

HOUSE TAXATION COMMITTEE

46th Legislature

The House Taxation Committee was called to order by Chairman Herb Huennekens at 8:30 a.m., in Room 434, Capitol Building, on April 12, 1979. All members were present. Randy McDonald, staff researcher, was present.

Bills to be considered today will be: SBs 384, 401, 508, 463, 99, 67, 182.

SENATE BILL 384

Representative Fabrega moved to reconsider action on this bill. He said it was intended for Wyoming but goes beyond that.

Chairman Huennekens said it was brought to their attention that it would cost 4 million for the biennium on this bill.

The motion to reconsider passed unanimously.

SENATE BILL 401

Rep. Fagg moved be concurred with.

Rep. Williams moved AERO's suggested amendments which had been presented by Ron Pogue. A copy of these is attached and part of the minutes.

Mr. Pogue responded to a request for information that there has been a committee up until the last time. This amendment is to insure that they use the committee. There are 5 to 7 on the committee and they met twice a year. Now it will be once a year and they will do solicited grants. The only expense will be for those that need expenses. \$25 for attending a meeting--it would cost \$5,000-10,000 for a million dollar a year program.

The researcher on being asked said there is statutory law on these committees, and it provides for expenses.

Rep. Reichert questioned all the talk on the advisory committee--that is part of the bill as amended. The original bill is to expand the grant money for renewable resources to commercial uses and reduce that which goes for other purposes.

Mr. Pogue explained the reason for taking the restrictions off is that the program has given out demonstration grants for residential and what we need is to get more into industrial systems like wind and methane, etc. There could be some real impacts.

Rep. Reichert asked if this is why the advisory committee would be important as far as vying for these grants.

Mr. Pogue said that is why they would like it mandatory. There could be large proposals from high powered corporations and so there could be more

pressure to give grants. There are several pages of different target areas addressing specific things--blueprints they have to go by. They will be primarily soliciting proposals --this will be a different area.

Rep. Williams said he would like to add--very valid reasoning.

Rep. Lien said the Coal Tax Oversight Committee was effective in getting an acceptable program and the Revenue Oversight Committee will be adequate to direct it. This would be redundant.

Rep. Sivertsen moved to amend the amendment on line 2 by striking "representatives of state agencies." These people are working for us and if they have expertise we should be able to use it.

Question was called on this motion and it passed unanimously.

Rep. Dassinger spoke against the motion to adopt AERO's amendments.

Mr Pogue responded to a question that the advisory committee and the oversight committee have two different functions. The oversight committee is legislative and will review the overall direction of the program, political aspects of the program and seeing that it does what the legislature wanted it to do. The advisory committee will have technical expertise and be involved in the decision making process which the oversight committee couldn't offer.

Rep. Gilligan asked if this expertise couldn't come from the staff.

Mr. Pogue responded there was a case where the staff had a recommendation which was overruled by the director. Since there was no avenue for a public hearing there was no way the findings of the staff could be made known.

Rep. Williams felt this outside input was needed.

Rep. Lien said the oversight committee is advisory and this committee is advisory. The head of the department can say to heck. I would have been ready to abolish the slice of pie if the DNR hadn't come up with a clear cut set of goals. Keep it tight, keep it responsible. If you let too many people with too many pet projects in you have a real chance of losing the whole slice.

Chairman Huennekens called for a recorded vote on the amendment. The motion failed 5-11. Voting yes were Reps. Huennekens, Harrington, Reichert, Robbins, Williams and absent at the moment were Reps. Bertelsen, Burnett, Hirsch.

Question was called on the motion BE CONCURRED IN and this motion carried unanimously with those present (same absent as above). Rep. Johnson will carry the bill on the floor.

SENATE BILL 508

Representative Williams moved be concurred in.

The researcher presented three pages of amendments. He said they are mostly

technical. These are things that were noticed after the original drafting of the bill and are needed to dovetail with federal law and conform with Montana law. A copy of these are attached and part of the minutes.

Rep. Fagg moved the adoption of these amendments and the motion carried unanimously with those present.

Rep. Nordtvedt passed copies of his suggested amendments to the members. A copy is attached to the minutes. This changes from 4 to 8% the interest rate charged on deferred payments. If you allow interest rates below the inflation rate you are essentially giving them money and the courts have ruled this illegal. Since the bill basically deals with inheriting property in a closely held family business and treats inheritance of the wage earners who transfer to savings accounts, the least we can do is to charge honest rates.

Rep. Johnson said it will be imposing a whole bunch of requirements and not too clear.

Rep. Sivertsen said the law is clear that you can't just give a member of your family anything you have to affix a value.

Question was called on Rep. Nordtvedt's amendments and they carried unanimously.

Question was called on the bill. The motion BE CONCURRED IN AS AMENDED carried unanimously. Rep. Lien will carry this bill on the floor.

#### SENATE BILL 463

Chairman Huennekens said this bill had come back to committee for the committee to take another look at it.

Rep. Fagg moved be not concurred in. He said there is a real problem with this bill. It gives a great deal of latitude to counties. They could get a good deal of undeserved state help. There are other ways to address this--we could have a bill where a county could put in a claim on particular circumstances. This bill should be killed.

Rep. Lien said it is taken out of the welfare law. Justice is a duty of state government and 13 1/2 million goes directly to the state. We had a four million amendment in there and I think that is fair.

Rep. Sivertsen said he still thinks it is a bad bill. He said he can appreciate when one of these extraordinary things happen--but this is no way to address it.

Chairman Huennekens said the bill says the department "shall" do things but no funding was provided. This makes it an unadministrative bill.

Rep. Fabrega suggested a committee bill which would take the funds out of the governor's disaster fund and use it for murder trials.

Chairman Huennekens reminded him this would take 2/3 vote of the house. Rep. Fabrega didn't think this would be too difficult to get.

Rep. Fagg felt the problem isn't that acute. Let the counties for certain things be able to submit a claim and for some past happenings they can come in also.

Rep. Reichert said she agreed partly with Rep. Fagg. She said this didn't seem a problem when it was discussed earlier--how come?

The chairman said it was because of the wording-- the "shall's." We could say if money is appropriated to the department for this purpose.

Rep. Johnson moved to strike section 1 and to amend the title, line 6, by striking "TO PROVIDE A COUNTY MILL LEVY FOR DISTRICT COURT CASES"; and then attach a statement of intent describing emergency things. This would make the bill workable. The money will come from emergency funds. Once the department decides it may make a grant, it shall.

Rep. Underdal said if the bill passes they will plug it into 483 according to Dave Lewis.

Rep. Dassinger felt if they could afford to finance the bill they could do it as well with Rep. Johnson's amendment. He said he had uncovered some interesting facts that show the counties do manipulate the funds to get state money when they can.

Rep. Sivertsen said an appropriation can be put in to cover past trials. He could see problems with the way this is set up.

Chairman Huennekens said we should have criteria in the statute as to what constituted an emergency under this.

Rep. Sivertsen felt different wording was needed as there are other court cases besides murder trials that could cost a county an extreme amount. He felt Rep. Johnson's amendment was amiss in that the county would pay nothing.

Rep. Robbins made a substitute motion for all motions pending to defer action until tomorrow. The researcher was requested to check on some of the questions. Motion carried unanimously.

#### SENATE BILL 99

Rep. Fabrega said we were asked to reconsider our actions on this bill because of problems with one of the amendments. The researcher was given only general outlines on the unfair competition clause we wanted inserted. The committee members received a copy of a suggested amendment which would be a new section 8. A copy is attached to the minutes. Rep. Fabrega said this had been agreed on by the wholesalers, distributors, department. Now they needed committee approval. Also attached is the amendment dealing with the unfair competition clause--copies of which the members had. The researcher would like your thoughts on these as the directions we gave him were very vague.

The researcher explained the amendment would subject the department to the Unfair Practices Act except for the penalty part.

Rep. Fabrega said if we don't adopt this amendment the department is subject to the enforcement and penalty. This is less restrictive language. He moved the amendments.

Mr. Messerly said upon being asked that they have no problems with the amendments.

Question was called and the amendments were adopted. Voting no were Reps. Nordtvedt, Sivertsen, Burnett and Vinger.

Rep. Fabrega moved the bill AS AMENDED BE CONCURRED IN and this motion passed unanimously.

SENATE BILL 67

Rep. Burnett moved be concurred in.

Rep. Harrington said as far as counties are concerned and fiscal impact-- hope it won't pass.

Rep. Fagg said he didn't feel you should take one item and exempt it. Everybody pays taxes and these people make tons of money on these irrigation systems.

Chairman Huennekens spoke in opposition. It can be disengaged and moved at any time and used somewhere else. The same applies to an on-line system-- you can change the system. Finally, you can get investment tax credit and accelerated depreciation on a sprinkler system. Don't see any difference between sprinklers and trucks and tractors.

Rep. Dassinger said farmers said this would be an incentive. Yet the tax on this is reasonable.

Rep. Williams said he recalled two things from the testimony. Sponsor said irrigated land and the production were taxed for three years on the former level as an incentive to use more sprinkler irrigation. That is a good deduction to start with. Then HB 213 reduces the tax from 13% to 11%.

Rep. Sivertsen said he didn't know where to start. The fact was alluded to that these sprinkler systems can be used other places--they will only cover so much land and there are labor costs involved in moving from field to field. Then comparing the system to a tractor. Taxes will be paid twice--on the sprinkling system and on the increased productivity base. Because of the Supreme Court ruling all irrigation facilities will be taxed--below, on top, and underground. This is not all income--there is one heck of an investment. Think of what irrigation systems do for the economy of the state.

Rep. Nordtvedt said he would support the bill. If we can reduce the taxes on luxury items like country clubs, etc., we can surely give a tax break

to something productive like this.

Rep. Fabrega said he still didn't understand how sprinkler systems were different in its functions than other machinery that tends to increase the productivity of the land you own and travels within that same land--like fertilizer spreaders.

Rep. Sivertsen said the other machinery is not the asset to the land the sprinklers are. You can take the spreader and use it anywhere. Sprinkler systems can be clearly attached to the land.

Rep. Fabrega asked if sprinkler systems should then be considered improvements and taxed as such.

Rep. Lien said a good part of the sprinkler system is appurtenant to the land. The wells are about 40% of the cost. There are designed systems that are part of the land. Fifty cents an acre grassland go to \$8 an acre--sprinklers are enormously expensive. This is a good bill. The tax break should be on a permanent basis and not just three years. He said he didn't have any sprinklers on his place.

Rep. Fabrega asked if we pass this bill what do we do about the three year moratorium on incremental--shouldn't have both.

Rep. Williams said the department's policy on taxing underground irrigation will be to exempt it as it has always been. They can't evaluate what is under the ground. He said he had talked to the assessment division. He felt the three year moratorium was a good law.

Rep. Underdal said every time you raise your value you go up another tax bracket. You should be able to pay taxes on the land the same whether irrigated, dry or livestock.

Chairman Huennekens pointed out that if you take dry land that has not been cultivated you pay taxes on the equipment to increase the value of the land. Sprinkler systems have been put in in large numbers despite the fact there has been no tax benefit. So it must be economical to put them in without a tax benefit.

Rep. Harrington said we have talked about equity in taxation. This would give tax relief to just a certain segment of the population. Double taxation--people in the cities are hit by improving their property. He hoped this bill would be turned down.

Rep. Williams said if we go this route the three year moratorium should be taken off. Rep. Lien said he would have no objection to that.

The question on the bill was called on the motion of BE CONCURRED IN and the motion carried 10 to 8. Voting against were Reps. Huennekens, Dassinger, Dozier, Fagg, Gilligan, Harrington, Lien, Williams and absent was Rep. Hirsch. Chairman Huennekens asked if Rep. Hirsch could be permitted to cast his vote as this is an important bill. Permission granted. Rep. Hirsch requested his vote be cast for the bill.

SENATE BILL 182

Rep. Vinger moved be concurred in.

Rep. Fabrega moved to amend on page 4, section 4, and have the bill take effect on July 1. He said this would keep from fouling up the distribution system. The motion is to strike section 4 and do the necessary amending in the title.

Rep. Nordtvedt proposed another amendment to say that if the severance rates are changed the increase would go to the state and not the county. This could be quite a windfall.

Rep. Fabrega said if the severance rate goes up this should be taken into consideration but it could be forgotten if not written in.

Mr. Mizner, League of Cities and Towns, said the bill speaks of production and not the actual tax. Chairman Huennekens pointed on the language on page 2, line 6, where it speaks of the tax.

Rep. Nordtvedt moved to insert on page 2, line 9, "except for additional taxes collected" and to have the researcher check the wording.

Rep. Vinger said he opposed the amendment. He felt, too, that the bill only talks about production.

Rep. Williams opposed the amendment. He said if the tax is going to be raised the legislature will be in full control--don't see any reason for it.

Chairman Huennekens said the intent of the bill as written is for the increase in production to go to the county but not the increase in the severance tax.

The researcher mentioned on page 3, lines 18 and 19, mentions severance tax.

Rep. Fabrega felt there could be an inherent danger.

Rep. Hirsch said he didn't see any inherent danger and was sure it wouldn't be overlooked.

A recorded vote was taken on Rep. Nordtvedt's amendment and it failed with 7 for and 7 against. The 7 for were Huennekens, Dozier, Fabrega, Fagg, Johnson, Nortvedt, Reichert and absent were Reps. Dassinger, Bertelsen, Burnett, Harrington, and Robbins.

Rep. Fabrega mentioned this bill is for all counties whether they have an impact or not.

Rep. Williams said if you had been to Richland County or Sydney you would understand the need for this bill.

Question was called on the motion to BE CONCURRED IN and the motion carried with Reps. Hirsch, Nordtvedt and Fabrega voting no and the same absent as the last listing. Rep. Vinger will carry this bill.

Meeting adjourned at 11:00 a. m.