HOUSE TAXATION COMMITTEE

46th Legislature

The meeting was called to order in room 434, Capitol Building, at 8:30 a.m., March 19, 1979, by Vice-chairman Ernie Dassinger. Representatives Vicki Johnson and Hershel Robbins were absent. Some members were late. Randy McDonald, staff attorney was present.

Senate bill 369 and House bills 909 and 912 were to be heard.

SENATE BILL 369

Senator Greg Jergeson, District 3, Blaine County, presented SB 369 of which he is chief sponsor. He explained that this was a house-cleaning bill relieving the county treasurers of administration of the Homestead Tax Relief Act. Direct payment coming from the state will free up county funds now being applied to administration of this act. The bill also makes it clear that if the legislature does not fund the program, the counties cannot be held liable. It does not determine whether it will be funded - that will be decided separately.

Dean Zinnecker, Director of Montana Association of Counties, rose in support of SB 369, saying it it ridiculous to put on extra help to administer the program. He asked for the committee's support.

There were no other proponents or opponents. Sen. Jergeson closed saying he would answer any questions from the committee.

Questions from the committee -

Rep. Reichert asked about the procedure for applying for Homestead Tax Relief. It was explained that applications would be obtained from the county assessor. It would be up to the taxpayer to take the initiative in applying for the refund.

Rep. Williams asked about refunds. It was explained that this bill provides the refund be sent from the Department of Revenue. There is another will which would apply it as a credit to the personal income tax. SB 369 provides the taxpayer will be refunded with a check.

Rep. Fabrega was concerned that application time has to be by July 30. He suggested the forms be available on a year round basis. Sen. Jergeson understood the forms were available year round.

There were no further questions. The hearing was closed on SB 369.

HOUSE BILL 909

Rep. Kenneth Nordtvedt, District 77, Gallatin, presented HB 909 which is a House Taxation Committee bill. He explained this is a bill that would increase the Corporation License Tax across the board from 6.75% to 7%. He further explained that every .25% increase raises about $1 million per year. He was concerned when he learned that the corporation license tax was a revenue loss. This bill is an attempt to keep the revenue coming into the general fund in the same amount as had been anticipated. If the revenue is not picked up this way, it is made up by the personal income taxpayer through less relief and less benefits. Rep. Nordtbedt explained that corporate taxes have not been affected the same way the personal income taxes have been by inflation. He concluded saying this bill is necessary to keep the present percent the same as it was prior to changing the tax base.

Committee discussion on the bill -

Rep. Williams said if we are going to consider raising the corporate license tax across the board, he wants to create a little more equity in taxing corporations. When corporation license taxes are raised across the board, there is the inequity that those corporations that pay the inventory tax be given credit and increase the level to whatever percentage is necessary and give the corporations credit for inventory taxes.

Rep. Huennekens mentioned the inventory tax is a local tax and the corporate tax is a state tax.

Rep. Lien said those paying inventory tax are paying very little corporation license tax and others are paying no inventory tax are not paying high corporation tax. He feels those paying large inventory tax should be given credit for this tax in order not to upset an equitable balance.

Rep. Fabrega said it is necessary to figure out how to do the same thing with partnerships and individual businesses and that is not as easy to do as it is in raising a corporation license tax. The idea is to equalize corporation tax for a given volume of business who pay so much tax whether or not they pay an inventory tax or a corporation tax. Grocery stores have a very high inventory tax.

Rep. Willisma feels an inequity exists in forcing the corporation to pay license tax and inventory taxes as well.

Ed Nelson, Montana Taxpayer's Association, rose in opposition to the bill saying that at the present rates of business taxation, Montana is well above a typical state in the nation. If the committee accepts this proposal, Montana will be above all but 16 states. The corporation tax is talking about the whole economic base of the state, and placing an increased burden on them. He reminded that when dividends are declared, that is ordinary income and taxes are paid on that. He concluded, saying it would be wise to let this bill stay right where it is - in committee.

Janelle Fallan, Montana Chamber of Commerce, commented on all the good things the legislature has done to encourage economic growth. However, she stated, HB 909 wipes all this out all the good things by imposing almost a 1/4% increase, amounting to almost $25 million. This represents a 117% increase in the last 5 years. When businesses are asked to pay more taxes, the money has to come from somewhere. Anyway you look at it, the consumer pays. She urged the committee recommend do not pass on this bill.

Gerald T. Niels, Montana Logging Association, rose in opposition to HB 909. He feels this is not the season for tax increases. Proposition "1" was adopted in Idaho and a comparable tax caused a lot of trouble and made for many rules and regulations. People were looking forward to tax dereases. He recommended that the committee do not pass this bill.

Ross Cannon, Montana Savings and Loan League, asked the committee to look at the corporation tax structure under the federal system which is to set a lower rate on the bottom end of the corporate scale. Perhaps a multi-tiered rate structure on the lower end of the corporate scale for those kinds of corporations, such as Subchapter S, because so many times people are corporations. He suggested that with new language, when we come to the end, this bill may be the opportunity to look at the rate that would balance off the revenue requirements that may be necessary. Might allow a reserve for bad debts on all corporations. It may be that you could set a top rate and give particularly small corporations some benefits in this bill that might be a means of providing tax relief.

Larry Huss, Montana Motor Carriers and Montana Contractors, AGC, said we are all talking about tax relief; but today, less than a week before the transmittal date, a bill is introduced to raise taxes. He felt it was premature of the committee to be working on such a matter with such a short time left. He did not feel that the committee had the time to give this bill serious consideration and to hear adequately from all the people that would be effected. He suggested the committee look at this during the interim or at the beginning of the next session. He hoped the committee would either table or kill HB 909.

Jim Mockler, Montana Coal Council, was not sure of the status of HB 909, but asked to be recorded in opposition to the bill. He made reference to the reported $28 million found somewhere that had not previously been known about. He concluded saying that he opposed this bill.

Don Allen, Montana Petroleum Association, mentioned that many people believe that putting it to the big guy will not hurt the little guy. There is a certain amount of control built in now as to how far a project goes. New discoveries are made by small independents. Even though the corporation tax is the smallest of the six paid, the impact is there. Montana needs capital to look for oil and gas. Other countires are saying to us that they will sell us oil and gas, but at their own higher prices. This is simply one more red flag and one more reason for investors to invest elsewhere. Montana is already a negative word as far as where you put your money. Ninety-five percent of the capital coming into Montana comes from out-of-state investors.

John Delano, Montana Railroad Association, stated that his association would oppose HB 909.

Rep. Nordtvedt said this bill is to prevent a tax shift from corporations onto the small person. Montana is 11-12 from the top in personal income tax. The worst point in that tax structure is the personal income tax. This bill is designed to provide as much relief as possible for the personal income taxpayer. Nine months of inflation has driven up the persona income tax 3.7%. Inflation is growing at about 5-6% every year and we are not focussing on business in this. The bill is late, but the impact is about

$1 million. There are problems with the property tax structure, but there are more serious ones with personal income tax structure and we are not treating businessmen unduly harshly here. Whatever is provided, we should make sure it goes all around and doesn't make the ones at the end of the line have to make up any difference. Credit to inventory graduated or corporate tax system are worthy of study and consideration. Corporations have to pay taxes on its income and if any income is distributed to any stockholders, they have to pay income tax on that and that makes for double taxation. This bill tries to make as much money as possible for the person at the end of the line.

Questions from the committee:

Rep. Williams asked Mr. Nelson if the inventory tax now paid by corporations is deductible from income. Income is ordinarily taxed after taxes are deducted. Rep. Nordvedt explained inventory tax is an ordinary business expense in computing income.

Rep. Fabrega asked if the corporate license tax is paid on income previous to figuring federal tax. It applies before the federal tax so in effect it is taxed at 13.5% of the net income. An individual gets to deduct federal tax, but a corporation does not get to deduct this from state income tax or for figuring corporate license tax.

Hearing was closed on HB 909.

HOUSE BILL 912

Rep. Fabrega explained HB 912 which was a bill introduced by the House Taxation Committee. HB 912 would eliminate the tax credit a utility may claim for energy conservation loans authorizing banks to make loans on solar systems at 7% interest rate. The utility would be able to claim a credit for the difference between the present tax rate of about 11-12% as a credit against their corporation license tax. If you have a 5 percentage point differentiation, you can get into 1,000 loans at $10,000 which is the amount you would have to have to build a functioning solar system, you would have $10 million. There would be a 5% differentiation. Since those are long-term loans, it is possible that $5 million might be written off. Eighty percent going to the local government is eliminated. It might be a much bigger impact than any of us have anticipated. If the solar systems were developed in Montana, you would have jobs increased, etc., and that applies to rollover advantages. This could be giving a substantial credit to out-of-state inventors. There is not as much markup in construction as might be thought, so you are giving a substantial credit on $15 million worth of wages and $1,000 of profit. The rest is paid to out-of-state manufacturers.

The cost of corporation license taxes in a year as write-off would be about $5 million. Would invite the financial institutions to make low interest loans, but not claim the difference and that way they could participate. This is the same as not offering any financing. If the units were completely manufactured in Montana, this would apply differently. With 80% going to the local government and 20% to the state, the burden of this bill would mostly fall on the county and cities.

Opponents;

Rep. Daniel Kemmis, District 94, Missoula, was the sponsor of the bill now being amended which was passed in 1975. It took a long time to get the utilities interested in making these loans, and now, when they are just getting interested in doing this, it is not the right thing to do.

Utilities were allowed to make loans. HB 649 would allow banks to do so. They could give no-interest loans and claim the whole difference as a credit. As it now stands, the loans have to be between 5-7%. The Senate Business and Industry committee asked that this committee get together and express their concerns and make an effort to place amendments on HB 649. He suggested allowing a credit of 1/2 the difference in order to calculate how many dollars that comes to and as a tax credit they would not claim that entire credit, but only 1/2 that credit. The other side of this is that if we are going to encourage solar energy, we need some kind of subsidy in order to compete. HB 912 is a step backwards. On the other hand, it addresses some serious concerns.

Peter Antoniolo, Director of Energy Conservation, Montana Power Company, advised they are going to make energy audits of all space heating for their customers; and allow them the opportunity to get into a plan at zero interest. They want to get people to use sound energy conservation. Montana Power is not going to be in the insulation business.

He thinks the wisdom of sound energy conservation in homes, the retrofitting with solar is unnecessary unless we have the need of these. They are beyond the reach of the individual. Although energy prices are going up, we don't quit using them. Montana Power will not be gaining one bit of interest. If 1,000 loans were made using a $1,200 base, maybe $250,000 - $300,000 impact per year would be the effect on Montana. The Kemmis bill would have serious problems if the interest would change to 5-7% and they would have to rethink their position. He feels their program to offer zero interest programs will do good things for Montana. He opposed the bill strenuously.

Dennis Lopach, representing Montana Power Company, offered a proposed amendment that would reinstate the credit portion deleted, and provide language allowing the program to remain available for loans made after July 1. He opposed HB 912 and hoped that the committee would consider the program in effect at the present time.

Gene Phillips, Pacific Power and Light Company, opposes HB 912. They are implementing a program statewide wherein they will do home energy audits for home owners with space heaters. Customers will be given an opportunity to install energy saving devices with a no money pay-back. The cost to the customer is at no interest and is not paid back until the home is sold. Previous programs they instigated were ignored by customers. If they can keep energy from being used, the utilities will be ahead by that many kilowatts. This will not avoid the need for new generation, but it will extend the time it will be needed down the line aways. Urged the bill receive a Do Not Pass.

Rep. Fabrega closed saying that because the present law is strictly dealing with utilities, it amends that portion which is for energy conservation. Kemmis' bill expands on that concept. It is now a question of either kill HB 649 which is for the large expansion, retain the present law and allow for 5-7% interest loans. The committee could look at funding this kind of program from the renewable energy grant. Could consider this fund for paying the difference in interest. An energy conservation measure with the 7% loans talks about a much smaller amount. Suppliers of energy are participating. It is assumed that the cost of administration is figured in their cost and all of the interest is charged off by the state. If HB 649 passes the Senate, that is where the greater impact would come.

Questions from the committee -

Rep. Huennekens agreed a credit given for a particular act or accomplishing of a task is an incentive because there is a multiplier effect of about 10 times at a tax rate of 10. He wondered if a deduction for the difference in interest rate loss when lent at 5% and they have to buy money at 10% would be sufficient to still let them be induced to go into this sort of program. The power companies are saying they want to just recoup their costs involved. They are mandated by the National Energy Act to be in these programs.

Rep. Nordtvedt asked what interest rate the power companies are using to fulfill these home improvement loans. It is 12.5%. At a PSC meeting they asked to be able to recapture their costs, but the PSC is not using the rate at which they borrow money with which to do this.

Rep. Fabrega remarked it is not so much what your cost of borrowing is, but how much you would get for the short-term money you would have to invest. It is at about 11-12% Rep. Huennekens thought. Rep. Fabrega said if the short-term investment of those companies doesn't get up to those levels, you are really getting them to lend the money to this system at the full rate at which you would borrow.

Rep. Sivertsen asked Mr. Phillips how they really recoup when these loans are made. Mr. Phillips said they will pay for construction - invest $1,000 in a home and when that house is sold, it is paid back without any interest. A very small portion of our program will ever wind up not being repaid. A dwelling changes hands every 7 years on the average. They can do all of the energy efficient work necessary in five years in their area. It is not really a long-time thing. Something gets into the rate base only after a hearing. They use their expenses and returns to figure a rate base. Every two years they have a rate base hearing. At any point in time, it will be one year to establish a rate hearing base which would include a portion of the expenditures. The PSC would not want to tie the hands of future commissions and say that this would all go into their rate base. They didn't know what portions would be allowed to go into their rate base.

Dennis Lopach, PPL, said their plan is different than Montana Power's. Montana Power will be directly taking advantage of the tax credit without the base rate treatment.

Rep. Sivertsen asked if about 20% of those people who fall into this category are actively participating. Mr. Phillipps said this program is just getting started this winter and they have had over 100 applications which they received in December. How fast others will request participation they don't know, but estimate that in about 5 years everyone will be interested.

Rep. Huennekens mentioned it is necessary to have a loss in order to enter into a rate base hearing. What part of such a loan does go into a hearing? Mr. Phillips said he didn't have the figure, but would bring it.

Rep. Sivertsen asked what is allowable as a rate. It is 9.5% during the tax year. The rate base might be substantially higher, but they only earn on what it is in the past.

Rep. Nordtvedt asked if this loan opportunity is available to a speculative home builder. Mr. Phillips advised this does not apply to new homes.

Rep. Reichert asked Rep. Kemmis since property would be exempt from taxation for 10 years, could someone get a no-interest loan from a utility and not have to pay taxes/ Rep. Kemmis said he didn't think the two concepts are interrelated.

Rep. Fabrega mentioned the utilities will have to absorb 11-12% for borrowing, so you will be taking a tax credit against producers and if your corporate license tax is reduced that much by the interest differential, the state will have absorbed the whole differential. The utilities said they have limited their loans to $3,000. They want to earmark energy conservation things. $12 million is a lot of money - may take $500,000 to $600,000 to upgrade homes. 12,000 loans at $1,000 would eliminate the producer's tax. However, the utilities felt they can't get up to those types of numbers. A loan would be for a minimum of 3 years with a pay back period up to 5 years.

Phillips said the situation will vary with each utility. PPL pays very little energy tax since they produce very little energy. 10% interest in Colstrip. Corporation license tax and producers tax are very insignificant. Their biggest tax is their property tax. $31,000 was the amount paid for the two taxes in 1978. Corporation license tax was $50 in 1976.

Rep. Fabrega said the loans and the pay back time change everything in energy conservation. The expansion has created the problem and it can get into really big money. Rep. Kemmis said that is so as it stands, but it is to be amended in the Senate. Rep. Fabrega advised the producers tax on energy does not affect local government, but the other does.

The hearing was closed on HB 912.

EXECUTIVE SESSION:

Rep. Williams asked to have HB 213 discussed and proposed amendments considered. Rep. Huennekens asked how many farm trucks are 1 1/2 ton and what percentage are 2 ton and over. Rep. Burnett estimated better than 50%. Rep. Sivertsen thought there is a larger proportion of small trucks - up to 1 1/2 tons. There are a lot of farm trucks of 2 1/2 tons. Up to 3 tons get into the tandem class.

Rep. Huennekens recommends that 2 1/2 ton be the splitting point if we go to two classes. Rep. Williams said impact might be great in some counties.

Rep. Sivertsen thought some ore haulers could be called construction equipment. Some of the big haulers are used for hauling earth when used for uncovering coal. Will have to differentiate. Rep. Huennekens said the question is what they are sold for. Coal and ore haulers are in the construction equipment categoty.

Rep. Fagg moved that HB 213 be adopted. He then made a motion to adopt the proposed amendments 1 through 4. Amendments were adopted. Reps. Williams, Harrington, Robbins, Johnson, Reichert, Lien voted No.

Rep. Dassinger thought the figure of 2 1/2 ton trucks instead of 1 1/2 ton trucks was questionable. Rep. Dozier remarked farm-owned vehicles and individuals would get this rate classification. There is a different rate on gross vehicle rate wherein the value of a vehicle is assessed already.

Rep. Williams was not in favor of not finding a way to eliminate all inventory taxes. He wanted to stand firm on this reduction at this time. Rep. Huennekens asked what the loss to local governments would be by taking one particular subclass and reducing it down. Rep. Williams said about $5-$6 million dollars for the whole state.

Rep. Dassinger recommended a split out throughout the whole state on cooperatives - 2.8% - 3.5%; it isn't such a big amount. It is still cheaper than centrally assessed at 16%. It is a question of what the committee thinks is fair. He thinks it is fair to put the whole class in at 3.5% since it is equitable and a lot less than 16%.

Rep. Nordtvedt made a motion to raise from 3% to 3.5% on class V. After further discussion, the motion was withdrawn. Rep. Williams thought it would be acceptable to divide the class.

Rep. Vinger moved that HB 11 be discussed as this time. A roll call vote of 8-8 was determined to fail. Discussion will be at a later date.

Meeting adjourned at 11;30 a.m.

Herb Huennekens

REP. HERB HUENNEKENS, CHAIRMAN

Jo Lalt.

Secretary