

HOUSE TAXATION COMMITTEE

46th Legislature

The House Taxation Committee was called to order by Chairman Herb Huennekens at 8:45 a.m., in Room 434, Capitol Building, on April 11, 1979. All members were present. Randy McDonald, the staff researcher, was present.

Executive action was taken on SBs 303, 358, 459, 220, 248, 347 and 384.

SENATE BILL 303

Representative Fabrega moved to reconsider the Cemetery Bill, SB 303. Reps. Vinger and Nortvedt voted no. Motion carried. Rep. Fabrega then moved the bill be amended. A copy of the amendments are attached to the minutes. The staff researcher responded to a question that the amendments presented would require that any cemetery that applies for this tax break must establish a trust fund in order to care for and maintain the cemetery. The question was called and the motion to accept the amendments carried unanimously. Rep. Fabrega moved the bill as amended be concurred in. This motion carried with Reps. Nortvedt, Vinger and Williams voting no (Reps. Burnett and Harrington were absent). The bill received a committee recommendation of BE CONCURRED IN AS AMENDED. Rep. Fabrega will carry the bill.

SENATE BILL 358

Representative Hirsch asked that this bill be reconsidered. He said the striking of subsection 2 on page 1 by the committee might not be too wise. If the refund is not allowed the rural areas would not pass it. He asked that this language be reinserted.

Representative Williams didn't think the rural counties would have enough votes to defeat it and did not think that a valid argument.

Representative Dozier said it has to go through the Senate--and too many rural people there.

Representative Bertelsen felt that even if they didn't have the vote they deserve that protection.

Representative Hirsch moved to put subsection 2 back in to save a hassle with the Senate. He said it didn't mean anything to him but maybe it will to a lot of people.

Representative Fabrega moved to amend by adding Mr. Zinnecker's amendment (a copy of which is attached to the minutes). This would keep the counties from having to set up their own method of refunds.

Dean Zinnecker, responded to a question that the problem with the bill is it says the county "shall" so it does not let us have the state do it.

Representative Williams said if the feeling of the committee is that we shouldn't send it back to the Senate, I will go along with it. But I agree with Mr. Zinnecker.

Representative Lien said clarify that the state does it. We have nothing to lose and everything to gain on a short conference committee.

Rep. Fabrega asked Mr. Zinnecker if this is an amendment that the Seante rejected. Mr. Zinnecker said no, it had not been submitted in the Senate.

Chairman Huennekens asked for a voice vote on the amendment. Reps. Dozier and Dassinger voted no. The motion carried.

Representative Hirsch moved the bill as amended be concurred in. This motion passed unanimously with those present. The bill receives a BE CONCURRED IN AS AMENDED committee recommendation. Rep. Hirsch will carry the bill.

SENATE BILL 459

Representative Lien said this bill would exclude hobby farmers from using option 1 but they could still use option 2 and 3. He moved the bill be concurred in.

Representative Johnson moved a substitute motion to amend the bill on page 7 by reinserting the existing language which she said is according to use.

Representative Lien commented that this would benefit the large gasoline users to the detriment of the smaller. He said he would personally benefit from this amendment. The break even point will be \$4,000.

Representative Williams felt the original language comes closer to actual use.

Representative Fabrega said the bill puts forth a simplified formula. They can choose which option they want but must keep records.

The staff researcher responded that under the law now you can estimate or keep records. What this bill would do is allow only agricultural users to estimate - but they don't have to estimate, they can keep records. On page 4 is the general refund authorization and it is allowed for anybody. Section 4 allows agricultural users to estimate.

Question was called on Rep. Johnson's amendment and a recorded vote was taken and the motion failed 5 to 11. Those voting yes were Reps. Burnett, Johnson, Nortvedt, Reichert and Underdal and absent were Reps. Bertelsen, Hirsch and Robbins.

Chairman Huennekens called for a voice vote on the motion to concur and this motion carried with Reps. Johnson and Nortvedt voting no and the same absent. Senate Bill 459 receives a BE CONCURRED IN committee recommendation. Rep. Lien will carry the bill.

SENATE BILL 220

Representative Gilligan said their subcommittee did not recommend any action on this bill as they felt there would be committee members with more expertise than they had.

Representative Fagg said he opposed this bill. He said when he appeared before the Board he was glad there were three members on it. He felt the bill was not needed.

Representative Dozier said this wouldn't prevent you from taking your case before the full board.

Representative Lien said the county tax appeal board is made up of citizens with their own businesses to run--they only have so much time and the state tax appeal board could end up with more cases. This hearing officer could be a big help and could be more competent than the tax appeal board. The state tax appeal board would have to be backed up 500 cases before they could use the hearing officer.

Representative Fagg said he would not oppose the bill if the officer could not be used until they were 500 cases behind.

Representative Nortvedt wondered if taxpayers might be offended by having a hearing officer conduct their hearing, and might feel it a further encroachment on the local operation of the tax appeal board. He didn't see the need of the bill.

Representative Williams said the Department of Revenue uses a hearing officer. The record of the hearing has to go back to the state board and they make the determination. He felt it was a good move.

Representative Fabrega said they wouldn't be usurping the power of the county tax board. They will be used when the state tax appeal board is 500 cases behind.

Representative Reichert expressed concern about the monetary impact. What assurance do we have that it won't mushroom and be much more.

Rep. Fabrega said if they don't get the appropriation, they won't hire the hearing officer.

Rep. Lien said the hearing officer has the same power as an individual board member. He would hear the appeals and decide on the issue. You can insist on a hearing of the full board and then all three have to sit and listen to you. He moved the bill be concurred in.

Rep. Reichert said it is very important to have an avenue of appeal when you think you are overtaxed. This might be the most valuable money we spend.

Chairman Huennekens asked for a voice vote on the motion and it carried with Reps. Nortvedt, Burnett and Williams voting no. Rep. Williams will carry the bill. SB 220 receives a committee recommendation of BE CONCURRED IN.

SENATE BILL 248

Representative Reichert moved that the bill be concurred in. She felt it would be advantageous to initiate this sort of program.

Representative Burnett spoke against the bill. He mentioned he had viewed the land bank situation in Saskatchewan and had a pamphlet on it which he would be happy to show. He felt this sort of program could develop another bureau that won't end and any money allocated to it would be in direct conflict to the prudent man rule. He had several suggested amendments. Page 21, lines 23 and 24,, could cause problems for the applicant; page 22, line 21, amend out "majority of the voters": page 23, lines 11 and 12, would tie up the funds forever and should be amended out; page 24, lines 24 and 25, also amend out.

Representative Fagg said he was for the amendments but against the bill.

Representative Reichert said this is a loan program only. Saskatchewan takes over the loans and we don't have any intention of doing this.

Representative Lien moved the amendments he passed out. These are attached and part of the minutes. This would provide the finances to operate the program.

Representative Nordtvedt said he opposed quite firmly. He said we are trying to fairly spread out the appropriations of the state for all the citizens of the state and this would benefit only a couple dozen farmers who happen to be first in line. He felt it was a very narrow bill.

Representative Fabrega explained the two million is to set up the pilot program and then the legislature can work pretty closely with the housing authority which sells the bonds and buys the mortgages. He said he believed in the bill. Since these are participating loans with the FHA, the FHA will take over the paper in case of default.

Representative Reichert said a number of young farmers are waiting. They have been approved and this way they will be able to stay on the farm instead of selling out to corporations. This is an investment in the future. Senator Towe suggested we delete the section referring to bonds on page 31, lines 1 through 8, because of exemptions that are no longer true.

Representative Nordtvedt said Rep. Fabrega says this will be like the housing system we set up but the state doesn't stand behind the housing bonds. Page 23, lines 15-18 indicate we felt these bonds needed the full credit of the state. This could be a red-line warning that they couldn't sell these bonds without the state behind them.

Representative Reichert said the Montana Farmers Union and the NFO believe this would be very helpful to young farmers.

Representative Vinger questioned if the young farmers would be able to afford the interest on the loans. He didn't feel it would help anybody--to be a farmer you have to be born into it or marry into it.

Representative Sivertsen said he had no qualms about helping young farmers get started but let's not confuse the issue because this is not going to keep young farmers on the farm. If we don't get the economic measures straightened out, we won't be able to keep the young people on the farm.

Representative Burnett asked what the age limit would be and who is going to pay the taxes.

Representative Fabrega said age limits couldn't be set as that would be discriminatory and taxes would be paid by the owner.

Representative Hirsch said we are overlooking a possibility. We could institute a program like this and pay the interest differential. The most difficult thing for the young farmer is to pay the interest. Structure this to address the high interest for the first five years. Then you could reach a lot of young farmers and help them where they need the help.

Chairman Huennekens asked for a vote on Representative Lien's amendments to block in the two million dollars. This motion carried with Representative Nordvedt opposing (Representative Bertelsen gone).

Chairman Huennekens said the staff researcher had several technical amendments. These are: page 22, line 10, to add "if in existence" after council; line 13, change "may" to "shall"; page 23, line 8, change "lease agreements and sales" to "loans"; and on page 31, line 1-8 to strike section 24.

Representative Fabrega said he disagreed with the last amendment and didn't think it should be included. All municipal bonds are tax exempt and since these bonds are going to be sold out of state they need to be tax exempt. As he understood it would only be taxed to Montana holders as corporate license tax has to be kept tax exempt or you don't have anything to sell.

Senator Towe responded that it is covered by another part of the law.

Chairman Huennekens asked for action on the technical amendments and the committee approved them with Representatives Vinger and Burnett voting no. (Rep. Bertelsen absent).

Chairman Huennekens asked for a recorded vote on the bill as amended. The motion to BE CONCURRED IN AS AMENDED carried with 11 voting for and 7 opposed. The 7 opposed were Reps. Burnett, Fagg, Gilligan, Nordtvedt, Sivertsen, Underdal and Vinger. (Rep. Bertelsen absent).

Representative Lien will carry the bill. He asked since the bill will go to appropriations would the proper procedure be to discuss it on the floor prior to having it assigned. The committee felt this would be the right way to go.

SENATE BILL 347

Representative Reichert moved be concurred in. She mentioned a suggested amendment on page 1, line 23, to change "1972" to "1970" and similarly on page 2, line 3. Representative Fabrega moved the amendment.

Representative Dassinger said the reason for the amendment was that coal mining began earlier than 1972 and to allow for the differential it has to be set before the time when the impacts began.

Chairman Huennekens asked for a voice vote on the motion to amend and this carried unanimously with those present.

Representative Lien moved to change the "shall" to "may" on page 2, line 5.

Representative Fabrega said this was needed because if they replaced something like a bridge just prior to the impacts the millage would go quite high and the board would need to be able to recognize this.

Representative Reichert agreed the bill needed to address emergency situations.

Representative Dassinger said from all reports the Board has made 95% good decisions and so why tie their hands with a shall.

Representative Lien said the Coal Board is functioning reasonably well. He said he was basically against the bill but would endorse this amendment.

Representative Johnson questioned if the "shall" were changed to "may" would there be any reason for the bill. Would it be toothless?

Representative Williams said he agreed with Rep. Johnson. This would defeat the purpose of the bill.

Representative Dassinger said we pass resolutions all the time and they are gutless and toothless. Rep. Johnson's reply was resolutions aren't tied down in statute.

Representative Nordtvedt said the more we can tie the Board down to specifics the happier he will be.

Representative Dozier said we can replace ourselves with a computer if we don't need human judgements any more.

Chairman Huennekens asked for a recorded vote on the amendment to change "shall" to "may" and it carried with 12 voting for and 5 opposed (Hirsch, Reichert, Nordtvedt, Johnson, Williams), 2 absent (Robbins and Bertelsen).

Senator Towe was requested to explain the amendments that are attached to the committee. He said he did not necessarily support them. He said he had informed the Senate Taxation Committee that the Coal Tax Committee should be sunsetted and Senator Manning felt it should be continued as a subcommittee of the Revenue Oversight Committee.

Representative Lien said he had discussed this with Senator Manning. He suggested having two senators and two representatives one from each party and this could be the subcommittee and these would be taken from the Revenue Oversight Committee. There should be some directive. He didn't think four additional men were necessary--the regular committee could do it at a fraction of the cost. They should make up a permanent subcommittee.

Representative Nordtvedt moved to amend the amendments passed out by Senator Towe by striking the four legislators that would be chosen that do not serve on the Revenue Oversight Committee. Then strike the four and replace it with two as the members that will be chosen from each house to serve on this committee. It would be undoing the practicality of the whole concept to have these four other members that would serve only on this subcommittee.

Representative Dassinger said he would like to point out that we are going to hurt an old gentleman's feelings very much as Senator Manning would like to serve on this subcommittee.

Representative Sivertsen said if we think it is necessary to continue the function, just keep the Oversight Coal Tax Committee or if we don't think we need this let's transfer it to the Revenue Oversight Committee and just function on that basis. Limit the number of members.

Representative Fabrega said he had no problem with the subcommittee as they would report to the full committee and there is perhaps a need to retain some touch with their duties. Don't see any need for the whole Revenue Oversight Committee meeting with the Coal Board.

Representative Lien said he realizes the purpose of the extra members but didn't think Senator Manning is precluded from serving on the Revenue Oversight Committee.

Representative Fabrega suggested the subcommittee appoint a chairman who is not a member of the Revenue Oversight Committee.

Chairman Huennekens questioned if Senator Manning would care to carry the load of the Revenue Oversight Committee but it would be good to let him be on the subcommittee if he desires.

Representative Lien said Senator Manning is one of his favorite people but in this case he would have to hold the line.

Chairman Huennekens asked for further discussion on Rep. Nordtvedt's amendment.

Representative Nordtvedt said for purposes of practicality you don't want to have an interim committee and then other members. We have to reach a point where the coal money receives as much scrutiny as the rest of the money. One Revenue Oversight Committee would strengthen the integration of the revenue of the coal money. I would be in favor of that.

Representative Fabrega made a substitute motion for all motions pending. Have a subcommittee composed of four members of the committee--two from each house and two from each political party and this subcommittee would elect a chairman that is not a member of the Revenue Oversight Committee.

Representative Williams suggested having a chairman from the Revenue Oversight Committee and four other members.

Representative Lien said he would support a resolution to have Senator Manning be an ex-officio member of the committee and subcommittee.

Representative Fabrega asked if it would be within the ability of the Revenue Oversight Committee to appoint Senator Manning as an honorary member.

Representative Fagg suggested we just pass the first amendment presented by Senator Towe. It will cost \$8,000. He made this a motion for all motions pending.

Representative Fabrega said we don't want to make it that large. Amend my motion to four members of the committee and two legislators one from each party that aren't members.

Representative Williams said for the few dollars involved why not just leave four there and let the amendment go.

Representative Fabrega withdrew his motion--all his motions.

Chairman Huennekens called for a voice vote on Rep. Fagg's motion and it carried with Reps. Sivertsen, Burnett, Reichert, Nordtvedt, Huennekens voting no and absent were Reps. Robbins, Bertelsen and Harrington.

Chairman Huennekens asked for a vote on the bill to BE CONCURRED AS AMENDED and this carried with Reps. Nordtvedt, Sivertsen, Burnett voting no and the same absent. Rep. Dassinger will carry the bill.

SENATE BILL 384

Representative Vinger moved that the bill be concurred in.

Representative Fagg expressed his dislike of the bill.

Representative Dassinger said the bill is about equality. This would permit people who work in the state but live in Wyoming to deduct their house payments and such expenses on their Montana income tax. He felt it was a good bill.

Representative Nordtvedt felt the bill should be defeated. He said if they have a home in Wyoming they are benefiting this town and the Wyoming banks. Why should Montana give him a deduction on a Wyoming address? If he lives in Wyoming and has other sources of income we can't touch that.

Representative Reichert agreed with Rep. Nordtvedt.

Chairman Huennekens reminded the committee it is a matter of equity as these people cannot find reasonable quarters in Montana.

Representative Dozier said the only benefit they get is three miles of road.

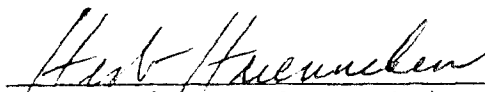
Representative Lien said we have reciprocity agreements with all states that have income tax which Wyoming does not have. We really should be shipping some of our coal impact funds to Wyoming for housing these people.

Rep. Johnson reminded the committee this would be a bill for the entire state and not just one small area.

Chairman Huennekens called for a recorded vote on the motion of BE CONCURRED IN and it carried 10 to 7. Voting no were Reps. Fabrega, Fagg, Johnson, Nordtvedt, Reichert, Sivertsen and Williams. Absent were Bertelsen and Robbins. Rep. Dassinger will carry the bill on the floor.

Meeting adjourned at 11 a.m.


Emelia A. Satre, Asst. Sec.


Rep. Herb Huennekens, Chairman