

HOUSE TAXATION COMMITTEE
46th Legislature

Chairman Herb Huennekens called the meeting to order in room 434, Capitol Building, Helena, at 8:30 a.m., February 2, 1979. All members were present. Staff attorney Randy McDonald was present.

Bills to be heard were House Bills 269 and 407.

Rep. Dan Yardley, District #54, Livingston, chief sponsor of HB 269, explained this bill would remove the distinction for inheritance tax purposes between a surviving joint tenant who is a spouse and one who is not. Under joint tenancy \$4,000 inheritance taxes are paid on a \$200,000 estate. Last year's tax measure reduced this to \$200. One-half belongs to the survivor and one-half belonged to the one who died. Last session deductions were raised providing a major tax reduction on the death taxes people in Montana pay. HB 269 would put taxes back as they were before 1977. The present law penalizes people who have that type of situation.

HOUSE BILL
269

Opponents -

Tom Stohl, department of revenue, opposes HB 269 because the changes made in 1977 were actually part of SB 71, a result of an interim committee study done between 1975-1977 sessions. Much information was furnished by his office and one of the problems was setting an exception for a specific relationship only to have that exception completely changed in effect because of joint tenancies. The statute does not allow a non-relative to be a joint tenant at all. It was part of a basically 4-part overall tax relief bill. It changed exceptions allowed for all relationships, provided 50% marital exception in addition to the 50% allowed already. The surviving spouse pays only approximately 25%. Computation of tax was changed which turned out to be the largest single relief in that measure. When you exclude half of the property, you will not keep your exceptions steady. Statutes prescribed a set amount.

Does not have sufficient information in his office to give a real accurate fiscal note. He indicated a revenue gain of about \$900,000. In August, 1977, the supreme court ruled that in the cases wherein a mortgage or lien against joint property is held, that mortgage or lien is 100% deductible even if only one-half of that property is deducted. There is a bill in the Senate to change that. He had to attempt to put this into the fiscal note at the time.

Rep. Yardley explained this is a tax relief bill, the \$900,000 gain in revenue would be made up by this joint tenancy property. The spouse's tax relief will be provided, but if any other person is part of a joint tenancy, there would be an increase in tax. Joint tenancy was to help relatively small estates. You don't want to put all your property in joint tenancy - over \$200,000 don't put into joint tenancy. Suggested that if you can not pass the bill as written which really just establishes the same situation as before, at least allow a child to be exempt as was done two years ago. Proposed this as amendment to HB 269. Was basically trying to reinstate what was originally meant.

Rep, Huennekens said the original law in Montana did not give a particular amount of advantage to the spouse other than through the deduction. They no longer treated half the property as belonging to the decedent and half to the spouse. The spouse will still get 50% in addition to this and the \$40,000 a spouse is allowed.

Rep, Lien asked what the federal estate tax would be on a \$200,000 estate. Mr. Stohl said it would be very unlikely any federal or state estate tax would be due on a \$200,000 estate. Both the federal and state basic exemptions are \$175,000 - a spouse has considerably more.

Rep, Fabrega suggested including the children.

Rep, Dassinger asked how an estate over \$200,000 held in joint tenancy by a parent and child would be treated. It would be treated as belonging to the parent. When the child files state tax return, the child shows \$200,000 - you use \$100,000. After 3 years, the child is considered as owning half the estate. On a \$300,000 estate, the federal estate tax is about 30%.

Rep, Yardley said you would have to do this differently, for the federal estate tax purposes, it will be \$175,000 - over that figure the tax is over 30%. Reminded the committee they might include "issue" because that would include grandchildren.

Rep, Hershel Robbins, District #46, Roundup, chief sponsor of HB 407, said this bill would allow an individual to deduct political contributions from his income tax return in accordance with the federal internal revenue code for income tax purposes.

HOUSE BILL

407 Howard O. Vralsted, income tax division, department of revenue, said there was a problem as to whether to continue to allow political contributions to be deducted from state income tax returns. This bill would continue uninterrupted the allowance of political contributions to be deducted. It allows for up to \$100 for single persons or \$200 for married persons.

There were no opponents.

Questions from the committee -

Rep, Reichert mentioned the federal has a maximum of a \$25 credit.

Rep, Burnett mentioned if you don't continue this, there would be no deduction.

Rep, Fabrega said in accordance with the relationship of federal to state, it would be about a \$20 allowance for married persons.

EXECUTIVE SESSION

HOUSE BILL 267 - The committee discussed Exhibit A. Rep, Hirsch suggested the committee consider an annual recordation. The other procedure is a one-time recordation fee.

Rep, Dassinger said the railroad is having disagreements in different departments of their operation about whether to continue to pay taxes on their rights of entry.

Rep. Nordtvedt thinks this might be a judiciary committee problem. Suggests some kind of an interim oversight study.

Rep. Sivertsen questions the necessity for this form of taxation other than the fact that we don't want to diminish the tax base in certain counties. The Revenue Oversight Committee didn't come to any conclusion on this tax. Is there any way to implement and collect because you have to place a value on what you are taxing. If a basis for this could be established, might be able to do something about it.

Rep. Reichert thought they really erred in not appealing a court case.

Rep. Williams remarked this has been pushed from one session to another. There are two real important factors - the department of revenue wanted to repeal the law completely because it is difficult to achieve any kind of equitable approach. County assessors have been deciding the value in their own counties. Only about 1% of cases ran into any difficulty. Recommends there might be equity in a fee system.

Rep. Fabrega thinks the problem with the registration is that these are property rights - ones that are recorded in your name. Under the property tax system it has to have a value. If you fail to register, you have abandoned title and it is open to someone else. The department of revenue cannot tax equitably because of no way to value. Make it a non-taxable right of entry - it has been done. Might run into unconstitutionality and the problem of determining value. Thinks the decision of the committee is whether they want to relieve the department of revenue from trying to collect a tax that is technically uncollectible or to leave it there and let those who want to pay do so?

Rep. Huennekens would have been willing to drop the whole matter in the interim committee - most of the committee felt 'let's forget it'.

Rep. Sivertsen agreed with Herb. He can appreciate the problem. It is a means of a loss of tax base in his county - it is a loss to several counties that is substantial - doesn't want to put a burden on the counties. The law has not hurt us at this time. Understand the problem the department of revenue has. It may be best just to leave it on the books at this time.

Rep. Underdal wondered about the value of coal under land that cannot be mined.

Rep. Dassinger recommended giving this to the judiciary committee.

Rep. Bertelsen remarked mining companies are delving into property rights - would be an insurmountable task.

Rep. Hirsch doesn't have any fears with the fees system since it would not make for confiscation of property. People may lose their mineral rights. A tax shows a continuance of title. If HB 267 were repealed and another means set up, continuance of title would be protected. Rep. Williams moved that Rep. Hirsch be allowed to prepare an approach to this matter with the potential of a committee bill.

The committee approved preparation of a proposed committee bill.

HOUSE BILL 407 - Rep. Williams moved HB 407 DO PASS. The deduction for political contribution would be \$100 per individual. He recommended a DO PASS with the possibility that the committee staff attorney may find simpler language. Motion carried with Rep. Burnett voting No. All members were present.

HOUSE BILL 210 - Rep. Sivertsen proposed a committee bill be prepared on appropriating funding of the Tumor Registry.

Rep. Nordtvedt is still not sold on the programs, but is sold on the notion that we should increase the cigarette tax.

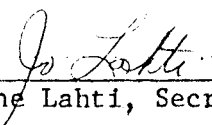
As a substitute motion Rep. Lien moved that HB 210 DO NOT PASS.

Rep. Bertelsen made a substitute motion for all motions pending that HB 210 BE TABLED in order to be able to consider this later because of the intent to support the Tumor Registry. Reps. Lien, Sivertsen and Vinger voted No; all other members approved. Motion to Table was adopted.

Meeting adjourned at 11:30 a.m.



REP. HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary