

HOUSE TAXATION COMMITTEE

46th Legislature

The meeting was called to order by Representative E.N. Dassinger, Vice Chairman, District #50, Forsyth, on February 19, 1979, in Room 434, Capitol Building, Helena. All members were present. Randy McDonald, Staff Attorney, was present.

House Bills 275, 639, 640 were to be heard.

Representative Hershel Robbins, sponsor of HB 257, from District #46, Roundup, after having the Chairman ask for testimony from proponents and opponents asked that HB 257 be Tabled. There was one opponent - Dean Zinnecker who withdrew his opposition.

Rep. Edward Lien, District #49, Wolf Point, sponsor of HB 639, passed out an amended copy of House Bill 639, saying the latter bill because of previous administrative problems would change the method of assessing livestock to the owner from the present estimated inventory method and establish
HOUSE BILL January 1 for assessment of livestock.

639 It also allows counties to prorate taxes when stock is moved from one county to another; puts more teeth into the migratory law; and has a section on feedlot cattle. This is based on the law prior to the inventory method of assessment and taxation to make this more workable and tighten things up.

Ken Coulter, Garfield County Assessor, Vice President of MACO, Brusett, MT., explained it was all but impossible to refund taxes for overpayment of taxes. Rebates are a lot of extra work and trouble. Supplements had to be written up for those who had more inventory than they had reported the previous year, and people do not like getting three assessment notices a year. He supports the amended version of HB 639.

Ed McCaffree, Rosebud County Commissioner, Forsyth, supports amended HB 639, saying the present system was an administrative nightmare, especially in connection with rebates.

Bob Hoffman, County Assessor from Madison County, has been in the livestock business nearly all his life earning his living that way, and feels harrassed because of having such detailed forms to fill out. As an assessor, he finds that out of 56 counties polled, 48 assessors wanted to go back to a lien day for assessment. The present law is impossible to enforce. He gave the committee a copy of the assessment forms livestockmen have to fill out. The report is based on the previous year's inventory and couldn't be checked. Rebates affect the Treasurer's office and Clerk and Recorder's office, and there is no way the Commissioners can estimate this. He supports HB 639 as it is amended.

Marvin Barber, Big Timber, Sweet Grass County, supports HB 639.

Charlotte Edwards, Broadus, MT., representing the Clerk and Recorders Association, and also speaking for herself, substantiates what previous proponents have said. There is no legal way to budget for refunds, so they are acting illegally.

Alice Fryslie, representing the Montana Cattlemen's Association, Agricultural Preservation Association, and WIFE, supports the amended version of HB 639. See her testimony.

Chris Johanson, Montana Farmers Union and National Farm Organization supports amended HB 639 and urges favorable consideration.

Edith Cox, Montana Association of County Treasurers, said the County Treasurers are having problems under the present system, and they support amended HB 639.

OPPONENTS:

Mons Teigen, Montana Livestock and Wool Growers Association, Helena, opposes HB 639, saying the average inventory is working and can work better. They support HB 640. See testimony attached.

Fred A. Johnston, Montana Stockgrowers of Great Falls, Vice Chairman of the Taxation Committee of the Montana Stockgrowers, is a tax attorney in addition to ranching and assisted in drafting legislation which is presently on the books. Stock cattle had been assessed on March 1 and feedlot cattle taxed on an average inventory. This didn't work because cattle could be taxed twice when put into a feedlot.

If the present bill is passed, the producer who carries his calves over to January, although he may only own them for a few months, would be taxed for an entire year. His neighbor who calves in February and March would not be taxed for an entire year, and if he sold them, would pay not tax on calves at all. Correspondingly, if he restocked in the summertime, he wouldn't have to pay any tax. Average inventory method worked to take care of this. A number of producers did not use the average inventory method, and some overpaid taxes. The burden of figuring out the problem of refunds for overpayments was placed on public servants, and he assumes they were in office to do the work required by law. The law does not provide for a reserve to pay for any refunds. HB 640 will provide for this reserve.

Under the revised HB 639, feedlot cattle are not returned to the average feedlot assessment. If somebody runs yearlings and sells in July under this bill, he would be taxed for 12 months and if in a feedlot, he would be taxed for 6-7 months. Why cattle on the range should be taxed for a year and cattle in a feedlot taxed only 6-7 months is not fair. Somebody carrying calves past Jan. 1 that are over 9 months old, although sold in early part of the year, would have to pay taxes for a full year.

Every taxpayer is required to submit a list of his personal property each year. In addition, a livestock producer is required to provide an inventory. Section 3 would increase the penalty to 10% of assessment valuation for livestock. If

\$100 is adequate for every other taxpayer, and you are going to raise the penalty on the livestock producer, why not raise it on everybody?

Bob Lenhardt, Billings, operator of a farm and feedlot in Yellowstone County, owns the cattle in his feedlot. He also runs a small range operation in Musselshell County, and is involved in the migratory assessment of cattle moving cattle between the two operations. He could not satisfy the assessors, but when he went to the inventory method, he filled out the assessment form showing the time spent in both counties and has had no more problem. He thinks the inventory tax is more fair as they are taxed on the time that he owns them. It involves more bookwork to keep an inventory, but since he has to keep an inventory for income tax purposes, it is not difficult to provide an assessment inventory. He thinks rather than being a cost problem it has been a plus and he has been able to operate his business better.

Ed Grady, Canyon Creek, MT, runs a cow-calf operation, and also carries over yearlings, and has a feedlot operation. When cattle are placed in a feedlot, he feels they come under double taxation. Feels his neighbor should be taxed the same as he is. Cow-calf figures don't change that much unless buying and selling cows. Some yearling operators were not paying taxes. The inventory procedure picked up a lot of cattle. Urges the committee to kill the bill.

Ramon S. White, County Assessor from Gallatin County, Bozeman, left a letter in full support of HB 639. See attached.

A Montana Assessors Association representative from Virginia City, MT., supports HB 639.

Dean Zinnecker, Director of Montana Association of Counties, supports HB 639.

Representative Lien closed saying that going back to a lien date will make assessment easier for ranchers and more understandable. Amended HB 639 does eliminate double taxation. If you estimate cattle every three months, and then own them longer, there are provisions in the law for taxation. There is no handle on migratory cattle - no way of auditing cattle - but can fine him \$100 under the inventory method. Under the old law migratory stock could be checked. Under the present system, the owner is paying taxes on his last year's number of cattle and not on the stock he has now.

Questions from the committee: - Rep. Williams asked Mr. Slattery, Department of Revenue, if they have a serious problem in assessing cattle. Mr. Slattery said to administer the present law the department has developed forms, but ranchers don't want to keep books and the assessors don't want to do the work. He thinks they have thoroly informed the assessors what the law says through workshops, and that the assessors position is to administer the law and not to say whether it is good or bad. January 1 is the same date other inventories are assessed on.

Rep. Hirsch questioned number of rebates in Yellowstone County in a year, and was told the estimate is based on the average of the previous 12 months. Out of 392 livestock assessments in Yellowstone County, out of the 165 that had been worked, there were 97 entitled to rebates amounting to over \$15,000 total.

Any county not having a problem with rebates is acting illegally, and since the tax had been paid into certain tax entities, rebates fouled up several budgets when taxes paid into them had to be recalled. People do not understand getting a third property assessment notice that must be paid within 30 days or the assessor can attach the property. Rep. Hirsch cannot understand how you can't provide an inventory on the previous year's stock.

Rep. Williams asked Mr. Coulter why refunds couldn't be credited on next year's taxes. Dennis Burr, Department of Revenue property tax administrator, advised if an individual would accept a credit, there wouldn't be any problem, but if he wanted a rebate, it would have to be paid since a rebate is required.

Rep. Gilligan mentioned that on another bill cattlemen wanted to be taxed as other business inventories are and now want to be taxed differently. Distribution of taxes is what bills are trying to do on the time cattle are owned by each taxpayer.

Rep. Huennekens asked Mr. Johnston how he recommended remedying this situation. Johnston said HB 640 deals with this problem and maybe it could be amended so the adjustment could be made on the second installment. Rep. Williams asked Mr. Johnston if he felt that the endeavor to create more equity in livestock taxation has been accomplished. Johnston said cattle have been taxed proportionately for people who have owned them during the year under inventory.

Rep. Huennekens assumed chairmanship.

Representative Ed Lien, sponsor of House Bill 640, said if the amended HB 639 does not get adopted, HB 640 would be needed.

HOUSE BILL Fred Johnston agrees with Rep. Lien that this is a sound bill.
 The need for a reserve from which to pay rebates has been a
640 very great problem. He suggests an amendment to permit the
 adjustment of the second installment requiring additional tax
or refund where personal property is a lien upon real property. Where tax is
not a lien, reserve fund would be necessary. Penalty provisions contained in
both HB 639 and 640 are too high compared with that of other taxpayers. Under
HB 639, it is up to the assessor to enforce penalty and under HB 640, it would
be judicially administered. He prefers it be judicially enforced.

Robert A. Lenhardt, Billings, feels HB 640 will correct problems that assessors have, but feels a certain amount of resentment because of the proposed penalty suggesting that cattlemen are more dishonest than other businessmen and he doesn't feel this should be in the law.

Ken Coulter does not feel the inventory method on the books is going to be a workable or fair method. Why not get a rebate whenever something is sold before the end of the year after having paid taxes on it based on a year.

Robert Hoffman opposes HB 640 as a primary solution of the livestock problem. HB 640 addresses itself to some problems, but not all of them.

In further answer to questions from the committee, Charlotte Edwards does not feel it would be fair to tax the local individuals in Powder River County to

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refund money that had been forwarded into state funds. There is no way money is held in abeyance, so would be paying out money collected from local taxpayers. It is impossible to refund credit under this bill since counties are not allowed to issue warrants on certain accounts. She does not think establishing a reserve fund workable. Double taxation funds are not forwarded to the state.

Rep. Lien said he has mixed emotions on HB 640. Adjusting the second installment is great if it is attached to real estate. Some counties would have to have a reserve fund to provide for payback, but payback requirements could exceed that fund since tax values are figured on the previous year valuations. Second installment adjustments could miss a lot of cattle.

Rep. Sivertsen suggested going to a tax credit and forget about setting up a fund. It was felt this would work fine if attached to land, otherwise you would have to be given a refund. Could allow a credit on next year's taxes, but would have to have a fund for persons going out of business and for those situations where you could not make an adjustment.

Question of why feedlot cattle are assessed on an inventory basis and have been for a long time, and range cattle on a lien date, was raised. This makes for a conflict. The assessor gives the county commissioners a valuation on all property so any type of tax credit or rebate fouls up budgets.

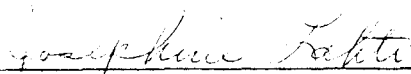
In answer to Rep. Underdal, Mr. Hoffman said he does not feel they are doing a better job, but are having to do much more bookwork and paperwork. They have checked cattle in the field under the lien date method, but it is not possible under the inventory method. Got a lot of migratory cattle under the inventory assessment method. Marvin Barber advised their records showed a decrease from 40,000 head to 32,000 head of cattle. Rep. Hirsch said we are in a liquidation phase of the cattle cycle. County report figures are put into a computer in order to make an annual report for the state, but cannot check by sales or inventories who sold what from what inventory.

Rep. Dassinger asked about establishing values for cattle, and Mr. Hoffman explained the values are established from averaging sales through December 1 to November 30 of the previous year. This year cattle were valued at \$50.50/#100 market value for all cattle. This formula has been in effect since 1968. The numbers are an estimate by the assessor.

Meeting adjourned at 11:00 a.m.



REPRESENTATIVE HERB HUENNEKENS, Chairman



Secretary