

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 4, 1979. All members were present. Staff Attorney Randy McDonald was present.

Bills to be heard were SBs 75, 303, 325, 389, 523, SJR 30

Senator Frank Hazelbaker, District #41, the chief sponsor of SB 75, said this is a bill to exempt property tax on vehicles of people employed temporarily in Montana (not to exceed 90 days and used exclusively for transportation). He said he was requested to do this by a group of business firms in West Yellowstone. They have temporary summer help who have already paid the Wyoming tax on their vehicles. College students would be another group affected. He said upon coming to the legislature he found Senator Boylan planned to introduce a similar bill so they co-sponsored this bill.

Larry Majerus, Administrator of the Motor Vehicle Division, said this problem is not unique to Wyoming. Federal government employees on a temporary assignment in the state are affected. The law says if they are gainfully employed in the state they must register their car here--there is no grace period. The fiscal note says nothing as it is impossible to determine the fiscal impact of this. Counties will now be able to collect this tax, which people unless forced to are not paying now.

Duane Tooley, Montana Highway Patrol, felt this bill would solve a problem which is a major one with us in the enforcement end. To get these blades captured and properly licensed is a tough one in the field. Takes a lot of time for us to go sit at a plant. With this we will be able to spot an expired plate and see that the car gets licensed.

Rep. Robert Ellerd, West Yellowstone, said this has been a serious problem and he would appreciate this being done for the people who are temporary summer help in his community.

There were no opponents and Senator Hazelbaker closed.

Rep. Underdal asked about the Decker area. Mr. Majerus said if they are temporary employees they will be under this. The Highway Department has entered into a reciprocal agreement with the state of Wyoming permitting their employees to work at Decker without being licensed and they permit our people to drive through Wyoming to get to Decker--the ones living in Hardin and Billings.

Rep. Williams asked if they would need to show a current registration to get the temporary license. Mr. Majerus said to avoid titling the car they would have to have this evidence.

In response to Rep. Fabrega's question on what it would cost the individual, Mr Majerus said they would pay all fees--\$1 registration fee, \$10 to the county and any GVW fees that are applicable.

Chairman Huennekens came and took the chair.

Senator Harold L. Dover, District #24, Lewistown, said SB 523 was by the Senate Natural Resources Committee by request of the Department of Natural Resources. It provides incentive for a new high-risk, fledgling business in Montana by establishing a new property tax classification for property used in the production of gasohol. SENATE BILL 523 The property would be taxed at 2% of its market value for three years. The plants will cost about a million dollars and 30 to 40 million for the larger ones. There is a problem in getting the capital. He said it would take six to eight months time to put the plant together and then it would have three years before it would pay full taxes. Big plants would take longer. This is a tax that nobody would have unless the possibility was there and may be in time they will be able to collect taxes they never had.

Rep. Mel Williams said he was a proponent of this as he introduced the legislation in 1975. He said he speaks on behalf of this approach of taxing. It qualifies under present law and would qualify under the category of 3%.

Senator Dover said he felt this approach would give more recognition to gasohol and it is a lower amount.

Rep. Williams said he had done a lot of research on small business back in 1975 to try to encourage new industry in the state of Montana to provide more jobs and improve the economy. He said he approved of this approach to provide incentives for new industry.

Senator Dover said new business that can come under the present law is business that has been established elsewhere. The attraction is to get the business into Montana. This is a high risk for there is no track record. That is why we want the extra step to identify gasohol.

There were no opponents and Senator Dover closed.

Rep. Dassinger asked why not make it exempt for ten years and make it real meaningful. Senator Dover said this includes not only the plants but production. It will lower the taxes on what the farmer has to pay which will be an incentive to the farmer to sell to them.

Rep. Dozier mentioned this gasohol could also be made from coal or oil and could something be put in the bill to protect us from that. Don Allen, being asked for information, said if you are talking about coal you are talking about methane not ethanol.

Senator Steve Brown, District #15, Helena, chief sponsor of SB 325, said this is a bill designed to clarify the procedures by which air pollution control equipment is tested. The Department of Health will initially review and make an examination. If an appeal is needed it is to the Board of Health and Environmental Sciences. From there it would go to the district court. And then if somebody doesn't think SENATE BILL 325

it was correctly valuated they can go to the Tax Appeal Board. He said this was at the request of the Department of Revenue and the Board of Health was consulted and all agree with the bill.

Dennis Burr, Department of Revenue, said they agree with the bill.

Rep. Williams said this caused problems when left with the Tax Appeal Board and this is a move in the right direction.

There were no opponents and Senator Brown closed.

Representative Jay Fabrega, District #44, Great Falls, carried this bill for Senator Bill Norman, District #47, Missoula, as he was unable to be present.

SENATE BILL Rep. Fabrega said this sets out specific criteria for tax
303 exempt status of cemetery property owned by nonprofit
 and religious organizations. To be tax exempt it must be a
 cemetery and used exclusively as a cemetery. This bill came
 about because of a church cemetery in Great Falls which owned
 acreage adjoining the cemetery and due to an oversight in
wording was found not to be tax exempt.

John Frankino, Montana Catholic Conference, said Ward Shanahan had noticed the word change in the new constitution that had changed the tax exempt status of cemetery property. That is why the bill came about--to put that wording back in the statutes.

There were no opponents and Rep. Fabrega closed by saying the silent majority asks you to pass this bill.

Rep. Fagg questioned what a nonprofit cemetery is. He said he had been involved in designing a cemetery which would have a tremendously lucrative yield although called nonprofit. Rep. Lien questioned if this could be opening a loophole to allow some shady cemetery deals and he reminded the committee of one such instance. Mr. Burr said there are private and nonprofit cemeteries. A lot of money could be made off the cemetery but all money earned used for nonprofit things. People have family cemetery plots and request exemptions and there are many three people churches where the motor vehicle is under the name of the church. All areas of tax exemption are getting to be a serious problem. He felt the Revenue Oversight Committee should take a close look at a lot of the tax exemptions.

Rep. Fabrega said the bill passed last session left out chapter 3--which is the religious corporations sole. All this bill does is include the corporations and doesn't change anything. The land must be used for this purpose--cemeteries.

SENATE BILL Senator Thomas E. Towe, District #34, Billings, chief sponsor of SB 389, said
389 this addresses a question that is not unique to Yellowstone County but he became
 aware of it because of Flannigan's Subdivision in Billings. He
 outlined the subdivision on the blackboard--a residential neighbor-
 hood that became surrounded by commercial and industrial develop-
 ments. Commercial and industrial property is valued higher than
 residential so their taxes went up as property is to be taxed
 on its highest and best use. This bill would allow a taxpayer
to file an application with the Department of Revenue notifying the depart-

ment that his property is residential and that it should be so appraised. He said some people have lived in this residential area for 30 to 40 years and want to live the rest of their lives there and he felt it unfair to have them taxed at the higher rate. He said the bill originally had a rollback provision. The Senate took it out and may be just as well to leave it out. The people in question, with his help, appealed to the Tax Appeal Board and for this year were permitted to keep their old classification. Senator Towe said there is a similar area on South 27th Street. He said he helped them in their protest and they also received a favorable decision.

Representative Dozier said he would like to point out that the industrial and commercial usually have come in later. He didn't feel it is right to make the residential people pay higher taxes on their homes--they were there first.

There were no opponents and Senator Towe closed.

Chairman Huennekens asked about a person buying a home in a developing area and renting it out to take advantage of the lower taxes until he could sell for a big profit. Senator Towe said the rollback provision would have prevented that. If that is a concern of the committee it could be replaced. Chairman Huennekens said without it you have a speculator's delight.

Rep. Dassinger asked if this isn't the opposite of what we are trying to do in MELDA. Senator Towe said in Rep. Dozier's district the land was zoned residential and planned as residential and a task force was working to keep it residential. Then because of being on the industrial fringe it was classified as industrial. It was counter productive.

Rep. Dozier said he had a problem with the rental thing. Lot of people in this area have two houses on one lot and rent out one at a reasonable rent. Don't want to hurt these people. Chairman Huennekens said there is a difference of people jumping in there buying up that property and the legitimate renter.

Rep. Fagg said he felt the rollback was needed. Senator Towe agreed that it should have the rollback. He said he wanted to mention that adjoining this property (Flannigan's Subdivision) I have bought property and to that extent I might have a conflict of interest.

Dennis Burr said there is no difference in the manner in which it is used--we are to consider its market value. The area sold for \$7 a square foot and that is what the property will sell for and that is the assessment we put on it. The idea was mentioned in reappraising these homes that for industrial purposes the house was useless--would need to be moved out and junked--so value it low and the land at its true worth. Senator Towe said the Billings appraiser had mentioned this.

Rep. Underdal asked if the department has no discretion in a situation like this. People living here for years and industry moves in on them. Mr Burr responded that the Billings appraiser has used decent reasoning. The point is what is the value of the property on the market. Chairman Huennekens said we do talk true market value and then try to avoid true market value.

Rep. Fagg said there are instances where one owner can hold up an entire development for pure speculation. The landowner should have to pay the rollback tax. Senator Towe said he would examine this suggestion and consider the effects of it.

Senator Jean Turnage, District #13, Polson, chief sponsor of SJR 30, said this requests an interim study to be conducted by the Revenue Oversight Committee regarding the regulation of alcoholic beverages in this state.

SENATE JOINT This is prompted by a great number of bills attempting to do
RESOLUTION things with the quota system and other matters. As a legis-
 lature we have never had any real definitive consideration
 about what the problem actually amounts to and the factors
 involved. This resolution is important and perhaps after the
30 study we will be able to address the problems that face the industry, the state
 and other areas as well.

Rep. Joe Tropila, District #36, said the liquor laws are a bunch of hodge podge. The study should not be biased. There are a lot of discrepancies in the liquor laws.

Bob Durkee, Montana Tavern Association, said he was sure they were aware that no one has suffered more in attempts to loosen the quota system than his industry. He hoped they would have some input into this study.

Leon Messerly, Liquor Division, said they favor this resolution.

There were no opponents.

Rep. Underdal asked if this would just be a study of liquor laws. Senator Turnage said they would study everything to do with administering the state portion of the liquor business and licenses and the regulations that govern the industry. Something is going to have to be done with the quota system--not destroy but modify. It would be a two year study beginning July 1. It has a lot of possibilities and a lot of areas.

EXECUTIVE SESSION

SENATE JOINT RESOLUTION 30

Rep. Williams moved BE CONCURRED IN. This motion carried unanimously.

SENATE BILL 389

Rep. Bertelsen said he fully respected the intent but didn't feel specifying it as a home would change the evaluation.

Rep. Dozier moved to amend the bill by putting the rollback provision back in. Rep. Sivertsen suggested using the same language as was in Chairman Huenneken's bill in doing this. Chairman Huennekens suggested using words to make it clear the tax would be paid by the seller. Rep. Dozier felt who pays doesn't make much difference as long as the buyer knows it is there. He moved to reinsert lines 7 through 9 on page 2. Chairman Huennekens asked the committee if this change was made would the committee stand behind it if it went to a conference committee. Rep. Sivertsen said he was for it. Rep. Lien said the purpose of

a conference committee is to talk it over. Chairman Huennekens said without a rollback he couldn't vote for the bill. The consensus of the committee was that the rollback should not be compromised on. A voice vote was taken on Rep. Dozier's motion and it carried with Rep. Nordtvedt voting no.

Rep. Fagg moved to amend page 2, line 6, so that the occupant claiming the exemption must be the owner. He said this is to prevent the buying of land for speculation to get the exemption. Chairman Huennekens said this could be removing an available supply of low rent housing. Rep. Dozier questioned the value of those rentals--if we really want to keep them. Chairman Huennekens said he yielded to Rep. Dozier's opinion. Rep. Reichert asked if a person could live in one unit and rent out 20. Rep. Williams said it was tied to zoning. Chairman Huennekens asked if they were overlooking local zoning. Rep. Dozier reminded the committee his area was zoned residential and assessed industrial. Mr. Groff said there was no conflict with zoning, when he was asked. Rep. Lien felt it could be overriding the tax appeal concept--just as well throw our tax appeal thing out of the window. Tax appeal worked for these people last time so why not again.

Rep. Sivertsen said there is a definite difference of opinion and he felt the bill needed further study. He suggested holding for a day. He said there is a legitimate problem but didn't know if this was the right vehicle for it.

The Chairman said this makes good sense. The bill was deferred for a day.

Rep. Sivertsen moved the Chairman appoint a bipartisan committee to look at and pursue an alternative to the Homestead bill. Have five members from each party on this committee. He said he was proud to be a member of the House Taxation Committee and most times the committee has acted on a bipartisan level.

Chairman Huennekens said he would like the committee to know that Senator Turnage has suggested the leadership get together.

Rep. Fagg said the writing of a compromise bill was a good idea. We could ask the Senate to testify and also the governor's office. We could come up with something both parties and houses could accept.

Rep. Williams said it would be an effort in futility for the House Taxation to take off without the Senate. How can we expect anything we do to get any better acceptance than what we have passed over.

Rep. Johnson asked about including Senate members. Chairman Huennekens said we didn't have the authority to tell Senate members.

Rep. Reichert suggested her revenue sharing bill, HB 125, which was never heard in this committee, but which included some amendments relating to surplus.

Rep. Harrington said we have to decide what direction we are going to go. Ideas are going to have to be brought together--come to a meeting of the minds.

Rep. Williams asked if there was objections to making this a joint committee. Rep. Fagg suggested the motion be amended to say encourage the Senate Taxation to form a like committee to meet with us.

Rep. Vinger said the Senate bill we killed had only two dissenting votes in the Senate.

Chairman Huennekens said we can't kid ourselves. The senate vote was a political maneuver. From the democratic side it was not an expression of opinion-- it was a political act.

Rep. Fagg said this is a new day. We are sincere in what we are trying to do. I think it would be a plus to have the Senate join us. Rep. Williams said he felt there would be more of a chance of success if we include the Senate people.

Rep. Fabrega said he felt this committee should have a committee of ten and invite the Senate to join if they want to.

Rep. Fagg said this wouldn't preclude this committee from doing this. Rep. Fabrega said he moved to delete the invitation from the motion.

Rep. Hirsch said if both Taxation Committees met together wouldn't it have more legitimacy.

The Chairman said if we got 30 people together we would labor mightily and come up with a mouse.

Rep. Williams reminded the committee that a few years back on two occasions when there was this kind of an impasse, it was a joint committee that solved the problem.

Question was called and a vote taken on Rep. Sivertsen's motion to have Chairman Huennekens appoint a bi-partisan committee. The motion passed unanimously with those present (Rep. Gilligan was absent).

Chairman Huennekens said a motion was also suggested to have the Senate appoint a like committee to meet jointly to solve the impasse.

Rep. Harrington said he opposed that motion. When we have reached a compromise then get together with the Senators. They should get together themselves and come up with something.

Rep. Williams said he had no objection to the groups meeting separately but felt they should also be working toward a compromise.

Rep. Fagg said he withdrew his motion and was offering another that the Senate Taxation Committee be encouraged to form their own committee and come up with a suggested compromise. Both groups draft a new proposal--not previously introduced legislation, although the suggested material can and should be included.

After further discussion Rep. Fagg withdrew this motion. The important thing is for this committee to come up with something now.

Rep. Fabrega suggested having the Chairman inform the Senate that this step is being taken by this committee. The committee agreed and Chairman Huennekens said he would.

Chairman Huennekens said he would be assigning three unofficial subcommittees who would review the Senate Bills remaining in committee and suggest conclusions to

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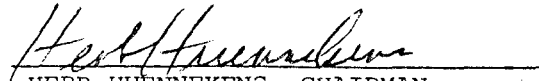
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the main committee. Each committee will be responsible for 8 or 9 bills.

Rep., Fabrega said the Senate committee has amended House Bill 63 very seriously and he would like to have a full committee discuss the amendments and have the Highway Department be present at that time.

Meeting adjourned at 11:15 a.m.


Emelia A. Satre, Asst. Sec.


HERB HUENNEKENS, CHAIRMAN