HOUSE TAXATION COMMITTEE

46th Legislature

Rep. E. N. Dassinger, Vice-chairman of the Taxation Committee, called the meeting to order at 8:30 a.m., March 3, 1979, in room 434, Capitol Building, Helena. All members were present except Reps. Harrington and Lien. Randy McDonald, Staff Attorney was present.

Bills to be heard were HB 821, HB 839, HB 744.

HOUSE BILL 744

Rep. Kenneth Nordtvedt, Jr., District #77, Bozeman, chief sponsor explained HB 744 would set percentage rates to get tax rate from 12% to 8.55% in a general statewide reappraisal to prevent local governments from gaining a large windfall revenue - it readjusts the percentage to compensate for general reappraised value. This applies to residential properties. The old appraisal was at 12%; the new appraisal will be taxed at 8.55%. Makes this a permanent feature. Whenever there is a general statewide reappraisal of this class of property it will be the same afterwards so that the mill will bring in the same value as before.

Ed Nelson, Montana Taxpayers Association, Helena, supports this bill. Some of the effects of reappraisal were the old state board of equalization was succeeded by the department of revenue. Reappraisal has been going on since about 1957 and reappraisal values have been going on the books at various times. We are only talking about one class of property - others are reappraised annually. Land and land improvements is what we are talking about and this is not reappraised annually because it is too hard to do. It is a large portion of the tax base. They were essentially attempting to reach 80% of full and true value. Market value is the means of appraising now. What is "market value"? The Realty Transfer Act was passed and as a consequence records have been kept on the sales on this kind of property and so they have a notion of what market value is from sale prices reported. They are not at market value, they are at 55-60% in terms of this class of property. Under the reappraisal process which is not completed, if you attempt to go market value, you have a gap there. Can't get it on the books until at least one year later. Trying to get it to 80 to 80+% of actual market value in this class of property.

When you deal with the old 12% classification, you arrive at 9.6%. One of the reasons for this difference between 9.6% and 12% is a 25% jump in counting anything you do in terms of reappraisal of property. We are quite concerned about using the 12%. If you double the value of property, you double income to local governments and cost to property owners. By the time all the work was done 8.55% would be simpler because if the values went up, you managed to lower the multiplier.

Their continuing concern with the continuing reappraisal with that value being used for local governments - to have to derive something that will protect the taxpayer statewide by finding a basis that will be a framework for equity. Very strongly support doing something like this.

Opponents -

Dean Zinnecker, Montana Association of Counties, Helena, is not an opponent to the concept. The bill is assuming that every county is going to end up with a windfall profit. This destroys inflation entirely. You keep hearing the fact that local governments are going to receive a windfall because of reappraisal - this doesn't mean they are going to raise taxes. They are not going to increase revenues. The question is whether you want to allow a state agency to set tax rates as proposed in this tax bill. Setting tax rates should remain with the legislature.

Rep. Nordtvedt closed saying basically when there is a general statewide reappraisal, have to apply that to all the state. In a general reappraisal, the average tax collected per mill on a given body of property would remain unchanged. This does not wipe out the tax growth in addition to new property. It stops the reappraisal from suddenly raising taxes and would stop those sudden windfall changes. Local Governments have to deal with inflation. There are two ways out here - through those mills that are not statutory. You should do so by changing the mill levy. Taxes on property can be changed by appraised value - changing appraised value and changing mill levy. Pretty much restricted to changing the mill levy. If went to a system like this every two years could make a change to the mills allotted to various budgets to take inflation into consideration. Thinks it would be too bad if real estate values went up 12-16% when general inflation is only about 9%. If local governments could have the benefit of increasing real estate rates, they could expand budgets. Under the present law the state is on a 5-year cycle for reappraisal. Have to make an adjustment in taxable percentages so that windfall profits are not allowed.

Rep. Huennekens asked how the counties propose to deal with inflation? By fixing the yield for the next two years, will local government be in a bind for the next 2-3 years because of no adjustment for inflation? Mr. Zinnecker said they will be in a bind in the road and bridge budgets. Local governments have not been able to maintain the base now. Either way you go would be a solution. Would rather see inflationary factor be built in.

Rep. Huennekens asked if cities that use the all-purpose 65 mill process wouldn't have a problem until the legislature meets again. Rep. Nordtvedt said there are several things that could be done even with this kind of proposal. There would be real growth in the taxable growth in that period of time. The all-purpose mill levy provides about half of a local government's income. Payments from other governmental sources, fees, licenses, class 15 property. The class 11 property we are discussing here is only a small portion. Land property tax base produces only about half of the dollars. In Great Falls one of the things they are talking about is closing some of its schools. Problems have been going on for about 5-6 years as to where they will be producing less services. Government should have to bite the bullet.

Rep. Huennekens asked if there wouldn't be a more appropriate approach than an increase in housing values and making allowance for inflation by knocking out the overall growth in inflation. Rep. Nordtvedt said there was a 10% inflation factor in 1970.

Rep. Bertelsen asked rather than the state being allowed to raise permissive mill levies, wouldn't it be simpler to give the commissioners the opportunity to reduce mill levies by waiving ceilings now on all these factors if we don't allow any inflationary formulas. Mr. Zinnecker agrees entirely.

Rep. Williams - along the same lines - seems to be putting it in reverse action. State should establish basic legal standards and what standards would be set at and what percentage would be set and let the commissioners and school districts work with mill levies. Rep. Nordtvedt - Valuations of Montana counties get an indication of this. Two years ago before reappraisal values were put on, there was a $1 billion dollar evaluation, today it is $1.391 billion. Valuation grew from $1.391 billion to $1.466 billion during one-year period. Mill levies have not gone down when valuations went up. Forty mills on the taxable value of all property is mandatory level for public schools. If you double the area of that collection, you are doubling the collection. Do you want to put the burden of public schools on the local property? Rep. Williams said the legislature could change that 40 mill levy. Rep. Nordtvedt said you have that option if you want to run that 40 mills down. Should have a maximum they can't go by. Because of severance taxes, there is a great increase. 40 mills fully funds everything Rosebud needs because of severance taxes. Whatever formula or framework you pick, the same kind of protection is built in as in 70.

Rep. Williams said there are two things concerned with inflation. Counties where the values go down - if flexibility is at the local level it is more reasonable. Rep. Nordtvedt said where you have reduced values, need to recognize the problem of inflation, but wouldn't think the government should get any advantage because of inflation as does anyone else.

Rep. Reichert asked if a tax agency should set tax rates. Bill Groff said if defined as a specific recommendation, would have no objection - otherwise wouldn't like it. Rep. Reichert asked if 50% of the money raised in communities is raised in property taxes. Rep. Nordtvedt explained the DoR statistical department has issued a report showing the amount of funding that is available to cities and towns and counties other than real estate. About 55% of all expenditures were related to schools and county governments. You can get a real good look at figures they have compiled.

Rep. Fabrega said even with a 10% growth, in order to balance out those areas where values went down, they put in for budgets of 105% of previous year's budget and actually they had to exceed statutory mill levies if they were there. Allowing either a 5 or 7% or a percentage that could be plugged in to allow for inflation must be considered. Mr. Nelson advised there was a formula put in that permitted them to go in to 105% whether or not they had an impact. We don't know when you are going to hit that impact. When is there going to be another jump in terms of reappraising values? Maybe the legislature wants to make that a fixed time. Implications of law are that you will go to reappraisal.

Rep. Dozier said we are talking about percentages - have to get down to flat dollars to tell local people. Mr. Nelson said we are dealing specifically with the fact in terms of valuation growth (having that all the time) is that area that is causing problems. We are not using normal growth. You are also going to pick up inflated services, too. Rep. Nordtvedt says we are letting the department of revenue set the rates. The new section sets it out how rates are determined. There is no discretion given to the department of revenue to determine tax rates. Page 8, line 4 sets forth requirements for periodic valuation of taxable property at least every five years.

Rep. Huennekens asked if it would be possible to use the revenue oversight committee in an advisory capacity arriving at inflation values. Adjusting for future years. Mr. Nelson said if you want to pick a specific devise to support, he thinks the major thing is how do you protect this whole game - how do you assure that the taxpayer isn't going to get hurt. How is government going to get along. Can't tell when the use of the reappraised values will go into effect. Mr. Mantz Hutchinson, DoR, said they go into effect in 1983.

Rep. Huennekens took over as chairman.

Rep. Huennekens said the sponsor, Ann Mary Dussault, asked to have HB 839 tabled.

HOUSE BILL 821

Rep. Kathleen McBride, District #85, Butte, chief sponsor of HB 821, explained this bill creates a property tax which would put new business property at a taxable value of 2.8% when located in an economically depressed area. This is similar to new industry coming into the state. She passed out some amendments. Amendment #3 specifically addresses a business entity coming into an economically depressed area which is defined as an area having an 8% unemployment rate for 3 years. This may need a little work on it. This is to create an additional positive factor for a new business. The fiscal note is unrealistic - it is impossible to determine.

John Lopach, Director of the Office of Commerce and Small Business Development, explained the Montana Development Plan identifies 13 counties in the state. Unemployment higher than the 1977 rate is the criteria used - out-migration is used - has employment growth during 1977 been slower than the state rate - has unemployment compensation been higher than the 1977 average - is it above the 1976 level? The 13 counties used were Big Horn, Carter, Cascade, Deer Lodge, Glacier, Granite, Lincoln, Mineral, Mussellshell, Park, Powell, Liberty and Silver Bow. They identify job capacity between the present and 1990 and see that 26 counties will have to create substantial number of jobs more than what the department believes will be available. The counties will have to create 22,500 jobs - big job in job creation. There are 12,000 jobs in the state that relate basically to exporting sectors that seem to be in jeopardy. Jeopardy is created by natural resource occupation being reduced because of depression or difficulty in meeting environmental factors. The position their office takes is that business in primary or secondary sectors creates jobs and increases activity for established business. Because of the need for jobs in the state, most any businesses are welcome. A tax incentive for new business he believes will help reside business into the distressed counties. It is very difficult to decide.

Anything additional that government can do to say that you are welcome here is what they are trying to do. The new definition sponsor has given to new business and amendments she has proposed make it easier to accept counties that have substantially high unemployment rates. Should take steps to try to diminish this type of deterioration. Should give up an advantage now in order to get a greater advantage later. Another step that should be looked at is greater availability of initial capital.

Frank Manley works for Montana Energy Regional Development as an economist, but was speaking as a private citizen. This is not really a new idea in the sense that it is already a law in the state that sets the property tax on business moving into the state at 2.8% - would simply establish 2.8% is for any new business in an economically distressed area. Nothing should be done to affect the university system. Would have small impact at first and in the long run might turn out for the better. Are talking about brand new businesses which are not currently paying taxes. Money that might be coming in which in the long run might significantly be much larger because of an increased tax base. There would be an increase in revenue from personal income tax.

Eighty to ninety percent of all new businesses that start fail in the first 5 years. It boils down to money. By relieving some of the tax burden, can work to increase success. Will increase opportunity for employment.

Darrell Lee, Butte Local Development Corporation, Butte, as an employee of the development corporation, says this is an important new tool in getting businesses going and off the ground. Mortality rate for the first 3 years is so high it is scary. This kind of a tool is needed. He agrees with the first statements.

Janelle Fallan, Montana Chamber of Commerce, Helena, always like tax incentives for new business. She suggested the committee might wish to expand the definition of economically depressed area criteria rather than just limiting it to just the unemployment rate.

Rep. Reichert, District #37, said Cascade County is facing almost insurmountable problems and could use some tax incentives. She thinks the criteria could be expanded to include areas Dr. Lopach mentioned.

There were no opponents.

Rep. McBride said this proposed legislation is not restricted to Butte. She would be glad to submit suggestions to the committee.

Rep. Fabrega said under new business would have to acquire property, and those going into business rent property. Rep. McBride feels this would be encouraging a small business to lease a building there already. Rep. Fabrega said new business would drop into a rental - would reduce taxes on it by 70% and if leased by 61%.

Rep. Williams said no provision for new industry coming in whereby existing businesses would be protected. Rep. McBride won't disagree - if the committee deems it necessary, might include something to protect existing business.

Rep. Dassinger asked if it would be fair to reduce the tax base to a place where welfare migrants are going? Mr. Lee said they never have had any real proof that this occurred. A developing new business would see this.

Dr. Lopach said this particular problem occurs often in the western Montana and particularly in some of the more northwest counties. It's inmigration from persons coming in from out-of-state. Fluctuations are caused by timber industry. If it could go into the bill, counties wouldn't meet the criteria necessary.

Rep. Underdal asked why not put it in the same class? Rep. McBride didn't know. Rep. Underdal said there are a number of other things communities could do.

Mr. Lee said an industrial park might be developed.

Dr. Lopach said there are five criteria to consider. His office would be glad to work closely on this.

EXECUTIVE SESSION

HOUSE BILL 297 - Rep. Burnett moved HB 297 DO PASS. Rep. Dassinger opposes motion because it is circumventing a portion of the law. Might change taxes - thinks reduction of rate if revaluation were to take place and it was less, revenues would not be sufficient.

Rep. Fabrega prefers it to be valued as agricultural land. Rep. Huennekens said we are either going to go with golf courses or recreational facilities, or just on land.

Rep. Williams thinks this is going in reverse - coming out and giving another club a special tax break. Ski areas don't pay taxes - they are on a rental basis and many are on public land. Will transfer tax load from this property to another. Bad piece of legislation.

Rep. Burnett said this isn't a profit making organization. If they were going to make a profit they could pay taxes - this is strictly recreational. Rep. Huennekens remarked some are profit making organizations.

Rep. Fagg thinks the bill should be killed - would save $20 per member.

Rep. Dozier said if they want a tax reduction, make it open to the public.

Rep. Huennekens said equipment and machinery is covered in this bill. Rep. Williams feels when there are high membership fees and a person can't afford to pay the tax, he shouldn't belong.

Rep. Dassinger said courses might not be making any money - his home is not making any money either. Rep. Fabrega said if a person can afford to pay the membership fee that would eliminate those who can't. Rep. Vinger said if the course elected to get money from the state and went to withdraw recreation money, it has to be open to the public. Memberships in small communities are not high.

Motion that HB 297 DO PASS failed by a roll call vote of 7-10. Reps. Robbins and Harrington were absent.

HOUSE BILL 461 - Rep. Burnett moved to amend on page 10, line 5 strike "Lewis and Clark" and insert "defendant's residence". Failed by a roll call vote of 6-10. Reps. Robbins, Sivertsen and Harrington were absent. Rep. Williams feels the man who has the problem is being questioned for something he has done and he should come to Helena. He opposes the amendment.

Rep. Bertelsen said if there is an error, you have a chance to discuss the error. Are putting a tremendous burden on the state in fighting a case. This move is a definite attempt to break the state income tax system - it is something that is being promoted across the U.S. and each time we add an additional cost, we are adding to the expense of the loss.

Rep. Dozier said this is assuming guilt of the man before bringing him up. He thinks it is wrong to force somebody to defend himself to be proved right.

Rep. Lien said this is a long elaborate procedure. Rep. Burnett proposed an amendment that would say if the state loses the case, it will bear the burden of the defendant's costs - attorneys' fees, mileage and all reasonable expenses.

Rep. Dassinger said this is something that is already established for this type of costs allowance.

Rep. Huennekens said Randy McDonald will research and report. Question of expenses of a court action arose. Rep. Williams said considerable research on any constitutional problem has geen done. Money can only come out of the department's budget for regular costs anyway.

HOUSE BILL 839 - Rep. Fagg moved HB 839 DO NOT PASS. Reps. Robbins, Harrington, Nordtvedt were absent. Other members unanimously approved.

HOUSE BILL 524 - Rep. Dassinger moved HB 524 DO PASS. Railroads could be evaluated and put in a different class.

Rep. Fabrega said let them go to court. Thinks that by passing the bill, since all other property in that class uses the replacement cost depreciated, could end up with the same tax. Rep. Johnson reminded railroads said they are going to court either way. Rep. Dassinger said it would not change for evaluation of railroads - lot of latitude in centrally assessed property. Thinks that the loss of taxes could be circumvented by changing the method of valuation.

Rep. Verner Bertelsen said he wondered if the state wins the case, will we come out next session and exempt them from the tax. Rep. Fabrega said by not passing it we are definitely going to court because they are being taxed differently from federal regulation. If the state loses, then any attempt to come up with the same taxation is going to be very difficult.

Rep. Huennekens said the court may merely establish a criteria that the state will have as a guideline. 16% on $33 million or on tax replacement which would be 8.55% on $108 million, makes a lot more taxes.

Rep. Dassinger said the RRR plans to help the Milwaukee - Montana taxation is about 10% too high the book said.

Motion to DO PASS failed by a roll call vote of 6-10. It was agreed by the committee to reverse the vote to a DO NOT PASS HB 524 recommendation by 10-6.

HOUSE BILL 643 - Rep. Reichert moved HB 643 DO PASS. After discussion, a sub-committee was appointed: Reps. Fabrega, Reichert, Bertelsen. No action taken.

HOUSE BILL 669 - Rep. Fabrega moved HB 669 DO PASS. He moved proposed amendments be adopted. Rep. Fagg said a variance can be granted to the building code. This gives borad powers. Rep. Huennekens appointed Rep. Fagg a committee of one to research this. He asked if a 3-man committee was desired, but Rep. Fagg didn't think it necessary. Staff Attorney will check with Rep. Fagg. Action deferred.

HOUSE BILL 702 - Rep. Fabrega moved HB 702 DO PASS. Rep. Lien move proposed amendments Do Pass. No Noes. Reps. Robbins, Harrington, Sivertsen, Nordtvedt were absent. Motion for adoption of HB 702 DO PASS AS AMENDED was adopted unanimously with same Representatives absent.

HOUSE JOINT RESOLUTION 33- Rep. Johnson moved HJR 33 DO PASS. Rep. Lien moved to strike the first "Whereas" because of the "controlled" wording. Motion to amend was adopted by all members present. Same four were absent. Rep. Fabrega made a motion to amend the third Whereas by striking the word "good" on line 17. Rep. Lien made a substitute motion to leave the title intact and strike all but the second and third Whereas paragraphs. There were no Noes. Rep. Williams moved to DO PASS AS AMENDED HJR 33. There were no Noes. Same members absent.

HOUSE BILL 297 - Rep. Fabrega would like to reconsider HB 297 and offer some amendments. Motion was approved with Reps. Dassinger, Williams, Gilligan, Fagg voting No. Reps. Robbins, Harrington, Sivertsen, Nordtvedt were absent.

Meeting adjourned at 11:30 a.m.

Herb Huennekens
REP. HERB HUENNEKENS, Chairman

Jo Lahti
Josephine Lahti, Secretary