

HOUSE TAXATION COMMITTEE

46th LEGISLATURE

The House Taxation Committee was called to order by Vice-Chairman Ernie Dassinger at 8:30 a.m., in Room 434, Capitol Building, on April 2, 1979. Rep. Gilligan was excused. The staff attorney Randy McDonald was present.

Bills to be heard were: Senate Bills 50, 177, 181, 384, 492 and 162

Senator Jean A. Turnage, District #13, Polson, chief sponsor of SB 50, which is at the request of the Department of Highways, said this is an administrative bill that eliminates one step in the process of handling the fees collected by temporary permits. The present method is to have the department collect the fees and then deposit them to the earmarked fund. With this bill it could be deposited directly to the fund.

SENATE BILL
50

Don Copley, Department of Highways, said the bill was introduced at their request and would eliminate one bookkeeping step in the process and he urged support for the bill.

Senator Jean A. Turnage, District #13, Polson, chief sponsor of SB 177, which is at the request of the Revenue Oversight Committee, said this addresses a particular concern of the Motor Fuels Division of the Department of Revenue. This is speaking to the method of furnishing security for payment by distributors of taxes concerned with motor fuels. Essentially, as I understand it, the department feels the most convenient form of security is a certificate of deposit or irrevocable letters of credit. He asked the following proponent to further address the subject.

SENATE BILL
177

Norris Nichols, Department of Revenue, Motor Fuels Tax Division, said the department has accepted CDs since the act was passed in lieu of surety bonds. During a recent audit it was brought out that it was illegal to collect CDs. CDs are better than a surety bond as the owner can continue to collect interest from the bank. We keep the original in our vault and if it is necessary to go against the owner we cash it at that time and ask him to post another CD. This bill will enable us to do legally what we have been doing illegally.

Larry Huss, Montana Motor Carriers' Association, said they would like to avoid tying up money in a nonproductive way. This certificate is a very convenient way of utilizing this money.

Senator Turnage said he closed and asked Mr. Norris if he had something to add. Mr. Norris said this is a practical way to handle bonds and the industry likes it.

In answer to a question from Rep. Underdal, Mr. Norris said a diesel truck owner only if he used diesel in bulk would need to be licensed and post a bond. He said it is getting tough to get bonds from bonding companies for small users.

Senator Frank Hazelbaker, District #41, Dillon, chief sponsor of SB 181, which was introduced at the request of the Motor Fuels Tax Division, said this bill has to do with special fuels. The bill is to provide that the
SENATE BILL United States and the state be exempt from the tax on special
181 fuels. He said counties and incorporated state districts are
exempt from the tax. There is now a minimal collection from
various divisions of the state who operate. He said other
states exempt our vehicles from this special fuel tax and the
department would like to be able to extend that same courtesy.

Norris Nichols, Motor Fuels Tax Division, Department of Revenue, said Senator Hazelbaker has stated the case very well. The Sovereign Immunity Act exempts the United States government. The amount of taxes affected is small.

Don Copley, Department of Highways, said they do have a problem with other states. Agencies of our state traveling through other states with diesel equipment are not charged and we would like to see that reciprocity extended in the other direction.

Senator Hazelbaker closed.

Rep. Reichert asked if the reference to reciprocity to other states is included in the legislation. She couldn't find it. Mr. Norris said amendments might be needed. His thinking was when Montana was excluded we would also be excluding other states. He suggested the committee attorney look into this.

Representative Thomas R. Conroy, District #58, introduced SB 384 for Senator Paul F. Boylan, District #38, Bozeman. He said this bill would define adjusted gross income and deductions for nonresident taxpayers. It is
SENATE BILL for the employees of Decker Mine who work in Montana but live
384 in Sheridan, Wyoming. The workers pay Montana income taxes and
the state gets by without spending anything for impact. This
bill would permit them to deduct interest on their homes and
general contributions on their Montana income tax.

Jim Mockler, Montana Coal Council, said the largest problem is the fiscal one. He passed to the committee members a fact sheet. A copy of this fact sheet is attached to the minutes. The bill has been amended heavily in the Senate. He went through the bill discussing the substantive parts. Only states without an income tax would be affected by this bill, which limits it to Wyoming. The bill is limited to wages and salary and does not provide deductions for retail property or CDs. It would involve \$114,000 a year. They are expecting a mine permit for the Spring Creek Mine and the computed income from this mine will more than make up for any lost income from the Decker mine workers. Mr. Mockler also passed a sheet showing the projected fiscal conditions for the areas in Big Horn County, MT, and in Sheridan County, WY, and for the projected Spring Creek Mine and without it. This is also attached and part of the minutes. Mr. Mockler said the only impact for Montana is five miles of bad road. All this bill does is ask for equity for these few hundred people at Decker.

Rep. Conroy closed by saying we get all the gravy without any cost. Little or nothing has been contributed for local impact so he felt it only fair to give these people an equitable shake.

Senator William L. Mathers, District #26, Miles City, chief sponsor of SB 162, said this bill calls for a constitutional limit on state spending if approved by the electorate at the November 4, 1980 election. The bill
SENATE BILL calls for a limitation of 10% of personal income averaged from
162 the previous three years. The people should have a right to say if they want to limit state spending and state growth. In 1973 our spending went up 123% and our growth in personal income only 45%. The only way to put some type of limit on the growth of state government is to do it by constitutional amendment. If the legislature does it they can undo it too easily. The only industry in the Helena community is government and it is the fastest growing city in the state. Earmarked funds have to be limited as well as the general fund. Senator Mathers strongly felt the people should be given the opportunity to decide this at the ballot box.

Rep. Jack Ramirez briefly went through the handout which is attached and part of the minutes. He said by tying the spending limitation to personal income you will not just limit the increase in government to inflation but to increases in population. The limitation will tie government expenditures to real economic growth. As the economy expands and grows the state government will be able to take advantage of that also and fund other programs. We would be keeping the relative size of government so it would not continue to take a greater and greater proportion of our income. The bill limits the size of state government to 10% of Montana's personal income averaged over the proceeding three years. The reason we picked an average of three years is that it would help smooth out any rough fluctuations. Picked 10% because that is about the size state government is right now if we fund what the governor has requested. In comparison to our economic wealth we would keep about this size from now on. It would provide all the essential services but be like an escape valve and keep it from continuing to increase in proportion to our personal income. It is flexible--a 2/3 vote of the legislature can permit emergency changes. Certain funds would be excluded and these are listed in his handout entitled "Montana Personal Income Accounts for: Population Growth, Inflation and Real Economic Growth" and this is attached. The bill is workable and the people of the state should have the opportunity to impose this limitation if they wish to do so. He mentioned a Republican survey that showed over 50% of the people wanted a limitation imposed by the people rather than by the legislature itself. He said after the next week or two when we have gone through the appropriation process you will see how difficult it is to hold down spending because there are many ideas on how to spend the money--difficult to look at all these requests for funding objectively and have the self discipline to hold the line on spending. He urged a be concurred in.

Ed Nelson, Montana Taxpayers Association, said they strongly support this piece of legislation. He handed in a graph which shows how state and local spending has outstripped inflation. A copy of this is attached to the minutes. The economy hasn't grown as rapidly as government, hence the concerns that growth is outstripping personal growth and economic growth. The legislature isn't willing to do something like this. The legislature should look at the proposals and present a reasoned approach to the people. Proposition 13 is an example of something that wasn't well thought out--not good for California nor would it be for us. The 10% is high but valid--a limit is needed but not a limit that would injure the state. This type of legislation should be offered to the people.

Janelle Fallon, Montana Chamber of Commerce, said their members feel very strongly that this is a very important piece of legislation. She quoted from Bill Porter of Montana Chemet here in Helena "Service to the people is what we are all about--whether private business or public. Serve the people and fill the needs of the people as we see them." She said do everything possible for your constituents. We have to stop somewhere--right now on the average of 40% is going for taxes in one form or another. Lot of economists are saying 40% is as far as we can go. Cutting taxes is like taking a flyswatter on a bunch of buffalo. This is a much more major approach. I hope you will study all statistics and give it very careful consideration.

Rep. Kenneth Nordtvedt said because we are fallible human beings when subjected to great pressures, an imposed constitutional limitation on spending would serve the best interests of our society in the long run. Our founding fathers established that fundamental rights belong to the people. They limited the governmental power--spending was negligible and only a minute part of people's income. Times have changed and there is pressure to spend more and more of the people's money.

Bill Groff, Governor's Office, spoke in opposition. He said the idea of a limitation is great, but if you place it in the constitution you will live to regret it. The growth that you are complaining about is in your own department. The legislative division is the fastest growing part of the state--going from 800,000 up to 3,000,000. What you are actually saying in this bill is you don't have the ability to create--you can't handle it yourselves --you are going to admit you can't do it. If you need a spending limitation put in one right here. The people you are hurting will be the people who will follow you.

George Bousliman, Office of Budget and Program Planning, spoke in opposition, saying he was not sure what the bill would do. This would limit all fund spending. You see no reference to general funds or earmarked funds in the bill as that is the way the authors have drafted it. Don't think the exclusions in the bill are all that clear--subject to interpretations. He said he could appreciate the problem of trying to draft this as to put it in the constitution is complex, with all kinds of problems with different interpretations and mechanical complications. He suggested they look ahead to 1981--as they will have to implement it. He said he had no quarrel with the intent--good first step toward another bill. He asked the committee to look very closely at specifics.

Senator Mathers in closing said everyone agrees it is a good idea to limit state spending. The legislature has failed to make a limitation on state spending. We are representing the people--we are to determine how the money is to be spent but somehow we have been unable to limit ourselves. One of the reasons we can give some of the tax relief programs is we found 24 million dollars we hadn't anticipated. First we have to get the constitutional amendment and then the legislature can establish the rules by which this can be enforced. This is extremely important as it is the only way to limit state spending. We have a tendency to spend all the money available. Every time we come here we spend every penny of it. It's time we put a limitation to the spending and give some tax relief to the people.

Senator Mathers requested that Rep. Ramirez also be permitted to close.

Rep. Ramirez said one of the reasons we cannot limit state spending is due to the pressures brought by lobbyists and special interest groups. The largest lobby group that comes before us is the state government. No reason the Department of Revenue should be in here making the statement they did. I'm offended by state agencies making that kind of a statement to the state legislature. Argument given to you by Mr. Groff has nothing to do with the Department of Revenue. The idea that we were giving up responsibility could not be further from the truth. Source of all our authority is the people and we have forgotten that and that is why all we are doing is saying all authority comes from the people. Let them decide on this just as they have said we can't deficit spend. Rather arrogant of us not to let the people make this choice. We know how difficult it is to place that limitation on ourselves. How much better it would be if we had that limitation. We would then have to set up priorities and not pass every bill and spend as much as we can.

Vice-Chairman Dassinger said this committee is a broad-minded committee that can sift through information. We allow any and all information possible to be presented. Questions from the committee?

Rep. Reichert asked about the considerable amount of money that we get from the federal government. Senator Mathers said this is not counted but we should remember when we use federal money it obligates the state--matching funds and in many programs every succeeding year the state assumes more of the load--example is special education money.

Rep. Lien asked how many states have this limitation. Sen. Mathers said seven--five are constitutional and 2 statutory. Rep. Williams asked concerning Michigan's which is by statute. Rep. Ramirez said he would try to get more information on this. Rep. Johnson asked if this might shift the tax burden still more onto property taxes. Rep. Ramirez felt there would be sufficient political pressure to prevent this.

Chairman Huennekens returned. Due to a Senate appearance he had been unable to speak as an opponent.

Rep. Huennekens said we are engaged in a philosophical discussion on the function of state government--how it works and how will it work. He suggested the statutory approach be tried for two years and, if it did not work go to the constitutional approach.

Rep. Ramirez questioned if one would be able to judge in two years the effectiveness of the limitation. Rep. Huennekens said to make it for four years.

Rep. Ramirez said we are seeking a long term solution. We are approaching the critical percentage that if we put more of our national wealth into state expenditures each year we will reach the point of no return. Statutory in one two year period is not going to be workable. We see looking at past history the overall long-range tendency has been for government to grow. We might be able to turn it around but over the long pull it is just not going to be possible. The forces are there--they have been put into existence. By the time you let it go to prove your point you might not be able to get a constitutional limitation.

Rep. Huennekens said we are still operating in the realm of supposition. As soon as we find it doesn't work then we should go the constitutional approach. We have to find out by doing.

Sen. Mathers said the governor's budget is a conservative budget. We started our appropriation process this year to limit our state spending and then found we had 24 million dollars more revenue. We talked about how to spend it rather than about tax relief. If the money is there we are going to spend it.

Rep. Ramirez said it has required a superhuman effort to hold down spending. There are many votes to spend--no matter what the justification is. So it takes a lot of courage to vote against these spending bills. The day these people go home who used that courage there'll be forces at work to defeat these people the next election.

Rep. Huennekens asked if there is any indication that the legislature as a whole is more inclined to violate a statutory provision than a constitutional one.

Rep. Ramirez said with the spending limitation you can accept any appropriation. All you need to say in the statute is that the appropriation is void if the spending limitation is reached.

Sen. Mathers said what the public is interested in is "Did we get the money?" They are not really interested in what we are doing.

Rep. Huennekens said it is the interaction of the two houses that produces the truly effective legislation. We should wait until our appropriation process has solidified instead of approaching this matter from the standpoint of open-end opposition. Feelings about this legislation are unfounded. State legislatures do represent the people, they are representing them in the present situation and will continue to do that.

Rep. Nordtvedt suggested protecting both the legislature and the people by limiting themselves by the constitution. This will protect from what we may do in haste.

Rep. Dozier asked what will happen if this is put on the ballot and defeated. Rep. Ramirez said this is fine--that will be the will of the people. Rep. Dozier asked if defeated do you think we could come back and do it statutorily.

Rep. Hirsch suggested that the wording suggested for the ballot should be more muted and not so loaded. Rep. Ramirez said it was done by the Legislative Council but he would have no problem with changing it.

Rep. Huennekens said he was a bit bothered by the concept of the function of competing special interest groups. We meet to present differing view points and it is the balancing of these different view points that produces the greatest good.

Rep. Ramirez said special interest groups should represent their special interests to a point but not go beyond that. They look only at their own interest and not at the whole thing--the overall good.

Rep. Huennekens asked if he felt the legislature was incapable of resisting special interest groups. He said he resists them every day of the session.

Rep. Ramirez said special interest groups are able to get more people to agree than to disagree. Those special interest groups prey on everyone of us.

Rep. Huennekens asked Rep. Ramirez if he was ready to do away with lobbyists entirely.

Rep. Ramirez said we have a constitutional form of government and it says in effect the ultimate authority rests with the people. They limit government by granting what authority they wish the government to have. And if they want to limit that we can only spend a certain amount of their wealth they can. Otherwise we are not being responsive to the overall good.

Rep. Lien recommended that Ramirez and Huennekens debate this on the floor.

Rep. Ramirez said he was here because of this bill. "We are going to cross over the point of no return. Too hell with the Democratic and Republican party-- I am for the good of the whole state."

SENATE BILL 492 The sponsoring senator, Senator Stimatz, was not present. Don Stumphy offered to present the bill for the senator but the committee decided to hold the bill until the senator could be present.

Chairman Huennekens took the chair and opened the meeting to an executive session.

EXECUTIVE SESSION

SENATE BILL 167

Rep. Burnett moved be concurred in. He felt it was time the income tax exemption was raised.

Rep. Dassinger made a substitute motion of be not concurred in. He felt the economy might not be able to handle it. He also felt the exemptions are a form of tax deduction or a gift to the person who pays the higher rate--should be a tax credit to be a fair cut.

Rep. Underdal felt this was a clean bill and should be kept alive at least for the present. Rep. Fabrega said he favors the \$1000 deduction. We should not tax the bare necessity to exist.

Question was called and a roll call vote was taken on the motion of BE NOT CONCURRED and it carried with 11 voting yes and 7 no (Bertelsen, Burnett, Fabrega, Nordtvedt, Sivertsen, Underdal, Vinger); and Rep. Fagg absent.

SENATE BILL 168

Rep. Dassinger moved be not concurred in. He felt this also gave relief to those with higher incomes. Rep. Fabrega moved a substitute motion of tabling the bill and act instead on SB 187. Chairman Huennekens said he could see no point in tabling the bill. It could have a \$30,000,000 impact. A roll call vote was taken on the motion to table and it passed with 11 voting yes and 8 no (Huennekens, Dassinger, Gilligan, Harrington, Johnson, Nordtvedt, Robbins, Williams).

SENATE BILL 187

Rep. Fabrega moved be concurred in. He said this would decrease the surtax so the impact wouldn't be so great. Rep. Dassinger said he felt this bill was worse than the last. He said we are not biting the bullet but trying to put in on another legislature's back. He moved be not concurred in. Rep. Dozier spoke against taking off the surtax. Rep. Fabrega said we are not passing it on to the next session--it affects 1979 and 1980 income so all of the impact is within this biennium.

Chairman Huennekens said we are talking of a reduction of \$20,000,000.

Rep. Underdal said the next session we can do whatever the situation warrants. As long as we can stay within the projected income--simply a way to give back income.

Question was called and a roll call vote was taken and the motion to be concurred in failed with 8 voting for and 11 against. Those voting for were Reps. Bertelsen, Burnett, Fabrega, Fagg, Nordtvedt, Sivertsen, Underdal and Vinger. The committee moved to reverse the vote. The bill receives a BE NOT CONCURRED IN recommendation.

SENATE BILL 522

Rep. Dassinger moved be not concurred in. He said the idea of tax refunds being given to renters is not workable. If two live in the same apartment--who would put in for the tax relief and how could the state tell if both put in.

Rep. Sivertsen asked how all other deductions are enforced. Connect same address with the computer.

Rep. Reichert said she could foresee another problem. Places like Eagle Manor --since it has to be property subject to property taxation--people living in places like this often have a very limited income and this could lead to a lot of animosity.

Rep. Nordtvedt said he felt this was an ideal form of tax relief--vast improvement over the Homestead Tax Relief Act as it includes 90,000 living units that are renters and which are excluded from the other. He said it could be enforced to same degree as all the other deductions are enforced.

Rep. Williams said he was opposed to the bill. He said Minnesota has such a law.

Rep. Fagg said he imagined the Senate will kill the Homestead Bill if we kill this. Anything we do here -- it will be hasty to take action on the bill until we get done reviewing.

Chairman Huennekens said it is quite true the Senate might kill the Homestead Bill. It will be their doing--we can either go to conference committee or suspend the rules and they can return to us another bill. The state doesn't rely on the honesty of the taxpayer but relies on the IRS. From the IRS there is no way to tell time spent in a residence. There is no way that the Department of Revenue will do any checking on this.

Rep. Fagg said a simple amendment could be added. We are here to get some tax relief and we are not going to start by killing bills like this. This would be premature. Move a substitute motion that we table the bill. He said this bill is not partisan and could be our vehicle to get out of here.

Rep. Reichert mentioned a lot of people we want covered would not qualify. She suggested her local revenue sharing bill as a possibility for tax relief.

Rep. Harrington felt it was a bad bill.

Rep. Lien suggested having the head of the household amended in. He also mentioned it was a Senate committee bill with only two adverse votes.

Rep. Harrington suggested leaving the bill in committee until today or tomorrow--maybe a little hasty to say we have to take action.

Rep. Nordtvedt said tax relief is not a redistribution bill--it returns the money to the taxpayers.

Question was called and a roll call vote was taken on the motion to table. The motion carried with 10 voting for and 8 opposed (Huennekens, Dassinger, Dozier, Gilligan, Harrington, Reichert, Robbins, Williams); absent was Rep. Bertelsen. SB 522 receives a recommendation to TABLE.

SENATE BILL 184

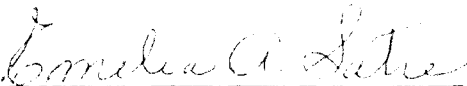
Rep. Fabrega moved be not concurred in. He said this basically shifts the higher taxes from the high value cars to the middle and bottom. Also lose the potential of deducting from income tax. Seven million would leave Montana for federal coffers and he said he did not feel like being that generous.

Rep. Hirsch moved a substitute motion to postpone this to a date certain. He said the Oversight Committee had worked hard on this bill and it deserves more time. The date certain would be tomorrow. The motion carried with Rep. Dassinger voting no.

Meeting adjourned at 11:10 a.m.



REP. HERB HUENNEKENS, CHAIRMAN



Emelia A. Satre, Asst. Sec.