

## HOUSE TAXATION COMMITTEE

## 46th Legislature

The House Taxation Committee was called to order by Chairman Herb Huennekens at 8:30 a.m., on April 10, 1979, in Room 434, Capitol Building. Representative Fagg was absent. Randy McDonald, the staff researcher, was present.

Chairman Huennekens opened the meeting to an executive session on the following bills: SBs 142, 99, 300, 358, 181, 415, 416, 459, 523.

SENATE BILL 142

Representative Reichert moved that the committee reconsider its action on this bill. She said she had been concerned about the bill because of information from a Missoula attorney on what would happen when industrial and commercial property were included. She said that concern was with the original bill and the way it has been amended alleviates that concern.

Chairman Huennekens asked for a vote on the motion to reconsider and the motion carried with Representatives Lien, Hirsch and Williams voting no. (Rep. Fagg was absent.)

Chairman Huennekens asked Representative Fabrega to explain about the tax loss.

Representative Fabrega said the bill as amended causes no tax loss. The original bill called for reappraisal and that was a fiscal impossibility. If you take the assessment levied which we are using right now and multiply by 8.55 actual evaluation it comes a little below 5%. This bill allows a taxpayer to use his current market value, multiply by 5%, and so determine if his taxes are correctly assessed or not. Doesn't matter whether it is business, industrial or residential--supposed to be assessed in the same manner. The department contends the method of appraising on structures all end up with the same percentage--57% of market value--but can be anywhere from 40 to 60% of the true market value. We can bring the ones too low up to the average. With a 5% limitation the taxpayer has a way of proving his point. Those who are above the 57 1/2% have some redress without coming all the way to the State Tax Appeal Board or even have to go to court. A large commercial piece of property can afford the attorney fees but there are also small businesses that can't afford to do this.

Representative Reichert said her concern was not so much with Rep. Fabrega's explanation as the fiscal note attached. Rep. Fabrega responded that the original bill required the department to reassess to 100% and that is why the high fiscal note. He said he had asked for a new fiscal note. He had prepared this memo: appraised value of property is \$6,013,000,000 which would be \$10,457,000,000 in full market value. If you take 5% of that you come up with a taxable value of \$522,000,000. The present taxable value is \$514,000,000. The big outfits get together with the Department of Revenue. They don't get arbitrarily assessed but it is a negotiated figure. It is the rest of the middle class that needs some kind of a tool to protect ourselves.

Mr. Bill Groff, in response to a question, said they are still appraising with 1972 and 1976 manuals. New homes are appraised with the 1972 manual to the best of ability. There are 500 employees and some make mistakes. In 1980--100% as of that year. They are full and true values for a short time and then they taper off over the four year rotation.

Representative Williams asked why this bill was needed.

Mr. Groff responded for psychology. A citizen has a shot with this bill that you can go in and talk about.

Chairman Huennekens said in some counties land was appraised on January 1, 1978 and in others on a 1972 basis. Mr Groff said he didn't know the answer to that but would find out.

Representative Fabrega said in Cascade County all of the lots of the new subdivision are at 80% of market value. They are much less in other parts of the county. This results in a tax loss because the assessor didn't get the land accurately assessed.

Representative Williams asked if the state attempts to determine what the true market value is or does the actual sale of the property determine it.

Dennis Burr, having been called by Mr. Groff and asked by the committee, responded that they use current market value as close as they can get them. They are 1978 on some land and so it is a much more current multiplier.

Chairman Huennekens said he thought the 1978 value on the land should be known by the committee.

Representative Fabrega said the whole point is that there are variations. What you should look at is the combined taxable valuation of your house and land and that all together should be 5% of market value. He mentioned you could be taking a chance anytime you question your tax bill--might get your improvements reduced and your land increased.

Representative Johnson asked if the committee would like to delete industrial and commercial from the bill. She then moved to do so.

Chairman Huennekens said this deals with a philosophical question. Whenever you have a class you do or do not have to assess all the lands within that class on the same basis--you have to decide.

Representative Johnson asked if they didn't use different manuals. Mr. Burr said they use the same manual for commercial and industrial and a different one for residential. He said the commercial and industrial are from a manual prepared in 1976--which gets as close as we can to 57% of the current years valuation. Residential property is coming in at 55% of current year market values. On industries we use replacement costs minus depreciation.

Representative Reichert suggested separating class 11 so they aren't all under the same class.

Mr. Burr said they regard commercial as meaning straight business and they aren't a lot different than family residential property. Companies do keep detailed records of what it costs to build and this guides us as to what it would cost to replace the building. This bill would not have much impact on industrial plants. We each figure out (the company and the tax people) what the tax should be and if we are in the ball park we agree on the tax.

Chairman Huennekens took a voice vote on Rep. Johnson's motion and the motion failed with Rep. Johnson voting yes and Rep. Fagg absent.

The chairman said the motion yesterday was on page 2, line 1, to strike "most" and after "current" insert "year market." This motion carried unanimously with those present.

Representative Fabrega moved the bill AS AMENDED BE CONCURRED IN and this motion carried with Rep. Johnson voting no and Rep. Fagg absent. Rep. Fabrega will carry the bill on the floor.

#### SENATE BILL 99

Representative Dozier moved be concurred in.

Representative Fabrega moved a substitute motion to amend using the amendment proposed by the liquor division which is to strike section 9 on page 13 and 14.

Mr. Messerly of the Liquor Division said they favor the amendment as it would be better for the state to be taken out of the special order wine completely. It would only drive up their costs. They could end up being the trial seller in an area and if the wine proved a good seller they could be petitioned to be taken out of it.

Representative Fabrega said Senate Bill 99 as written pictured a total dual operation. That part was amended out but the special order was left in. The only wine they would have with this amendment is the wine they buy from a wholesaler or retailer. He asked that his amendment also remove the word "import" from the title.

Representative Vinger asked if they will operate as in the past. Mr. Messerly said they would only buy from existing wholesalers.

Chairman Huennekens called for a voice vote on the amendment and it passed unanimously with those present.

Representative Fabrega moved the amendment proposed by Ross Cannon, Montana Food Distributors, which is on page 13, line 24, following "department" to insert "The department shall establish the retail selling price by rule after a rulemaking proceeding conducted in accordance with the Montana Administrative Procedures Act as set out in Title 2, Chapter 4 of the MCA. It may alter or modify the retail selling price only after it has adopted rules pursuant to a rulemaking proceeding." He said apparently the concern in this area comes from the state of Washington which has had a dual distribution, and the state with its many outlets happened to be playing games with different markups. An

initiative has been started to take the state completely out of the liquor business. I personally feel we should have something that says having a unit handling fee.

Mr. Messerly responded on being asked that they are not in favor of the amendment. He said they could be dealing with 5-15 wholesalers and 15-20 different labels and so a great variation in price. He said they could have 146 different purchase prices over the state. What they would like to do for ease in accounting is have one sales price. The rule making allows no flexibility. If too overpriced it could take months to get back to a similar price as the private sector. We could be the ceiling or the floor for prices. He didn't think the small amount of wine they would be selling would make that much difference to them.

Representative Nordtvedt questioned why wines sold in Billings or Great Falls cost the same as that sold in far corners--why should they subsidize transportation costs, etc.

Mr. Messerly said all the merchandise is priced at retail selling price which is the same price state wide.

Representative Dassinger said he spoke against the amendment as it will tie the state's hands as far as being on a competitive basis.

Representative Williams also questioned why we need to hamstring them with a price setting.

Representative Dozier said they have \$13,000,000 to make so don't think they can do too much undercutting.

Representative Nordtvedt moved a substitute amendment to strike new section 8. If they want to price the same would not like to endorse that kind of pricing system. Don't think it very sensible.

Chairman Huennekens called for a voice vote and the motion carried with Reps. Fabrega, Huennekens and Hirsch voting no.

Representative Fabrega said the Cannon amendments has a new section 8. He thought the problem would come from the weighted average. Ekalaka would get 25¢ more per bottle because of transportation costs and the state store would be selling for less. He said he'd like to see a vote on this so moved it.

Mr. Messerly repeated this would force them not to be competitive. He said they have the same pricing system for wines as their other liquor. They come up with a formula percentage of the purchase price. He said their percentages haven't changed since 1972.

Rep. Fabrega withdrew his amendment.

Chairman Huennekens proposed in section 8 to insert the current state language that occurs in section 30-14-207 dealing with unfair competition.

Rep. Fabrega said this would apply to all in the wine business. He moved the amendment. The motion carried with Rep. Nordtvedt voting no.

Representative Fabrega moved the amendment proposed by Roger Tippy for the Licensed Wine Distributors that would enable retailers to stock their shelves

the last 20 days in June so when the wine can be sold in July they will be ready to go. The amendment would permit the state to liquidate their inventory.

Mr. Tippy in answer to a request for information said former Senator Devine said they would need to get out to all the rural stores and give instructions. That is why they need the lead time.

The staff researcher said with this amendment they would need to also amend the statement of intent as it has an immediate effective date.

Chairman Huennekens called for a voice vote on this amendment and it passed unanimously with those present.

Representative Fabrega said there is another amendment dealing with metric conversion. Since wine is sold in liters it would make sense to have a metric measure tax. He moved the amendment and it passed unanimously with those present.

Representative Fabrega said this next amendment deals with the timing of the tax. Instead of paying the tax on receipt it would be paid when it is sold.

Mr. Tippy said this is the way beer is taxed.

Bill Groff, Revenue Department, opposed this amendment. He said beer turns over 14 times where wine doesn't. He said don't extend the collection over a year and have all the problems inherent to it. They are still trying to make 13 million and this would make it tougher to do.

Question was called and the amendment failed with Rep. Nordtvedt voting for the motion and all others against that were present.

Question was called on the bill to BE CONCURRED AS AMENDED and the motion carried unanimously with those present.

Representative Dassinger moved to amend line 23 of the statement of intent by striking "The state markup should not be so low as to create a competitive advantage for the state." He said due to the amendments added this wasn't needed. This motion carried with Reps. Fabrega and Hirsch voting no.

Rep. Fabrega moved to continue striking lines 24 and 25 and 1 and 2 of the next page. This motion carried unanimously with those present. The statement of intent is attached to the minutes.

Rep. Fabrega questioned if the statement of intent should be amended to include allowing the department to adopt temporary rules. The staff researcher will check this out.

#### SENATE BILL 300

Representative Lien moved the reconsideration of this bill.

Representative Reichert said she was still concerned about the current law suit. We could be in more trouble if we do anything with the coal tax.

Representative Nordtvedt felt a little more of the money could be used for

current needs. He said he favored the bill. During a period of high inflation it is foolish to stick money away.

Representative Dozier said it would reduce local impact funds and this could be very important in the next few years.

Representative Lien expressed a fear that the coal tax money would be thrown into the general fund trough and the impact areas would be sacrificed.

Representative Hirsch said he favored the notion of taking some of the money and putting it into the fund. But he felt it unwise at this time because we could become addicted to that kind of money and rely upon it; and since we are in litigation it would seem an unwise time to tamper with this.

Representative Sivertsen said if in the future we want to use some of those moneys for social benefits, it should be a one-time expenditure and not go into any revenue estimates as far as being used to expand government in any way. This bill may be a little untimely.

Representative Fabrega said he would favor the Towe amendments if the bill were to pass. Towe's amendments would have strenthened the local impacts, and shipped some of the money into the foundation program. He suggested the amendments be added just in case the bill gets to the floor.

Representative Sivertsen doubted that the bill would be brought to the floor. Let's move on the bill as it is with the option of amending on the floor. He said he wished his county had as low a mill levy as the impacted counties.

Chairman Huennekens asked for a recorded vote on this bill on the motion of BE NOT CONCURRED IN. The motion carried with Reps. Nordtvedt and Underdal voting no and Rep. Bertelsen absent. The chairman asked if the committee would object if those absent would be permitted to cast their vote since this is an important bill. The committee did not object.

#### SENATE BILL 358

Representative Harrington moved be concurred in.

Representative Dozier said this is a very important bill. We keep talking about our streets and this bill will allow the people to put the tax on themselves. He said he had especially strong feelings about the need for this bill.

The researcher questioned the language inserted on page 2 where it says the district gets 1% of the total tax. Rep. Lien said the bulk plant gets this and the local districts send the money in. Chairman Huennekens asked how they feel about the 1%--the state now does not reimburse the retailers. But if we take out the language it would be certain to go to a conference committee.

Dean Zinnecker was asked why the Association of Counties opposed the bill. He said they support the concept but object to the way the rebates are collected. The state is set up to do this already so why have the counties do it.

Representative Harrington said the subcommittee would like to see the inter-local agreement as a first option. Have the local people gather and try to work it out before putting it to a vote. He said they decided to go ahead with the bill rather than have it go back to the Senate.

Representative Sivertsen said on line 16, subsection 2--the rebate portion looks like it will be a little difficult to add to the cost of administering the program. On page 2, line 3--would appear the tax imposed in a local county would have sufficient benefits so the governing body could assume the cost of administering that. If the county handles it could fragment the tax and take a portion from its intended purpose. He moved to strike subsection 2, page 2, line 3.

Rep. Reichert spoke in opposition to that motion. Rep. Fabrega said it would come out of interlocal agreement.

Representative Sivertsen withdrew his motion.

Representative Hirsch moved to amend on page 1, lines 16 through 19. This deals with off road use and the county was uncertain of the effect. He said his people didn't mind paying that little bit of extra money for this. His motion was to strike these lines.

Representative Williams said he agreed with this motion as it was one of the counties' real problems.

Representative Sivertsen said the state has already said it has no problem with the refunds. Just put an extra block on the form.

Chairman Huennekens called for a voice vote on Rep. Hirsch's amendment and the motion passed with Reps. Dozier and Harrington voting no.

Rep. Fabrega asked if we should include the interlocal option. Rep. Dozier said he had a letter from the county commissioner supporting this bill in its present form. He felt it would be a mistake to put in the interlocal agreement. Rep. Fabrega said he had just thrown it out for discussion and have a feeling there is not much support for it.

Rep. Lien moved to reconsider Rep. Hirsch's amendment and leave the bill clean so it doesn't go back to the Senate.

Rep. Sivertsen said a vote was taken and he would like the amendment left in.

Chairman Huennekens asked for a voice vote on Rep. Lien's motion and the motion failed.

Chairman Huennekens called for a vote on the bill to BE CONCURRED AS AMENDED. This motion carried unanimously with those present. Rep. Harrington will carry the bill on the floor.

#### SENATE BILL 181

Vice-Chairman Dassinger assumed the chair as Chairman Huennekens had to leave.

Representative Harrington moved be concurred in.

Rep. Dozier said we have a reciprocal agreement with other states. Amend the bill so it is clear we have the agreements with other states.

The researcher said this could be added on page 2, line 2 by inserting "and any vehicles owned by other states that have a reciprocal agreement with the state of Montana." He said he would check this out with Mr. Copley. This amendment carried unanimously with those present.

Vice-Chairman Dassinger called for a vote on the motion of BE CONCURRED IN AS AMENDED and this motion carried unanimously with those present. Rep. Dozier will carry the bill.

#### SENATE BILL 415

Representative Harrington moved be concurred in. He said it is a good bill. The motion to BE CONCURRED IN carried unanimously with those present. Rep. Underdal will carry the bill on the floor.

#### SENATE BILL 416

Representative Harrington moved be not concurred in. He said there is not much to be gained from this bill.

Representative Fabrega agreed it would complicate the bookkeeping and better to kill the bill. Rep. Sivertsen agreed.

The motion of BE NOT CONCURRED IN carried unanimously with those present.

#### SENATE BILL 459

Representative Harrington moved be concurred in. He said it was a good bill and clarifies the use of gas as far as agriculture is concerned.

Representative Lien said he did not like the definition. A person making 49% of his income from farming could not get agricultural use for his gas. He said this would be a hardship for some parttime farmers. Big farmers will be using diesel so this would discriminate against the small ones.

Vice-Chairman Dassinger asked if the committee would like to hold this bill and check with Mr. Nichols about possible problems. It was agreed to do this.

#### SENATE BILL 523

Representative Harrington said his subcommittee suggested a be concurred in.

Representative Nordtvedt opposed the bill. He felt this was another step in our trend to differentiate in our property tax for another special group.

Rep. Williams said we have a classification now for new things which is 3%. This would set up another classification.

Rep. Fabrega said the tax classification would cover everything--equipment, grain storage, grain--whole ball of wax. It would be at 2%. He said he supports the bill as gasohol could be the partial answer to the crunch.

Representative Hirsch spoke in favor of the bill. He said we need to do all we can to encourage this kind of industry because of the oversupply of grain in Montana and the energy crunch.

Representative Sivertsen said as much as we all support the concept of gasohol, there is still available industrial revenue bonds. This is class legislation. There are many enterprises coming into the state of Montana that will be beneficial to the state and are we going to pass classifications for them. I support gasohol but will vote against this bill.

Rep. Underdal said he didn't like the idea either.

Rep. Fabrega said that since it wasn't a proven industry he doubted there would be any buyers for industrial revenue bonds. He said this is a brand new idea and deserves the bill.

Rep. Williams said it is not brand new. We have alcohol distributing plants. The only new thing is when you blend the alcohol with the gasoline.

Rep. Hirsch reminded the committee it is costing money to store the grain and this would be a good method of using the grain and getting off the subsidy program. A tax break that could save a lot of tax dollars.

Rep. Bertelsen said we could be truly happy to have something like this in Montana if the oil situation changes.

The question was called and the motion of BE CONCURRED IN carried with Reps. Dassinger, Nordtvedt, Sivertsen and Williams voting no and absent being Reps. Fagg and Huennekens. Rep. Hirsch will carry the bill on the floor.

#### SENATE JOINT RESOLUTION 4

Vice-Chairman Dassinger said he had talked with a member of the Board of Investments and had been informed this bill would do nothing as far as he could see, that they are putting all they can into the state now without losing money and the bill doesn't instruct them to do that.

Rep. Nordtvedt spoke in opposition to the bill. He said the Board of Investments is fairly immune now to critical interference and this is to its and the state's credit. He didn't feel the Board should be put under pressures of this kind to accept less earnings.

Rep. Reichert pointed out that 80% goes out of state--could have a multiplier effect if used in state. Rep. Dozier also felt the state is in poor shape from not having investment money. Rep. Lien felt the bill was important as it encourages them to investigate. Rep. Fabrega said he could see no problem with the resolution. He said after a while a group does get tunnel vision and this bill brings to their attention that they should investigate these things.

Rep. Fabrega moved BE CONCURRED IN and the motion carried with Reps. Nordtvedt and Dassinger voting no and absent were Reps. Fagg, Huennekens, Robbins and Reichert. Rep. Fabrega will carry the bill on the floor.

SENATE JOINT RESOLUTION 5

Representative Fabrega moved BE CONCURRED IN and the motion carried with Reps. Nordtvedt and Dassinger voting no and absent were Reps. Fagg, Huennekens and Robbins. Rep. Fabrega will carry the bill on the floor.

SENATE BILL 459 (BACK TO IT)

Representative Lien asked since Mr Nichols was present if they could continue discussion of this bill. He said his concern was for the parttime farmers who work in town and the biggest portion of their income is not from the farm and yet they would be entitled to a refund.

Mr. Nichols said they could use option 2 or 3. The bill is intended to get at the people you are discussing--hobby farmers. Most of the gas they are filing for is used to commute.

In answer to a question on motorboats Mr. Nichols said if you are running a motorboat you are already getting a share of .9 of one percent. Snowmobiles are not allowed a refund. If you operate a snowmobile or boat commercially you can claim a refund.

The researcher on a point of information said page 7, section 4 permits the agriculture use definition to estimate and anyone else has to keep actual records.

Mr. Norris asked if he could suggest an amendment with regards to key locks. Lots of these are going in.

Rep. Lien said he would volunteer to work with Mr. Nichols to come up with an amendment.

Vice-Chairman Dassinger said the bill would be held awaiting the report.

SENATE BILL 71

Rep. Gilligan said this was in their subcommittee.

Rep. Johnson moved BE CONCURRED IN. This motion carried unanimously with those present. Rep. Johnson will carry the bill on the floor.

SENATE BILL 75

Rep. Gilligan said this bill was in the subcommittee and moved it be concurred in.

Rep. Lien said the effect of this bill is if they have a currently registered vehicle they can get a 90 day temporary permit. This would alleviate something that has been a hardship for people working in the state temporarily.

The motion of BE CONCURRED IN carried unanimously with those present. Rep. Dassinger will carry the bill on the floor.

SENATE BILL 174

Rep. Fabrega directed the committee to line 16, page 1 which refers to the five acres. The problem is that as the bill is drawn up if you have less than 5 acres under the chicken houses you are out. The amendment would take it out of subsection a and make it a new subsection c so you would not be subject to the five acre limitation. Then on line 15, page 1, strike "either" and insert "any"; line 24, page 1 through line 2 on page 2, strike. Insert between line 7 and 8 a new subsection c reading the same as iii. Move iii to between lines 7 and 8 on page 2. Then it would not be subject to the five acre limitation. Rep. Fabrega moved the amendments and the motion carried unanimously with those present.

Rep. Underdal moved the bill be concurred in as amended.

Rep. Williams questioned the need--wondered if we were passing some more special legislation.

Rep. Fabrega said the difference is the land was considered commercial and should be agricultural on productivity. Eggs are taxed as products but the land under the chicken coop would be agricultural. Rep. Dozier added all of the equipment for the selling of the eggs is still commercial and will so remain--only area to be changed is the area used to raise chickens.

Vice-Chairman Dassinger said he agreed that it is a special interest bill and don't think it is needed.

Rep. Lien said if it were used for a horse or goat it would be classified agricultural--should have the same consideration for chickens.

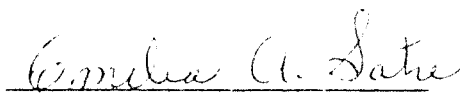
Rep. Williams said this is an industry providing income and should be treated like commercial type industry.

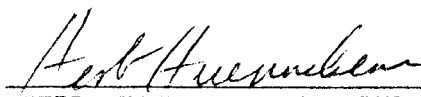
Question was called and the motion BE CONCURRED AS AMENDED carried with Reps. Williams and Dassinger voting no. Absent were Reps. Burnett, Nordtvedt, Fagg and Robbins. Rep. Underdal will carry the bill on the floor.

SENATE BILL 521

Representative Fabrega moved BE CONCURRED IN. Motion carried unanimously with those present (same absent as previous bill).

MEETING ADJOURNED AT 12:05 p.m.

  
Emelia A. Satre, Asst. Sec.

  
HERB HUENNEKENS, CHAIRMAN