

TAXATION COMMITTEE  
45TH LEGISLATURE

Chairman Rep. Herb Huennekens called the meeting to order at 8:00 a.m., January 11, 1977, in room 434, Capitol Building, Helena. All members were present.

Rep. Robert Marks, sponsor of House Bill 19, explained this is another recodification bill, and asked Mr. Roger Tippy, legislative council attorney, to explain the changes that had been made in the law by this bill. HOUSE BILL 19 which purports to allocate the duties of conducting administrative tax case hearings between the department of revenue and the state tax appeals board. This bill is not intended to abolish hearings proceedings in any way. Judicial review is intended to be clarified.

Bob Corcoran, attorney for the department of revenue, explained section 5 concerning departmental hearings. He feels the DOR should have the opportunity of settling assessment disagreements since 80-85% of the cases appealed to them have been settled satisfactorily to both the taxpayer and the department, and 90% of the gasoline appeal cases are amicably settled. He feels department hearings are of very great value and formal hearings are a duplicated effort. He suggested several amendments.

A letter from Lester H. Loble II addressed to Rep. Marks expressing his views on HB 19 is attached.

Rep. Jack Ramirez, sponsor of House Bills 73 and 74, asked if they could be considered together. Permission was granted. These bills relate to Montana laws which make out-of-state prospective money lenders for re-lending by banks, etc., on mortgages, particularly on residential properties, reluctant to make loans to Montana. The laws relating to the necessity of qualifying to do business in Montana, and the risk of being subjected to the Montana Corporation Income Tax make Montana less attractive than other states. HOUSE BILLS 73 & 74

HB 74 states certain things a corporation can do and if they do only these things, they can qualify to do business in Montana - out-of-state lenders are not satisfied with this language.

The income from interest on money loaned is not considered income from an activity that produces income, and this income has not been taxed by Montana in the past. However, several other states do tax this type of income.

Bill Sternhagen, Anaconda Co, gave the committee a copy of the law enacted August 1963, Exhibit A and a copy of the federal moratorium which expired in September 1976, Exhibit B. He feels Montana should clarify whether this type of interest income is going to be taxed as this uncertainty makes it difficult for Montana to obtain money for loans.

Jon Clifford, Security Bank, N.A., Billings, deals with out-of-state mortgage investors and supports this bill so Montana can have the benefit of out-of-state money for relending. Banks charge a fee for handling these accounts, and they pay tax on this fee income. He would like to see clarification of Montana

income tax laws on such income.

Gene Phillips, representing the Conrad National Bank, Kalispell, MT stated the demand for housing is increasing and they support both bills.

John Cadbe, representing the Montana Bankers Association, supports the bills.

W.A.Groff, director of the DOR takes no position on the bill, and is present for information purposes only.

Rep. Ramirez stated the present tax does not amount to very much, the problem is in filing returns, etc. At the present time there is not a great volume of such business, but it can be seen that in the future this could become an important business. This bill looks to the future, and there is no way to know what this income could be. The two problems to be cleared up are the corporation income tax, and the statutes requiring qualification to do business in Montana. The extra work and expense involved in understanding Montana statutes and making returns, etc., is a worse deterrent than the tax itself.

Jerry Foster, Corporate Division of the department of revenue, stated that indentures are taxed at the site of domicile, and the income from revenue derived from this type of interest income hasn't been taxed because of the moratorium, but his department will do whatever any new law sets forth. Most states are not now taxing this activity.

Committee adjourned to executive session.

HOUSE BILL 73 - Rep. W. Jay Fabrega moved to recommend to the House that HB 73 DO PASS. Since the consensus of the members was that Montana can use additional operating money, the motion was accepted unanimously.

HOUSE BILL 74 - Rep. Fabrega moved to recommend a DO PASS to the House on House Bill 73. Motion was adopted unanimously.

Diana Dowling, Code Commissioner for the recodification of Montana statutes, stated House Bills 19 and 25 have some substantive changes because of a problem with the present language which is unclear and this should be cleaned up by the present Legislature. Rep. Fabrega recommended that amendments have the approval of the code commissioner, and so they are to be written up and set to her for checking. Copy of the amendments proposed is attached.

Committee adjourned at 10:00 a.m.

*John J. Huennekens*  
REP. HUFF HUENNEKENS, Chairman.