

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

#### COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on July 11, 1989, at 10:00 a.m.

#### ROLL CALL

Members Present: 18

Members Excused: Representative Ellison

Members Absent: Representatives Ream, Elliott and O'Keefe

Staff Present: Lee Heiman, Legislative Council Staff  
Donna Grace, Committee Secretary

Announcements/Discussion: None

#### HEARING ON SENATE BILL 14

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR THE QUARTERLY PAYMENT OF ESTIMATED TAX BY CERTAIN TAXPAYERS; TO REQUIRE QUARTERLY TAX BY CERTAIN TAXPAYERS; TO REQUIRE QUARTERLY ESTIMATED PAYMENTS BY ALL TAXPAYERS SUBJECT TO CORPORATE LICENSE OR INCOME TAX WHO HAVE ANNUAL STATE TAX LIABILITIES IN EXCESS OF \$5,000; TO PROVIDE FOR INTEREST PENALTIES FOR UNDERPAYMENT; TO ALLOCATE \$20 MILLION TO THE WORKERS' COMPENSATION TAX ACCOUNT; TO CREATE A UNIVERSITY SYSTEM CAPITAL PROJECTS FUND AND TO PROVIDE FOR THE USE OF THE FUND; AMENDING SECTIONS 15-1-501, 15-30-241, 15-30-242, 15-31-101, ~~AND~~ 15-31-502, AND 39-71-2504, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

#### Presentation and Opening Statement by Sponsor:

Senator Crippen, Senate District 45, Billings and chief sponsor of Senate Bill 14, said THAT in the last campaign both gubernatorial candidates espoused positions that they would support the program of bonding to build some needed buildings at the university system around the state, and in particular the Business Administration building at the University of Montana, a facility at Bozeman and perhaps one more at Eastern. He said these are on the list for the Long Range program and have been there through several sessions of the legislature but have been passed over because of a lack of funds. He said in the last session there were a number of bills introduced that would have provided the mechanism for the legislature to do this but none of the bills passed and the problem is still there. He said while this session was called to deal with school equalization, this bill is well within the scope of the Governor's call.

Representative Crippen said that in the original form this bill would have put about \$52,000,000 into a fund and the interest would be used subject to allocation and an appropriation by the legislature for the building program. The Senate Taxation Committee amended the bill to provide \$20,000,000 to help solve the Workers' Compensation problem. He said the likelihood that the money is going to be in the general fund to amortize bonds isn't likely but the need remains.

He said he is a past president of the U of M Foundation Board of Trustees, and their role is to solicit funds to aid the University. They have found in relation to public school foundations, large donors (with perhaps the exception of Denny Washington and the stadium) and corporations refuse to give money to public institutions. Their argument is that they are tax supported, and that it is the role of the public and the legislature. He said in public universities donors prefer to put their money into a scholarship or something of that sort, while in private institutions they seem more willing to donate to bricks and mortar. He said this money which would be provided in this bill will be used to augment the general fund and would be a one-time infusion of approximately \$47 million the way the bill was originally written. He said he would like to see more "bang for his buck". He said this money will be picked for something else if it isn't used for this purpose. He said the federal government requires quarterly reporting and payment of taxes and Montana CPA's say that rather than creating a hardship for taxpayers, this would be a benefit.

Senator Crippen said in the Senate Taxation Committee an amendment had been added which would take a portion of the funds, \$20 million, for Workers' Compensation. He said this bill represents a compromise and provides something that is important for this legislature to address and does go a long way in solving the Workers' Comp problem. He said Representative Driscoll's bill also addresses Workers' Comp and should be looked at with this one.

#### Testifying Proponents and Who They Represent:

Carrol Krause, Commissioner of Higher Education  
Representative Bradley, House District 79, Bozeman

#### Proponent Testimony:

Dr. Krause said the last building authorized by the Legislature was in 1981 which was the Fine Art building at the U of M and since that time every biennium they have had the priority list for moving forward and the list includes an engineering and science building at MSU, the business administration building at U of M, an addition to an existing building at Eastern Montana College, a renovation of a facility at Montana Tech and a renovation of a facility

at Northern. He said the Board of Regents established the priority list based upon the over all needs of the system, and the one area, the engineering and science building at MSU, is very critical if we are to have the ability to do more applied research related to economic development in the state. This project is critical because there are major health and safety problems. He said that building is estimated to cost about \$18 million. He said the U of M business administration building was designed for less than 500 students and there are now 1500 majors in the business school. He said this is the largest program at the U of M. He said they have about 67 professors in the School of Business and that building will house 22. He said the largest classroom will hold 80 students, and in order to be cost effective some of their classes must be much larger than that. Some of the basic introductory courses have up to 200 students in order to accommodate the dollars they have. He said the addition at Eastern would cost \$13 million. The building was originally built with the idea of adding additional stories. He said they have three stories now and could go to nine stories. For a cost of \$8.5 million they could add all nine stories and complete three of them. He said the building at Montana Tech looks like a dungeon but is the only science chemistry lab for the mining school. He said the structure is sound but it needs to be gutted and built over on the inside. The fifth building is Donaldson Hall and that building can relieve some of the technical needs at Northern. Mr. Krause said this act would not accommodate all of these facilities but he was hopeful there could be some progress. It would provide the funds to float a bond against.

Representative Bradley said she would like to commend Senator Crippen on this measure and said it is almost becoming a personal challenge to take the last chunk of money we have to collect in this state and see if we can do something in the state in terms of a long term investment. She said she sits on the board for the Institute of Process Analysis at MSU. She said this institute is an outstanding system put in place by engineer Dr. Bill Characklis at MSU, and is the kind of thing we have talked about in the state as the key to economic development. She said this is a multi-disciplinary effort, engineering, physics and chemistry and he has brought these academic minds together to work on solutions for industrial problems. Specifically, in this case, working on the creation of different micro organisms that help in solving the problems of bio-fouling; the problems created for example on organisms that collect on types of oil rigs and corrode the equipment and they are working on biological controls and cures for that type of thing. She said industries buy in to the program by purchasing time, research, or exchanges. She said the National Science Foundation recently looked at the program, assessed 48 other programs across the country and have narrowed it down to seven of which the program in Bozeman is

included. There is a possibility of making this program at Montana State University a National Engineering Research Center. She said their number one problem is the salary level because the top people keep getting picked off and the second is the facility they are doing their work in is small, dark and crowded. This money would be a "one time shot" and if we want economic development in this state, it will take something in the way of an investment and she thought this would be a good way to invest these funds. She urged the passage of this bill.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Representative Raney said he was not so concerned as to how we spend it as to how we raise it. He asked if there was someone who could explain what was going to take place as far as the Sub- chapter (s) corporations, the small business men and the owner of the Dairy Queen etc. on their taxes and how it is going to affect them. Representative Bradley said she did not know the answer to that one.

Representative Hanson said on a Sub-chapter (s) corporation, they are treated like a partnership and they don't pay a tax on those; the profit or loss is distributed to the share holders and paid by the individuals.

Representative Raney said we also have the individual income tax here so currently individuals who don't have to make quarterly Montana tax payments, but get stuck April 15 and pay everything for the previous year are now going to have to make quarterly tax payments. He asked about forms, the mechanics of collection, do we roll that into 1989, or do they start in 1990, etc.

Representative Raney asked if this money was going into the general fund and coming back out? He said there would be some hiring being done by the DOR because they would need additional help. He asked Rep. Bradley if she knew if aside from this extra hiring if all the money was going into the workers' comp and the university bonding or is the general fund going to pick up the extra staffing, etc.? Rep. Bradley said she had not intended to testify, but her recollection was that it would be for the next fiscal year and it took \$20 million off into Workers' Comp, and she was sorry she did not recall more detail.

Representative Patterson commented that on page 4, line 13, subsection (8) (A), it said, "beginning July 1, 1989 and

ending June 30, 1990, 16% of all money received under 15-31-502 from the collection of corporation license and income taxes must be credited to the University System Capital Projects Account created in (section 8)." On page 22, Section 12, it says "Applicability. (This act) applies to taxable years beginning after December 31, 1989", and the effective date is effective on passage and approval. He said he didn't know if these dates were going to track.

Lee Heiman said section 12 provides that the tax applies so it applies to the current tax year even though it can't become effective before it is signed. Mr. Heiman stated the act would become effective on whatever day it passed, it applies to the tax year, beginning Jan 1 of this year, so any payments made after that date would apply.

Representative Swysgood said in regard to the fiscal note, it looked to him as though the impact would be on the general fund, and not out of the fund being collected due to the acceleration of this tax. He reviewed part of the fiscal note and said it will be a continual rate, that even though this is a one time escalation those forms will continue and it will continue to be an expense to the general fund.

Representative Ream said he would like to respond to Rep. Raney's question. He said the individual income tax payers who would be paying this accelerated tax are people who are already doing it at the federal level. He said they would be paying the state at the same time as the federal.

Representative Raney asked when they would feel the pinch and Rep. Ream said he did not know the answer. Mr. Heiman said he could not answer the question at this time.

Representative Kadas said, just so he could understand the intent of this, the additional revenue will actually go into a separate account and it will not actually build any buildings; the revenue will be used to back bonds that the next Legislature would let in order to build buildings, but it would take action by the next Legislature to actually do anything.

Dr. Krause said that was correct, it sets the money aside in an account, and the Board of Regents would come forth with the appropriate bills and they could bond against that revenue flow to build the buildings authorized in that session.

Representative Kadas asked if they weren't concerned that the next Legislature might come in with a \$40 million deficit and decide that this is free money?

Dr. Krause said he is very worried about it, and if it weren't that this a special session he probably would have asked them to take the \$30 million and build the two buildings.

Representative Kadas asked if they anticipate using the dollars to bond for buildings, or just to use the dollars to build the buildings. Dr. Krause answered that the intent of the bill is to use that account, it would accumulate interest and the interest flow would be the revenue source to pay the bonds as they come due.

Representative Kadas asked if they could get a better deal by bonding and arbitrage than just taking the dollars and building the buildings? Dr. Krause said that is the understanding the sponsor had that arbitrage would be better since they might be able to invest this at 10%; bonding would probably cost 7%.

Representative Swysgood said in trying to answer Rep. Raney's question as to when this payment would be due, on page 11, line 6 through 13, it would read that anybody that didn't have a taxable obligation on January 1; so those people who pay April 15 would get 3 1/2 months after that taxable period begins. He said he would interpret it that some people would be liable for that tax this year. He said he could be wrong in his interpretation.

Representative Ream said at the bottom of page 22 it says this act applies after Dec. 31, 1989, so it doesn't kick in until next January which is the beginning of that taxable year. He said on page 4, the part Rep. Patterson referred to, he thought the first quarterly payment would be April of 1990 for the '90 taxable year and did not think any money would be collected from the '89 taxable year.

Representative Rehberg asked if and when this goes to the floor and passes second reading, would it be referred to the Appropriations Committee? Chairman Harrington said he thought that was definitely what would be done. He said there were people from the OBPP here, if there were questions.

Representative Raney said he wondered, under this bill, when the people who are not currently paying any quarterly tax will suddenly be required to do so. When would their first quarterly tax payment be due?

A man from the budget office who did not identify himself said he was not familiar with this part of the bill.

Representative Raney asked Senator Crippen, the people who currently do not pay estimated taxes in Montana are suddenly going to be required to under this bill, when is the first quarterly payment going to fall due for those people? Mr. Jeff Martin, OBPP, said on the bottom of page 10 it says "For calendar year taxpayers, quarterly estimated payments provided for in 15-30-241 are due on the following dates of the taxable year: 1st installment, April 15; 2nd installment, June 15." He said that on page 22 it indicated

under the applicability date that the next taxable year is 1990 so he felt it would be April 15, 1990.

Senator Crippen said the first bill that came out when they drafted it took all the money and they went through a period of time and finally got it into the position it is now. It started out that it would be 1989 and obviously that would not work, so it was the intent, as far as the individuals were concerned, with the April 15, 1990 date.

Representative Raney said it did not matter when they collect the money so far as the university portion of this is concerned because the money is not going to be spent until the next Legislature convenes, etc., but there is \$20 million that is needed immediately for Workers' Comp, so how would the \$20 million be raised and who is going to pay it?

Representative Ream said because of the way this is set up they are getting two quarterly payments so they will basically be collecting 6 quarters of quarterly payments within fiscal year 90, and that is why that money is available and will be available this fiscal year.

Mr. Martin said as he recollected, the majority of the collecting you get from individual income tax payers will come in the first two quarters. He said in looking over the amendments he felt what would happen is the first \$20 million comes in from the individual income tax accelerated payments. He said what they were taking only applied to the first two payments because, as the bill was originally set up, if they took the whole six quarter accelerated payments, they would be dumping money into the university capital account -- more than was anticipated.

Representative Raney said he seemed to be getting more confused; originally when they first started talking about accelerated collections there would be only the one quarter that would accelerate into 1989 or fiscal 1990. Now we are talking about two quarters we are going to escalate and that money being available to help Workers' Comp in 1989, but the bill says it will not apply to individuals until after December 31, 1989 and the first accelerated collection won't be until April of 1990.

Representative Ream said we are in tax year '89, everybody paying taxes for 1989 will be paying next April. He said in addition you have the April 15 and June 15 for 1990 being paid next June. Representative Raney said, then we are actually accelerating payments for a half year, not a quarter?

Mr. Heiman said if the bill passes the money will be available now because the state could issue tax notes if it is certain, then they can get the money.

Closing by Sponsor: Senator Crippen closed by saying that Representative Raney had raised a point, and if the committee wants to work that out, they should do so. He said he thought they had the same problem with the Driscoll bill since he took the language right from this bill. He said at any rate it will be accelerated during the fiscal year and you will not get it all at once, and that is a problem he could not solve. He said this was not a problem with the original bill for the university building program, but it could be with workers' comp.

#### DISPOSITION OF SENATE BILL 14

Motion: Representative Stang moved Senate Bill 14 do pass.

Discussion: None

Amendments, Discussion, and Votes: Motion by Representative Stang to amend House Bill 14. (EXHIBIT 1)

Representative Stang said the amendment takes the rest of the money and puts it in the Workers' Compensation and said he was given information yesterday from the Workers' Comp Division that for every \$20 million we can put in Workers' Comp, they can reduce the rates another 22%, so with this extra \$30 million we are looking at reducing the rates about 30%. He said while he agreed with Senator Crippen that the buildings are sorely needed, reduction of Workers' Comp rates should be a bigger issue than property tax reform. He said the Workers' Compensation rates are the biggest red flag we have in getting new business into the state. He said if they were to put this money into Workers' Comp the rates would become competitive with states around us and existing businesses could become more competitive with others on a world wide basis.

Representative Kadas stated what will happen is the rates will go down but in a year and a half they will go right back up again. He said this would apply to the underfunded liability and it should reduce the liability and some of the rates are going toward paying the underfunded liability, so if we reduce that it would come right back up again.

Representative Hanson asked if anyone had figured out what will happen to state government when we take all this money, since that money eventually would have gone to state government anyway. There was no constructive answer to this question.

Representative Kadas said after hearing the bill it seems to be putting the \$20 million into Workers' Comp and keeping things on an even keel until the next Legislature, this money being put aside and the next Legislature will have the opportunity to say whether they want the buildings or put it in W. C. so he said he would prefer to have the bill



remain as is.

Representative Swysgood said his concern with the amendment is similar to Rep. Kadas' since it was his understanding the only reason rates at Workers' Comp went up in July is to keep up with the interest the deficit now generates, which is around \$20 million a year. He said if we give \$20 million now it will hold the rates back to where they were on July 1, and if we put another \$30 million into the unemployment liability they have only reduced it down to \$190 million and they will have to either increase rates in the next session to take care of the interest deficit since it is a one time infusion and it will not cure the problem. Representative Stand said they had passed a bill to have a committee look over all problems which face the state.

Representative Giacometto said no matter what happens on Workers' Comp, that unfunded liability will have to be paid somewhere down the line. He said they talked about U. S. West not wanting to come in and the number one thing they looked at was Workers' Comp rates.

Representative Kadas said what they are doing is getting on a roller coaster and they want low rates, but commercial people need to have some sort of stability.

Representative Patterson said he did not think the worker or the business would like the accelerated tax and thought a new business might not like having to pay income taxes four times a year.

Representative Ream said he would strongly resist the amendment. He said he felt the original intent of the bill was clear and the \$20 million is a major compromise and is a big shot in the arm for Workers' Comp. He said he felt it is more than a one time only problem, and the amendment goes too far in trying to take all this money.

Representative Stang said it would reduce the unfunded liability, but part of the problem with Workers' Comp is that it will still take a couple of years to catch up with the Senate Bill from last session. If we reduce the rates and come back in two years the effects of the bill will help to maintain the rates and put some money in to pay off the unfunded liability. Representative Stang said no one was clamoring to pay their tax quarterly, he could agree with that, but if they are going to get stuck paying it quarterly, most of the people he knew would as soon have it go into Workers' Comp rates rather than to build buildings at the university. He said it is true they need the buildings but in his area he has watched people continually go to work in Idaho because they can get paid more there than in Montana. Our jobs are slipping over the border, the equipment is sliding over, and the income tax collections are slipping over the border also.

Recommendation: Roll call vote was taken on the Stang amendment, voted, passed. 11 members voting yes, 10 members voting no.

The motion that Senate Bill 14, as amended do pass was discussed by the committee and Mr. Heiman said a big chunk of this bill was put into House Bill 56 which is in the Senate and he asked if the committee wanted a coordination instruction in this bill. He said the simplest way would be to strike from HB 56 the sections that were taken from this bill so if this bill passes those sections would be gone from 56 and if they doesn't pass HB 56 would be as is.

Chairman Harrington asked if Mr. Heiman would prepare those amendments and was told yes. He asked for a motion to have a coordinating amendment which would be prepared by Mr. Heiman.

Motion: Motion by Rep. Stang to have a coordination amendment, and that it be prepared by Mr. Heiman.

Recommendation: Voted, passed, unanimous vote.

Recommendation and Vote: The motion that Senate Bill 14 do pass as amended was voted, roll call vote, motion failed, 10 members voting yes, 12 voting no.

Motion: Motion by Representative Giacometto that Senate Bill 14 be tabled.

Recommendation and Vote: Voted, passed.

ADJOURNMENT

Adjournment At: 11:15 a.m.

  
REP. DAN HARRINGTON, Chairman

DH/dg

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## DAILY ROLL CALL

## HOUSE TAXATION COMMITTEE

DATE:

*July 11, 1989*

NAME	PRESENT	ABSENT	EXCUSED
Dan Harrington. Chairman	✓		
Bob Ream, V. Chairman			
Ben Cohen	✓		
Jerry Driscoll	✓		
Jim Elliott			
Orval Ellison	ex		
Leo Giacometto	✓		
Bob Gilbert	✓		
Susan Good	✓		
Ed Grady	✓		
Marian Hanson	✓		
Robert Hoffman	✓		
Mike Kadas	✓		
Francis Koehnke	✓		
Mark O'Keefe	.		
John Patterson	✓		
Bob Raney	✓		
Dennis Rehberg	✓		
Ted Schye	✓		
Barry Stang	✓		
Jessica Stickney	✓		
Chuck Swysgood	✓		

Amendments to Senate Bill No. 14  
Third Reading Copy

Requested by Representative Stang  
For the Committee on Taxation

Prepared by Lee Heiman  
July 10, 1989

EXHIBIT 1  
DATE July 11, 1989  
SB 14

1. Title, line 11.  
Strike: "\$20 MILLION"  
Insert: "MONEY"
2. Title, lines 12 through 14.  
Strike: "TO CREATE" on line 12 through "FUND;" on line 14
3. Page 2, line 13.  
Strike: "AND (7)"
4. Page 2, line 24.  
Following: "SUBSECTIONS"  
Insert: "(7) and"  
Strike: "AND (9)"
5. Page 3, lines 18 through 22.  
Strike: subsection (6) in its entirety  
Re-number: subsequent subsections
6. Page 3, lines 23 and 24.  
Strike: "AFTER THE ALLOCATION PROVIDED BY SUBSECTION (6), THE  
REMAINING"  
Insert: "The"
7. Page 4, lines 2 through 4.  
Strike: "credited to the university system capital projects  
account created in [section 8]"  
Insert: "allocated to the workers' compensation tax account under  
39-71-2504"
8. Page 4, lines 5 and 6.  
Strike: "AFTER THE ALLOCATION PROVIDED BY SUBSECTION (6), THE  
REMAINING"  
Insert: "The"
9. Page 4, lines 11 and 12.  
Strike: "credited to the university system capital projects  
account created in [section 8]"  
Insert: "allocated to the workers' compensation tax account under  
39-71-2504"
10. Page 4, lines 16 and 17.  
Strike: "CREDITED TO THE UNIVERSITY SYSTEM CAPITAL PROJECTS  
ACCOUNT CREATED IN [SECTION 8]"

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 7-11-89 BILL NO. SB14 NUMBER #1

NAME	AYE	NAY
Ben Cohen		✓
Jerry Driscoll	✓	
Jim Elliott	✓	<del>✓</del>
Orval Ellison	<del>✓</del>	✓
Leo Giacometto		✓
Bob Gilbert		✓
Susan Good		✓
Ed Grady		✓
Marian Hanson		✓
Robert Hoffman		✓
Mike Kadas	✓	
Francis Koehnke		✓
Mark O'Keefe	✓	
John Patterson		✓
Bob Raney	✓	
Dennis Rehberg		✓
Ted Schye	✓	
Barry Stang	✓	
Jessico Stickney	✓	
Chuck Swysgood		✓
Bob Ream	✓	
Dan Harrington	✓	

TALLY

10 12

Donna Grace  
SECRETARY

Dan Harrington  
CHAIRMAN

MOTION: do pass

