

TAXATION COMMITTEE
45TH LEGISLATURE

The committee was called to order January 28, 1977, at 8:00 a.m. by Chairman Herb Huennekens, in room #434, Capitol Building, Helena. All members were present. Bills to be heard were House Bills 269, 321, 324, 333, 415.

Rep. O'Keefe, District #43, Cascade County, sponsor of HB 321 explained this bill would limit the department of revenue's obligation to compute or levy a tax on any new taxing jurisdiction created after January 1

HOUSE BILL 321 of each year.

321

This bill will replace HB 102. There were no other proponents or opponents.

Rep. Ora Halvorson, District #16, Flathead County, sponsor of HB 333, explained this bill proposes to raise the Montana inheritance tax exemptions to \$150,000 with an escalation clause of 3%. This tax is no longer valid when Montana is enjoying a surplus in its coffers. This was set up during the

HOUSE BILL Depression. Federal figures are \$250,000 exemption. Until complex federal changes are out, the \$25,000 exemption in

333

Montana at the present time is unrealistic.

Exemption for minor children is \$25,000 and \$100,000 to additional children. An increase of 3% each anniversary of this date after July 1, 1978, would be allowed for inflation instead of waiting around for actions of the Legislature. Does Montana need all of this tax revenue from this source when Montana is in good financial shape? This is a tax that people are beginning to object to.

Tom Winsor, Montana Chamber of Commerce, Helena, supports HB 333 as he thinks inheritance updating is worthy of consideration.

Rep. J. D. Lynch, District #87, Silver Bow County, sponsor of HB 415, explained this bill provides that no tax may be levied on buildings on public airport land owned by public entities and leased to private interests.

HOUSE BILL 415 Hugh Kelleher, Manager of the Helena Airport, Helena, supports HB 415.

415

Tom Mahan, Airport Authority for Helena Airport, advised the 1972 Constitution left it up to the discretion of the Legislature whether to exempt public properties. Taxation of any buildings leased to private interests, but owned by airports, should be exempt also. The purpose of this bill is to maintain the status quo and put property taxation back to where it was before the 1972 Constitution. Jet fleets came in and made airports spend a great deal of money on facilities, and so in order to pay for them, airports entered into leases with airlines and now charge them for landing based on weight of aircraft, 9½¢ per 1,000#, then the airlines turn around and add a charge to tickets for persons using the airlines. Great Falls and Billings have long leases with airlines based upon 15-20 year leases and they use those lease payments for

building new terminal buildings and if the state is allowed to come in and tax these buildings and facilities that are leased to other private businesses, is questionable. The Legislature is to decide whether to leave the law the way it is and go ahead and tax this property, or to specifically exempt airports.

Bill Utter, Great Falls Airport Manager, said it would make little sense to take the tax from airport concessionaires and put it into the municipality funds and then return them to the airports. It seems that sort of taxation would be a circuitous route for supporting the airports. Why should this money go through the tax system?

Dale Norby, Billings Airport, Billings, advised that the airport derives no locally generated tax money through the tax base. All of their money comes through established rates and charges, and now the state wants to tax their concessionaires. If these moneys were now paid in the form of taxes, they would come back to the airport and then they could say we are supporting the airports, but we derive no locally generated tax money for our airport. It is very important the status quo is maintained by being self-supporting.

Missoula, Bozeman and Helena have just ventured into quite extensive improvements and have had to enter into 20-year leases in order to obtain bonds. There is only a 2-mill levy eligible for funding an airport in the state. When this tax was levied, it was to go to cities and towns and would go into their general fund. We would like to capture it at the airport where it is to be used and keep it in airport funds.

Dan Mizner, League of Cities and Towns, Helena, supports HB 415. Airports are charged for their fire and police services. Property owned by the city or town will be taxed.

The airport is financed through a revenue bond which eliminates the need to have a county-wide mill levy to help support the airport. If this were not passed, it would be devastating to try to support an airport through bonding. Those in an airport authority don't want to have to get revenue from taxation.

Airport buildings are owned by the airport and are leased to the various concessionaires. This bill would not allow a property tax to be charged against their particular buildings which is the way they want it to be done.

Dennis Burr advised that the statutes say that if a government entity owns any property and it is used by a private organization, the private organization has to pay tax on that building just as though they owned it. The DOR feels they should be assessing the property the concessionaires are using and tax them for the use of that space. Everyone of those companies has in their contract that the airport authority will have to pay the tax. We don't have to tax the property used and owned by the airport authorities, and it doesn't affect any other buildings but airport buildings. If this bill is passed, they won't pay any tax. The DOR hasn't assessed these buildings at the present time. Leasing charges are in lieu of taxes. This bill excludes concessionaires from paying taxes on buildings owned by airport authorities only.

There were no opponents to HB 415.

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Jack K. Moore, District #41, Cascade County, sponsor of HB 269, explained this bill defines noncompliance coal and environmental beneficiation, and provides for reduction in severance tax on noncompliance coal, and exempts environmental beneficiation costs from contract sales price. This in no way would affect coal contracts in the state today. Some method of cleaning coal will bring it into compliance coal category with less than 1.2# of sulfur dioxide which would lower sulfur emissions on coal burned in the state today. It is costing millions and millions of dollars in trying to lower pollution. This is merely a compliance to try to clean this coal up. The only cleaned-up coal being mined now is at Decker which is down around .3 per pound SO₂. Under this bill the rate of tax is on so many BTUs and doesn't affect the 30% severance tax. Want to have noncompliance coal made into an environmentally beneficent coal, and to encourage this would reduce tax on this coal to 20%.

Rep. Fabrega, District #44, Cascade County, cosponsor of HB 269, thinks this will provide more jobs for Montanans. In order to qualify for the 20% tax rate, the compliance has to take place in Montana. We want to protect the environment anywhere Montana coal is burned. The pulverizing process is now done at the consuming plant, but there is the possibility that the process could be done in Montana, plus removal of the sulfur. It might be possible to make use of the scrubber which has to be installed where the coal is burned as they are very high energy users. Beneficiation can make noncompliance coal more environmentally acceptable.

Charley E. Brinley, President of Westmoreland Resources, Billings, stated companies using coal can either purchase compliance coal or install scrubbers which would add \$3 to \$5 per ton to their cost. See his testimony attached. He is in favor of HB 269.

Tom Winsor, Montana Chamber of Commerce, supports this bill. He feels that with amendments, it would encourage employment potentials in Montana, and at the same time desirably improve the environment.

OPPONENTS:

Mrs. Boyd Charter, Northern Plains Resource Council, Billings, stated this bill will substantially lower the coal tax, but would also create a whole new series of problems. The Legislature during its last three sessions has passed some very responsible laws in connection with all-out strip mining of coal. Because of this, Montana has grown nationally to be known for its solutions to long-term as well as short-term environmental problems through mining laws on coal. This bill would lower the coal tax from 30% to 20% for all compliance coal. This would cause a loss of water and when you clean the coal, you pollute the water. This causes an acid drainage, and would be an incentive to mine and wash higher sulphur coal. She opposes HB 269.

Gail Stoltz, Director of the Department of Cooperation for Montana Farmers Union, appeared on behalf of that organization in opposition to HB 269. See her testimony.

Sarah B. Ignatius, Northern Plains Resource Council, Billings, opposes HB 269, saying Northern Plains is totally in favor of cleaning up coal, but this bill begins to chink away at the 30% coal tax. See her testimony attached.

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James W. Murry, Montana State AFL-CIO, Helena, opposes HB 269. They are not opposed to development of the coal industry, but are opposed to reducing the tax on this coal. See testimony attached.

Al Sampson, President of the Missoula County Trades and Labor Council, AFL-CIO, opposes HB 269 as they support the current taxation percentage and do not want it reduced to 20%. See testimony attached.

Robert Witoski, Helena Building Construction Trades, stated 75 corporations have been paying their workers well enough so that they for once are getting a piece of the cake. They are behind the coal severance tax and encourage maintenance at the existing level.

George Hammond, Montana Council No. 9, AFSCME AFL-CIO, Helena, opposes HB 269. They feel the companies have a responsibility to pay this cost of providing compliance coal. Also urge that the integrity of the coal tax be maintained.

LeRoy Corbin, read a paper (attached) written by Jim McGarvey, Executive Director of the Montana Federation of Teachers, AFL-CIO and an International Vice-President of the American Federation of Teachers, opposing HB 269 and urging that the present tax level be preserved. See testimony attached.

Joe Meyer, President of Retail Clerks International Association, AFL-CIO, Local #57, and the Retail Clerks Tri-State Council which covers Montana, Idaho, and Wyoming, supports the current level of taxation on coal companies. Persons not directly connected with coal development are also affected by this industry and should be taxed accordingly. See his testimony attached.

Torian Donohoe, Environmental Information Center, Helena, opposes HB 269, saying Montana will lose a great deal of revenue. Approximately 61% of the coal produced in Montana is compliance coal and would fall into the 20% tax bracket. She feels this measure is the first measure to chip away at this tax.

Franz Ortloff, International Machinists, opposes reduction of tax.

Gregg McCurdy, MACo, opposes HB 269, saying most of Montana's coal is noncompliance. This bill allows deduction for processing costs; in addition to that, it lowers it into a lower tax bracket. Impacted counties receive 4% of the tax from coal mined in their county. Taxes on pollution control equipment would not make up for the revenue lost in taxes. They are in agreement that noncompliance coal is not going to decrease in the future, but there will be improvements. Counties don't want to lose this revenue.

Sen. Thomas A. Towe, Billings, advised HB 269 as originally written did not include the environmental beneficiation process. It seems that this approach is wrong. If the cost is substantial, the fair thing would be to use that as a deduction in order to get at the tax rate. If that were to go in, a request for all reclamation costs would be asked for. This is a cost that should be absorbed by the company. There is the question of what the process will include. The point at which coal is taxed is when it is dropped into the boxcar. There is the problem of where to allocate costs. A gross proceeds tax can be handled at the mine when the coal is sold. There is a problem that this might be a "foot in the door" for something else.

Rep. Moore closed stating that lowering the tax doesn't affect any of the present coal contracts and there hasn't been a new coal contract initiated since the higher taxation went into effect after the 1975 legislation. The purpose of this bill is to decrease the environmental degradation. Because of the shortage of natural gas, we are going to have to go to more and more coal use, and with compliance coal to burn shipped directly from the mine, it will make the environment stay cleaner.

Questions from the committee revealed that a loss of 7-10 % of the coal might occur in scrubbing operations. The processes for making compliance coal are in the experimental stages, and it may take five years to develop one that will clean up sulfurous coal. Some blending of compliance and noncompliance coal makes for acceptable coal. Some utilities are attempting to buy coal from various sources and blend it to acceptable SO₂ residues.

There is plenty of compliance coal in Montana, but it is not being mined at the present time. The government evidently holds the land and may put it up for lease at some time in the future. There is not enough research on clean-up of coal to know what could be done with various types of coal.

Only the coal subjected to an environmentally beneficent process would be put into the 20% tax bracket. Coal can now be mined with such a low sulfur content that it would be taxable at 20% without any processing.

Mr. Murry said they are in favor of the coal industry when it meets standards set and would be in favor of having coal cleaned up at the sight of mining. Freight rates are about \$2 per ton. Scrubbers would raise the cost of producing coal 20-25% and operating costs would be increased by 20-25% also.

HB 269 allows a 30% tax on coal as it comes out of the ground before any processing for beneficiation. Coal has to be sized and may be oiled, and big mines do not handle retail coal.

Rep. Dan Harrington, District #88, Silver Bow County, sponsor of HB 324, explained this bill provides that special assessments levied against the frontage feet of a lot may be levied against only the shorter side of a corner lot.

HOUSE BILL 324 In a platted block, the frontage is the shorter of the two abutting sides.

The committee recessed to an executive session.

HOUSE BILL 19 - Rep. O'Keefe made a motion that HB 19 be recommended AS AMENDED DO PASS. Motion carried unanimously.

HOUSE BILL 25 - Rep. O'Keefe moved that HB 25 be placed in front of the committee. Motion was accepted. He then moved that HB 25 be amended. Motion on amendments was adopted. Rep. O'Keefe moved that HB 25 AS AMENDED DO PASS. Motion carried.

HOUSE BILL 321 - Rep. Fabrega moved that HB 321 DO PASS. Unanimously adopted.

HOUSE BILL 102 - Rep. Lien moved that HB 102 DO NOT PASS. Unanimously adopted.

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Terry Cohea, researcher for the committee, is to do some research on HB 113. This will be in connection with the penalty section.

HOUSE BILL 168 - Rep. Fabrega moved to recommend that HOUSE BILL 168 DO PASS. Rep. Fagg moved to propose an amendment that this act should be effective until January 1, 1979. This motion to amend failed 7-10. Rep. E. N. Dassinger made a substitute motion that this bill be tabled and put before the interim committee for further study. Motion failed 1-16. On the Do Pass motion, it failed by a vote of 7-10. So HOUSE BILL 168, when the vote was reversed and accepted, was DO NOT PASS.

HOUSE BILL 288 - Rep. Lien moved HB 288 Do Pass. Rep. Fabrega made a substitute motion that HB 288 DO NOT PASS. The vote on this motion was 8-9. Because of a misunderstanding, this bill will be voted on again.

The meeting adjourned at 11:30 a.m.

Herb Huenekens
REP. HERB HUENNEKENS, CHAIRMAN

Josephine Lahti
Josephine Lahti, Secretary

For complete copies of any amendments, see the Standing Committee Reports in Book #1.