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HOUSE TAXATION COMMITTEE

46th Legislature

Rep. Herb Huennekens called the meeting to order at 8:30 a.m., February 1, 1979, in room 434, Capitol Building, Helena. All members of the committee were present as was staff attorney, Randy McDonald.

Bills to be heard were House Bills 363, 370, 371.

Rep. Verner Bertelsen, District #27, Ovando, sponsored HB 363 at the request of the Department of Revenue. The bill gives a definition of gross income which corresponds with the federal gross income definition.

HOUSE BILL Calvin Simshaw, Department of Revenue, said the problem
363 arose in counties and for individuals in filing a return,
 15-30-142 is where the Montana income tax code sets out
 filing requirements. Incomes of \$720 or more have to be
reported on an income tax return. The question of what is gross income is
the problem - it is not defined in the codes. HB 363 simply states "gross
income" is the adjusted gross income used for federal income tax purposes.

There were no opponents. Rep. Bertelsen felt no need to close.

Questions from the committee:

The definition now is federal gross income. Gross income is the income of any kind - includes income of all kinds. In administration of income tax laws it has always been that way.

Rep. Reichert asked what if the federal adjusted gross income is not taxable on the federal and one that is exempt in the state law, Montana adjusted income is equated with the federal gross income.

EXECUTIVE SESSION

HOUSE BILL 376 - Rep. Sales requested his bill, HB 376, be withdrawn. Rep. Robbins moved that HB 376 be tabled. Rep. Williams voted no; Rep. Harrington was absent. Motion carried.

HOUSE BILL 363 - Rep. Bertelsen moved House Bill 363 DO PASS. Motion carried unanimously. Rep. Harrington was absent.

HOUSE BILL 267 - Rep. Hirsch moved HB 267 DO PASS. He advised reserved right of entry is different from the conveyed right of entry. Counties cannot tax the reserved right of entry. The county has the burden of proving there is mineral value in the right of entry.

Rep. Bertelsen said otherwise someone pays for something with no known value.

Rep. Fabrega said the right of entry does not give you the right to the minerals. It is the right to search for minerals. Under the present right of entry law, if you have minerals under the land, you would have to pay compensation to the surface owners.

Rep. Dassinger made a substitute motion that HB 267 BE TABLED.

Rep. Williams asked if the right of entry is registered with the county. Rep. Les Hirsch told him it is registered with the county in which it is located.

Mr. Bruce McGinnis, Department of Revenue legal department, advised they are and they aren't. If you sell a piece of property and reserve to yourself the mineral rights and you make a deed saying grantor reserves mineral rights, and you want to sell them later so you sell them to someone else, if you want to there is a deed recorded which shows this as a conveyance with mineral interests. These are not recorded in the same manner that the bill in the Senate would record them. They are recorded the same way as all other real property deeds. There is no specific setup, but if recorded through deeds, then they are recorded.

Rep. Williams thinks we need a definite method in which rights of entry can be recorded on a certain property. On severed mineral rights is there a recording fee established.

Mr. McGinnis said the district court said the problem is that we were dealing with rights of entry which had been conveyed in the late 19th century. People had acquired rights of entry through inheritance. They had no information that there was anything worthwhile there. If there are minerals worth taking out this gives them the right to go on and take any minerals that are worth taking. The court looks at it in the light of you having property but it is not worth anything.

The committee voted that HB 267 BE TABLED.

The hearing on other scheduled bills was resumed since the sponsors were now present.

Rep. Jack Ramirez, District # , Billings, sponsored HB 370 at the request of the county treasurers. Rep. Huennekens was a cosponsor. This bill is an act to prorate tax on mobile homes leaving the state.

HOUSE BILL May Jenkins, Yellowstone County Treasurer said people leaving the state have to pay a full year's tax on their mobile homes and then they go to Wyoming or some other place and have to pay for another full year. They are willing to pay taxes for the months they are in the state. This might eliminate mobile home owners from sneaking out at night without paying any taxes.

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Rep. Vinger asked Mr. McGinnis what the Wyoming law was. He was not certain.

Rep. Johnson asked when taxes are due on trailers. Ms. Jenkins said on filing a moving date they would have to pay one full year's taxes. They don't refund, but would prorate. They would charge for one month. Mobile homes are personal property and get assessed in March or April. Mobile homes cannot leave the county until they come in and pay taxes.

Rep. Fabrega explained even though personal property assessment date is January 1, the assessor does not assess until March, and the property is assessed for a full year. This can be paid in two installments. They would pay that prorated figure. In line 11 "treasurer" should be changed to "assessor".

Rep. Ramirez, Billings, cosponsor of HB 371, explained this bill would allow a county treasurer to remove erroneous tax assessments from county assessment book after verification from the department of revenue.

HOUSE BILL 371 May Jenkins explained it is the treasurer who sends out the notices. An erroneous assessment can't be taken off the rolls and it shows for ten years that it has a delinquent tax. There are many duplicates and they have to go through the county commissioners to get them removed.

Bruce McGinnis, department of revenue, doesn't appear as an opponent, but seeks some clarification as to what the intent here is.

Rep. Ramirez said this bill would give county treasurers the power to remove these duplicate assessments. The question as to what it means - the county attorney has no expertise or knowledge in this area. Maybe strike section 1. Someone has to be given authority to correct these errors.

Rep. Williams asked why this shouldn't be in the hands of the county assessor rather than the county attorney. Ms. Jenkins said assessors go through the yellow pages or take the city directory - once they put that tax assessment on, they don't want to take it off. He has taxes on the books that cannot be removed nor will he check them out.

Rep. Williams asked Mr. McGinnis why does the assessor assess property that is no longer assessable by the assessor since it is under the department of revenue? He doesn't know.

Rep. Huennekens asked how general this problem is. Ms. Jenkins said it is very general.

Rep. Ramirez thinks this could be rewritten to request the county attorney to see if delinquent tax sale was imminent. He will write out a proposed amendment.

The committee will wait for Rep. Ramirez' amendment.

EXECUTIVE SESSION continued:

HOUSE BILL 128 - Rep. Harrington moved HB 128 DO PASS. Motion was unanimously adopted. Reps. Reichert, Nordtvedt, Underdal were absent.

HOUSE BILL 255 - Rep. Fabrega feels equity first, tax cuts later in connection with retirement benefits tax exemptions. Rep. Huennekens proposed a committee bill eliminating all retirement system funds from taxation. Taxes would be paid on the portion paid by the employer and any interest earned. All federal pensions, railroad and teachers, etc pensions would be exempt.

Rep. Vicki Johnson suggested removing all pension funds from tax free status. Rep. Dozier and Mel Underdal said there is a legal obligation of contracts with teachers, etc. Rep. Dozier suggested raising the \$3600 exemption figure up to \$4500 to protect pensions from the impact of inflation.

No action was taken on HB 255.

HOUSE BILL 252 - Rep. Fagg proposed any taxes saved to the old people in the home be deducted when the property is sold. Rep. Fabrega said the builder of a multiple housing unit for older persons is guaranteed 8% on his money and taxes are referred to persons living in the units.

Rep. Fagg moved that HB 252 DO NOT PASS. Rep. Huennekens is not in favor of the law. It is not applied individually. It does not enact application to the persons who need it because the bookkeeping is too complicated.

Motion of DO NOT PASS HB 252 was unanimous.

HOUSE BILL 63 - Rep. Dassinger moved that HB 63 DO PASS AS AMENDED. He then moved proposed amendments 1 and 4 be adopted. Amendments were adopted unanimously. He then moved that amendments 2, 3 and 5 be adopted. These were adopted unanimously. Rep. Nordtvedt moved amendments to 2 and 5, following 1983 in both 2 and 5 amendments, change "." to a "," and add "or within 30 days of termination of the federal interstate matching funds program, whichever comes first.". This amendment was adopted unanimously.

Rep. Lien suggested a notice of intent accompany this bill.

Rep. Huennekens said Rep. Nordtvedt's amendment would be written up clearly and would ask the highway department's opinion. Proposed deferring action.

HOUSE BILL 370 - Rep. Underdal moved that HB 370 DO PASS. Rep. Dozier moved to amend on page 1, line 11, by changing "treasurer" to "assessor". Motion was adopted unanimously. Rep. Underdal then moved HB 370 DO PASS AS AMENDED. Motion carried unanimously.


HOUSE BILL 60 - Rep. Sivertsen said the taxable value for commercial airplanes was \$2.2 million in 1978 - taxable value for general aviation airplanes was \$4.4 million. What is the comparison between construction costs just to accommodate air carriers and construction costs of regular airports. He was told it cost \$30 per square yard at the Missoula airport. At Roundup it cost \$3 per square yard - 10 times as much for an air carrier airport.

Rep. Sivertsen moved to recommend HB 60 DO PASS. Rep. Fabrega stated he would vote against this bill because it would hurt the airport at Great Falls. All other members voted Yes - motion carried.

Meeting adjourned at 11:45 a.m.



REP. HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary