

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON INCOME/SEVERANCE TAX

Call to Order: By BOB REAM, CHAIR, on April 11, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Dan Harrington, Chairman (D)
Rep. Bob Ream, Vice-Chairman (D)
Rep. Jim Elliott (D)
Rep. Mike Foster (R)
Rep. Marian Hanson (R)
Rep. Jim Madison (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Bob Raney (D)
Rep. Barry Stang (D)

Members Absent: Rep. Bob Gilbert (R)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Subcommittee Discussion on SB 416

Motion: REP. REAM RECOMMENDED THAT SB 416 BE CONCURRED IN.

Discussion:

SEN. WILLIAMS, Sponsor of SB 416, urged the committee to accept the proposed amendments. SB 416 puts the emphasis on energy conservation. If a person uses the one time \$400 tax credit, that would be the limit; but if he stretches it out four years, that would be \$250 a year. Ultimately more money if the person were paying that kind of income tax.

REP. RANEY asked if the total tax due in a year was \$250, would a person be able to go tax free for four years. SEN. WILLIAMS said yes.

Motion: REP. RANEY moved the amendments to SB 416.

Discussion:

REP. REAM asked if he had tried the amendment in the Senate. SEN. WILLIAMS said he tried it at \$3,000, but it was called a richman's tax.

REP. REAM asked Jeff Miller, DOR, if there were any other alternative energy tax credit given over an extended period of time. Mr. Miller said there were some carryforwards on tax credits and not limited to a one time shot. REP. FOSTER asked if he could remember what programs went beyond one year. Mr. Miller said he did not remember. REP. FOSTER asked SEN. WILLIAMS why M.D.U. wasn't at the hearing. SEN. WILLIAMS said M.D.U. is heavy into gas and oil and have no interest in replacing gas with electric heat. REP. FOSTER said he supported the amendments because it is going to be a large investment.

REP. RANEY said it doesn't matter if SB 416 is termed a richman's tax, what it tries to do is conserve energy. SEN. WILLIAMS said there are hundreds of millions of BTUs underground that is not being utilized. REP. NELSON asked if the energy could be put into forced air as well as hot water heat. SEN. WILLIAMS said he did not know, but felt technology would have a way.

Vote: Motion to amend SB 416 carried unanimously.

Motion/Vote: REP. MCCARTHY RECOMMENDED A SUBSTITUTE MOTION OF BE CONCURRED IN AS AMENDED. Motion carried unanimously.

Subcommittee Discussion on SB 341

REP. ELLIOTT expressed concerns because of the federal credit granted for equipment or costs incurred. It is in affect a rebate to the taxpayer that reduces the original cost. Why should he be able to put back in the credit and take a full deduction on his costs. If a person buys a car for \$10,000 and he gets a \$1,000 rebate, he pays \$9,000 for the car. If he is depreciating the car out, he couldn't depreciate the \$10,000 only the \$9,000. The same principal should apply here. SEN. GAGE, Sponsor of SB 341, said the purpose of the credit is incentive.

REP. REAM asked SEN. GAGE to describe the mechanism that REP. ELLIOTT has referred to. SEN. GAGE said if he paid \$10,000 in the qualified job funds, he would get a \$500 credit on it. On his state income tax return, he could only deduct \$9,500. He must be allowed the same affect on the state return or the credit would be partially destroyed. REP. REAM asked what amount would be paid on the state return. SEN. GAGE said \$9,500. He wouldn't have to pick up the \$500 deduction on his state return, but he wouldn't get a deduction for the money paid out either.

REP. ELLIOTT said this is a federal incentive program. SB 314 would tie in Montana to every federal incentive program. SEN. GAGE said that is true to the extent of allowing that credit as a deduction on the state return. With the bill, he could put \$10,000 on his state return. It would reduce the deductible amount on the state return for federal income tax. REP. ELLIOTT asked Jeff Miller, DOR, what federal incentive programs this would apply to. Mr. Miller said the principal impacts would be on the job credit, credit for alcohol use as fuel, credit for increasing research activities, low-income housing credit, and credit for providing handicap access. There is a difference between the corporate tax package and the individual tax package. The corporate package recognizes all ordinary and necessary business expenses as a deduction. REP. STANG asked if the credit received on the federal return would be income on the state return. Mr. Miller said yes it would be a tax benefit. REP. STANG asked if the state form would have to be adjusted to reconcile the difference between the federal and state return. Mr. Miller said there is a place on the return already.

Motion/Vote: REP. MCCARTHY moved to amend SB 341. Motion carried unanimously. EXHIBIT 1

Discussion:

Jeff Miller said the amendments change the applicability and resolves a conflict with SB 61.

Motion/Vote: REP. FOSTER RECOMMENDED THAT SB 341 BE CONCURRED IN AS AMENDED. Motion carried 7 to 2 with REPS. RANEY and ELLIOTT voting no. REP. GILBERT absent

Subcommittee Discussion on SB 411

REP. RANEY said SB 411 has reenacted the tourist tax. One percentage was to go to the roadside historical science. They choose to take half the money to do capitol tours with it. It is arbitrarily against existing statute. REP. FOSTER asked what would happen to the capitol tours. REP. STANG said the money would come from the General Fund where it should be coming from in the first place.

Motion/Vote: REP. M. HANSON RECOMMENDED THAT SB 411 BE TABLED. Motion carried 8 to 1 with REP. REAM voting no. REP. GILBERT absent.

Subcommittee Discussion on SB 445

Dave Woodgerd, DOR, stated that SB 445 comes from a law review article written by him. It points out the problems between appeals when there is an audit, and it makes the appeals process uniform so it applies the same thing to every taxpayer.

REP. STANG said a person could go directly to the Director or Division Administrator of DOR. Is there any check or balance in the bill? If he was the Director's best friend and decided he was going to appeal or change his taxes, could the Director do so without a review? Mr. Woodgerd said that it had been done in the past. This procedure tells them that they must follow the process as stated in the bill. REP. M. HANSON asked if the amendments were needed. Mr. Woodgerd said yes. They are cleanup amendments and have no substantive affect.

Motion: REP. REAM RECOMMENDED THAT SB 445 BE CONCURRED IN.

Motion/Vote: REP. STANG moved the amendments to SB 445. EXHIBIT 2

Motion/Vote: REP. REAM RECOMMENDED THAT SB 445 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

Subcommittee Discussion on SB 428

SEN. NATHE, Sponsor of SB 428, said SB 428 allows the state to go into a cooperative agreement with the tribes in order to negotiate a split on the state gasoline tax. The tribes are saying, that unless action is taken this session, they have two options left: (1) to take the state to court; and (2) they can open up a tribal owned retail outlet. If they go to court, the state would lose.

REP. STANG asked what advantage the reservations would have by not letting the state keep the tax. If we build and maintain roads on the reservation, with the exception of the Flathead reservation, there is not another reservation that could raise enough money to maintain the roads. He feels, if the tax is not kept in the reconstruction trust fund, the state should not maintain the roads for them. How does it fit into the bill?

SEN. NATHE said he could not speak for the tribes. The principle is that the state doesn't have to tax tribal people on the reservation. This would be a use tax

REP. ELLIOTT said the summation of SB 428 would be for the DOR to enter into negotiation with the tribes. He asked Dave Woodgerd if there will be a conflict between the three bills dealing with tribal taxation. Mr. Woodgerd there would be no conflict because they each deal with a different subject. REP. REAM asked if a study resolution was needed for the Revenue Oversight Committee to study the issue. Greg Petesch, LFA, said Revenue Oversight can look at any matter regarding taxation according to charter. A resolution is not needed.

Motion: REP. ELLIOTT RECOMMENDED THAT SB 428 BE CONCURRED IN.

Motion: REP. ELLIOTT moved the amendments to SB 428. EXHIBIT 3

Discussion:

REP. REAM asked why the bill was restricted to gasoline rather than motor fuels. Dave Woodgerd said because it was simpler and the DOR wanted to start out slowly. If this passes, they will ask for more from future Legislatures.

Greg Petesch said the amendments were technical clarification to coincide with the changes in the bill.

Vote: Motion to amend SB 428 carried unanimously.

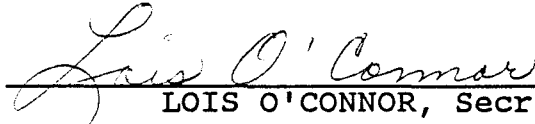
Motion/Vote: REP. REAM RECOMMENDED THAT SB 428 BE CONCURRED IN AS AMENDED. Motion carried 8 to 1 with REP. STANG voting no. REP. GILBERT absent.

ADJOURNMENT

Adjournment: 9:00 a.m.



BOB REAM, Chair



LOIS O'CONNOR, Secretary

BR/lo

Amendments to Senate Bill No. 341
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 9, 1991

Change Applicability from 1986 to 1990:

1. Page 5, line 4.

Strike: "1988"

Insert: "1990"

2. Page 9, line 5.

Strike: "1988"

Insert: "1990"

3. Page 12, line 14.

Strike: "1988"

Insert: "1990"

Avoid Conflict with SB 61:

4. Page 7, line 16.

Following: "~~as a~~"

Insert: "Montana"

Amendments to Senate Bill No. 445
Third Reading Copy

Requested by DOR
For the Committee on Taxation

Prepared by Lee Heiman
April 10, 1991

1. Page 5, line 12.
Following: "notice"
Insert: "referred to in subsection (4)(a)"
2. Page 6, line 16.
Following: "reasonable"
Insert: "not to exceed 90 days except by the mutual consent of
both parties"
3. Page 6, line 25.
Following: "Procedure"
Insert: ", including additional time for mailing"
4. Page 7, lines 3 and 4.
Strike: ". NOT TO EXCEED 90 DAYS EXCEPT BY THE MUTUAL CONSENT OF
BOTH PARTIES."

EXHIBIT 3
DATE 4-11-91
HB SB 428

Amendments to Senate Bill No. 428
Third Reading Copy

Requested by DOR
For the Committee on Taxation

Prepared by Lee Heiman
April 10, 1991

1. Page 3, line 8.

Strike: "remaining amount"

Insert: "money as provided for in the agreement entered into
pursuant to subsection (1)"