, which is over and above, as he understands it, the 6 mill levy, and is an area he is sure they can discuss, to eliminate the 6 mill levy, noting that is something the committee discussed, in the last session. He added that the reason it is in there is that he feels they have to treat higher education somewhat the same as they do K-12, that the problems are the same, the money problems, that they rely on what the Legislature can give them. He then reported that about \$14.5 million went back to the cities, towns and counties, because of the problem of I-105, and asked how are the cities and local governments going to function,

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 5 of 37

still within the confines of I-105, that there had to be some money going back to them. He noted that, again, this is not particularly new money.

Senator Crippen referred to the old SB463 income tax rebates, and indicated that, as the committee may remember, old SB463 came out with about a \$48 million price tag, noting that he does not like to use the phrase price tag because he thinks it was the taxpayers money which the state had, and was trying to give back to the taxpayers, adding that, in the course of negotiations, they brought that down to approximately \$31 million. He pointed out that, less a tax administration of about \$4 million, the remainder to the general fund is roughly \$20 million, approximately, adding that there was some talk about an alternative minimum tax which would bring it up to \$20 million, noting that is the ballpark, the figures they were talking about, so they can remember that in their discussions.

Senator Crippen stated that the total property tax relief, under this particular measure, old SB469 as it left the Senate, amounted to between \$195 million and \$205 million, which is property tax relief, both personal and real property tax relief, and an additional \$30 million was income tax relief. He reported that the new money involved was roughly \$60 million, which might be a provision some of the committee members may not like, that they may want to cut that down somewhere, but indicated he would talk to them now, and will talk again in discussions, pointing out that they are here, now, looking at another source, and that they will have to be in a position where they can compromise.

He then stated that this bill is significantly different from SB469 in one major area, which is that his suggestion to the committee is that they consider and adopt that the sales tax be effective now, that it go into effect, be given a period of time to work, and then be put before the people in the form of a referendum as to whether they want to keep it. He indicated that he knows that is where the political rhetoric will be, that Senator Lynch is going to shake his jowls, and they are going to go through all that stuff which they do as a legislative body, but he thinks it makes good sense to do that, that it makes good sense for them because they get the issue behind them, and it most certainly makes good sense for the people of the State of Montana, who they should be considering because they will have an opportunity to see how this thing works, before they vote on it. He pointed out that the other way they had talked about, where they put it up for the vote of the people, they are voting on something they have

had no opportunity to see how it works, and he would submit to the committee that is just plain hypocrisy for the people of the State of Montana. He indicated that, if they are going to abrogate their responsibility in this area to the people of the State of Montana, maybe this is an area they should be doing that and, if they are going to do that, at least they should have all the facts and figures before them at the time they make the decision as to where they should be, as a state. He indicated that is why he would propose that the referendum go into effect in November of 1992, which would give them a significant period to see if the sales tax does, in fact, become an onerous regressive tax, and those Senators like J.D. Lynch and others, are absolutely correct or, on the other hand, if it provides meaningful property tax relief, income tax relief, and should be an appropriate base for long-range tax reform.

Senator Crippen indicated that is the main difference. He noted that they talk about removing the gross receipts aspect out, and indicated that he thought the sales tax was a heck of a good idea, but he guesses he was alone in that particular idea, and it is not the first time he has been alone in some of his ideas. He indicated that, as they have gone through the state and talked to people, their constituents, they found out certain things; they found out that Montanans do not particularly want to have additional taxes placed on their present tax load but, if they are going to have additional taxes, they want to see significant reduction in other taxes. He added that he thinks they have seen that property taxes are too high, noting some people will argue that real property taxes are sort of in line, but indicated that begs a question because their valuations are so much higher, and he does not think real property taxes are in line, at all. He further stated that, most certainly, personal property taxes have been high, that he thinks all of them have recognized that, but the question is, how far down do they go, and how much do they go, noting that the ancillary to that is the supposed break they give to larger taxpayers in the community, the corporations, noting they will hear from those who say "the dirty Montana Power", "the dirty Burlington Northern", "the dirty this and dirty that are going to get all these big tax breaks, these millions of dollars, while we're going to get just a little small one over here", and added that this is cutting off their nose to spite their face, but that, again, they have a tendency to do that, this body.

Senator Crippen stated that the real key is are they doing good, long-term tax reform, and indicated they have seen and heard in seminars, by people coming in and their economist

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 7 of 37

from Anaconda at MIT, that their income tax structure is out of whack. He noted that is true, and asked how many people pay 10% and 11%, that it is not too many, nobody in this room. He indicated that is a perception problem, and they have to deal, again, with the problems in the income tax side of the equation, which is the other thing people want. He noted that, as he stated before, people he has talked to and that other people have talked to, when they can really have a rational talk with people about a sales tax, they say "fine, when I have my taxes reduced, but let's see what we can do to make sure that the low income tax people aren't going to get hammered". He indicated that is true, and he hopes they can fashion something which can handle that problem, noting that for Senator Eck, Representatives Bradley and Ramirez, and others, it has been uppermost in their minds to try to work out something which would deal with that.

Senator Crippen then noted that the committee saw the box which was put in front of them, and indicated they have seen SB203, they have seen SB26 and HB28, they have seen all these bills to handle their educational problem, that every one of them has met with doom and gloom, black holes, and that they are no better, and maybe worse off today than they were when they started the special session on June 19th. He pointed out that it all comes down to one thing, which is that there is not the money available to do the job in an equitable manner, that, on one side, they see high mill levies, a surtax which will hammer people and counties and perhaps, perhaps not, the energy and extractive industries in the state, and that the other side, the opposite effect, is that they cut the schedules down and effectively ignore the local decision, and the Supreme's Court's affirmation thereof.

He stated that there is no balance, that they have not been able to find a balance, and indicated that, with the sales tax, from a financial standpoint at least, there is no black hole, noting that he is sure there are people in this room who will say it is black all the way around. He noted that he would hope they can get that type of rhetoric out of the way, and get down to some type of responsible legislation and discussion. He further indicated that, with the sales tax, they will find that the money is there, and continues to be there. He pointed out that Senator Keating has presented his bill, which is another approach, and that Senator Keating said, if they are really long-term and progressive in their thinking, they might look at taking the sales tax and using it all for education, that they not use any property tax for education, but use the property tax to fund local governments, and take the revenues from the general fund, approximately

\$150 million in income tax and other sources, combine that with what they have in the sales tax, and they would have a tax package program which would have the most positive effect they could probably have on education. He added that, down the line, they would have to place some pretty stringent caps on spending because, from a historical perspective, sales tax revenues increase proportionately greater than the economy increases and, in fact, they even increase when there is a decrease in the economy, as they have seen, but that is not true of property tax.

Senator Crippen indicated that he thinks Senator Keating has too progressive of an idea, and he does not think this body is quite ready for that, but that he thinks this body should be ready to provide a willingness to cooperate and compromise. He noted that people will say "well, don't tax me, here", or "don't tax me there", or "don't do this", or "do this", and indicated all that has to be taken into consideration, noting that they have to go through the procedure, is that they have the opportunity to get to the point where they can compromise and come up with some type of plan which will, as he understands it, be placed into Representative Schye's bill and be one big education and tax reform package. Senator Crippen urged this committee, and those legislators and others who are listening to this, to go into this in the spirit of cooperation and compromise, and see if they can come up with something because he thinks this is their last best hope.

Additional Proponents and What Group they Represent:

Dale A. Harris, Montana Ambassadors  
Dennis Burr, Montana Taxpayers Association  
James Tutwiler, Montana Chamber of Commerce  
Bob Anderson, Montana School Boards Association  
Ken Nordtvedt, Director, Department of Revenue  
Pat Melby, Plaintiff School Districts  
Jerry Jack, Montana Stockgrowers Association  
Leon Stalcup, Montana Restaurant Association

Testimony:

Mr. Harris stated that they strongly support amending SB469 from the regular session into SB8 from this special session of the Legislature. He indicated that SB469 was subjected to extensive hearings during the regular session, and the legislators are familiar with the bill, as are the various business people and other organizations concerned with this issue. He stated that they think it deals with the five most important problems facing the state, equalizing personal



property taxes, equalizing school funding, lowering personal property taxes, providing block grants to cities and counties, providing a new source of revenue for the university system, and providing a new source of revenue for the state general fund, so that the state general fund is not dependent upon increases in income tax.

Mr. Harris reported that he has a series of technical amendments which he will refer to the committee when they are ready to work on the bill, noting that these are technical amendments which the House of Representatives was putting on the bill at the end of the last session.

Testimony:

Mr. Burr indicated that he thinks the frustration of the box of material is the result of trying to draft an equitable funding program on to an inequitable tax structure, noting that he guesses it is not surprising that it is a very difficult thing to do. He stated that a sales tax in Montana would give them the opportunity to reform property and income taxes in a manner which would put Montana in the position of not having outstanding taxes in either the property or income tax areas, which is important to them because of economic development, and should be important to the Legislature because of the school equalization problem.

Mr. Burr then indicated that he has been trying to think of the suggestions he made to this committee during the regular session on SB469, or whatever it was, that he can not remember all of them, but one thing he would suggest, now, is that Senator Crippen's bill be amended to refer to it as a sales tax rather than a gross receipts tax, and that they might consider requiring that the tax be added to the purchase of any individual item, with certain exceptions which might be vending machines, and that they might want to look at exceptions in the service area. He stated that they would prefer to see residential and personal property classified at the same rate, whether it is 4% or 3.86%, or whatever, that they can do that and still have the homestead exemption for property in that class, noting that he thinks it would be to everyone's advantage to reduce the number of classes, and combine both real and personal property. He then indicated that one thing he can remember about the other bill, under services, is that it taxed consumers' utility bills. He stated that their argument, during the regular session, was and still is that taxing utility services is probably at least, if not more regressive than taxing food and prescription drugs and, for that reason, they would suggest that

utility bills owed or paid by consumers of the services be exempt from the tax.

Mr. Burr indicated that, with those kind of general comments, they support the bill.

Testimony:

Mr. Tutwiler stated, for the record, that they have consistently, in the general session and again in the special session, supported the sales tax and indicated that the reason they have done so is that, from their membership's and the business community's perspective in Montana, major tax reform is the single most important thing they believe can be done to spur the economy and help solve some of the other problems which exist in Montana. He indicated that, for that reason, they support Senator Crippen's bill, as amended, but that they also support the bill because it provides a major infusion of funds for the school foundation program, that it does incorporate strong measures for regressivity, to assist in that area, and it does provide for a vote of the citizens. He stated that they urge the committee's support of this bill.

Testimony:

Mr. Anderson stated that they support the concept of this bill, as they did in the regular session, and that, of course, they believe school funding must be equitable and adequate before they can support something like this.

Testimony:

Mr. Nordtvedt indicated that, as the committee members know, the administration, in preparation for the special session, outlined a general tax reform package which included a sales tax. He noted that he will not go through the details because all he wanted to point out is that they have their version of what a sales tax should be like, in size and allocation, that it agrees in many features with the proposal before the committee, and differs in several features from the proposal before the committee, so the administration can not give a blank check endorsement of every detail of this bill. He indicated that what is different, however, this time, is that, in the regular session, they were calling for a sales tax to go on a referendum, which would not be signed by the Governor and, therefore, it was perhaps appropriate that they did not try to work out the details with the administration on that bill. He pointed out that this bill looks like it is structured to be a regular sales tax to be enacted and signed by

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 11 of 37

the Governor, and, therefore, it is crucial that the final bill which comes out of the Senate, which rumor says will be the easiest body to pass a sales tax, also must pass the House, and be signable by the Governor, so they would urge the committee to at least discuss the details of the bill with the administration to make it most likely that they will have a successful outcome.

Mr. Nordtvedt indicated that it seems very crucial, with the amount of money they want kicked in to the foundation program, \$143 million, and to convert the great bulk of that into property tax relief, which is the stated purpose, that the school bill which this is amended into have very prudent spending caps in it. He pointed out that, if they pump this amount of new money into the state school system and do not have prudent caps on school spending, there is a good probability that most of this new money will disappear into higher spending levels, and not the property tax relief which it is being sold to the people under. He noted that, with various disagreements which they would like to discuss with the committee members on the details of such a program, they support the concept and the direction they are going here, but that they urge the committee to remember this is a bill which will be signed by the Governor and, therefore, his input should be brought forth.

Testimony:

Mr. Melby indicated that they have consistently said to taxation committees and education committees, and publicly, that they would support any mechanisms the Legislature could devise to support an appropriate school equalization plan, which includes a sales tax, and they would support this bill here, during the legislative session, as well as during a referendum, if the school equalization plan which is being funded with it is one which appropriately funds schools to provide for equalization as well as for a quality school system, but pointed out that several of the bills they have heard discussed such as SB203, HB28 do not do that. He indicated they would urge the Legislature, if they want to go this route and want support from the Plaintiffs as well as other educational groups, to consider HB28, for instance, as it was introduced, SB7, or something similar to SB46.

Testimony:

Mr. Jack reported that, since 1986, the Stockgrowers have been in the position of supporting the sales tax, as long as it provides personal property and real property tax relief. He

added that they supported SB469, during the general session, that they support this bill, and certainly hope the committee gives a do pass recommendation.

Testimony:

Mr. Stalcup reported that they supported the Crippen/Bradley bill during the regular session, and they do support SB8.

List of Testifying Opponents and What Group They Represent:

Senator J. D. Lynch

Senator R. J. Pinsoneault

John Lahr, Montana Power Company

Gene Phillips, Pacific Power and Light Company

Terry Murphy, Montana Farmers Union

James T. Mular, Chairman, Montana Joint Rail Labor Legislative Council

Tom McGree, U. S. West Communication

Tom Hopgood, GTE; Montana Association of Realtors

Testimony:

Senator Lynch stated that he rises as an opponent to this measure, as he did in the regular session. He indicated he guesses the new game, here, is to wear people down to the point of a frazzle, and they will give up the principles upon which they ran on, and upon which people entrusted them and voted for them. He further indicated that he guesses there is no means by which people will take to pass a sales tax, reporting that he was amused when Senator Crippen decided to change the name of this one, as well, that apparently the new thing is to change names of things, and they will appear quite differently to you.

Senator Lynch stated that now Senator Crippen has decided, noting he is glad he has, to be straight-forward and call the dog that it is a sales tax, but that he has even made it worse than it was before. He indicated that he now says "The public be damned, we'll have the election in '92, we'll pick the pockets of the working people in this state, we'll rape and pillage the working people in this state for two and a half years and, by that time, they will be so raped and pillaged, it won't matter any longer, and they'll pay their damn sales tax." He submitted to the committee that this is not what they were elected to do, that they are here in a special session to address the school equalization program. He added that he was also amused when the great Ambassadors immediately

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 13 of 37

said they will not support the gross proceeds tax because it might hurt them, and indicated they had better change that name back so that the ambassadors of greed are consistent with the greed they have shown to this Senate and to the State of Montana.

Senator Lynch stated that nothing has changed, except they are trying to stick it down the people's throat without even giving them a vote, noting that is progress, he guesses. He indicated that Senator Crippen says let's compromise, now, let's not let the people vote any longer, that they will compromise and the people will not even get a vote.

Senator Lynch stated that this was a bad bill in the regular session but, by far, it is a worse bill, today, and asked that the committee please vote no.

Testimony:

Senator Pinsoneault stated that he rises in opposition, noting to Senator Crippen that he hates to do this, but that he is personally committed to his constituents to a vote of the people before a sales tax is put into place and, for that reason, he can not support that portion of the bill.

Senator Pinsoneault indicated to the members of the committee, and to those who are members of the Education Committee, noting there are a couple of them here, that he sees one thing which is going to happen, if they do not adequately fund, pointing out that Judge Loble cautioned them about that in his decision, which is that they run the risk of equalizing down. He added that Judge Loble indicated he did not think they would do that, but said that, if that is the risk, then it must be taken. Senator Pinsoneault indicated that, if they are going to underfund, they are going to do it at the cost of the education system in Montana, and that he would suggest to the committee that is a real tragedy.

Testimony:

Mr. Lahr stated that he hates to be here to oppose this bill, but he feels they must because it does not carry in it, nor has it yet been proposed by Senator Crippen or any members of the committee, a utility customer exemption. He indicated that, at the present time, based on 1988 revenues, Montana Power Company generated for the State of Montana \$69 million in taxes and, of that amount, \$39 million was generated by the customers of the utilities. He pointed out that SB469, or SB8, generates an additional \$20 million from the utility

customers, so that the utility customers would be responsible for raising \$59 million for the state.

Mr. Lahr indicated that, if anyone is critical of this bill because it gives tax relief, he would point out that the utilities do not get a dime's worth of tax relief in this bill, that the tax relief is for a different class of property, and Montana Power Company and the other utilities have no property in any class except class 11, which is taxed at 12%. He noted that Senator Crippen mentioned, if he understood him correctly, that there is \$60 million of new revenue in this bill, and that SB469, he believes, had \$70 million of new revenue. He stated that, whatever the case, they simply do not feel it is fair to the customers of their company to pick up some 25% to 33% of the total amount of new revenue in this bill, and would ask the committee to amend this bill to amend the utility customers out or, in lieu of that, to amend them into the property tax classification so they can receive some relief from the 12% rate, which would be a remedial rating thing for their customers.

Testimony:

Mr. Phillips indicated that he would endorse the comments made by Mr. Lahr on behalf of Montana Power, and stated that they feel that utility customers should be exempted from this bill because of the regressive impact it has on them. He added that it has a very severe impact on the timber industry in the northwestern part of the state, that one company would be paying over \$140,000 additional tax. He added that, given the present state of the timber industry in northwestern Montana, that it is an additional burden which can not do anything but severely hurt the economy.

Testimony:

Mr. Murphy indicated that they are testifying in opposition to SB8, and called the committee's attention to the fact that this must be an extraordinarily bad bill, judging from the fact that the two previous opponents have agreed with Farmers Union's position on the matter. He added that he thinks this is an unacceptable approach at this late date in the session, and that one of the unacceptable features, of course, is the idea of implementing the tax and collecting it before a vote of the people, that, if it is going for a vote of the people, that must come before the effective date.

Mr. Murphy pointed out that they have heard throughout the session, regular and special, on the one hand, that they do

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 15 of 37

not need additional revenues, they just need tax reform, they need a different mix, and, on the other hand, that they do need the increased money, noting that it changes every day, it seems like. He indicated that he thinks real property taxes do compare favorably with other states, that they can do study after study, and dollars paid for \$1,000 of value in Montana is not high for real property taxes compared with other states. He further indicated that he will grant that personal property taxes, particularly on commercials and industrials, may be a bit high but, if so, they surely do not need to be reduced by 75% in one shot. He added that they should look at a phased reduction, and do it without a sales tax, by whatever means. He stated that they urge the committee to vote no.

Testimony:

Mr. Mular reported that he is representing 3,000 railroad employees, and approximately 8,000 retirees in the State of Montana. He stated that their organization opposes this bill, as they did in the previous, original session, and in this particular special session.

Mr. Mular indicated that what has not been touched on, regarding property taxes, is that property taxes are deductible on federal income tax returns, and asked if this bill addresses that. He added that, when they are attempting to negotiate various wages throughout the country, and in the State of Montana, they are taking wage reductions so, if a tax is put on them, it is less take-home pay, and they will all be under the exemption Senator Crippen wants to give them.

Testimony:

Mr. McGree stated that he stands before the committee in opposition to SB8. He indicated that he will not be redundant on the points the other utilities have made, but that he will explore two of those, briefly.

Mr. McGree reported that there is no property tax relief for property class 11 in this bill, and indicated he does not oppose the bill because of that, because the company he represents is willing to pay its fair share in property taxes, noting that they presently pay about \$18 million every year, in Montana, in property taxes.

Mr. McGree then referred to the customer exemption feature which John Lahr from Montana Power talked about, earlier. He stated that this bill does not allow for customer exemptions,

and indicated he would suggest that utility customers be exempted from SB8, should the committee decide to pass the bill. He explained that he is not talking about purchases the company makes in doing business in Montana, that he is talking about the customers' bills, and would suggest that those, perhaps, be exempted in this bill.

He reported that the tax liability they have, as a company in Montana, is \$25 million a year, and indicated that, if they equate that to a residential customer's bill, their bill now is \$13.84 per month, excluding any long distance and, in looking at what the present tax liability is of that \$25 million, it represents \$6.95 of that \$13.84, and that is the present situation of one of their residence customers for whom they provide service in Montana. He noted that he made that point so that the committee would consider excluding customers' telephone bills from the sales tax.

Testimony:

Mr. Hopgood reported that they are a telecommunications company with some service areas in the very northwest part of the state, and indicated that he would simply endorse the comments by the other utility lobbyists, and urge the committee to add on to this bill a customer services exemption.

Mr. Hopgood then indicated that, as the committee members are well aware, he also represents the Montana Association of Realtors, and it has long been their position that they do support a sales tax. He stated that it is with some reluctance that he is here testifying in opposition to this bill, but indicated that they believe their position has been made well-known, both in the regular session in other testimony on other bills, and in this session, and indicated that the bottom line is that they do not favor, in any sense, the imposition of a tax on services. He added that they feel it is a tax on production, and that is a sector of the economy they feel already bears an unfair tax burden, that it is simply another income tax, and they would urge the committee to very closely consider this point.

Questions From Committee Members:

Q. Chairman Brown indicated that Mr. Lahr, Mr. Phillips, Mr. McGree and Mr. Hopgood have all spoken, essentially, to the same point, and he is curious to know, either from Mr. Lahr or Mr. Phillips, whether the position of their companies would change, if utility customers were exempted.



SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 17 of 37

A. Mr. Lahr responded that their traditional role in tax matters has always been that taxes are the responsibility of the Legislature, and they would pay their fair share. He indicated that they have not involved themselves in the tax process, that he can recall, until this session, that they are not comfortable in it, but think that the hit on their customers, going from \$30 million to \$50 million under this bill, is too much.

Q. Chairman Brown indicated that the committee understands that, but they need to know whether he and the other utility companies would still be in opposition if the utility provision was changed, in the bill.

A. Mr. Lahr responded that if they were to, in some way or another, grant relief to the utility customers in this bill, they would no longer be in the position of being against it, noting that is for Montana Power.

Mr. Phillips stated that, on behalf of Pacific Power and Light and Northwest Telephone System, the same is true, that, if their customers are exempted, they would have no opposition.

Q. Chairman Brown asked Mr. McGree if that would be true for them, also.

A. Mr. McGree responded yes, that U.S. West would change its position.

Mr. Hopgood indicated that he is not authorized to speak to that issue, but he can find out.

Q. Chairman Brown pointed out that Mr. Nordtvedt has indicated that, since this measure, in one form at least, would go to the Governor and would not by-pass him as a referendum would, that the Governor, therefore, wants to be a player, noting that, certainly, is understandable. He then reported they had an experience in the Education Committee, with SB26, where they passed a bill out, not realizing that the Governor's opposition was as great as it was, and he vetoed it. Chairman Brown then indicated to Mr. Nordtvedt that, when he tells them, today, that the bill they pass must be signable, what they need from him, here and now, in front of God and everybody, is some advice on what he will sign, so they will not waste their time in executive session with a bill he would not sign.

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 18 of 37

- A. Mr. Nordtvedt responded that, first of all, he thinks the Governor made it quite clear, before those final votes were taken on the school bill, that the form was unacceptable, so he does not think the veto was a surprise to anybody except Speaker Vincent.

Chairman Brown noted that it was a surprise to him.

Mr. Nordtvedt continued that there are so many details in this bill which he could not rattle off, nor does he want to state the Governor's rigid position on 20 different issues in this bill. He indicated that what he was asking, noting that he tried to make it clear, is that, when they sit down and write the final version of the bill, if they feel they have the votes to put out a bill, they would like to work with the committee closely to make their views felt on the 10 or 20 different features of the bill. He added that they are ready and anxious, that they have thought about this for months, and want to work with them in that way.

- Q. Chairman Brown indicated that the committee is too, and asked Mr. Nordtvedt if they are prepared, this afternoon, to discuss those 20 particulars.
- A. Mr. Nordtvedt responded that they have been prepared for several months, and they are prepared this afternoon.
- Q. Chairman Brown then said, well, let's have them.
- A. Mr. Nordtvedt asked Chairman Brown what he would like to know.
- Q. Chairman Brown indicated the committee wants to know what Mr. Nordtvedt thinks an acceptable sales tax bill is, that they want his advice on what the Governor will sign.
- A. Mr. Nordtvedt responded that the committee should keep asking questions, and he will jot down some notes.
- Q. Senator Walker asked Mr. Jack if he and all the different organizations he represents would still be in favor of this bill, if they struck Section 13 from the bill, which exempts agricultural products.
- A. Mr. Jack responded that is one of the reasons why they are supporting the bill and, if the committee struck that, he would want to go back to his executive board.

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 19 of 37

- Q. Senator Walker indicated that Senator Crippen said there was \$200 million worth of property tax relief, both personal and real property, and asked if that is correct.
- A. Senator Crippen responded approximately.
- Q. Senator Walker asked Senator Crippen to break that down into what is real property and what is personal property.
- A. Senator Crippen responded that, at this point, he can not. He indicated that a lot of it is real property, that they are taking the mills which were used to apply to the foundation, eliminating those, and taking that money, noting that a lot depends on where they put the personal property level, and they can get into that, that Dale Harris probably has the figures on it, when they get into executive session. He noted that the bulk of it, he thinks, is real property.
- Q. Senator Mazurek asked Mr. Eric Feaver if he would be willing to answer a question. Upon Mr. Feaver's response that he would, Senator Mazurek indicated that his recollection in the past is that MEA has generally supported sales tax legislation. He pointed out that Mr. Feaver did not speak for or against this one, and asked if MEA has a position on this particular bill.
- A. Mr. Feaver responded that MEA still supports a sales tax, as they do income tax, property taxation, and other methods which would provide adequate, progressive, fair revenue for the State of Montana.
- Q. Senator Mazurek then asked Mr. Feaver if they would support this measure, if it was accompanied by an equalization proposal which contained an adequate level of equalization, an adequate level of funding for schools, and if that is a fair statement.
- A. Mr. Feaver responded that they might support it, even if it were not an issue of equalization, but that equalization obviously dominates the Legislature, and is why they are here. He added that he thinks the testimony Pat Melby gave on behalf of the plaintiff schools fairly represents where MEA is at, that, if it is the intent of the Legislature to pass a sales tax which underfunds schools districts, they are not interested at all, that the purpose of the sales tax should be to fund the needs of this session to provide for equalization at sufficient

levels to pay for what they are doing now, and for personal property tax relief.

- Q. Senator Halligan indicated that Senator Crippen said the bill includes broad-based tax reform, and asked if broad-based tax reform is necessary to do school equalization.
- A. Senator Crippen responded no.
- Q. Senator Halligan then asked Senator Crippen if the only reason they are doing broad-based tax reform is because of the second floor. He indicated that the Legislature has already passed a school equalization bill which has met the legal test according to a bi-partisan bill, and again asked if the only reason they are doing this, today, is because of the person on the second floor.
- A. Senator Crippen asked if Senator Halligan is implying that the Legislature, or himself, is not interested in broad-based tax reform.
- Q. Senator Halligan responded they are, but that it is not tied to school equalization, technically.
- A. Senator Crippen asked if Senator Halligan recalls the call of the Governor.
- Q. Senator Halligan acknowledged that it is part of the call, but stated that it is not tied, technically or legally, to school equalization.
- A. Senator Crippen responded no, but, as he mentioned in his opening remarks, they have several issues before them, that one is equalization, and they are also here because they need broad-based tax reform, that it is part of the call. He noted that for him to walk in with a bill that did not propose that is something he will not do, that it would be accepting one part of the equation but ignoring the other, and he can not do that.
- Q. Senator Halligan indicated that, if this bill passes and they have a referendum in 1992, a bureaucracy is put into place which costs \$5 million a year and, if it does fail, there could potentially be those who will use that failure of the sales tax to underfund schools, and asked Senator Crippen if that is a possibility.
- A. Senator Crippen responded that is always a possibility, that the people make the final choice under this pro-

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 21 of 37

posal. He indicated that, if they want to do something to the alternative, to do it themselves; to let it go, make the decision themselves, and then they will not have that problem.

- Q. Senator Halligan asked if, in addition to this, they could put in the 100 mills, the 10% surtax as the permanent funding source, unless this goes into place, so they do not have the possibility of underfunding.
- A. Senator Crippen indicated Senator Halligan is talking about an interim proposal, and he thinks that is something they will probably have to get in to, in executive session, because the sales tax does not come into effect tomorrow. He pointed out that how they structure that is going to be as difficult a decision to work out as when and how the vote by the people is going to be implemented.
- Q. Senator Hager pointed out that the fiscal note indicates what the administrative expenses would be for implementing and administering a sales tax, and asked Senator Crippen if there is any reason to think they could see a corresponding decrease in administrative expenses on property taxes with this proposal.
- A. Senator Crippen responded that he does not know, and indicated that, if they eliminated personal property tax entirely, yes, they would see a tremendous amount because they would lose a lot of people. He indicated that he would not go so far as to say they would reduce a lot of administration by keeping it where they are now, that he is just not in a position to say they would, so he will not say it.
- Q. Senator Hager asked if they are eliminating any property taxes, any classes.
- A. Senator Crippen responded no.
- Q. Senator Eck indicated that she realizes this will come in Education, but asked Senator Crippen if, when they talk about \$135 million, or whatever it is for school equalization, that is on top of 100 mills, or on top of 85 mills, or if he remembers what this was based on.
- A. Senator Crippen responded this was based on a separate amount which would go in, that the original bill, SB469, dealt with the retirement issue, and paid for retirement,

so that would be eliminated. He added that, how this will come in, along with what the Education Committee wants for revenues, is up to the members of the committee, and the best way they see will fly, that this bill provides X number of dollars which can be available for doing that, plus or minus, depending on what exemptions they want to add or decrease, or a change of allocations.

Q. Senator Eck indicated those who support this would have a hard time supporting it without a vote, at this time, and asked Senator Crippen if that is something which can be left to the decision of those people who are putting together options.

A. Senator Crippen responded that, as he said in his remarks, he knows that will be onerous to some and, as he also said, he thinks that is an appropriate way of doing it, but that is a decision he can not make for Senator Eck, that she will have to make it for herself.

Chairman Brown announced that Mr. Nordtvedt went downstairs for some information, and suggested that Senator Crippen be allowed to close and, when Mr. Nordtvedt returns, he can go ahead and testify before the committee, if there would not be any objection to that. Chairman Brown further suggested that Senator Crippen may want to reserve the right to close behind Mr. Nordtvedt, in case he says anything Senator Crippen wishes to respond to.

Closing by Sponsor:

Senator Crippen indicated that they will have to deal with Mr. Nordtvedt, and the administration, in executive session, noting that they have all been through this before.

Senator Crippen pointed out that the committee has heard the arguments from the utilities, and indicated that is a valid point and is a decision any committee working on this is going to have to weigh as to what they want to do. He added that they will have to weigh if the broad-based aspect of it, on one side, is worth more than the exemption over there, or if, by making the exemption for the utilities, are they, in fact, working more towards less, and more progressive tax, rather than a regressive tax, noting that these are decisions he is willing to put before the committee.

Senator Crippen indicated that there is some new money in there, and the committee should keep in mind that some of the new money is for local governments, but that it is not really

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 23 of 37

new money that, in a sense, it is an old problem which they have to address, that it is \$14 million, and the remaining new money goes into higher education. He pointed out that, last time, they put a bunch of money into higher education, but there really was not a lot of new money, that it was a change in earmarking funds and a little bit of magic that they always have a tendency to do, and indicated that they are going to have to make a decision on how far they want to go for higher education, if at all, noting that he thinks they should not ignore higher education.

He stated that it is interesting, when they do this, noting that they have done a number of these in past, that they have the same proponents and the same opponents. He pointed out that the opponents never fail, that they all come out and say the same things, adding that he is sure they all say that Crippen comes out and says how great and wonderful it is, that it is sunshine and roses, and they are saying rape and scrape and shaking their jowls. He noted that to those who are familiar with the legislative process, which is most of them here, they know how to handle that and enjoy that, and added God bless Senator Lynch, that he is glad he is here because he adds a lot of spice in life to the debate, and is the only one who can shake his jowls like that.

Senator Crippen noted that Senator Lynch knows what he is going to say is not personal to him, and indicated that all that rhetoric reminds him of a gentleman from Louisiana who, when he retired from the U. S. Senate, was being interviewed by a reporter. The gentleman had been in Congress for many, many years, and the reporter was asking him his opinion on a number of Senators. They came to Senator Robert Taft, and the gentleman said Senator Taft reminds him of a mockingbird. Senator Crippen noted that this discussion of Senator Lynch and others also reminds him of a mockingbird, and then continued that the reporter asked the Senator why a mockingbird, to which the Senator responded because a mockingbird is a lot of mouth, and damn little bird. Senator Crippen stated that is the essence of his opponents, a lot of mouth and damn little bird. He indicated to Senator Lynch that he still loves him, that he is sure they will have a battle on the floor, and he looks forward to it.

Testimony:

Mr. Nordtvedt reported that several features which are of most concern to the administration would be the following: That, if they pump \$143 million per year of non-property tax, or sales tax revenue, into the school equalization bill, they

believe that the normal school caps for the bulk of the schools in the middle of the pack should more appropriately be set at the level of 110% to 112% of the 1988 expenditures, with perhaps an inflationary level escape clause for the schools which would otherwise be closing, and that the retirement be equalized in the schedules and not left in the property tax rolls as an additional local levy.

Chairman Brown asked if Mr. Nordtvedt is suggesting they include retirement in the schedules. Mr. Nordtvedt responded yes.

Mr. Nordtvedt then continued that they would agree with several people who testified that utilities, from the customers point of view, should be made exempt from a sales tax. He further indicated that the money allocated for so-called rebates should be cut approximately in half, and then carefully coordinated and worked together with the low-income tax relief contained in the income tax reform package. He explained that, in other words, two-thirds of the money in the income tax reform package was aimed primarily at taking low-income taxpayers off the tax rolls and reducing the burdens at the low end, and that the final rebate program should be structured so that the two work smoothly together and there are no abrupt jumps or disincentives for going from a non-income earning person to an income earning person. He further indicated that the sum total of what they would get under rebates, and what they would pay on income taxes as they cross the filing threshold, should be designed in an intelligent manner so that there is no disincentive to join the ranks of the taxpayers.

Mr. Nordtvedt further indicated that they believe, in exchange for the allocation of \$14.5 million for city and county government block grants, the bank tax allocations back to local governments be eliminated, and the allocations of the bank tax should go into the regular corporate income tax account of the state. He explained that this is the account for some banks when they show a deficit, and which causes local governments to have to make refunds, that it is a very volatile source of revenue, treated bank by bank, and is a very inappropriate income source for local government, adding that this would be the right time to phase it out and send that bank tax into the corporate income account.

Mr. Nordtvedt stated that they would urge the committee, in the area of vendor payment collections, to look at such concepts as the breakage point on the sales tax, or other ways to keep that as simple as possible, noting that they have no



final solution to offer the committee, just that there are a number of ways that could be accomplished. He indicated they think the biggest item is to make sure that, if they have a school funding package with this much new money, an equalization package, that more prudent caps be designed.

Questions From Committee Members:

- Q. Chairman Brown asked Mr. Nordtvedt if the administration has a position on the inclusion of services, as they are included in SB469.
- A. Mr. Nordtvedt responded that their preference was in the proposal they wrote some time ago not to have services. He added that, however, if it could meet most of these adjustments, they could probably live with the services, pointing out that, if they take the services out, they will have to go back to the drawing board in many fundamental respects in this bill. He indicated they certainly have an option which they thought covered most of the things the committee wants to do in this bill for a tax without services, noting that he does not think the difference between services and non-services is as big as they might think, adding that the latest numbers he heard were \$82 million per percent, with services, and about \$70 million per percent, without services, that it is not that huge a sum of money.
- Q. Senator Crippen asked Mr. Nordtvedt to go over the numbers again.
- A. Mr. Nordtvedt responded that the numbers he has been working with are \$82 million per percent with services, \$70 million without services, but assuming that groceries and medicine were always exempt.
- Q. Chairman Brown asked Mr. Nordtvedt if the administration has a firm position on the rate, 3%, 3.5%, 4%.
- A. Mr. Nordtvedt responded that everything he has told the committee here is based on their 4%, and how they would have reallocated that. He added that, if they want to change the question of services in for the rate, he thinks they need some more fundamental remodeling to make the numbers fit.
- Q. Senator Crippen indicated that Montana Power used the figure of roughly \$15 million.

- A. Mr. Nordtvedt responded it was more like \$20 million.
- Q. Senator Crippen then asked Mr. Nordtvedt if services are not used in their computation of \$50 million.
- A. Mr. Nordtvedt asked Senator Crippen what the \$50 million is.
- Q. Senator Crippen indicated that the \$50 million is 4%, that it is in their calculation of \$12 million at 4%.
- A. Mr. Nordtvedt indicated he did not understand, and Senator Eck explained that Senator Crippen is referring to \$12 million for services.

Mr. Nordtvedt then agreed that the difference is \$12 million.

- Q. Senator Crippen asked if that does not include utilities, that they are another factor in their \$70 million.
- A. Mr. Nordtvedt responded they are not. He added that, in other words, utilities represent \$20 million, apparently, out of the \$50 million of the so-called services category.
- Q. Senator Crippen indicated he does not think that is right.
- A. Mr. Nordtvedt indicated that it seems to big, to him, also.

Senator Eck indicated that \$20 million is for 4%.

- Q. Senator Crippen indicated that, if they took all utilities out on the retail level, commercial and residential, that was about a \$30 million price tag.

Senator Eck indicated that the \$82 million to \$70 million is based on 1%, and there is a 12% difference, per percent.

- A. Mr. Nordtvedt responded that the so-called goods-only number includes utilities as a good, that the \$70 million per percent includes utilities.
- Q. Senator Crippen then asked if they took utilities out, would they have to deduct that amount for utilities.

- A. Mr. Nordtvedt responded that, if they wanted both services and utilities out, they will have a number somewhat less than \$70 million per percent, that it would be \$65 million, or \$63 million.

Chairman Brown declared the hearing on SB8 as closed.

#### DISPOSITION OF SB 8

##### Discussion:

Chairman Brown indicated that, so that the members of the committee understand what has apparently already been discussed among the legislative leadership, noting that he thinks they may already know this, they will try to arrive at some kind of consensus, in terms of the major provisions of this bill, noting that he thinks that Senator Crippen is going to ask to amend SB469 into the bill, so that will be used as the vehicle. He then indicated that, after they have reached at least a majority consensus, they will not act any further, and he thinks what may happen at that point, if the votes are there and it seems like a good way to proceed, is that they will amend the work they have done, in other words SB469 as amended here in this committee, into HB28 and then, ultimately, that bill, with the provisions of SB469 amended into it, would be voted on, on the floor. Chairman Brown asked if anyone has any questions about that rather involved procedure.

Senator Halligan asked Chairman Brown what about the canola bill. Chairman Brown noted that is the only thing left out.

Senator Crippen indicated that maybe the other way to look at it is in the form of a committee bill. Upon response from the committee members, Senator Crippen acknowledged that the committee does not want to do that.

##### Amendments and Votes:

Motion: Senator Crippen offered a motion that SB8 be amended to include the provisions of SB469, that all of SB8 will be struck with some exceptions, and the provisions of SB469, as it left the Senate on third reading copy, be inserted, with the change being that the portion of SB469 referring to the referendum be deleted.

Vote: Motion passed unanimously by the committee that SB8 be so amended.

Chairman Brown indicated to the committee that there are some major issue areas which they will need to come to terms with, that he is flexible about how to proceed, but he thinks the committee needs to discuss the question of whether to include utility customers, whether they want to continue to allow the gross receipts option, and the question of when the people will be able to vote on this proposal, adding that the committee members may have other things that will need to be discussed. He indicated that they can be brought up in the form of specific amendments to the bill or, if the committee wishes, maybe they can be voted on conceptually and Mr. Martin and Mr. Bohyer can help work out the details of the amendments.

Motion: Senator Crippen offered a motion that the tax on utilities for customers be eliminated.

Senator Mazurek asked what the dollar impact will be, if it will be approximately \$20 million. Chairman Brown responded that the Montana Power Company is talking about \$15 million, and asked Mr. Phillips if he knows what it is for PP&L. Mr. Lahr indicated that the \$20 million includes two things and, if he understood the motion correctly, what they would be looking at as a reduction from Montana Power is \$15 million, and the balance of the \$20 million is the amount of purchases which the company makes, itself. He added that, too, of course, would be passed on to the customer.

Chairman Brown asked Mr. Lahr if he understands that, as the mills come down, utility property would benefit, as any other taxpayer's property would benefit. He then pointed out that Mr. Lahr made the comment before the committee that there was not a dime's worth of tax relief in this bill for the Montana Power Company, and indicated that the tax rate does not change but, to the extent that the mills are reduced, they would benefit. He then asked Mr. Lahr why they should be exempted from what they purchase. Senator Eck noted that is in another bill. Mr. Lahr responded that, in this bill, there is no tax relief for utilities because they are at the 12% rate, and this bill grants tax relief for personal property in different classes. Chairman Brown asked Mr. Lahr if he understands that the revenue from the sales tax would be used to reduce the mill levies. Mr. Lahr indicated that he understands that.

Senator Mazurek indicated to Mr. Lahr that the bottom line of his question was, now that they have a total figure, what percentage of the sales tax collections from utility customer bills would be paid by business as opposed to residential

customers. Mr. Lahr indicated that he can not answer the question, and Senator Mazurek asked Mr. Harris to answer the question. Mr. Harris responded that there are three different sources on utilities, that what was in the Legislative Council report, which has been updated to one year earlier, and also with information the utilities provided earlier on, is that between \$8 million and \$9 million, per one percent of a sales tax, would be paid by both consumer and industrial users of utility services. He added that, as far as what portion of that is paid by residential customers, and which portion is paid by business, it varies greatly for telephones, electricity and gas, but that roughly 60%, at least, is paid by business, and 40% by residential, adding that it is probably a little higher than 60%.

Mr. Phillips indicated that the figures he has for Pacific Power and Light, noting that this tax has been imposed on their revenues for the year ending December 31, 1988, is that the additional tax to their customers, both residential and business, would have been probably \$1.2 million for their electric operations and, in the case of Northwest Telephone Systems, it would have been approximately \$1,435,000, so the total for the two companies is a little over \$2.16 million.

Mr. McGree reported that the impact on U. S. West, on the customer bills only, is \$5 million. Senator Mazurek asked Mr. McGree if he knows what the percentage is between commercial and residential. Mr. McGree responded that their's is roughly 45% commercial and 55% residential, and added that commercial rates are higher than residential rates.

Senator Harp asked if the question before the committee is strictly on the residential side, and not the business side. The response from several committee members was that it is both. Senator Crippen stated that the intent is to exempt the customer portion. He pointed out that Mr. Lahr talked about the \$15 million, and the \$5 million in addition for what they purchase, and indicated it is not intended to cover that, that it is intended to cover the \$15 million which is passed on to the customers. Chairman Brown asked if everyone understands the motion, that Senator Crippen is exempting the utility rate payers' bills from the sales tax, but not the purchases of the utility company, if his motion passes. He added that the impact of his motion, according to Mr. Harris' figures, would be, high-side, about \$36 million in decreased revenue from this, that, if it is \$9 million per percent, they are talking about a 4% sales tax.

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 30 of 37

Vote: Motion passed unanimously by the committee that SB8 be amended to exempt the utility rate payers bills from the sales tax.

Senator Crippen indicated that the question regarding timber was brought up, after it had passed out of the Senate, noting that he does not remember the problem on timber but, as he recalls, there was a glitch in there somewhere, that timber was down below the 4% level, and they were bringing it back up, which he does not think was the intent, at all. Mr. Martin indicated that, in SB8 as it currently stands, that glitch is taken care of by amending session law. Senator Eck indicated they have done away with SB8, and asked how it treats timber, then. Mr. Martin responded that, currently, it will be taxed on production. Senator Eck asked if it will be at 30%. Senator Mazurek asked if the motion is to fix the timber glitch. Chairman Brown responded that they do not need to, because there is no glitch in SB469, but Mr. Martin indicated that is where the glitch is. Senator Eck asked if they will have to move to put the SB8 language back in.

Motion: Senator Crippen offered a motion that the SB8 language be put back in regarding timber land.

Mr. Don Allen, Wood Products Association, stated that, as Mr. Harris mentioned earlier, the amendment to correct that glitch never did get acted on in the House committee, noting that his understanding was that the department did not want that accelerated, that they are not really geared up to handle that at an earlier date, so it does need to be straightened out. Chairman Brown asked Mr. Allen what the impact is on timber. Mr. Allen responded that it simply moves ahead the change in 1990.

Mr. Burr indicated that the glitch was that, in the current bill, they are at 3% of productive value, that timber was going to be re-done by the department when they do the next re-appraisal, and somebody looked at the bill and said this expires in 1991, so they will just expire it a little earlier, which had the impact of putting timber from 3% of the current values up to 33% of the current values. He added that Revenue's position, he believes, is that, if they do not change the value, they do not want to change the percentage, that it should be coordinated with the next re-appraisal cycle, and does not need to be done right now, as long as this glitch is out of the bill, adding that they need to leave them at 3%.

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 31 of 37

Chairman Brown indicated that Senator Crippen has offered a motion to leave the taxation of timber land at 3%, as it is now, so they do not get caught in the 33% thing.

Senator Mazurek reported that he is advised that air pollution and water pollution control equipment is in the same box. Chairman Brown indicated that Senator Crippen has agreed to accept air and water pollution control equipment, in addition to timber land, in his motion.

Senator Halligan reported that, when he was working with Steve Bender with the department to propose his amendment on the residential exemption, one of the things they had to do in order to keep the general fund portion at a decent amount was to bring that personal property which was below 4% up to 4%. He added that he thought they ended up having to bring all the personal property below 4% up to 4%, in order to keep the general fund portion relatively whole because he was taking so much to meet that \$15,000 exemption.

Mr. Nordtvedt indicated that it is costed out now, and he thinks those numbers reflect the honest cost, after they take into account that, when they pump \$140 million into foundation program schedules, they reduce drastically the cost of the other provisions because they are now taking \$15,000 of a homestead's value off of much lower mills, and the cost to bring personal property down to 4% is substantially lower because they are taking it off of drastically lower school mills, because of the \$140 million pumped into the schools.

Senator Severson indicated that, as far as he can read, timber land is taxed the same as agricultural land at 30%. He asked where they come up with the 3%. Chairman Brown asked Mr. Allen or Mr. Burr to answer the question. Senator Eck indicated that it was her understanding that timber is supposed to be taxed at productive value, but that they have never come up with figures for productive value, so it is assessed at 30% of productive value, but is in a bracket where it is taxed at 3.86%. Senator Severson asked Mr. Allen if he is knowledgeable on this at all.

Mr. Burr referred to the schedule on the bottom of page 88, and indicated that is how they got the 3%, the formula of percentage increase after the last re-appraisal, that they drastically increased the value of timber, and drastically lowered the percent classification, and it would have run off of this schedule, which does not go down low enough. He indicated that they need to leave that so that timber is not

changed until the next re-appraisal cycle, like all the other stuff which is not changed until the next re-appraisal cycle.

Senator Eck indicated that it does not really have to do with air quality stuff.

Chairman Brown indicated that Senator Crippen is attempting to keep the tax liability on timber land, and the air and water pollution control equipment, where it is.

Vote: Motion passed unanimously by the committee that SB8 be amended to leave the timber land and air and water pollution control equipment taxes at the present level.

Senator Mazurek indicated that the one service he remembers, which is in the bill and which he thinks has a significant impact on Montana people, is commissions on brokerage because they can, by phone, deal with Charles Schwabe, or anybody else, and that they may force that business right out of state. He asked Senator Crippen if he discussed that. Senator Crippen responded that they discussed it, and suggested that Senator Mazurek go ahead and make a motion.

Motion: Senator Mazurek offered a motion that the sales tax be eliminated as it applies to brokerage commissions on the sale of stocks and bonds.

Chairman Brown asked Senator Mazurek if he has any idea of the impact. Senator Mazurek responded that he really does not, except that it is the one place where people can easily get on the telephone and go out of state. Senator Eck indicated that she remembers some long discussions on that, and the decision was to leave it in. Senator Norman suggested that the committee let it go to conference committee, that they are starting to work on the bill, now.

Senator Crippen indicated that he can not give the committee the figures, that he does not think it is that substantial, but the point is well-taken. Senator Eck pointed out that people get mad at exemptions. Senator Crippen indicated that, for the most part, he thinks it was not included in other states for that same reason. Senator Norman asked if they are going to write the bill, here, or if they are going to vote on it.

Vote: Chairman Brown called for a roll call vote on the motion. The motion failed with 5 in favor and 7 opposed.



SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 33 of 37

Senator Crippen indicated that, in SB469, the committee members will recall there was coordinating language which dealt with SB463, which is the income tax bill. He stated that, just for clarification, he would like to provide some of the same thing but that, as he said, it is important, if they are going to do this bill, that they have income tax relief, as well. He indicated that is for two reasons; one, they need some income tax relief and, two, it does relieve the impact for the low-income taxpayer substantially, and, in an effort to make this more progressive with the tax, he thinks it would be smart to do that.

Motion: Senator Crippen offered a motion that SB1, which is old SB463, be amended into this bill, at least by coordination.

Senator Eck asked if that is SB1, which they had this time. Senator Crippen responded yes, SB1, which is old SB463. He indicated their proposal, which they are doing now, includes the income tax proposals and reforms which he wanted to do. Chairman Brown indicated that SB1 is not going to get through the process, so he does not know quite how to coordinate it with that, and if he wants to amend the standard deduction and personal exemption provisions in this 3-6-9 schedule in SB1 into this bill. Senator Crippen responded yes, that all they have to do is put SB1 into it. Senator Eck noted that they have not had hearings on it. Senator Norman responded the provisions contained in SB1, wherever it may be.

Senator Eck indicated that she has real problems with doing this, that she thinks there should be some income tax, some money set aside, at least, for income tax reform, but that, however, she has problems with just adopting something they have not had a hearing on. She added that the pitch which is always given is that this however many millions, most of it goes to low-income, but indicated that really a very little bit of it goes to low-income, that it is relief spread throughout the income tax schedules, which she does not say is bad, but that she just does not like to be characterized that way. She then asked if the committee is going to have a hearing on SB1.

Chairman Brown responded that Senator Crippen discussed SB1 today, and explained its provisions. Senator Eck indicated that, as she recalls, it does what they did in the regular session with indexing capital gains, for instance, and asked if it goes back to previous years in doing that, so that it is costing a good chunk, or if it is going to be similar to

the bill they passed out of here a while ago. Senator Crippen responded that the indexed capital gains, noting that they can exclude that out if they want to, is in that other bill which has passed the Senate and is before the House Taxation Committee at this point in time. He noted that he does not see what problem Senator Eck would have with that because they have already passed that out. Senator Eck responded that they passed it out starting with this year and, as she recalls, the other bill went back, noting that she does not really have a problem with that, either. Senator Crippen indicated that they could clarify that, that they could start with a base of 1988. Senator Eck indicated that, really, it is the concept that they have some income tax relief, and let the conference committee work it out. Senator Crippen stated that he thinks they have to have the income tax relief, the exemptions increased and the standard deduction increased, noting that is not going to help the spread up above there. He stated that, first off, it will take 55,000 households off the tax rolls, entirely, noting that is not the upper brackets, that it is the lower brackets, and indicated that, secondly, it will put another 55,000 to 60,000 households down to the standard deduction, which will save that low income. Senator Eck stated that she is willing to support Senator Crippen's motion, as long as it is kind of general.

Chairman Brown asked that Senator Crippen clarify the motion before the committee votes on it. Senator Crippen indicated his motion is that they adopt into this bill the provisions set forth in SB1.

Vote: Motion passed unanimously by the committee that SB8 be amended to adopt the provisions set forth in SB1.

Senator Eck indicated that a lot of people who supported this bill had never really read it, and did not realize the gross receipts possibilities. She indicated that most other states have a provision which prevents anyone from advertising that they will pick up the sales tax, and she has a rather general one, which is from Minnesota, noting there might have been one in New Mexico. She added that, when they first looked at it, they thought it sounded dumb, but indicated that she thinks a lot of people would feel more comfortable if that were in the bill.

Motion: Senator Eck offered a motion that SB8 be amended to include a section prohibiting advertising by anyone that they will pick up the sales tax.

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 35 of 37

Chairman Brown asked if Senator Eck would delete the gross receipts portion. Senator Eck responded no, that they would just add a section explaining that they can not advertise that they are going to pick up the tab, in any way. She added that she thinks it is standard in a lot of bills, and that it has become an issue. Chairman Brown asked Senator Crippen if he is aware of this. Senator Crippen responded yes, and indicated that he has no problem with that.

Vote: Motion passed unanimously by the committee that SB8 be amended to include a section prohibiting advertising by anyone that they will pick up the sales tax.

Senator Crippen indicated there was a question before to clarify the exemption on day care, that he thinks there was some concern last time. He pointed out that they talked about this, and indicated that, so they understand it, day care services are not included in this definition of services, noting that there was confusion last time. He added that he never intended that they be included, that he thinks maybe they are, but that it was not the intention.

Motion: Senator Crippen offered a motion that the taxes which apply to day care be excluded.

Vote: Motion passed unanimously by the committee that SB8 be amended to exclude the taxes which apply to day care services.

Senator Severson asked Senator Crippen what the situation is as far as veterinary medicine. Senator Crippen responded, in jest, that it is a 12% monthly sales tax. He then indicated that, as he recalls, he thinks they exempted that. Senator Crippen noted that Representative Patterson was so adamantly concerned about that, and he thinks that was, as it passed out of the Senate, exempted. Senator Eck added that they are considered kind of like an M.D.

Senator Halligan indicated that, as part of the income tax reform, they need to deal with the state deductibility of federal taxes, and he thinks that part of the income tax provisions just amended in from SB1 should include, as far as reform, a 50% deductibility portion for federal taxes paid on the state return.

Motion: Senator Halligan offered a motion that a new section be inserted which would include the 50% language as

far as deductibility of federal taxes on the state return.

Senator Crippen asked Senator Halligan if he is saying that they limit the deductibility for federal income taxes paid to 50%. Senator Halligan responded that he thinks that raises about \$30 million a year, noting that \$60 million used to be 100%, and he thinks that it is probably somewhere close. Senator Crippen asked Senator Halligan if he is saying that, without this in there, he will vote against the bill. Senator Halligan responded probably, and then stated yes, as a matter of fact. Senator Crippen noted that it will be sort of the same thing as the Halligan amendment on the floor, when he talked them into it and then voted against the bill, even with his own amendment in there. He added that he recognizes what Senator Halligan is trying to do, but is opposed to the amendment because he thinks it is not tax reform. Senator Walker pointed out that 39 other states do not allow federal deductions.

Vote: Chairman Brown called for a roll call vote on the motion. The motion failed in a tie vote with 6 in favor and 6 opposed.

Senator Walker indicated that he does not know many people in his district will support a sales tax, but that one of the things he has heard is that they do not like the idea of having three taxes, all of a sudden, that their idea is to eliminate one, or something, and that a step in that direction might be to give an exemption against property taxes for the sales taxes they pay.

Motion: Senator Walker offered a motion that an exemption be allowed against property taxes for the sales taxes paid.

Senator Eck indicated that is state against local, that they wipe out local government. Senator Crippen pointed out that a \$15,000 exemption on a residence, with an average mill, would amount to \$175. He stated that there are 55,000 additional people who are off the tax rolls, and he does not know how far Senator Walker wants to go. Senator Walker suggested maybe a deduction on their state income tax. Senator Crippen reported that Senator Keating has done a lot of research in this area, and may wish to make a comment.

Senator Keating indicated that, by exempting the \$15,000 of taxable value of the house, at 300 mills, they are looking at \$175 of reduction in residential property, and the tax they

SENATE COMMITTEE ON TAXATION

July 10, 1989

Page 37 of 37

are talking about might cost the people about 30% of their taxable income, which is somewhere around \$200 to \$220 of sales tax they would pay, so that people are looking at paying somewhere around \$50 of sales tax for education, which they should be willing to pay for their kids.

Senator Walker withdrew his motion.

Senator Eck stated that she thought what Senator Walker was going to suggest was that, instead of pulling in SB1, they look at his bill from last session. She indicated that she thinks the House will probably consider that, when it gets there, noting that they have to leave some things to be done there and in conference committee. Chairman Brown indicated that he thinks that is true, adding that, unless there is something urgent on the mind of another member of the committee, he thinks their work is pretty well done. He asked if there are any more motions to come before the committee. Senator Norman asked Chairman Brown if he wants to vote on it. Chairman Brown responded that he could put it on the table, if he wants to take some kind of action, noting that he does not see the point in it, that, unless he wants to make another motion, as far as he knows, their work is pretty well done, unless Senator Norman has another idea on how to revise it.

Senator Crippen noted that they are not ignoring the other key element which is involved, but indicated he thinks they will go back into caucus sometime today, and that is how they handle this thing. He added that, rather than get into a long, lengthy debate at this point in time, he thinks they had better do what Chairman Brown suggested, and recess the committee for a period of time, and then come back.

ADJOURNMENT

Adjournment At: 3:10 p.m.

  
\_\_\_\_\_  
BOB BROWN, Chairman

ROLL CALL

COMMITTEE ON TAXATION  
51ST LEGISLATIVE SPECIAL SESSION

DATE: July 10, 1989

| NAME             | PRESENT | ABSENT | EXCUSED |
|------------------|---------|--------|---------|
| SENATOR BROWN    | ✓       |        |         |
| SENATOR BISHOP   | ✓       |        |         |
| SENATOR CRIPPEN  | ✓       |        |         |
| SENATOR ECK      | ✓       |        |         |
| SENATOR GAGE     | ✓       |        |         |
| SENATOR HAGER    | ✓       |        |         |
| SENATOR HALLIGAN | ✓       |        |         |
| SENATOR HARP     | ✓       |        |         |
| SENATOR MAZUREK  | ✓       |        |         |
| SENATOR NORMAN   | ✓       |        |         |
| SENATOR SEVERSON | ✓       |        |         |
| SENATOR WALKER   | ✓       |        |         |
|                  |         |        |         |

DATE July 10, 1989

COMMITTEE ON Taxation

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

### ROLL CALL VOTE

## SENATE TAXATION

**COMMITTEE**

DATE: July 10, 1989 BILL NO.: SB8 TIME: 2:50 pm

[illegible]

Mary Leplunch  
Secretary

Bob Brown Miller  
Chairman

**Motion:**

Motion: Motion by Senator Mazurek that the sales tax be eliminated as it applies to brokerage commissions on the sale of stocks and bonds



ROLL CALL VOTE

SENATE TAXATION

COMMITTEE

DATE:

July 10, 1989

BILL NO.:

SB8

TIME:

3:05pm

| NAME             | YES | NO |
|------------------|-----|----|
| SENATOR BROWN    | ✓   |    |
| SENATOR BISHOP   |     | ✓  |
| SENATOR CRIPPEN  |     | ✓  |
| SENATOR ECK      | ✓   |    |
| SENATOR GAGE     |     | ✓  |
| SENATOR HAGER    |     | ✓  |
| SENATOR HALLIGAN | ✓   |    |
| SENATOR HARP     |     | ✓  |
| SENATOR MAZUREK  | ✓   |    |
| SENATOR NORMAN   | ✓   |    |
| SENATOR SEVERSON |     | ✓  |
| SENATOR WALKER   | ✓   |    |
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|                  |     |    |

Secretary

Chairman

Motion:

Motion by Senator Halligan that a new section  
be inserted which would include the 50%  
language as far as deductibility of federal  
taxes on the state return