

TAXATION COMMITTEE  
45TH LEGISLATURE

The Taxation Committee was called to order February 17, 1977, at 8:00 a.m. in room #434, Capitol Building, Helena, MT by Chairman Herb Huennekens. All members of the committee were present except Rep. Harrison Fagg who was excused. Bills to be heard were HJR 69, House Bills 398, 757, 773.

Rep. Lee Tower, District #18, sponsor of HJR 69 explained to the committee, that this resolution would go back and take a look at previous tax studies made by the Montana Taxation Task Force in 1966, and the Montana Fiscal Affairs Study finished in 1970, and do some correlation between them establishing a base that would better tied together than what has been done so far.

HOUSE JOINT  
RESOLUTION 69

There were no other proponents, and no opponents.

Rep. Dassinger took chairmanship of the committee.

Rep. Herb Huennekens, Billings, District #68, sponsor of HB 773, explained this bill is based on the idea that the functioning of the department of revenue is too important to the state to receive no support from the Legislature in the matter of fiscal policy, especially regarding appropriations. The fiscal committee has served the state well - is needed now and will be needed in the future. This is basically for the purpose of setting up a statutory committee to make sure that there is a balance during the period between sessions. This oversight committee will have the function of reviewing the rule-making process of the state. If anybody is aware of rule-making, it should be the Legislature. The committee would work with the DOR to check the legitimacy of rules before they are passed out to the public.

HOUSE BILL  
773

Bill Groff, director of the DOR, advised they heartily endorse this bill. It is as important a bill as anything you have. The fairness of statutes regarding collection of taxes needs to be studied. An understanding of Title 84, which is a considerably large volume, will help in their assistance to the DOR who have found that acts they have passed are sometimes vitally differently interpreted by people who vote for them. This bill would do the state of Montana great deal of good.

There were no Opponents.

Rep. Huennekens closed by saying an essential idea in creating this committee is to have an existing rules oversight committee. Some particular forms of government require a certain expertise. Monthly meetings held by administrative law committee who are legislators and in general review of regulations do a pretty good job. Taxation is a specialized subject and will need expertise. This is set up so the committee members will be those with a background in taxation. Taxation issues have as many or more rules as any other subject.

Rep. Huennekens resumed chairmanship of this meeting.

Rep. Ed Lien, District #49, McCone County, sponsor of HB 757, advised this is a committee bill. It raises the permissive taxation limit on sheep from 15¢ to \$1 per head for stock sheep. If owners of 51% of such sheep will endorse this type

HOUSE BILL        of legislation, it will be adopted voluntarily. This would go  
757                to pay government trappers who go in on a need basis and take  
                 out problem predators.

Bob Gilbert, Secretary-Treasurer of Montana Woolgrowers Association, stated this was agreed upon by sheep producers and the association. This would affect stock sheep only and would include 300,000-400,000 sheep, raising the levy from \$64,000. Most counties contract with the U.S. Fish and Wildlife Association for trappers. This is a self-imposed tax, probably 50¢ to 60¢ will be decided upon. This is in addition to the 4½ mill levy presently levied on sheep.

Don McKamey, Smith River rancher, director of the Montana Woolgrowers Association, advised there is a need for predator control. Predators have increased enormously in the last few years, and losses caused are hard to understand by outsiders. In the past year his ranch has lost 150 lambs, mostly to coyotes and some bear. After the lambs are shipped out, 28 ewes were killed. These losses, came to almost \$8,000. Coyotes now are killing rams which they don't usually do.

There were no opponents.

Rep. Lien closed by reading a telegram supporting this bill from the Carter County Woolgrowers.

During the first two weeks of hunting on the McKamey ranch, 140 coyotes were taken in one way or another. There is no contract between the Woolgrowers and the Varmint Hunters. Government hunters say one of the worst things you can do is to have poor shooting as a coyote once shot at will not be available for shooting again. If one dollar is not needed, a lesser fee would be imposed.

Rep. W. Jay Fabrega, District #44, Great Falls, sponsor of House Bill 398, pointed out that the "Rollback Tax" went into effect in 1973. When land changes use there is a tax rollback. There were a number of problems with the law which was enacted in 1973, and the philosophy has changed. It is the  
HOUSE BILL        kind of tax that creates real animosity towards government. We  
398                have enough problems without this type of situation being developed.  
                 Review of Title 84 might reveal a more equitable type of tax that  
                 could be worked out.

Stephen A. Birch, representing himself and the Western Properties Associates, stated this is an act to rescind the roll back tax, which is a one-shot tax temporarily used to discourage any use of land other than agricultural. He urged support for HB 398. See his testimony attached.

Tom Thomas, executive board member of the Economic Development Board of Great Falls, read a letter (attached) written by Mr. Steve Buttress, Executive Director of the Economic Development Corporation of Great Falls, asking that HB 398 be supported by the committee as the rollback tax is a detriment to proper development of city plans. It raises costs with no benefit to the community at all.

James A. McLean, Bozeman, attorney dealing with real estate matters, supports HB 398. The intent of the bill is to prevent good farm land from being subdivided and sold. Farmer sells to a subdivider who has to go through a long process and

during which time farming operations on the land are continued, then he may sell part of the land on which a house is built, then the assessor says the house buyer has to pay the rollback tax. If the subdivider has to pay the tax, he raises the price of his lots. He believes there should be a rollback tax on the farmer who owned the land in the first place.

Cliff Christian, representing the Montana Association of Realtors, Helena, thinks there could be a problem should this rollback tax stay in effect.

Glen Buss, a developer from Bozeman, advised bills controlling development have actually eliminated competition in providing lots for people. They are trying to hold any development to control it to such an extent that the developer has to put out more money. The average man on the street is the one who is going to pay in the end. All these bills are cutting down competition for private individuals who want to put something together.

Dennis Burr, representing the DOR, is in full support of this bill. The rollback tax was put on in 1973. They are sympathetic with the concept of penalizing people for development of good agricultural land. Explained the land of one local developer was put into an agricultural classification because there is no class for waste land, and was sent a bill by the assessor when someone built a house on part of the property. This rollback tax amounts to a great deal of money, and has no effect on the developer, and does not do anything for protection of farm land.

Bill Groff thinks the philosophy of the rollback tax is a fake from the ground up. He thinks it is wrong. Small farmers can be forced to sell their land because they cannot continue farming operations because of restrictions imposed by neighbors moving in and objecting to farming requisites.

Rep. Vincent has a bill coming in providing for payment of these nuisance tax suits by the prevailer. Groff does not think this will have any effect, but that the privilege of suing should not be removed as it is sometimes very necessary. HB 398 makes it almost impossible for a young person to buy an acre of land for a home. People want homes and will try to get them, but restrictions are too high. When this bill was written, it did not specify who paid the tax and as a result it places a lien on the land and the buyer has to pay the tax. No matter who pays the tax, it is going to be reflected in the marketplace. The Greenbelt tax slaps the small person in the face and gives the big man the break in taxes. Somehow that whole problem has never been resolved.

The question of a definition of agricultural land arose. The rollback tax does not show on a title report, and so buyers are ignorant of it unless the seller advises them there is such a tax. Insurance companies ignore responsibility of this tax.

An attorney general's opinion was that only when use was changed was the rollback tax imposed. The law is being used in some way that is not affecting the developers in the way in which it was intended.

Mr. Buss said the tax actually works in Gallatin County - he advised that only 2 or 3 developers out of 18 knew what was going on. The others thought it was the regular legal tax and most of them are being paid by the owner without knowing what they are paying!

Mr. Burr explained the rollback is based on the difference between commercial use of the land and the price paid for it as farm land when land is subdivided. The DOR is valuing this land as closely to the selling price as possible. Additional taxes are paid on the value of land when sewer, water, etc., are available to the lot; however, until the land is developed, the conveniences do not make a change in the tax of the land until a house is put on it as a subdivision.

The committee adjourned to executive session.

Rep. Severson moved that HB 757 DO PASS. Motion was adopted unanimously, 13-0.

Rep. Harrison Fagg moved that HOUSE BILL 728 AS AMENDED DO PASS. Motion carried unanimously. Reps. Waldron, Lien, Dassinger, Harrington were absent.

Rep. W. Jay Fabrega moved that HOUSE BILL 151 be recommended DO PASS. An amendment on page 2, line 1, striking "gross" and inserting "net" was considered which was withdrawn. An amendment was made on page 2, section 1 by inserting: "The amount of electricity and electrical energy generated, manufactured, or produced shall be the total energy produced exclusive of generating plant use." Amendment was adopted unanimously.

Rep. Vincent moved amendment #3 Do Pass. This amendment provided that 15% of the total collections be deposited to the earmarked revenue fund to the credit of the major facility siting earned revenue account, and 85% of the total collections go to the credit of the general fund of the state.

Terry Cohea explained the repealer 84-1606 is an exemption to the producer for electricity used to pump water. Amendment to the title stating "and repealing 84-1606, R.C.M. 1947" be inserted on page 1, line 9, was unanimously adopted.

The original motion of DO PASS was changed to AS AMENDED DO PASS, and unanimously adopted. Reps. Fagg, Dassinger, Harrington were absent.

Rep. John Vincent moved that HOUSE BILL 737 be recommended DO PASS. Rep. Lien moved that on page 10, line 7, the words "or boat" be stricken. Motion carried. Reps. Williams, Uhde, Hirsch, Huennekens voted No.

Rep. Fabrega made a substitute amendment that "house" be inserted instead of "home". Motion failed. All members voted No but Lien and Uhde. It was moved that this be tied to existing taxes on residence homes, and total income not greater than limits listed in Class 12. Income schedule be tied to residential homes tax deduction. On line 6, page 12, levy as a new class. Original motion was changed to AS AMENDED DO PASS. Motion carried.

Meeting adjourned at 11:45 a.m.

  
REP. HERB HUENNEKENS, CHAIRMAN