

MINUTES OF THE HOUSE TAXATION COMMITTEE MEETING  
January 30, 1981

A meeting of the House Taxation Committee was called to order by Chairman Rep. Ken Nordtvedt on Friday, January 30, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Brand, who was absent. HOUSE BILLS 370, 371, 489 and 490 were heard and EXECUTIVE ACTION was taken on HOUSE BILLS 325, 326, and 129.

HOUSE BILL 489, sponsored by Rep. Jacobsen, was heard. He stated that he proposed to amend the bill. He also said the tax on farm implement and equipment dealers' consigned inventory is probably one of the most unfair taxes on Montana's books. This inventory is placed into inventory for resale without being paid for; the equipment doesn't belong to anybody. North Dakota doesn't have a property tax and this makes them more competitive. He pointed out that this bill doesn't include paid inventory. Also, auto dealers already have an exemption. SB 130 deals with this same issue, and he requested that the Committee consider both of the bills at the same time.

There were no proponents to HB 489. Sally Price, Montana Assessors Association, then rose in OPPOSITION to the measure, stating that they didn't want to see any reduction in taxable value for the counties.

Ed McCaffree, First Vice President of the Association of Counties, also rose in opposition to the bill. He agreed that this bill would erode the tax base.

John Clark, Department of Revenue, then spoke. He said that the Department would be glad to work with the sponsor, so the language in the bill could be made workable.

Questions were then asked. Rep. Jacobsen explained that out-of-state manufacturers owned the equipment. He added that if the equipment didn't sell and was returned, the tax would be paid for nothing.

Rep. Asay suggested that the amendment be worded so that it was clarified that the assessment was on the property and not the people.

In response to a question from Rep. Williams, the sponsor explained that although almost all farm machinery dealers take their stock on consignment, the consignment time period varied. If the machinery is part of the inventory on January 1, the tax is paid, regardless of how long the dealer has had it.

The question was brought up of whether to include other heavy machinery dealers in the bill. The sponsor had no objections, but stated that he did not know how these other dealers stood on the issue.

Rep. Bertelsen pointed out that a new car sales tax is paid on automobiles, and there was no such tax on farm equipment. Rep. Jacobsen

replied that this was something paid by the owner, not the dealer. Rep. Bertelsen replied that at any rate, nobody would be paying the tax in the county on the farm equipment under this bill. Chairman Nordtvedt brought up the possibility that if this bill were passed an excise sales tax on farm machinery could be enacted.

Rep. Sivertsen suggested that a dealer could take this equipment and use it to run his own farm tax-free if the bill were passed.

Rep. Devlin wanted to know if North Dakota charged a sales tax on new farm machinery. Rep. Jacobsen said that a 2% tax was paid on the difference in the trade. Rep. Asay asked him if this didn't offset the disadvantage Montana dealers have. Rep. Jacobsen said there might be some effect, but pointed out that the owner paid the tax in North Dakota and the dealer paid it in Montana; therefore, it is no advantage to North Dakota dealers.

Mr. John Clark, Department of Revenue, then explained the new car excise tax. He pointed out that during the first year of ownership, no county funds were involved.

Rep. Jacobsen then closed. He reiterated that he had no objections to cleaning the language up in the bill. The hearing was then closed.

HOUSE BILL 490, also sponsored by Rep. Jacobsen, was then heard. This bill would put farm machinery into a 4% tax bracket versus the present 11% bracket. Business machinery inventory is presently being taxed at 4% and he feels that farm machinery should also be in this category. He pointed out that the livestock tax bills were in at 4%, providing the license fee bill passes. Agriculture has suffered a setback in the last few years. He submitted that costs and equipment have risen, while grain prices haven't.

Rep. Devlin then rose in support of HB 490 as co-sponsor. He agreed to co-sponsor the bill, because he didn't feel 11% was a low enough rate.

Mike Stephen, Executive Director of the Association of Counties, then rose in OPPOSITION to the measure.

Sally Price, Assessors Association, then spoke in opposition to the bill. She stressed that any reduction in the tax base would hurt everyone.

Questions were then asked. Rep. Williams stated that farm equipment hadn't been considered business inventory because it seemed more like a production item, and spoke up in support of not eroding the property tax system.

The sponsor then closed. He urged the Committee to take a good look

at the problem, and added that the 4% figure could be amended. The hearing was then closed.

The Committee then went into EXECUTIVE SESSION on HOUSE BILLS 325 and 326.

Rep. Burnett moved that HOUSE BILL 325 DO NOT PASS. Rep. Dozier then rose in support of the bill, stating that the argument that city residents use all county services is weak. The cities are strapped, and could use this money.

Rep. Oberg stated that he didn't think rural vs. urban was the central issue of the debate, and rose in opposition to the motion on the basis of tax equity. This money should be used where it is collected. Also, the city governments are in trouble, and something needs to be done to help them. Rep. Asay expressed agreement with Rep. Oberg but added that the counties are also in trouble. Rep. Bertelsen pointed out that originally the cities had lived, served, and functioned to support the counties, i.e. the farmers and ranchers.

Rep. Sivertsen said that a definition of what was an equitable split was needed, although he believes 50/50 is a good compromise. He rose in support of the counties, stating that they provided many things for the cities, and if this funding was taken away from them, something would have to be done to compensate the loss. Rep. Williams suggested a 60/40 split, or a combination of city and county government. Rep. Underdal submitted that the counties had to make up the remainder of the tax on the roads that the city didn't have to help with.

Rep. Harp stated that maybe a compromise should be made that commitment would be made to revenue sharing.

Rep. Roth pointed out that most of the income in cities was brought in by the rural people, and she didn't feel the cities were in very bad trouble.

Rep. Dozier pointed out that the rural areas didn't have to pay city taxes even though the city had originated to fill their needs. Billings residents pay 63% of their taxes to support the county. He said they didn't get any good out of the fairground, and they didn't use county roads; they used state and federal roads. He pointed out that they had to finance their S.I.D's.

Chairman Nordtvedt rose in opposition to the DO NOT PASS motion. Right now there are county roads and city roads, and no one has presented a strong case that either one is used any more by the other side. However, 100% of the license fees collected in the counties stay with the counties' road funds. The underlying principle is that the tax money should stay as much as possible right in the locality

the taxpayers are located. The question was then called for and the motion of DO NOT PASS carried 11-7; see roll call vote.

HOUSE BILL 326 was then considered. Rep. Burnett moved that it DO NOT PASS. Rep. Sivertsen said that some of the testimony wasn't accurate in that the Helena airport was under an authority and was self-supporting. Helena provides no services to the airport. He stated that possibly the Billings airport was the only one that would come under the bill, since the rest of them are very small. He added that the Kalispell airport was under an Authority also.

Rep. Harrington stated that under emergency conditions even airports under an Authority would have to rely on city services. He then made a substitute motion of DO PASS.

Rep. Dozier stated that the main reason for opposition to this bill in 1979 was because it didn't take the county tax off, and this was taken care of in HB 326. Rep. Williams then rose in support of the substitute motion, and Rep. Oberg also supported it, stating that there was once more the question of equity to consider. He added that a lot of indirect costs were taken up by the cities.

In response to a question from Rep. Devlin, Rep. Dozier said that a few years ago, Billings had to levy close to 2 mills to take care of airport maintenance. At that time a mill was worth \$70,000 - \$75,000.

Rep. Burnett said that by statute, within an airport, two mills can be assessed. In most counties the cities put on one mill and the county puts on the additional mill to make up the difference.

Rep. Switzer wanted to know who got the revenue from the parking areas at the airport. He added that the aircraft paid landing fees to the city. It was pointed out that the fee was pledged to pay off bonds for building the airport.

Rep. Dozier reminded the Committee that the bill was addressing the personal property tax.

Rep. Harp then announced that he had just talked to the City of Kalispell and it was confirmed that the City owned the airport. He also pointed out that Mike Stephen, Montana Association of Counties, wasn't opposed to the bill.

Rep. Dozier then said that school districts were left out of the bill inadvertently and proposed an amendment to include them; he moved the amendment and another minor technical amendment. (See Exhibit "A"). Motion carried unanimously. The substitute motion of DO PASS (AS AMENDED) was then voted on and carried 16 - 2; see roll call vote.

HOUSE BILL 370 was then heard. The sponsor, Rep. Mel Underdal, stated that the bill would change the method of oil and gas net proceeds tax determination. At present, it is based on gross yield, part of which hasn't been sold. The method would be changed to sales proceeds. There would be no fiscal impact, because the bill would just postpone the tax.

Clyde Logan, representing Sam Gerry, an independent operator, stated that the purpose of this bill is primarily housekeeping in nature. He has worked very closely with the Department of Revenue to reach a mutual agreement of what should be done to eliminate much expense to the Department and to the operator. The purpose of the bill is to clarify that the tax is gross on sales rather than on production. This would put the bills compatible with the Severance tax and the Indemnity Trust Act. There could possibly be a month's delay in posting the sale versus the production, but there would be no loss in revenue for the State.

Mike Zimmerman, attorney for the Montana Power Company, then rose in support of the bill, provided that it was amended to indicate that "gross sales proceeds" are calculated at the well head and not at the point where the gas was delivered to the retail customer. An amendment to take care of this was presented; see Exhibit "B." Mr. Logan clarified that the tax, net proceeds-wise has always been figured at the well head. The Severance tax bill and the Indemnity Trust Fund bill pertain to the mouth of the well.

Ed McCaffree, County Commissioner from Rosebud County, then testified, stating that he couldn't rise totally in opposition to the bill, but cautioned the Committee to study the language on page 2, lines 12 - 15, and look at the possibilities of what could happen with this language.

Questions were then asked. Rep. Williams asked Mr. Logan how this bill would affect crude oil shipped out-of-state by pipeline. He wanted to know if, since the net proceeds were computed at the well head, the protection was there that one person couldn't be taxed at a cheaper price, to store at the actual market value. Mr. Logan feels the State is protected on that issue. Rep. Williams wanted to know why it was necessary to delay paying the tax on petroleum, in view of the rapid processing and very little going into storage. Mr. Logan answered that primarily the problem was that production had no accounting concept and the figures didn't appear in the general accounting ledgers. At present, two groups of auditors are needed, at double expense to the Department of Revenue. This bill provides that the same figures will be reached, but the need to do the same thing two ways will be eliminated.

Rep. Williams wanted to know when the produced oil was measured in

regards to the "handling loss" factor. He was told that at most points it was measured at the well, or at the tank where it was metered out. The gas is also metered at the well; it is either metered from the well head or the tank. Rep. Williams wanted to know if this gas was to be measured immediately as it left the well and not when it got to the consumer. Mr. Logan said he was not familiar with Montana Power's problem, but as far as Sam Gerry, that is the way they operate. Rep. Williams asked why Sam Gerry wanted to change the procedure which was being used for the Severance tax. Mr. Logan replied that the tax was not being changed, and the accounting procedure was just being made uniform.

John Clark, Department of Revenue, stated that he hadn't seen Montana Power's amendments, but saw no problem with the bill itself.

In response to further questioning from Rep. Williams, Mr. Logan said that the payment wasn't being delayed because it was only being made once a year. The only delay would be on those barrels done at the end of the year.

Mr. Jess Munro, Department of Revenue, explained that gas is metered at the well head, and in case of Montana Power, ownership is transferred from the well to Montana Power at that point. On oil, it can be metered before it goes into the tank or when it is purchased from the tank. He believes the intention is to come back to having everything based on sales. To do that, they want the fair sales price.

Mr. Logan stated that basically the parties weren't acting in an "arms length" transaction.

Rep. Williams wanted to know, with the new language, what the difference in the procedure and the value of a barrel of crude oil made. Mr. Logan said that, dollar-wise, there was none. On gas sales and production, there will be no change in the procedure. The difference with oil is the delay in production figures versus sales figures.

Rep. Bertelsen wanted to know if "average yearly price" was based on the market yearly price or the company's price as they sell the product. Mr. Logan replied that Sam Gerry was selling their crude at the market value, and all they do is take the total barrels and total revenue for the year and come up with the figure.

Mr. Clark reiterated that the bill had as its main purpose the elimination of some audit duplication, and simplified auditing procedure; and would save the Department of Revenue some money.

Rep. Underdal then closed, and the hearing on HB 370 was closed.

HOUSE BILL 371 was then heard, also sponsored by Rep. Underdal. The

purpose of this bill is housekeeping. Amendments were distributed; see Exhibit "C."

Don Allen, Montana petroleum Association, stated that the amendments were at the request of the Department of Revenue to clarify the fact that this proposal wouldn't change anything.

Clyde Logan, (Sam Gerry), stated that he was sure the bill, as amended, would simply clarify the allowable deductions presently available.

Mike Zimmerman, Montana Power Company, rose in support of HB 371.

Mr. Ed McCaffree, Chairman of the County Commission in Rosebud County, then rose in OPPOSITION to the measure. He saw a substantial fiscal impact. He urged the Committee to examine the Fiscal Note before acting on the bill. This bill would erode the net proceeds tax base. He expressed concern that the language on (p.2) lines 1 - 7 would recreate a problem which had occurred in the early 1970's, when coal was taxed on the net.

Joe Godfries, Secretary-Treasurer of the Gas, Oil, and Coal Producing Counties then spoke in opposition to the bill. He opposes the bill because the language on line 6, (p.2) is too broad, and he would like that part of the bill stricken.

John Clark, Department of Revenue, then spoke, neither as a proponent nor an opponent. As the bill originally was drafted, there was a substantial fiscal impact, but the amendments take care of it, and the impact is no longer there.

Questions were then asked. Rep. Bertelsen wanted to know if engineering wasn't usually a capital cost. Mr. Logan said that the engineering work done in an exploration project is capitalized; but there is a lot of remedial work done and that portion of the engineering expense would be considered an expense item.

Rep. Williams said he interpreted the deletion of lines 17 - 20 on p. 2 as including things that were once deductible and now wouldn't be. Mr. Munro, Department of Revenue, said that it was the Department's assumption that these things were allowable previously. They were saying that anyone in those main offices that was not directly related to the well, they do not allow. This will still be the same. In the wording on lines 25 (p.1) - 1 (p.2) and lines 5 and 6 (p.2), the people that are directly involved are allowed.

Mr. Clark saw no problem with the language on line 6 (p.2) being included, because the company would still have to show the department of Revenue that the person qualified.

Rep. Nordtvedt asked Mr. Logan if there was a net proceeds tax, and was told there wasn't and the reason for the bill was because there were no federal codes to refer to in order to standarize everything.

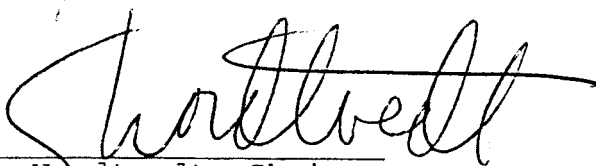
Rep. Underdal then closed, and the hearing on HB 371 was closed.

The Committee then went into EXECUTIVE SESSION and Rep. Burnett moved that HOUSE BILL 129 DO PASS. Discussion followed. A question was brought up concerning the language describing highways.

Rep. Underdal was in favor of the bill because of the excessive amount of paperwork involved in figuring back taxes. Rep. Vinger was opposed to the bill because it would create a policing problem. Rep. Harrington brought up the argument that the car is as valuable as its use. He added that the enforcement question should be left up to the law agencies.

Rep. Devlin brought up a theoretical case where the tax would be based on the amount the car was used. He then made a substitute motion that HB 129 DO NOT PASS. The motion carried 9 - 7; see roll call vote.

The meeting was adjourned at 10:00 a.m.



Rep. Ken Nordtvedt, Chairman

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HOUSE BILL 326, introduced (white), be amended as follows:

2. Page 2, line 5.  
Following: "through"  
Strike: "(6)"  
Insert: "(7)"
3. Page 3, line 6.  
Following: "to"  
Insert: "school district and"
1. Title, line 5.  
Following: "TO"  
Insert: "SCHOOL DISTRICT AND"



AND AS SO AMENDED

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Amend House Bill 326, Introduced copy as follows:

2 Amend page 3, line 6  
Following: "to"  
Insert: "school district and"

1. Page 2, line 5  
F: "through"  
S: "(6)"  
In: "(7)"



NAME Clyde Logan BILL No. 370-371  
ADDRESS Detroit DATE 1-30-81  
WHOM DO YOU REPRESENT SAM GARY  
SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Michael E Zimmama BILL No. HB370 + 371  
ADDRESS 40 E Broadway Butte DATE Jan 30 '81  
WHOM DO YOU REPRESENT Montana Power Co.  
SUPPORT See Comments OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

HB370. Support so long as the Bill is amended to indicate that "gross sales proceeds" are calculated at the well head and not at the point where gas is delivered to retail customer.

HB371. Support

1. Amend page 1, line 19.

Following: "thereof."

Insert: "The gross sales proceeds shall be determined by multiplying the units of production sold from the well times the royalty value of that production at the well."

*Comments - MPC ety.*

- will count add when the  
sell occurs.

- they don't want to pay a net  
proceeds tax at the end of the  
pipeline rather than at the  
well head



HOUSE BILL NO. 370, Introduced Bill

1. Amend page 1, line 19.

Following: "thereof."

Insert: "The gross sales proceeds shall be determined by multiplying the units of production sold from the well times the royalty value of that production at the well."

NAME Ed W. Caplan BILL No. 370-371  
ADDRESS Stoney Hill rd DATE 1-30-81  
WHOM DO YOU REPRESENT oil & Gas Co.  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



PROPOSED AMENDMENTS TO HB 371

1. Page 1, line 4.  
Following: "An act"  
Strike: "allowing indirect"  
Insert: "clarifying allowable"
2. Page 1, line 25.  
Strike: "geological, geophysical"
3. Page 2, line 1.  
Following: "and"  
Strike: "similar"
4. Page 2, line 2.  
Strike: "or" before "related"
5. Page 2, lines 3,4 & 5.  
Following: "producer"  
Strike: "including but not limited to the operator's or producer's charge for such services and expenses, if any, under the applicable operating agreement"
6. Page 2, line 24.  
Following: "account"  
Strike: "geological, geophysical"
7. Page 3, line 1.  
Following: "and"  
Strike: "similar or"
8. Page 3, lines 2,3,4 & 5.  
Following: "producer"  
Strike: "including but not limited to the operator's or producer's charge for such services and expenses, if any, under the applicable operating agreement"

NAME Don Allen BILL No. HB 370 V 27  
ADDRESS Helena MT DATE 1/30/81  
WHOM DO YOU REPRESENT NEV. P. P. 106  
SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME

*Walter M. Moore*

BILL No.

*311-371*

ADDRESS

*11660 Woodland St*

DATE

WHOM DO YOU REPRESENT

*Legislative Administration*

SUPPORT

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME William J. ... BILL No. 370 & 371  
ADDRESS ... DATE 1-30-81  
WHOM DO YOU REPRESENT Shell Oil Co  
SUPPORT  OPPOSE  AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

# STANDING COMMITTEE REPORT

February 3, 1961

MR. **SPEAKER**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **370**

**A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE THAT OIL AND GAS NET PROCEEDS TAX BE LEVIED ONLY ON OIL AND GAS SOLD DURING THE TAXABLE YEAR; AMENDING SECTIONS 15-23-602, 15-23-603, AND 15-23-605, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."**

Respectfully report as follows: That **HOUSE** Bill No. **370**

DO PASS



# STANDING COMMITTEE REPORT

February 3, 1951

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 371

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING INDIRECT EXPENSES INCURRED WITH RESPECT TO PRODUCING WELLS TO BE DEDUCTED WHEN COMPUTING THE OIL AND GAS NET PROCEEDS TAX; AMENDING SECTION 15-23-603, MCA; AND PROVIDING AN APPLICABILITY DATE AND AN EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 371, introduced (white), be amended as follows:

1. Title, line 4.  
Following: "ENTITLED: "AN ACT"  
Strike: "ALLOWING INDIRECT"  
Insert: "CLARIFYING ALLOWABLE"
2. Page 1, line 25.  
Strike: "geological, geophysical,"
3. Page 2, lines 1 and 2.  
Following: "rent, and" on line 1  
Strike: "similar or"
4. Page 2, lines 3 through 5.  
Following: "producer"  
Strike: the remainder of line 3 through "is" on line 5  
Insert: "that are"

XERO-PASS

(Page 1 of 2 pages)

# STANDING COMMITTEE REPORT

February 3 ..... 1921.....

MR. SPEAKER.....

We, your committee on TAXATION.....

having had under consideration HOUSE Bill No. 489.....

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT NO TAX MAY BE ASSESSED AGAINST A PERSON WHO REGULARLY SELLS FARM IMPLEMENTS AND EQUIPMENT THAT CONSTITUTE INVENTORY AS OF JANUARY 1."

Respectfully report as follows: That HOUSE Bill No. 489.....

DO NOT PASS

~~DO NOT PASS~~

..... Rep. Ken Nordvedt, Chairman.

# STANDING COMMITTEE REPORT

February 3, 19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 490

A BILL FOR AN ACT ENTITLED: AN ACT TO REVISE THE RATE AT WHICH AGRICULTURAL IMPLEMENTS AND EQUIPMENT ARE TAXED; AMENDING SECTION 15-6-138, MCA.

Respectfully report as follows: That HOUSE Bill No. 490

DO NOT PASS

~~XDOXPASS~~

## COMMITTEE ON TAXATION AMENDMENTS TO HOUSE BILL 371

5. Page 2, line 24.  
Following: "account"  
Strike: "geological, geophysical,"
6. Page 3, line 1.  
Following: "and"  
Strike: "similar or"
7. Page 3, lines 2 through 5.  
Following: "producer"  
Strike: the remainder of line 2 through "was" on line 5.  
Insert: "that were"

AND AS SO AMENDED  
DO PASS