

MINUTES

MONTANA SENATE  
51st LEGISLATURE - SPECIAL SESSION  
FREE CONFERENCE COMMITTEE ON HB 20

Call to Order: By Chairman Delwyn Gage, on July 13, 1989, at 11:45 a.m., Room 331, Capitol

ROLL CALL

Members Present: Senator Delwyn Gage, Senator J. D. Lynch, Senator Gene Thayer, Representative Fritz Daily, Representative Ed Grady, Representative Ted Schye

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman

Announcements/Discussion:

Chairman Gage indicated that the committee has been reconvened again to look at HB20, noting that he is not sure what the best way to proceed is, other than maybe to reconsider their previous action.

Motion: Senator Lynch offered a motion that the committee reconsider their action regarding HB20.

Senator Thayer indicated that he would like to know why they are having this meeting. He pointed out that they agreed, yesterday, that they had the votes to sign the conference committee report, which he understands some members do not want to sign and he does not understand what is going on around here.

Representative Daily responded that, after the meeting yesterday, he went home, and had the opportunity to do some rethinking on what they did yesterday. He indicated that he can assure them that he did this on his own and thought it was the right thing to do. He reported that he got to thinking that maybe they went a little bit too far yesterday, explaining that what he means is that he does not think, as a legislature, they should commit the next legislature, and he thinks that is what they have done, they have committed the next two legislatures. He stated that he does not think they should do that, and thinks they should commit themselves to

what they can do, and let the next legislature take care of themselves.

Representative Daily indicated that he thinks they have all made major concessions, that, when he says all of them, he is talking about certain members of the House, noting that he guesses he should only speak for himself, that he knows he has, adding that he thinks the Governor has made some major concessions by abandoning his coal tax plan, if they want to call it that. He further indicated that he also believes, noting he mentioned this to Senator Gage this morning when he asked him to reconvene this committee, that they have in this room, assembled at this table, a very good conference committee, that he thinks they have very reasonable people who know what has to be done to get out of this session, and they are not going to get out of this session until they have some personal property tax relief in place. He pointed out that some members do not want to even do that, but he is reasonable enough to know that this has to be accomplished, and thinks they can give personal property tax relief in a reasonable manner, which is why he asked to reconvene the conference committee.

Senator Thayer indicated that, for whatever reason he did it, whether he did it on his own or had a lot of pressure, or whatever happened. Representative Daily asked permission to interrupt, and stated that he did not have pressure to do this, that he did it on his own. Senator Thayer indicated that the point he wants to make is that it is his understanding that no one legislature can ever commit future legislatures, and that there is plenty of precedence for trying to provide a road map, which is all the conference committee did yesterday. He added that they were laying out a road map trying to indicate where this legislature would like to go in the future, and that is all that was. He pointed out that they have to come back, that they would have had to come back anyway, to figure out the funding mechanism for that in subsequent years so, therefore, what they did yesterday was very appropriate.

Senator Thayer stated that Senator Daily is right, many of them made a major concession when they backed away from the coal trust funding and it was a major thing that a lot of people did, that they did it because they were going to lay out this road map in the amendments offered yesterday to indicate to the people of Montana where they want to try to go down the road, and now they want to come back and re-work that language, he guesses. He then stated that he is trying to be as reasonable as Representative Daily is, but he really

does not know why they are back here because he thought that all of them had agreed to something which he, personally, would liked to have seen go back to each body for them to either accept or reject and, had it been rejected in the House, then it would be appropriate to come back here but, in lieu of that, they are saying they want to re-think what they did. He noted that he guesses that has been done before.

Vote: Motion that the committee reconsider their action regarding HB20 passed unanimously.

Motion: Senator Lynch offered a motion to rescind all of the amendments to HB20 previously adopted by the committee.

Vote: Motion to rescind all of the amendments to HB20 previously adopted by the committee passed un-animously.

Chairman Gage indicated that his understanding of what has been proposed is that they put 9% and 8% into statute, with a provision in statute that, unless a bill is approved by the Legislature and signed by the Governor to replace the lost revenue which further decreases would cause, there would be no further decreases but, when those revenues were available, those rates could go down to 7%, 6%, 5% and 4%. He further indicated he assumes that, if all of that revenue became available in one year, it should go right from 8% to 4% or, if only enough revenue was available to go to 7%, it could go to 7%.

Motion: Senator Lynch offered a motion that the rate go to 9% and 9%.

Senator Lynch indicated that he is being a realist, that the 8% is not in there because they say the hole is too big. He pointed out that he knows that is offensive to Senator Thayer, and maybe to Chairman Gage, but at least they are going down to 9%, and the next legislature will have to address beyond that.

Revised

Motion: Senator Lynch revised his motion to provide that the rate go to 9% and 9%, and also providing an ap-propriation to school districts and local govern-ments to reimburse money lost in personal property tax reductions.

Senator Lynch pointed out that he is telling the committee the realities as he understands them, that they are going to make a significant move at 9% but, beyond that, they are talking money that is not there. He noted that he voted for everything, but he is telling them that, if they are going to get out of here, it is 9%.

Representative Grady indicated that he thought, yesterday, they understood the money was there to move to 8%, and asked if that is not true. Chairman Gage responded that Ms. Judy Rippingale of the Legislative Fiscal Analyst's office has the figures. Upon being advised that Curt Nichols of the Legislative Fiscal Analyst's office was in the room, he asked Mr. Nichols to share with the committee what happens on 9%, and then if it continues to 8%.

Mr. Nichols reported that, if it drops from 9% to 8% in the next biennium, it will take about \$20 million. He indicated that they put out a status this morning based on that, which was part of the progression, and that it leaves about a \$31 million balance. He added that it exceeds the revenue income, but that they have the balance to cover it in that situation, as addressed.

Representative Daily noted that he has had about a thousand numbers thrown at him today, and asked Mr. Nichols to tell him what 9% does to them, what 8% does to them and, if they have 8% in the next biennium, what that does to them or, if they have 9% in the next biennium, what that does to them; what does it cost them, dollar-wise. Mr. Nichols responded that he does not have those figures with him. Representative Daily stated that he did not think they could proceed unless they have the numbers, that he can not make a decision if he does not have the numbers. Chairman Gage indicated that Ms. Rippingale had them available, this morning. Representative Daily suggested that they ask Ms. Rippingale to speak to the committee, and it was noted that she has been called. He added that this is the first order of business, that they have to know what this is doing, that they can talk to ten different people who will give ten different numbers, but that these people supposedly know.

Senator Thayer asked if there has been a change, on the motion which was just made, in the last ten minutes, that he is not aware of. He indicated he understood that, if they leave all the language in there, it takes it to 4%, but there would be some language which says that each legislature has to appropriate funds, and that Representative Daily is coming from an entirely different angle.

Senator Lynch stated that he does not care what language they want to put in because he thinks that will happen, anyway. He indicated they will not get further reduction unless they come up with the money in 1991, whoever of them are there, noting that, God knows, because of this, none of them want to be back. He pointed out that what he is suggesting is that they get the best deal they can get, right now, to show some movement on personal property tax. He added that he has been told by members of the House that they thought 9.6% was all they could afford, that he is comfortable that they will go 9%, and maybe he is speaking out of turn, but he thinks that is the best they can get. He indicated that they can put language in that will go down to zero, but why put it in there if the next legislature has to act. He added that, if he is back and, God knows, over this issue he might not be back, he will support to try to get business in Montana, noting that is up to the next legislature. He then asked what do they want to do today; what can they do in this special session, which is what he thinks they should address.

Chairman Gage acknowledged Ms. Rippingale, and indicated that Representative Daily would like to address a question to her.

Representative Daily stated that he would like to know exactly what 9% does, if they lower the rates to 9% for 1990, and asked what happens, what does it cost them to go to 8% in 1991, and what will it cost in 1992 and 1993, if they go to 8% or 9%. Ms. Rippingale responded that, if they go to 9% and then 8%, the 1991 biennium cost will be \$20.56 million. Representative Daily asked Ms. Rippingale to tell him that again. Chairman Gage asked Ms. Rippingale to tell him, first, what happens if they just go to 9% in 1990, 1991, 1992.

Ms. Rippingale responded that, if they just go to 9%, and do not continue to lower it to 8%, the cost will be around \$14 million per year, constant, if it just goes to 9% and they do not move it again. She indicated that the schedule takes it at 9%, 8%, 7%, 6%, 5%, 4%, and shows the growth that comes in every year, and the growth that comes in each biennium. Chairman Gage then asked Ms. Rippingale to tell the committee what happens if they go to 8% in 1991, and do not go any further. Ms. Rippingale responded that, if they go to 8% in 1991, they need \$20.56 million this biennium, and that she believes the yearly cost thereafter will be about \$20 million.

Representative Schye indicated that some of them have been trying to figure out all of the numbers, noting that Representative Daily said there are numbers flying all over.

He pointed out that, in looking back at some of the fiscal notes, BN and the airline taxes will go down if personal property taxes go down, and asked Ms. Rippingale if that is figured into the \$20 million. Ms. Rippingale responded it is not. Representative Schye then asked how much more that would be, or would it be money the local jurisdictions would have to eat. Mr. Nichols responded that the reimbursement is set up so that they are not reimbursed for those losses. Representative Schye again asked how much money the local jurisdictions would have to eat.

Mr. Ken Nordtvedt, Director, Department of Revenue, responded that he does not know about the airlines, but the figure for BN is extremely difficult to estimate because they have not paid a tax bill in about 11 years. He explained that, for 11 years, there has been an assessment protest on one grounds or another, litigation or threatened litigation, and settlement between the railroads and the state, so that the dollars they have actually paid for the past decade have not been what was assessed. He added that, unless they change their procedures, there is not a lot of evidence this situation is going to change in the future. He pointed out that, if they reduce personal property tax rates, because the four hours act says they have to come up with an effective classification rate for railroads which is a composite average of the property tax rates on commercial and industrial property in the state, that composite average will come down somewhat. He added that the rate is multiplied times their valuation, and the tax bill is sent out. He added that they could compute what it would change the tax bill, but that he would caution them that is not necessarily how it would affect the taxes paid because what they have been billed and what they have paid have been different for the last decade.

Representative Schye asked Mr. Nordtvedt if what he is saying all around is that there is a black hole there which cities, towns, counties and school districts are going to eat. Mr. Nordtvedt responded that, if the present mode of interaction with them continues, which means they do not pay what they are charged and reach a compromise with the state through one route or another, it all depends on the state's negotiators whether they, in their head, negotiate a dollar amount which they are not going to go beyond, or whether they base their argument on a percent of what the other side is asking and what they are assessing. He asked Representative Schye to just think of the impact, that ten years of what has been assessed has not been what they ended up paying. He pointed out that means what their taxes have been assessed as, right now, is a highly artificial number which has been a starting

point for litigation and negotiation, but that it is true that what their tax load is assessed at is somewhat reduced, if some of the personal property tax rates are lowered. He added that the effective classification rate they have this year could range between 8% and 10%, depending on how it is calculated.

Representative Schye asked if the amendment the committee has before them takes that into effect, at all. Chairman Gage responded that he assumes not. Representative Schye asked if it has nothing to do with it. Mr. Heiman stated that this involves only the class property they are discussing in the bill, not any other classes. Representative Schye asked how this was done this year, how was the assessment on the calendar year done this year. Mr. Nordtvedt asked Representative Schye if he means 1989. Representative Schye responded that he would think there would be a pretty easy way to figure out how much money would be lost.

Mr. Nordtvedt responded that he can tell Representative Schye roughly how much it would change the tax bill, but that the tax bill has nothing to do with the taxes they pay. Chairman Gage pointed out that it is all negotiation, and Representative Schye responded so, it is a black hole. Mr. Nordtvedt stated that it is not a black hole. Chairman Gage noted that they might negotiate higher, that it is not likely but possible. Mr. Nordtvedt indicated that it depends on whether the negotiators negotiate dollars or whether they negotiate percentages of their original position. He added that the tax assessment for BN might be affected in the ballpark of \$.5 million to \$1 million.

Representative Schye asked what the ballpark figure was, and Mr. Nordtvedt repeated that between \$.5 million and \$1 million might be the effect on BN, on their tax bill. He added that, how that ends up affecting the final taxes paid, is highly speculative. Representative Schye then indicated that he would like to ask Greg Groepper the same question, because they were talking about this earlier, and he brought up some of these points.

Mr. Groepper reported that he used to work over there, and they did some numbers this morning because his recollection, during the regular session, was that this bill never had the impact in it for the railroads and airlines, that he brought it up in Senate Tax, and had the same answer on the fiscal note. He indicated that Governor Schwinden and John LeFavor settled last year's railroad taxes at \$12 million, that the assessment was in the neighborhood of \$19 to \$20 million, but

the railroad's contention was that net and gross proceeds should not be a part of that. He added that his understanding of that settlement, which happened after he left property tax for income tax, was that the \$12 million was BN's number, taking into account that they would not include net and gross proceeds in the tax base. Mr. Groepper pointed out that, if they take that \$12 million figure at an 8% rate, BN's tax drops down to \$8.46 million, if they assume that \$12 million figure and, if they go to 4%, it drops to \$5.55 million. He then reported that, for Montana Rail Link, which was not part of that deal, this year their tax load looks like about \$3.5 million and that, at the 8% rate it drops to \$2.6 million, adding that, at the 4% rate, it drops to \$1.7 million. He then reported that, on a cumulative basis, if they went to 4%, it is \$6.5 million and then another \$1.7 million for Montana Rail Link. He added that, at 8%, it is about \$3.5 million for BN and roughly \$1 million for Montana Rail Link.

Mr. Groepper indicated that two railroads are not in there, that Union Pacific runs through three counties, Butte-Silver Bow, Madison and Beaverhead, and there is not a whole lot of taxable value there. He added that Sioux Lines runs in the northeast corner of the state through Plentywood and Daniels County, but those are numbers they did not have time to calculate. He indicated that he also understands the airlines are at 12% until the next reappraisal, and then they can assume this rate as well so, out of 1994, they would have to make a reduction for the airlines, noting that they did not calculate that either, that all they had time to do was run the two big ones.

Senator Lynch indicated that he wants to make sure, regarding his motion, that local governments do not take a cut. He asked Mr. Alec Hanson of the Montana League of Cities and Towns if the amendment providing an appropriation to school districts and local governments to reimburse money lost in personal property tax reductions is enough. He explained that he just wants to make sure that school districts and local governments are covered, that they are not ripping them off.

Mr. Hanson responded that their concern from the beginning, going back to the regular session and in the special session, in the original hearing on SB22, was that full fair reimbursement be guaranteed, that it is absolutely essential, noting that he does not have to go into detail, that the committee members know that the cities can not afford to subsidize a property tax reduction program. He stated that what they need to have in this bill is an assurance that, if the property taxes are going to be reduced, the state will take the



responsibility to reimburse cities, counties and schools for the lost revenue. He reported that he talked with Representative Rehberg this morning, and indicated that, if they are going to 9% or 8%, and are going to appropriate the money for this biennium, they can accept that, but the problem they have is in the out years, of taking the rate to 4% with no guarantee that, first of all, the money will be there and, secondly and most importantly, if it was there or another source can not be found, that it would be appropriated to the cities. He indicated that he thinks, if they go to 8% or 9% and appropriate the money for this biennium, that would take care of the cities' concern.

Mr. Hanson added that, on the railroad issue, that is another issue, that he thinks it is a real issue and that, according to Mr. Groepper, there is a significant amount of money involved there, and he thinks that could also be handled in an amendment to include language to the effect that they would be reimbursed for resultant losses in the classes 15 and 17 property.

Senator Thayer noted that he showed Senator Lynch some language and, as a courtesy, indicating that it seems to him Senator Lynch's motion is just one little piece and there is going to be a hundred amendments if they go that route, he would like to ask if Senator Lynch would like to withdraw his motion so that he may offer this amendment with language which does what they were just talking about, and can all be encompassed in one motion. He explained that it handles all of the things they accomplished yesterday, and the language will address the concern that Senator Lynch has from his side of the aisle.

Senator Lynch responded that it is not necessarily his side of the aisle. He stated that he thinks the road map Senator Thayer wants to put in is offensive to the majority of the House of Representatives. He then indicated that he thinks they are doing the same thing, without the road map saying 9%, 8%, 7%, 6%, 5%, 4%, that he thinks they are reducing it to 9% now, that it will be addressed in 1991 and, hopefully, they will come up with a funding source to do it. He stated that he will withdraw the motion, but that he thinks the road map is going to cause some trouble.

Representative Schye indicated that he heard Chairman Gage and Mr. Heiman talking about a change which they do not have on their sheet. He referred to page 3, which talks about reimbursements to local governments, and asked if that has been changed in that report to taxing jurisdictions. Chairman

Gage responded yes that, where it says local governments, it is his understanding that it has been changed to taxing jurisdictions. He added that there also is a typo in the bill which was changed, and he hopes it does not upset anybody that they changed a typo, noting that, at this point, that may even upset people.

Senator Thayer indicated that the new language would read "the rate decreased for the tax years after December 30, 1991 may not be implemented unless the legislature has specifically appropriated money for the reimbursements to taxing jurisdictions, as set forth in Section 9 for the tax years that begin in that biennium. If there is no specific appropriation, the rate remains at the lowest previously funded rate."

Representative Schye indicated, regarding the railroads, that Mr. Hanson talked about another amendment which could be included to make sure that is done, and asked Mr. Heiman how hard that would be to incorporate in there. Mr. Heiman responded that it is not difficult at all, and pointed out that in sub (1), in the middle of the page, there is a reference to a reduction in tax rate for 15-6-138, and he can put the references to the two sections that Mr. Hanson mentioned in there, and it would not be that difficult of an amendment.

Mr. Nordtvedt indicated that he hates to be the dead horse, but that they should be careful in that language because they may be reimbursing so-called taxes which are never paid, or never would have not been paid because, again, what they assess to these railroads may or may not be collected and, by the experience of the past ten years, it looks like they have been collecting approximately 65 cents on the dollar.

Representative Schye asked Mr. Nordtvedt what his recommendation would be, then. Mr. Nordtvedt responded that, if they want to reimburse, the language should be proportional to the ultimate settled taxes paid. He pointed out that, ultimately, there will be some taxes paid as soon as they get settled one way or the other, that they are then allocated out after the protest is over, and they could have computed what these taxes might have been on another formula, but he thinks they are creating a nightmare with regard these taxpayers.

Mr. Greg Petesch indicated that he thinks they have some language worked out which will address Mr. Nordtvedt's concern, and Representative Schye's. He explained that, in the reference to the property tax rates for class 8 property as provided in 15-6-138, they would say "and taxes collected for local taxing jurisdictions from those classes", and

identify those, so they would not tie that to the rate, but to the taxes collected in the previous tax year.

Senator Thayer asked if the language just suggested would satisfy the concerns of Mr. Nordtvedt and Representative Schye. Representative Schye asked what about Mr. Hanson and some of the people from the towns and cities. He pointed out that this is one of the reasons that special sessions are bad, that he thinks they have seen it in the papers why they should not be doing this, at all. He noted that he did not vote for the bill yesterday in the conference committee, and indicated that they are making major tax policy changes without all the information.

Mr. Hanson indicated that one problem he has with the language in sub (b) is right at the end, "if there is no specific appropriation the rate remains at the lowest previously funded rate." He explained that, if the legislature, or this act, puts the rate down to 8% then, under that language, they could, at that time, walk away from the whole thing and there would be a \$20 million deficit out there which cities, counties and schools would have to make up. He stated that, if they walk away at 8%, there is \$20 million they will have to pay for which they do not have. He added that, if somehow the legislature decides to walk away from this, there has to be a provision in there that the rate reverts to the levels which were in effect prior to the enactment of this bill because, obviously, if they take it down to 8%, and there is no reimbursement and they can not fund the program, and it stays at 8%, they lose, that they lose the difference between 11% and 8% on most of this stuff, and between 16% and 8% on others. He noted that there are also some 13% properties, and pointed out that this is a serious issue because it provides the opportunity, or at least opens the door, for the legislature to walk completely away from this thing and leave a \$20 million obligation sitting out there to fund a personal property tax reduction program.

Chairman Gage stated that, if they do that, they might just as well forget the whole bill. He explained that then, all they would be saying is they will guarantee their revenue at the base it was at before they looked at this bill and, if the state really goes great for ten years and they can bring that revenue in to reimburse them, they will do that but, if the state goes huckley-buck again, they are going to put them back to where they were before. He noted that there is really not a lot of sense in even doing that because they are not making anything permanent, then. He added that, if Mr. Hanson listened to the man from South or North Carolina, whichever

it was, who is supposedly an industrial economist, his whole presentation said that, when business looks at your state, they look at the stability of the tax structure, noting that he thinks they are more stable where they are, right now, than that would be.

Motion: Senator Thayer offered a motion that HB20 be amended to include the language "the rate decreased for the tax years after December 30, 1991 may not be implemented unless the legislature has specifically appropriated money for reimbursements to taxing jurisdictions, as set forth in Section 9, for the tax years that begin in that biennium. If there is no specific appropriation, the rate remains at the lowest previously funded rate", and, in the reference to the property tax rates for class 8 property as provided in 15-6-138, insert the language "and taxes collected for local taxing jurisdictions from those classes", and identify those, and also to include the technical amendment.

Senator Lynch asked Senator Thayer if his motion is bringing it down to 9% and 8%, or just to 9%. Senator Thayer responded it is 9% and 8%. Senator Lynch stated that is the problem, that he is not going to get it. Representative Schye asked if it is leaving the road maps in. Senator Thayer responded that it leaves the road map in there, but has the language in there which says it has to be specifically funded each time.

Representative Grady indicated that he is still not straight on it, and asked if they are going to create a black hole with this amendment. Mr. Curt Nichols responded that they will be spending more than they are taking in, in the general fund. Chairman Gage noted even at 9%. Representative Grady asked how much. Chairman Gage responded \$14 million at 9%. There was general discussion regarding this.

Representative Grady asked if they have surplus general fund money to pay for that. Chairman Gage responded at this time, assuming all of their revenue projections are correct. Representative Grady asked if, then, they are not necessarily creating a black hole. Chairman Gage responded not assuming that their revenue would continue in the future as it is now, but they would ultimately have a black hole because they would continue to erode that carry-over ending fund, and would finally get to the point in practically the second year, the second biennium, to where they had eaten up all of the carry-over cash, ending fund balance.

Representative Daily indicated that he thinks Senator Lynch is probably correct. He pointed out that, if they go to 9% and 9%, he believes the votes are there to pass this bill, without any question, adding that, if they go to 9% and 8%, it is getting very questionable whether they could pass it. He indicated that he thinks 9% is a major change, that they are talking about \$14 million the first year and, from that point on, it is \$20 million every year, so they are talking about a lot of money here, even at 9%, as he understands it, plus they still have to consider the railroad money, which, if what Mr. Groepper is saying is right, they are talking about \$5 million or so more which they do not have, that, at 9%, they are around \$19 million. He stated that he wants to do this, but does not know how far they can go without destroying local governments and school districts, and destroying this state. He said let's face reality in here.

Senator Thayer stated that he finds it kind of interesting that, yesterday, in conversations with House Democrats and House members, there were adequate votes, that all they had to do was back away from the coal trust feature of the bill, that there were plenty of votes, everybody loved it, and, overnight, all that support evaporated. He pointed out that, in this very room yesterday, there was no talk about whether they could not go to 9% or 8% but, all of a sudden, it is a big concern today. He indicated that it seems to him there is an effort here to kill, first of all, tax reduction. He indicated that they have been trying to negotiate in good faith, and trying to resolve something which they think is a critical issue in this session, that it is part of the Governor's call, and here they are all of a sudden, today, concerned about whether they can go to 8% or not. He pointed out that it was not a concern yesterday, that they can do anything they want to do if they put their minds to it, and put their backs to it, and they can do it. He stated that he thinks this is just about as reasonable as they can expect, that he is not even sure they can sell this to their caucus, but he is certainly willing to try because he said, when he sat down here this afternoon, that he would open up and be willing to negotiate again in good faith on this thing, and he will do that, and will try to support it, but that, for people now to try to back away from the whole thing entirely, he thinks is inappropriate.

Representative Schye indicated that, yesterday, he did not back away from it, and Senator Thayer did not speak to him about the compromises or the talks which were going on. He noted that he guesses maybe Senator Thayer talks to different Representatives than he does because the majority of the

Representatives he talked to on the bill did not support the black hole concept in the bill, that they did not support an awful lot of the things that were there, and they were really questioning the numbers all the time, noting they have seen today the numbers change as they meet, and he thinks there is an awful lot of questioning going on. He stated that he does not even want to vote for 9% and 9%, but he would vote for 9% and 9% in the conference committee, although he is not sure what he would do on the floor of the House at 9% and 9%. He indicated that he thinks they are running into a stone wall and, when they talk compromise, he reported that they passed a bill over to the Senate already which is 9.6%, that it has already been committed by almost all of the House members now, and is in the Senate Taxation Committee. He added that bill was passed by a majority of the House of Representatives, that Democrats and Republicans both supported it, and he voted for that bill, but he thinks when they say they are going all the way down to 4%, or going down to 6%, and he spoke against the Governor's coal tax, too, in this conference committee, so he does not think Senator Thayer can say that everybody agreed yesterday, and everybody did this yesterday.

Representative Schye stated that he thinks, as all legislators do when they vote on things, that is why they have two readings, a second and third reading, so they can get information and change their mind, get additional information between the readings, that he thinks that has happened on a lot of this, that there was lots of discussion on this and things like that, when they start getting new figures and the impacts and so on. He again stated that the special session is a very scary thing to be making major tax policy changes when they do not have the information, and they do not have it.

Senator Thayer indicated that he did not mean to imply that Representative Schye was in total agreement with this, that he just said that this discussion about whether they could not go to 8% did not come up.

Senator Lynch stated that he has too much respect for Senator Thayer to get into a shouting match with him. He indicated that he has compromised and voted for just about anything around here, but he is saying that now is the time to start cutting and getting down to the nitty-gritty, that they can sell 9%, which is an improvement over the present tax structure, but they are not going to sell 9% and 8%, adding that he thinks it is time to get out of here, or else they can kill the bill. He added that, not Senator Thayer or Senator Gage, but the blackmail on him is over, that canola might make it without a bill, but he has done everything he can do, and is

saying it is time. He asked what can they live with, do they want no property tax relief, or do they want 9% and 9%, and added that is where they are and that is where he is.

Motion: Senator Lynch offered a substitute motion to incorporate Senator Thayer's entire motion, but at 9% and 9%.

Senator Lynch pointed out that the road map is in there, Senator Thayer wants the road map, that he knows it is going to cause trouble, but the road map is still in there and the next legislature has to determine what they want to do with the road map. Representative Daily asked Senator Lynch where he goes with the road map, that it is 9% and 9% the first year, but is he still going to 7%, 6%, 5%, or is he going 9%, 9%, 8%. Senator Lynch pointed out that the road map indicates they want to keep reducing it, but that it is up to the next legislature whether they will follow the road map, as he sees it.

Representative Daily asked if the road map is in there, now. Senator Lynch responded yes, unless he wants to try to take it out. Representative Daily indicated that he does not want to take it out, that he agrees with that, but he is asking if they are going to go 9%, 9%, and then to 7%, 6%, 5%, if that is the idea. Senator Lynch responded yes, and asked if that is what Senator Thayer has in there. Senator Thayer responded that it is basically the same amendment as they had yesterday, after it was prepared, except that it puts that additional language in which says they have to specifically appropriate the monies.

Senator Lynch indicated that, in his amendment, instead of the 9%, 8%, he put in 9%, 9%, and that the 1991 legislature will see the road map and will have to appropriate the money or freeze it. Senator Thayer indicated that they would have to change it to 8%, 7%, 6%. Chairman Gage asked if Senator Lynch is suggesting just going 9%, 9%, and then 7%, 6%, 5%, 4%. Senator Lynch responded that it is up to Senator Thayer, that he is just saying 9%, 9% until they meet again. Chairman Gage indicated they would change the 8% to 9%, and leave the 7%, 6%, 5%, 4% in there, with Senator Lynch's motion.

Representative Grady indicated that he feels a little bit like Senator Thayer, that he went out of here yesterday and, after getting rid of that coal thing, they could not believe the response he had on the House floor, the water issue, that it was just great, it all died. He reported that they came out with this thing, here, and the biggest response was when they

got down into the later years, what they are doing to the next biennium. He indicated that it seemed like they were covering themselves pretty good, that he was under the impression they were not going to create a black hole but, now, overnight, they are creating a black hole, that they are even doing something in this biennium. He noted that LFA figures are up and down, all over, that they went out of here with very little extra money but the next thing, when they get home, there is \$50 some million, \$56, or whatever it is. He indicated that he knows their figures are up and down, no offense to the LFA, but he did not have any problem on the floor in talking the people into going with this thing further down during this biennium, that they had a problem with creating a \$50 million black hole when they got down to 1995, sure, and he did, too. He again stated that he feels, like Senator Thayer, that he thought they were pretty much in agreement here, even talking to the other side of the aisle. He added that he thinks they have to make a definite effort to give these people some tax breaks, that he does not think they are sticking their neck out going to the next biennium.

Chairman Gage stated that, as a clarification on the black hole thing, it is his understanding from the last sheet they got, the yellow sheet, from the LFA, that, with the funding which is being taken from the ending fund balance in HB28, as it came from the House, and the funding which is proposed by going to 9% and 8%, there will be a \$31.67 million ending fund balance at June 30, 1991. He indicated that is assuming, also, that, if they stop there, that \$20.56 million this bill would require needs to come from somewhere in the next biennium, as far as funds are concerned.

Senator Thayer stated that he would urge people to vote against the substitute motion, that he thinks they can do what he has outlined in this amendment. He indicated that, unless there are people who do not want any kind of tax break, they can vote that way, but that he has gone a long way, really, noting that Senator Lynch has supported everything right down the line, and he would hate to see it blow up over this, right now, and would urge the members of the conference committee to vote against the substitute motion, and support his main motion.

Representative Schye asked if the substitute motion would include the amendments they talked about for reimbursement for the railroad and airline monies. Senator Lynch responded yes, and then they can get out of here, if they support his motion. Senator Thayer added that they can get out of here if they support his, too.



Vote: Substitute motion failed in a tie vote, with Representative Daily, Representative Schye and Senator Lynch in favor, and Representative Grady, Senator Thayer and Senator Gage opposed.

Motion: Representative Daily offered a substitute motion to go to 9%, then 8%, and then go back to 9%.

Representative Daily explained that he is doing that because he fears, more than anything else, that what this legislature will do is not reimburse local governments and school districts when this thing is finished. He indicated that he is really concerned about that and he has seen it happen, that every one of them sitting at this table has seen it happen, noting that they started out with the vehicle license plates, and had a block grant program which was a good program, but, as soon as they did not have enough money, they did not fund the block grant program anymore, and school districts and local governments had to suffer because of it. He added that he thinks that is the concern all of them have, and indicated that he agrees with everything Senator Thayer has said here, and he thinks they need to have personal property tax relief, but he thinks they also need to look at local governments and school districts, when they do it. He asked, if the next legislature does not have the money to do that, what are they going to do, are they going to leave them out in the lurch, like they have done in the past. He added that he thinks they can afford 9%, 8% now, but he does not think they can afford 8%, 8% next time, that, if they want to go down to 8%, or 7%, 6%, 5%, or 4% next time, he does not care.

Senator Thayer indicated that, if the main motion were to pass, and the next legislature can not find the money to appropriate it to go to the 7%, it would automatically stay at 8%, anyway. Representative Daily pointed out that there is a big difference between 9% and 8%, that it will be more difficult for them to come up with the money between 9% and 8%, and he is concerned with the local governments and school districts not getting their money, that he is concerned about that. He added that he thinks they have to look at the track record of the legislature that, if they do not look at the track record of the legislature, then they should not be here, that they have to look and see what they have done in the past. He noted that he thinks Senator Thayer is right, that he does not argue that point, but he is just concerned that they will come next session, not have the money, and say that local governments and school districts eat it.

Chairman Gage asked Representative Daily if his motion is saying that they will put them at risk for \$14 million in the 1992-93 biennium, but not put them at risk for \$20 million. Representative Daily stated that the \$14 million is really \$20 million, if they use these other people's numbers, noting that he does not know who is right and who is wrong, but \$14 million is \$20 million, and \$20 million \$25 million, that is what they are looking at. Chairman Gage indicated, except that at 9%, 8% and 9%, what he hears Representative Daily saying is, instead of just going 9%, 8%, the bill as it presently exists would stay at 8%, which would require \$20 million to remain at \$40 million for the next biennium, and his motion is saying, assuming the \$14 million is correct to go to 9%, that they will put them at risk for \$28 million in the biennium, but not for \$40 million. Representative Daily responded, if the \$14 million and the \$20 million are correct.

Senator Lynch stated that he will support the motion, but that he does not think it is great tax policy to bounce back and forth. He indicated that he knows that Representative Daily is trying to get some compromise, and he will support the motion, but does not think it is a great policy, that it is like a yo-yo, back and forth, 9%, 8%, 9%.

Senator Thayer indicated that is the problem he has, that he knows what Representative Daily is trying to do, but he does not think that is the right way to do it because he is putting in statute that, in the third year, it is going to go right back up to 9%. He pointed out that Representative Daily is going to look pretty foolish if they have the economy and the dollars to fund this thing on down, and he has established that it will go back to 9%.

Representative Daily pointed out that, if they have the dollars, they can go to 8%, or 7%, or 6%, that all he is trying to do is look for some kind of reasonable compromise that they will get the votes for, to pass this measure. He indicated that this bill is critical to getting them out of this session, that, if they do not have this bill, they might as well sine die today and go home, because they are not leaving otherwise, that they might as well go home and let the Governor call them back at some future date, and settle her up. He stated that all he is trying to do is keep this bill alive, and that is a mechanism for doing it. He added that he voted for 9% and 9%, and he did not vote for Senator Thayer's motion, but he will vote for this motion, that it keeps it alive. He indicated that, if Senator Thayer does not want to do that, then so be it, and they should kill the bill and go home, that he does not want to do that, that they are

foolish to do that, they are foolish to kill this bill and go home, and they all make a mistake if they do that.

Senator Lynch indicated that it is up to Senator Thayer and Representative Daily. Senator Thayer asked if Representative Daily is saying they do not have the votes over there. Representative Daily responded that he does not know if they have the votes, he does not know if they have the votes for 4% and 4%, that he does not do that kind of stuff. He indicated they might have the votes to do what Senator Thayer is doing, but his suspicion is that they do not, that his suspicion is, if they went to 9% and 9%, they would pass the thing easily. He added that his suspicion is, if they went to 9% and 9%, they could leave here today, but he does not know that and is just trying to get some kind of reasonable approach.

Senator Thayer responded that his suspicion is they are leaving here today, anyway. He then indicated that there has to be a better way of doing what Representative Daily is trying to do. Representative Daily responded, if Senator Thayer can find it, give it to him and he will go with it. Senator Thayer indicated that it does not make any sense to say they are going to go 9%, 8%, but then go back up to 9%, but that he supposes the language could be devised. Senator Lynch indicated that they should have run 9% and 9%, and left. Senator Thayer stated that he does not agree with that.

Chairman Gage asked if everyone understand the motion, and asked Representative Daily if they would be at 9%, 8%, 9%, then they would be at 6%, 5%, 4%. Representative Daily responded yes, but then indicated that he thinks they have to stay at 9%; 9%, 8%, and go back to 9%, 9%, 9%, that is what he is doing. Chairman Gage asked if his motion is to go 9%, 8%, and then go 9%, 9%, 9%, 9%. Senator Lynch indicated the 1991 legislature will decide where it goes from there.

Chairman Gage asked Mr. Heiman to explain the motion. Mr. Heiman indicated that (a) and (b) would remain the same, that (c) would now read "for the tax year beginning January 1, 1992 and for subsequent tax years 9%", that it would take the ending piece off of (f) and add it to that. Chairman Gage indicated the road map is not even there, then, that it will just be 9%, 8%, 9%, with no road map beyond the current biennium.

Vote: Substitute motion by Representative Daily failed in a tie vote, with Representative Daily, Representative Schye and Senator Lynch in favor, and Repre-

sentative Grady, Senator Thayer and Senator Gage opposed.

Chairman Gage indicated they are back to the original motion by Senator Thayer which is to adopt the road map, as it presently is in the amendments, and the additional language with regard to the four hour situation and airlines.

Representative Schye asked if the taxing jurisdictions and the things they talked about are in the motion. Senator Thayer responded yes, they are. Representative Schye asked if Mr. Heiman understands those. Mr. Heiman responded yes.

Vote: Motion by Senator Thayer failed with Representative Grady, Senator Gage, Senator Lynch and Senator Thayer in favor, and Representative Schye and Representative Daily opposed.

Representative Daily indicated that he does not want to see this thing die, that he would hate to see it die, and thinks they are making a major, major mistake if they let this bill die right here. Senator Thayer indicated that they are making some suppositions that their side can not buy it, or your side, or their caucus can not, and he would suggest that each member take this to their caucuses and the committee meet again later in the day to see where they are.

The committee agreed, and Chairman Gage announced the committee in recess.

ADJOURNMENT

Adjournment At: 12:50 p.m.

  
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DELWYN GAGE, Chairman

ROLL CALL

FREE CONFERENCE COMMITTEE ON HB 20  
51ST LEGISLATIVE SPECIAL SESSION

DATE: July 13, 1989 11:45 a.m.

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DELWYN GAGE	✓		
SENATOR J. D. LYNCH	✓		
SENATOR GENE THAYER	✓		
REP. FRITZ DAILY	✓		
REP. TED SCHYE	✓		
REP. ED GRADY	✓		