

TAXATION COMMITTEE  
45TH LEGISLATURE

Chairman Rep. Herb Huennekens called the House Taxation Committee to order at 8:00 a.m., February 1, 1977, in room #434, Capitol Building, Helena, MT. All members were present. House Bills 474, 412, 422, 576, and Senate Bill 9.

Rep. Peter M. Meloy, District #29, Lewis & Clark County, sponsor of HB 412, said this bill amends the property tax classification act in last year's tax bill which dropped from 33 1/3% to 7% on all business inventories. This was supposed to make no fiscal impact, but it dropped the bottom out of taxable values in some cities. East Helena lost \$167,192 in assessed valuation, of which \$46,000 was lost mostly to the city, in tax loss. Several other cities lost also. The losses were significant. This bill will correct that problem. See chart showing effects of selected industries tax reclassification effects upon county tax bases.

HOUSE BILL

412

HB 412 removes raw materials of nonrenewable resources from business inventories Class 7 and places them in Class 4. The products of all mines are specifically excluded from this new category. The effective tax rate, if assessment remained constant, would increase from 4.2% to 7.2%.

Dean Zinnecker, resident of East Helena, says the schools are overcrowded and they need new school rooms. He urges the committee move a "do pass" on this bill.

Steve Turkiewicz, MACo, Helena, supports HB 412. See his testimony.

OPPONENTS:

Stanley Lane, Manager of ASARCO at East Helena, is opposed to HB 412, saying this Class 7 rate helps to offset the expenditure of building a \$37 million sulphuric acid plant they had to install in 1975 to comply with environmental regulations. See his letter attached. They feel the property taxes on this plant will add enough taxes to the county tax rolls to compensate for any loss Class 7 classification of inventory has caused.

Bill Sternhagen, Anaconda Company, said HB 412 will cost Anaconda quite a bit of money. Anaconda is in a loss position and has been for several years. They haven't had time to assess the effect of all the bills presented. They oppose HB 412.

Rep. Meloy said ASARCO had been reporting their inventories very accurately. This act is to separate out a class. By adopting this amendment, a special class for non-renewable resources will be set up. They had been paying at 33 1/3% until two years ago. This bill will put us back into the same place we were two years ago.

The question of whether "work in progress" would cover "finished gas" production was raised. Raw materials were based as business inventories when the bill was passed last year because of the difference between extractive industry and the retail commercial kind of inventory. This put them all into the lower class last time.

Rep. Meloy said if the committee can come up with some way of restoring the tax base that was lowered last session, he would be glad to do something about it.

Rep. Jack Ramirez, District #64, Yellowstone County, chief sponsor of HB 422, said this act concerns Subchapter S corporations and this would bring Montana into compliance with the federal Tax Reform Act of 1976 by defining under what circumstances stock owned by spouses may be treated as though owned by one shareholder; by defining the type of trusts which may be counted as a shareholder; and by requiring that new shareholders reaffirm their election of the small business corporation option.

HOUSE BILL 422

Ray Dore, DOR, supports HB 422. He offers amendments on page 2, line 3, following "stock", strike "which" and insert "shall be treated as owned by one shareholder when it"; and on line 19, following "deaths", strike "shall be treated as owned by one shareholder".

Senator Carroll Graham, District #29, Big Horn County, sponsored SB 9. Dave Cogley explained this act which deals with the laws relating to gambling. It is intended to clean up some of the language in the gambling laws. This bill deserves some close scrutiny. It intends to clarify what a gambling game is. It is a recodification bill clarifying and reorganizing the state gambling laws. A summary is attached which explains the changes that were made.

SENATE BILL 9

There were no opponents.

The district court will have the authority over prosecution of card games gambling violations, and the city police and county attorney would enforce these laws.

Rep. W. Jay Fabrega, District #44, Cascade County, chief sponsor of HB 576, explained this bill amends the initiative "State Funded Homestead Tax Relief Act" requiring that the department of revenue calculate the rebate to each homeowner and issue a warrant to him upon receipt of the homeowner's application. Changes required to handle the Homestead Tax Refund Act would entail much additional work and equipment. DOR would mail 2 copies to the taxpayer, one for the DOR; the notice of tax relief and form necessary to be filled out and returned in order to receive the tax relief payment. This can be returned with the tax payment.

HOUSE BILL 576

Margaret Temple, President of the County Treasurers Association, supports HB 576. She said the owner would not have to declare this refund as an income unless he takes it as a deduction on his income tax bill. See her testimony.

May Jenkins, Montana Treasurers Association, Yellowstone County, said HB 141 was a nightmare. HB 576 would prove a very simple form and since this is a state refund, she doesn't think the county should be saddled with the job of the refunding process. See her testimony attached.

Dennis Burr said the DOR did not request this bill as is shown on the bill. It would require that a home owner make application by March 31. He thinks HB 576 creates more work for county treasurers since HB 141 has only one notice to be returned and HB 576 requires 3 forms. HB 576 makes the home owner pay his complete tax and then apply for a refund later. He recommends inserting Rep. Fabrega's proposed amendments. Under HB 576 each county's share and also the individual's share would be shown. HB 141 would provide each individual with a tax bill which is reduced by the amount of the state's share. If the money is figured for the county, it will require 112 checks to reimburse the counties for the share of tax they would lose under this relief act. It will take 400,000 checks to home owners to pay this refund, and this would be a significant expense. Two installments would be required, so it would be necessary to send checks twice.

Rep. Fabrega said there is so much similarity between HB 141 and HB 576. The department would be allocated \$200,000 for administrative expenses, but what would it cost the counties? If this requires two payments, this program could not be funded for more than two years.

Rep. Fabrega proposed an amendment saying that taxes have to be paid before refund can be granted. This was not mentioned in either bill.

Rep. Dassinger took over chairmanship of the committee.

Rep. Herb Huennekens, District #68, Yellowstone County, chief sponsor of HB 474, explained this act repeals the law, passed in 1975, exempting the salaries of Montana residents serving on active duty in the regular armed services from state income taxation. This bill has an immediate effective date that would allow its use this tax year. This applies only to earned income from military service. He thinks someone who is drafted should be entitled to more consideration, but because of a volunteer army now, military men should not escape paying taxes on their income. The federal government has now agreed to withhold state income tax from military personnel pay. Taxes had been uncollectible previously and that is the reason for this tax not having been collected.

HOUSE BILL

474

Ray Dore, DOR, supports HB 474. He advised the federal government will enter into agreements with all the states to withhold this tax. He offered an amendment inserting an effective date of December 31, 1977.

OPPONENTS:

Rep. Warren O'Keefe opposes HB 474, and urges the committee give serious consideration in opposing this legislation.

Bob Durkee, VFW, opposes HB 474.

Hugh Cumming, American Legion of Montana, Helena, opposes HB 474, saying it would be double taxation.

Rep. W. Jay Fabrega opposes HB 474.

Rep. Huennekens closed saying he would urge repeal of this bill in case of war. He would like the revenue department to clarify if there is a provision not to have double taxation in the tax laws. The question of double taxation should be studied.

It was brought out during questions that double taxation is effected through toll taxes, sales taxes, etc.

Bob Corcoran, DOR attorney, advised if there is a sales tax, it does not constitute double taxation to a military man. Sales tax paid in Nebraska would be deductible in Montana. If a resident of the state of Montana, and Montana income tax law is in effect, he would have to pay income tax to the state. However, if an individual is a resident of another state and claims residency in the other state, he would not be taxed in Montana. There was a great deal of discussion on dual taxation problems.

Howard Vralsted, DOR, said if a man comes here with the intention of becoming a resident, domiciliary residence, if that is his intention, he is subject to a tax from any sources. If a resident of another state, his out-of-state earnings would not be taxable in Montana. Voting rights of itself does not make for a resident without intent of being a Montanan. All Montana residents are taxable on their total income but there are some reciprocity agreements with some states.

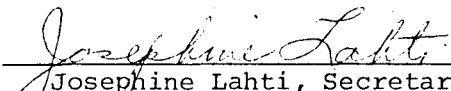
Mr. Corcoran further advised the Supreme Court has said it is not double taxation to tax a service man on his income in his state of residency and yet to require him to pay the sales tax in the state of his current domicile.

The committee recessed to an executive session.

House Bill 292 was considered. Rep. Vincent proposed amendments on retrofitting. Further action will be taken at a later date.

The meeting adjourned at 11:45 a.m.

  
REP. HERB HUENNEKENS, CHAIRMAN

  
Josephine Lahti, Secretary