

MINUTES OF THE APPROPRIATIONS COMMITTEE
HOUSE OF REPRESENTATIVES
State Capitol, House Chambers

March 13, 1977
7:00 p.m.

Chairman Bardanouve called the meeting to order at 7:15 p.m. in the Chambers of the House of Representatives. The meeting was delayed as it was necessary to move to larger quarters due to the large number of people attending the hearing; there was also a problem in getting the sound system to work. Roll call was taken, and a quorum was present (roll call attached).

House Bill 85: An act to lower the tax assessment on livestock . . . from class three to class two. Representative E. N. Dassinger of District #50, Sponsor, said this bill takes livestock out of Class 3 and puts it in Class 2 for taxation purposes; and it also reduces the taxation on livestock from 33-1/3% to 20%. There are other items in House Bill 85 that are minor changes in wording. There may be some who would say districts cannot afford revenue loss; Rep. Dassinger said he has found that if you check you will find that the counties who will have a drastic change in valuation due to the change in cattle taxation have a low valuation on land. A high livestock tax was reasonable in the past because much of the livestock in Montana was owned by entities out of the state. Today there is also a portion of rental land which will make up the tax loss to those counties; this will more than compensate for the slight tax loss brought about by this bill. There will be less than 2% tax loss in the counties. Rep. Dassinger indicated that he had the tax loss difference for each county if any committee members would like the information.

Representative Elmer Severson, District #92, spoke to the history of H.B. 85. As a member of the Taxation Committee, he and the committee heard this bill together with Representative Bengston's 7% bill in order to get the feel of the committee as to what should be presented. The committee voted to recommend the 20% cow tax bill, H.B. 85. This passed unanimously out of the committee and it passed second reading in the House with a vote of 81-14. Rep. Severson explained further than this bill has little state impact but it does have county impact. It is asking for an approaching equality in taxation. This does not give us that, but it is closer than the 33-1/3% taxation. Equity would be at 10.5%, he said. To alleviate some county impact, Rep. Severson spoke of Public Law 94-565, passed recently in Washington; the Land in Lieu of Payment Act is not funded but it will be and it gives some county relief. The amounts of money which will be available to counties under this Act were discussed; some of them are sizable, Rep. Severson stated.

Proponents:

Alice Fryslie, Executive Secretary of the Montana Cattlemen's Association International, submitted the attached written testimony.

Stan Boone, Darby Montana, Vice President of the Montana Cattlemen's Association, said that one point he wanted to make is regarding the controversy heard about the tax we will be taking from the counties.

He pointed out that if those in livestock industry do not receive relief soon, they won't be there to tax. They have lost over 2,000 mother cows in Ravalli County in the last year, which are no longer on the tax rolls because the ranchers have gone out of business. This bill won't solve the problem, but it will help, he concluded.

Mr. Walt Anderson of Ekalaka stated they are not asking for special favors but for equal treatment. All other inventories are taxed in this state at lower rates than theirs. They feel all other inventories should be taxed at the same rate as their, or they should get a reduction.

Mr. Mon Stagen, Executive Vice President of the Montana Stockmen's Association, indicated he was glad to see such a good turnout and that he has names of a few people who are interested in testifying.

Mr. Walter Johnson, President of the Montana Stockgrowers' Association, presented the attached statement.

Jacky Shiplet, ranch wife from Livingston, spoke as a proponent asking for equal tax break with other businesses. They get the same price for cattle now that they received 25 years ago and they also pay taxes on 12,000 acres of land in three counties to raise these high-priced cattle. Ranching is their way of life, she said, and they don't want to see it destroyed by high taxes. She submitted the attached signed petitions.

Mr. George Bolt, Missoula, asked the committee to consider the plight of livestock growers and make a fair and just adjustment of taxes. In Idaho, he said, there are no property taxes on cattle. There are petitions with between 2,000 and 3,000 signatures on them asking for relief from this tax for the committee's consideration. The loss may be made up by property tax increases, which ranchers also pay, he concluded.

Mr. Zack Stevens of the Helena Farm Bureau rose in support and presented the attached testimony.

Testimony was also given concerning fixed costs of ranching by a gentleman stating he is a Director of Western Montana PCA which reviews loans for 632 borrowers. The average loss was \$11,300 last year. Fixed costs are as much responsible for this situation as any factor, and this bill speaks to one of the major fixed costs.

Mr. Phil Olson spoke in support. This bill makes taxes more equitable he said. Speaking to any lost revenue which this might cause, he suggested that the legislators should give thought to reducing their own spending. Perhaps it is time to tighten the belt of government; our belts are down to the last notch, he said. Legislators should look after the people they are elected to serve, Mr. Olson stated.

Mr. Edward Lenhardt, Yellowstone County, also spoke as a proponent. The land in his county is good productive land; because of changes and high costs, that area is changing from farm and feed lot land into an area of rural subdivisions. Taxes for farmers and ranchers should be the same as business inventory tax.

Miles Swan, Highwood, Montana, a previous legislator, spoke in support, pointing out that the legislature cannot afford not to give the relief

asked for in this bill. He spoke to the 7% tax on wheat and said they don't want to lose that but they don't want it raised to the 33-1/3% as they have on livestock. No one would advocate doing that; but livestock should be put in an equitable position with the rest of the state as to taxation. They are being forced out of the livestock business, he said.

Representative Bertelson, District #27, spoke in support, saying it is delightful to see such a turnout because it is telling the legislature what they have been trying to tell them for years; that is that ranchers need a break on livestock taxation.

Mr. Max Thornton, farmer from Yellowstone County, testified in support with the attached statement.

Mr. Tom Winsor of the Montana Chamber of Commerce stated that the Chamber reaffirms its position of reducing taxation on agriculture. His prepared testimony is attached.

Testimony in support was given by a member of the Board of Livestock, Glacier County Livestock Association, stating that they are aware of what the legislature is up against but one thing they must keep in mind is that if people want services, all people are going to have to pay their fair share of the cost. If only agriculture is going to be taxed out of existence, the agriculture section, there won't be funds to pay for any services in Montana.

Mr. George Rath, Roundup, Montana, also spoke as a proponent commenting that when the legislators see how many ranchers have traveled here in the middle of the calving season, it should tell them something. Because revenue will be lost to the state does not give anyone the right to perpetuate this unfair tax.

Mr. Edward Ochs, Golden Valley County, spoke in support also stating you may be asking why is the present formula for determining valuation on livestock so unfair? When livestock was put in the 33-1/3% valuation, most livestock was run on the open range. Taxation was based on the ability to pay in order to collect taxes from ranch landowners. There is no open range today; it required 35 acres per cow per year on his ranch, Mr. Ochs stated. He urged amending H.B. 85 to reduce the tax to 7% by 1981. This would allow counties to make necessary adjustments and provide adequate relief to ranchers.

Mr. Ed Nelson, Montana Taxpayers Association, stated that organization recommends a Do Pass for this bill. Regarding taxation in Montana, he stated that in 1975 the state taxable valuation grew by \$41 million. That amount was up from the prior year including total value of livestock decrease. In 1972, the total taxable valuation of the state was \$965 million; last year it was \$1,391,000,000. This year it should be \$1,500,000,000; and this should be able to absorb the 1.9% adjustment proposed by this bill.

The Montana Outfitters and Guides support H.B. 85.

Mr. Elmer Hanson of White Sulphur Springs stated he paid \$16,000 in property taxes last year and \$7 on every animal sold applied to his tax bill.

Closing the borders to imported beef was urged, " and then we could pay the tax we are now protesting."

The Chairman stated that the reason this bill was heard before this committee is that all bills having fiscal impact or an impact on revenue in Montana are being sent to the Appropriations Committee. That is why this bill is here. When the hearings on all bills are completed, the committee will set priorities on the bills and those with the highest priorities will be given a Do Pass recommendation while the others will not. The committee will not pass more bills than there is revenue to fund, the Chairman stated, as that is fiscal responsibility.

Many other persons rose in support of H.B. 85. Written testimony, petitions, and visitors' lists are attached to these minutes in support.

Opponents: None

Questions:

Concerning the bill passed in Washington which was mentioned earlier by Rep. Dassinger, Rep. Gunderson asked if the \$9 to \$10 million in federal funds is the entire amount or is that Montana's share? He was told that is the portion that is available to Montana.

Rep. Gunderson further said that he is not in opposition to the bill but he asked if ranchers who have 50% federal or leased land will benefit more from this bill than a rancher owning his own land? The Chairman clarified this, saying a rancher owning the major share of his land will pay more than those leasing land. He will pick up the heavier load and will not receive as much relief as those who have a large proportion of leased land.

In closing, Rep. Dassinger stated that the equity would be as far as money brought back to the counties which will be used for school funding. It will cost people in these counties \$3 million but will generate back \$9 million.

There being no further questions of discussion from the committee, the hearing was closed on H.B. 85.

House Bill 461: Creating Division of Forensic Science in the Department of Justice.

House Bill 819: Appropriating funds to the Department of Justice for the establishment of a Division of Forensic Science.

Chairman Bardanouve mentioned that H.B. 819 is the appropriation bill for H.B. 461, and therefore, the hearings for the two bills will be conducted together.

Representative Polly Holmes, District #67, sponsor, stated it becomes harder to get a conviction and make it stick against hardened criminals. They know how to outwit the system. The situation will continue to get worse until we spend money required to get accurate information. A successful criminal justice system requires (1) that a person must

be presumed innocent until proven guilty; (2) there must be valid evidence; (3) swift and certain justice through detection techniques. The slick criminals are getting away with murder. We know they are guilty but lack staff to get admissible evidence that will stand up in court. She spoke of an article from the Billings Gazette pointing up the problem. Rep. Holmes then distributed the attached budget for the Division of Forensic Science which has been worked on by many people, as has H.B. 461. The budget is trimmed to the bare bones and she urged the committee to look it over closely. She then submitted the attached letter from Douglas B. Kelley, Secretary of the Montana County Attorneys Association.

Proponents:

Representative John Scully, District #76, stated that as the bill is proposed, a medical doctor will head the department and this will save \$15,000. He will hire the administrative staff. The old attitude about FBI labs doing the job is no longer true. The time lag is too great in getting this information from that source; this lab is needed in Montana.

Mr. Chuck Riley spoke of the four to six months turnaround time required in getting lab information back to Montana. A regional crime lab is justified when the population of a state exceeds 500,000, along with other criteria which he described to the committee. Montana's population is in excess of 735,000 people. Mr. Riley set out the frame for establishing a forensic science system and the staff requirements. People are willing to pay higher taxes for better crime control system, he said.

Attorney General Mike Greely stated he had been the Chairman of the Montana Justice Project and this recommendation is a primary fruit of that study. The better the investigation when crime occurs, the better chance you have of not having the matter come to trial. Then if it does go to trial, the chances of getting a conviction are better, particularly in cases involving homicide. Mr. Greely spoke further on the differences of the lab we now have in the state and those things that will be handled by a forensic crime lab. One requirement of this bill, Mr. Greely explained, is that in death by accident, there will be an autopsy which will discover deaths that are not of natural causes. This is a much neglected area in Montana today. This is an important bill, he said, and asked that the funds be appropriated.

Jack Williams, representative for the State Police Chiefs' Association, stated they feel they need this facility and they support this bill. The original set up costs will be just for setting up the crime lab; after that, the cost no longer exists. If the committee sees fit to cut the appropriations, he said, please don't kill the bill, at least fund it sufficiently to establish the program.

Opponents: None

Questions:

Rep. Lynch asked where the crime lab will be. Rep. Holmes responded they don't know right now. Mr. Greely stated that discussion has not

reached the point of deciding on a location; the Board, when appointed, will make that decision. It will be centrally located if at all possible. The crime lab in Missoula has not made eastern Montana less likely to use it, he said. The important thing is to be sure the law enforcement officers know what the lab can do and then they will utilize it, regardless of the location. Rep. Scully further said that there is no location in the bill because there has been a problem with personalities in this area in the past which have created havoc and the past legislation dies. This time they decided they would see what the Board says after it is established.

Rep. Gerke asked about the director being a doctor and stated that there are a couple areas in the institutions where a particular kind of doctor is called for to be the director and they cannot always find the man with proper qualifications. He wondered if this would be a problem here also? Rep. Scully responded that a forensic pathologist in California has concern that money allocated is not enough to secure one competent in the field. Rep. Scully felt that if the bill was to pass, it should have the least budget possible. The doctor knows better than anyone what is needed in the way of appropriations and he would be allowed to hire his administrative staff. The salary that would be saved by this method could be used to buy equipment.

Rep. Ellis asked why is out of state travel so high in the budget? The problem will be that you won't have developed a lab system, Rep. Scully responded, and the money spent at the county level and the FBI reports are staggering. Some of the travel will be done by the board to establish the rules under which they will operate. County attorneys and coroners will be involved and lots of work will have to be done in establishing the original rules, which will require a lot of travel.

Rep. Holmes said that it is true that the travel will be for in and out of the state, but please take seriously the need for this. Every two years we see the price rise, not only in money but in the form of undetected crime. These people are liable to commit another crime if they go undetected.

There being no further discussion or questions from the committee, the hearing on House Bills 821 and 461 was closed.

House Bill 366: Appropriating matching funds for insect control programs. Representative E. Dassinger, District #50, sponsor, explained that the bill appropriates \$300,000 to the Department of Agriculture; the basis for the funding is one-third state, one-third federal and one-third local. This bill addresses only the financing, he said. Montana is in a drought situation and insect problems occur in drought times. This becomes the straw which breaks the camels back; without the financing to curtail the situation, we could see the infestations such as happened in the drought in the 1930's.

Gary Gingery, Administrator of the Pesticide Division of the Department of Agriculture, stated the department is in favor of this bill. The decision for the program is made at local levels between the USDA and that department. Entomologist from that department is present for the hearing and available to answer questions.

Gail Stoltz, Director of the Department of Cooperatives for the Montana Farmers Union, testified in support; her testimony is attached.

Representative Gene N. Ernst, District #47, spoke as a proponent and urged the passage of this bill.

Representative Paul K. Kropp, District #5, spoke of the grasshopper problems in Phillips County and urged the support for this bill.

O. G. Bain, Entomologist, Department of Agriculture, stated this bill would enable them to cost-share with the producers and counties to control infestations out of match at the local level. They don't know the extent of the infestation until the summer comes. Also it provides for treatment of infestations that look to be serious for the department. They may have to spray baby and big grasshoppers.

Opponents: None

Questions:

Rep. Halvorson stated that the \$300,000 won't touch the infestation problem if they fly in from other areas. The response was that the concern is with grasshoppers primarily, and mostly those that develop in Montana.

In closing, Rep. Dassinger said that they should not think what this bill will cost but what it will save. Unexpended funds would be returned to the general fund; so if there is no infestation, the money will be returned. If the committee cannot fund the full \$300,000, please amend it to what you can fund, he said; amending the bill in a manner that would allow it to be brought up in the next biennium was mentioned.

There being no further questions, the hearing on H.B. 366 was closed.

House Bill 65: Administrative law judge - amended to create a position of impartial hearing examiner to hear contested cases before licensing boards. Representative John Scully, District #76, sponsor, explained the problem which had brought about this bill and stated there is a need for an independent third party not affected by the boards involved to conduct the hearings. However, with other priorities facing the state at this time, Rep. Scully stated he feels this can wait for two more years.

There were no other PROPONENTS or OPPONENTS.

Questions:

Concerning the Department's claim of being self-supporting, Rep. Gunderson asked about this position. Rep. Scully replied that professional people did not bring in this bill. It was brought in by the Administrative Code Committee. Professional people have used their licensing authority to restrict the number allowed to practice their particular profession, and hearings conducted by an impartial third person are going to become a necessity.

Rep. Manuel asked if the funds involved are earmarked funds. Some are from the general funds, Rep. Scully answered. There is another bill that would allow uniform licensing structure among the boards. The Administrative Code Committee felt there should be a uniform, straight, flat fee for licenses, whether for doctors, hearing aid professionals, or whatever, to equalize the amount of money available to the different boards. The money would go to the general fund and would be earmarked for specific purposes, such as hearings.

The Chairman stated that some of these licensing boards do abuse their purpose and shut off competition; some serve a worthwhile purpose.

Rep. Manuel asked if the doctors raised their fees in order to do this same thing for themselves? The boards operate on a budget derived from licensing fees, Rep. Scully explained. There have been occasions where a board's own counsel acts as its hearing officer. There will have to be an administrative law judge to hear these matters of giving licenses to practice professions. This is a serious matter, he stated. If you revoke a professional's license, you have put him out of business, and sometimes this is done unfairly.

Chairman Bardanouve asked if it is equality you are after, would it be possible to assess the boards in proportion to their membership? Rep. Scully said yes, but what will happen is that they will not bring in cases and will use the money for other purposes. You would have to assess on usage. You see use of the hearings officers for other occasions. There is a need for independent hearings officers, and there is a lot budgeted for this purpose in agencies around the state. Having an administrative law judge would save having to budget for this in the various agencies. Again, the state will have to wait for this. It is not a high priority compared to other priorities this biennium.

The hearing was closed on H.B. 65, since there were no further questions.

The Chairman announced there will be meetings on Wednesday afternoon and Friday afternoon as well as having evening meetings. The hope is to complete the hearings on the bills remaining before the committee by the end of this week.

The meeting adjourned at 10:15 p.m. to meet again tomorrow night, March 14, at 7:00 p.m. in room 225.

Francis Bardanouve, Chairman