MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 11, 1985

The fourth meeting of the Taxation Committee was called to order at 8:06 am, by Chairman Thomas E. Towe in Room 415 of the Capitol Building.

ROLL CALL: All members of the committee were present.

Chairman Towe relinquished the chair to Vice Chairman Mazurek for purposes of hearing SB 43.

CONSIDERATION OF SB 43: Senator Towe was recognized as chief sponsor of the bill. The bill deals with changing the small business corporation income taxes and provides for including as taxable in Montana those portions of income which otherwise escape taxation. The bill would provide for taxation on the adjusted gross income of the individual taxpayer electing to file as a partnership rather than as a corporation. It adds the portion of income that was reduced by subchapter S in federal law.

PROPONENTS

Mr. Ken Morrison, Department of Revenue, was recognized to discuss the bill. Mr. Morrison stated that the bill would affect only a few subchapter S corporations, that it applied to passive income which exceeded 25 percent of the total. The Department's support for the bill is based on the assumption that a person's total income should be taxed. He cited a single instance where $37,000 of an individual's income went untaxed because of this loophole.

OPPONENTS

There were no opponents to SB 43.

Questions from the committee were called for.

Senator Brown asked how much income is escaping taxation. Mr. Morrison said the bill will probably affect less than 100 taxpayers.

Senator Severson asked if a fiscal note had been prepared. Senator Towe said one had been requested.

Senator Goodover asked about capital gains tax on corporations more than three years old. Mr. Morrison said there would be no affect, but that it may effect income tax in isolated cases. Senator Towe said the effect of the bill is simply not to allow deduction of income on which taxes had not been paid in the state.

Senator Mazurek said he understood that it was an income tax on money made by the corporation that escaped taxation because of a change in the federal law. Mr. Morrison said, yes, that when the loophole in federal law closed, a loophole in state law was opened.

Senator Hager asked if on page 2, line 2 the language was sufficient to insure that the bill would apply only to income taxes. Senator Towe said, yes.

Senator Eck asked why Montana did not choose to follow federal law as is done in most cases. Mr. Morrison answered that it would require the implementation of an additional tax structure.

Senator Towe closed on the bill and resumed the chair for executive action.

MOTION: Senator McCallum moved that SB 32 do pass.

Senator Mazurek called attention to the material prepared on this bill by the Montana Association of Counties (Exhibit 1).

Senator Eck noted her sensitivity to the increased cost to an individual homeowner should the bill pass. She said there would be six to 14 bills this session that would reduce the residential tax base and that SB 32 would increase the property tax on residences. She suggested that the bill be amended to have the state pick up losses to counties, possibly by an addition from the general fund to the Foundation Program, or allowing farmers a tax credit of up to $9,000 on their income taxes to offset paying the tax. She stated her commitment not to erode the tax base of local government.

Senator Severson said there are three areas where the property tax on inventory is an issue (business, livestock and grain) and he felt they should be dealt with on the same basis, and that considering the areas one at a time was a fragmented approach.

Senator McCallum said this bill is merited because a business person can raise his price to cover the cost of the tax while a grain grower must take the going price.

Senator Halligan suggested that the committee needs more information before a decision can be made and that further consideration be delayed. There was consensus from the committee.

Senator McCallum then withdrew the motion that SB 32 do pass.

MOTION: Senatur Mazurek moved that SB 46 do pass. Senator Goodover seconded the motion. With no discussion the question was called and the motion passed unanimously.

MOTION: Senator Goodover moved that SB 44 do pass.

Senator Towe noted the suggestion of an attorney that the bill be clarified as not to be retroactive. He noted amendments which would accomplish that. It would leave current litigation untouched by the bill. Senator Towe noted also that Mr. Morrison opposed those amendments.

Senator Brown asked that consideration be held for a fiscal note.

Senator Goodover withdrew the motion that SB 44 do pass.

MOTION: Senator Goodover moved that SB 44 do not pass.

Discussion of the possible amendment continued. Mr. Morrison was recognized and said the Department did not view this as retroactive and that adopting such amendments could result in different treatment by the Department for similar cases.

Senator Lybeck said the tax should not be restricted to business property. Mr. Morrison suggest that would have to be done in a separate bill. Mr. Dan Bucks, Department of Revenue, said that different laws apply to taxation based on place of residency and place of business.

Senator Eck noted that if a person stayed in Montana he would have to pay. Senator Mazurek said if they did not pay here, they would pay to the state of new residence.

Senator McCallum asked if a fiscal note had been requested. Senator Towe said, yes. Mr. Morrison said he believed the fiscal note would indicate no impact. Senator McCallum asked how much projected revenue is being lost. Mr. Morrison said in excess of $913,000.

Senator Eck clarified that the bill is an enactment of current policy. She asked if rental properties were included as a business. Mr. Morrison said, yes.

Senator Goodover suggested that if the bill passed the Department of Revenue would not need so many auditors.

After other discussion regarding the difficulty in interpretations, the changes that would come as a result of a cash sale and the numbers of people affected, Senator Goodover withdrew the motion that SB 44 do not pass.

MOTION: Senator Eck moved that SB 44 do pass. Senator Towe called for the vote. With Senator Goodover voting no and all other members of the committee voting yes, the motion passed.

Senator Towe then called for further consideration of SB 41. He presented amendments that would do what the Economic Development

Board wanted done with the bill.

He suggested that SB 41 be amended as follows:

1. Page 1, line 8.
Following: "that"
Strike: "may not"
Insert: "a portion of"

2. Page 2, line 7.
Strike: "except"
Insert: "including the 25 percent of the"

MOTION: Senator Lybeck moved the preceeding amendments to SB 41.

Senator Halligan asked if line 18 on page one also needed amendment. Senator Towe said, no. The question was called and the motion carried unanimously.

MOTION: Senatory Lybeck moved that as amended SB 41 do pass. The motion carried unanimously.

Senator Towe then called for further consideration of SB 21.

Senator Severson asked if the coal tax committee recommended this bill. Senator Towe said, no. He noted that the committee strongly endorsed coal research, but there had been no discussion of this bill in committee.

Senator Mazurek indicated concern about earmarking money for undefined programs, such as the futures study center for EMC. Senator Towe responded that the Coal Tax Oversight Committee had heard much detailed testimony on these matters, but that perhaps the Board of Regents should be left the discretion on the futures study. Senator Mazurek maintained that this is an appropriation being made outside of the accepted process. Senator Goodover agreed that it is an appropriation from the general fund. Senator Severson said that if the bill was passed it should move to the Finance and Claims Committee to see if the general fund can afford the $5 million.

Senator Eck discussed the problem of targeting one research project without considering others and then described to the committee the other kinds of research concerns that would be coming to the attention of the legislature.

Senator Hager noted that of the 17 persons testifying for the bill, 12 were persons who would administer the funding. He said the coal companies indicated to him that they did not support the bill.

Senator Towe said that coal research is heavily supported and the question is where the dollars are to come from, not if it is going to be done.

Senator Severson said that the research would be appropriately paid for out of the protion of the coal tax reserved for future generations.

Senators Goodover and Eck were excused and, therefore, Chairman Towe said that further consideration of SB 21 would be postponed.

Chairman Towe recognized committee researcher, Mr. Jim Lear, to discuss the amendments to SB 41. Mr. Lear said the amendments had some problems.

MOTION: Senator Hager moved that the committee reconsider its action on SB 41. The motion carried unanimously.

MOTION: Senator Brown moved that the committee adopt Mr. Lear's suggestions to make the amendments to SB 41 conform. The motion carried unanimously.

Senator Brown suggested that SB 41 be held in committee until the Department of Commerce could be contacted regarding the amendments. The committee agreed by consensus.

Senator Towe adjourned the meeting at 9:30 am.

Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 11 Jan 85 8:06 a.m.

Location -- Room 413-415

Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

MONTANA ASSOCIATION OF COUNTIES

The following information is submitted to the Senate Taxation Committee, pursuant to SB32 and attempts to respond to the question of levy impacts resulting from the proposed loss of property tax revenue.

COUNTY NAME	CHOUTEAU	HILL	TOOLE	DAWSON	BLAINE	VALLEY	DANIELS	PONDERA	McCONE	BROADWATER
1. Value of 1 mill current law:	$ 30,210.00	$45,368.00	$47,888.80	$29,365.42	$34,327.00	$43,777.97	$ 8,170.00	$25,177.00	$10,781.00	$10,944.0
2. Value of 1 mill proposed law:	29,317.19	$44,568.95	$47,546.92	$29,140.71	$34,052.22	$43,267.27	$ 7,946.54	$24,918.65	$10,573.84	$10,754.0
3. Property Tax Levy Requirements FY'85:	6,974,867	11,236,394	7,226,773	8,565,267	6,375,920	8,569,568	3,544,097	6,057,662	3,664,725	3,154,55
4. Current Levy: (MILLS)	230.88	247.67	150.91	291.68	185.74	195.75	433.79	240.60	339.92	288.25
5. Levy necessary under proposed law: (MILLS)	237.91	252.11	151.99	293.93	187.24	198.06	445.99	243.10	346.58	293.34
6. An owner of a $60,000 home would pay _____ more per year in taxes to generate the necessary property tax revenue	$18.03	$11.39	$ 2.77	$ 5.77	$ 3.85	$ 5.93	$31.29	$ 6.41	$17.08	$13.06

EXHIBIT 1 -- SB 32

11 January 1985

LC# 356
LEAR, JIM
EXEMPT PRODUCER-
HELD GRAIN IN
STORAGE
(SB32)

COUNTY		TAXES LEVIED CURRENT LAW	TAXES LEVIED PROPOSED LAW	DIFFERENCE
SILVERBOW	100	18041548	18041548	0
CASCADE	200	30033805	30019025	-14780
YELLOWSTONE	300	43697113	43658442	-38671
MISSOULA	400	33064056	33063726	-330
LEWIS & CLARK	500	20670383	20669915	-468
GALLATIN	600	17193989	17180885	-13104
FLATHEAD	700	23627004	23627004	0
FERGUS	800	6832673	6791915	-40759
POWDER RIVER	900	5830059	5828742	-1317
CARBON	1000	6059426	6059426	0
PHILLIPS	1100	5717774	5688194	-29580
HILL	1200	11,236394	11038391	-198003
RAVALLI	1300	6072041	6072041	0
CUSTER	1400	7421806	7419495	-2312
LAKE	1500	7309464	7305895	-3568
DAWSON	1600	8565267	8499763	-65504
ROOSEVELT	1700	13372455	13336881	-35574
BEAVERHEAD	1800	4782401	4771863	-10537
CHOTEAU	1900	6974867	6768753	-206115
VALLEY	2000	8569568	8469569	-99999
TOOLE	2100	7226773	7175305	-51468
BIG HORN	2200	13159753	13157112	-2640
MUSSELSHELL	2300	3644031	3642584	-1447
BLAINE	2400	6375920	6324860	-51060
MADISON	2500	4197914	4197873	-41
PONDERA	2600	6057662	5995426	-62237
RICHLAND	2700	15118959	15107303	-11656
POWELL	2800	4358569	4358533	-35
ROSEBUD	2900	24819545	24812643	-6902
DEERLODGE	3000	6231512	6231512	0
TETON	3100	4921089	4896512	-24578
STILLWATER	3200	4779249	4758333	-20916
TREASURE	3300	2030780	2030780	0
SHERIDAN	3400	11049798	10996447	-53351
SANDERS	3500	5596525	5596525	0
JUDITH BASIN	3600	3735005	3724671	-10334
DANIELS	3700	3544097	3447128	-96970
GLACIER	3800	10194493	10188799	-5694
FALLON	3900	10419271	10419271	0
SWEETGRASS	4000	2540530	2540378	-152
MCCONE	4100	3664725	3594260	-70465
CARTER	4200	2690994	2685062	-5932
BROADWATER	4300	3154554	3099865	-54689
WHEATLAND	4400	2647102	2646927	-175
PRAIRIE	4500	2088009	2080303	-7707
GRANITE	4600	2690948	2690948	0
MEAGHER	4700	2694665	2694606	-59
LIBERTY	4800	3941429	3893414	-48015

30210

230 mills

PARK	4900	6396709	6393129	-3581
GARFIELD	5000	2564412	2545079	-19332
JEFFERSON	5100	4861072	4852380	-8692
MIGAUX	5200	3648409	3638240	-10169
GOLDEN VALLEY	5300	2098245	2081604	-16641
MINERAL	5400	3847425	3847425	0
PETROLEUM	5500	1558334	1557781	-552
LINCOLN	5600	8505361	8505381	0
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		492125985	490719876	-1406110

STANDING COMMITTEE REPORT

January 11 19 85

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 44

first reading copy (white color)

Respectfully report as follows: That Senate Bill No. 44

DO PASS

DO NOT PASS

Senator Tom Towe, Chairman.

STANDING COMMITTEE REPORT

January 11 19 85

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 46

first reading copy (white color)

RAISE TAX THRESHOLD FOR SPECIAL FUEL USERS QUARTERLY FILING WAIVER TO $200

Respectfully report as follows: That Senate Bill No. 46

DO PASS

DO NOT PASS

Senator Tom Towe, Chairman.