

10.

TAXATION COMMITTEE
45TH LEGISLATURE

Rep. Herb Huennekens, chairman, called the Taxation committee to order in room #434 of the Capitol Building, Helena, MT, January 17, 1977, at 8:00 a.m. All members of the committee were present, except Rep. Peter Gilligan, Jr. who was excused.

Rep. Howard Ellis, sponsor of HB 113, explained this is an act providing for penalty and interest on delinquent taxes on mobile homes which are not taxed as improvements. There are 300-400 mobile home owners whose taxes are delinquent.

Because other real property taxes are payable in two installments, mobile home taxes were allowed to be paid in two installments. Since it is difficult to keep track of mobile homes, they have been assessed as they come into an area. Tax paid stickers are given by the Department of Revenue to the county treasurers who in turn give them to mobile home owners when they pay their taxes in full for a 12-month period. Taxes are to be paid by June 30, and December 31. A 2% penalty shall be added to the delinquent semi-annual installment. A proposed amendment would allow a 2-year delinquency before seizure and sale could be instigated instead of a 4-year limitation since trailers depreciate rapidly. However, by paying interest, seizure and sale cannot be instituted. Tax payments on trailers need to have this penalty.

Rep. Ann Mary Dussault, sponsor of House Bill 3, advised this bill sets out to exclude habitable property from property taxation and the revenue lost thereby is to be recovered from a replacement tax which is not an income tax. The amount of tax paid would depend on each person's total personal income and will vary

according to taxing jurisdictions and revenue needs. Garages and small buildings are included, as is one acre of land on which a house sets. Income producing property cannot be free from taxation. Total income is income received from any source. There are no exclusions, and on page 4, line 17, only these deductions are allowable.

Rep. Dussault asked Senator Watt to make the presentation on HB 3. The state budget is not balance since it has a surplus. The state leans so heavily on the property tax because it works so well. This tax in HB 3 will work as well as property tax. HB 3 is innovative in concept. Sen. Watt presented Exhibit A. He believes taxes should be paid by the people who live in the houses and not on the house and land itself. Should a person's income not be large enough to allow a tax that would be commensurate with the tax on their house, or the house in which they live, but they can pay 6% of the tax on the property, the state will pay the balance of the tax. This bill places liability of replacement tax on personal income.

Many legislators feel the reappraisal program should be abandoned. Should it not be finished it would save over \$4 million dollars. After this biennium, a saving will result to the counties by not having to send out tax notices. The means of taxation under HB 3 will encourage building of houses and making of improvements. It will lower rent, will keep some people from going on welfare; will increase the number of people who are supporting local government; will work no hardship on ranchers and farmers. You have to look at the total picture in considering this bill.

The last Legislature considered the Homestead Tax Relief Initiative which allowed \$5,000 to be subtracted from the value of homes - this will result in a tax reduction of \$100. Since the voters approved this, the Legislature should do this.

Opponents:

W. A. Groff, Director of the department of revenue, suggests a subcommittee look at this from a legal aspect. He thinks HB 3 is unnecessary as this can be done through the present taxation system. This is an income tax. Pensions and Social Security incomes can be taxed. There is a question of whether it is legal to use property tax if the tax on income is insufficient. How can this tax be collected? There is no penalty provided for nonpayment. How do you collect from people who are in rest homes? This will cause a major lawsuit with the federal government because of the problem of taxing social security payments. These revenue funds cannot be used as a tax base for any reason. Recommends taking a good hard look at this bill.

John Clark, department of revenue, opposes HB 3 because of administrative problems. It allows the DOR only 8 weeks to mail out tax bills to 400,000 people who would have to be billed. They would have to go to personal records for information on people liable for tax payments. This asked the department to do about three times as much work as they do now. Also, this may be in trouble with the government regarding income tax. There is no margin for delinquency - HB 3 assumes all collections can be made - provides for no forgiveness. There are many difficulties with this bill.

A. W. Scribner, lawyer from Helena, representing the Montana Taxpayers Association, believes it would be a disaster if HB 3 were to be passed. This bill has been defeated on four previous occasions. It would impose a tax on everyone in Montana and on those who are least able to pay. This bill does not tax a developer who amasses a bunch of apartment buildings and lives out of state who would be well able to pay property tax, but taxes the people living in his apartments on their incomes. Would be an administrative nightmare. This is an entirely new tax structure and totally unworkable. There are serious legal constitutional problems. There are many mandates of outstanding bonds which promise to repay on ad valorem basis. He presented a letter from Stan Abe, Exhibit B. The funding of various governmental agencies is inconsistent with HB 3. This would amend by implication without knowing effects. This is not the answer to property tax relief.

Ray White, Gallatin County Assessor, representing Montana County Assessors Association, opposes HB 3. The intent is good, but there are easier ways - this has many administrative problems, and would make for extra expense to county offices. It would be an impossible task to find all the people who might be liable. There is much work to be done on the tax laws, but this is not the answer to tax relief - it would be extra work, and extra expense to the taxpayer.

Mons Teigen, representing the Montana Stockgrowers and Wollgrowers Associations, opposes the bill.

Tom Winsor, Montana Chamber of Commerce, opposes the bill.

Stephen Turkiewicz, Montana Association of Counties, opposes HB 3 advising that any time the state makes an additional charge on the county, it has to provide means for the county to pay for the extra cost.

Senator Watt agreed that it might be advisable to put this bill in a subcommittee.

Rep. Dussault offered a proposed amendment to the bill, stating this quite a complex bill, but don't oversimplify it either. She agrees that it go to a subcommittee.

It was contended that this is a replacement tax for the property tax and is not an income tax on that portion of income. This is based on the ability to pay. There would still be a property tax on all other property that is considered not habitable.

Rep. Steve Waldron, sponsor of House Bill 106, at the request of the department of revenue, handed out copies of the laws being repealed herein - sections 51-301 through 51-314, R.C.M. 1947, the Montana Cigarette Sales Act. This is a fair sales act used to limit competition which is the life blood of the free enterprise system. Price fixing is for the benefit of retailers and wholesalers. He thinks the department of business regulation would be the proper place for this type of legislation. The intent of this law is to promote competition, but actually it does not do so. This law is unnecessary. If the price is too high, there will be a market in contraband and there is such a market in Montana. The problem of priving "intent" to injure a competitor or prohibit competition is very hard to establish. This is designed to stabilize the sale of cigarettes. Price has nothing to do with the sale of cigarettes. It is very difficult to enforce this act. One law relates to fair practices act, another provides limitations, and another adds competition - 51-312 provides for a cost survey allowing the DOR and the industry group to make a survey.

W. A. Groff, DOR would like to have the word "intent" stricken. The markups on cigarettes is 5¢ to the wholesalers and 10¢ to the retailer. The question is whether it should be the policy of the state to do this. He thinks a committee should review this and make a policy as to whether the Legislature should do this or not. It cannot be enforced, the DOR only fixes price.

Bob Corcoran, attorney for the DOR, advised intent is very, very difficult to establish - intent to violate the act or the practice. Manufacturers are not mentioned in the statute. If this bill is not adopted, rules and regulations will have to be made by the DOR. They urge that something be done, either by repealing this act, or putting it in another area because they cannot enforce it legally.

Rep. Fabrega opposes this bill as it is a question of free enterprise systems needing to be free of government, free from overregulation, free from unfair labor practices because they know what labor will cost, free of monopolistic enterprises that can break the small competitors. Cigarettes are a "leader", a "come on" that many stores rely on.

Tom Maddox, executive director of the Montana Association of Tobacco and Candy Distributors, asked that HB 106 not be passed. He handed out Exhibit A, giving reasons for retaining the Cigarette Fair Sales Act. No consumers have asked for this act. Why? There is \$12 million dollars of taxes to the state involved.

Other opponents of HB 106 were Mike Parker of Pennington's Wholesale and Buttrey Foods who left Exhibit B and B1; Joe Anderson, Anderson's Wholesale in Havre, Exhibit C; Frank Lewis; Dan Carpita, Beaverhead Bar Supply, Dillon; Al Dougherty, Montana Coin Machine Operators' Association, Helena, advised that the government has monopoly laws - the fear of small operators is that they will be eliminated. Transferring of this bill to the department of business regulation is approved by him. Among other opponents were Ross Cannon, speaking for 400 retail grocers.

George Gierke, Gierke's Distributing Co., Miles City, opposes HB 106; Donald J. Bollinger, Service Candy Co., Helena; J. L. Pennington, Pennington's, Inc., Great Falls; William D. Royce, Sheehan Majestic, Inc., Missoula; Frank H. Bishop, Sheehan's of Helena, Inc., Helena; Edward D. Buckner, Service Candy Co., Livingston; Mel Barber, Montana Coil Machine Operators' Association, Billings.

The question of setting a retail price as well as a wholesale price arises.

Rep. Bob Marks, sponsor of House Bill 78, stated this bill basically is to suspend the utilization of revaluations on property under the cyclical appraisal plan until completion of the first plan of rotation. This way they would use the values that were in effect in 1974. If appropriate funds are allocated, the reappraisal work can be done in a year. At the end of the complete cyclical plan, utilization of the new values would be effective. This statute would keep any more lawsuits from being instigated because of tax practices using part of the new valuations. There were no other proponents or opponents.

W. J. Fabrega, sponsor of House Bill 51, explained that HB 51 is a referendum measure to put to the voters of the state in 1978 whether that state should put a lottery into effect. He doesn't feel the present gambling allowances are what the people of Montana mandated when they approved gambling in Montana. He thinks it would be fair to the people to have an opportunity to vote on the question of a state lottery. He does not advocate open casino gambling. A lottery has a controlled cycle. Removal of taxation on earnings would remove any reason for buying tickets on a black market. This is the safest, least damaging to our social system. This will be an answer to the people's desire for gambling as approved by vote.

HOUSE BILL 51

Dan Mizner, executive director of the Montana League of Cities and Towns, believes a lottery itself ought to be at the discretion of the local people. He wanted people to come to this hearing, but the weather deterred them. Many people think this bill would help at the local level. If this could be a means of raising money, there would have to be some control at the local level if this is imposed. A lottery would not require local policing by a local government. If this is approved, a state-run lottery would be approved by the League of Cities and Towns.

Opponents to HB 51:

Jan Brown, representing the Association of Churches, opposes further liberalization of gambling without a further study to indicate the possible results of this action. As a source of revenue, other state lotteries are relatively inefficient and are

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regressive since poorer people spend money on them. No state derives more than 3% of its income from lotteries. She urges this bill be killed in committee.

In executive session, the committee assigned HB 78 to the same committee that is considering HB 50 and HB 115 - Rep. Melvin Williams, chairman; Rep. Verner Bertelsen, and Rep. Peter Gilligan, Jr.

A subcommittee to consider HB 3 will be Rep. Edward Lien, chairman, Rep. Steve Waldron, and Rep. Harrison Fagg.

The meeting adjourned at 11:45 a.m.



REP. HERB HUENNEKENS, CHAIRMAN