

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 19, 1981

A meeting of the House Taxation Committee was held on Thursday, March 19, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present. HOUSE BILL 835 and SENATE BILL 192 were heard and EXECUTIVE ACTION was taken on HOUSE BILLS 292 and 293.

Chairman Nordtvedt moved that a Committee revenue bill which would put a 20% increase in the GVW schedule be drafted. He pointed out that it hadn't changed in 14 years, and there would be a hearing once the bill was introduced. The question was called for; motion carried unanimously to have the bill drafted.

HOUSE BILL 835, sponsored by Rep. David O'Hara, was then heard. This bill deals with the local gas tax. At present, local government can assess a 2 ¢ tax, although none of the local governments have done this yet. This bill would enable the State to collect this tax and they would be reimbursed for the cost of doing this by the local governments. This would avoid local governments from having to set this up, which is a costly process.

Dan Mizner, Executive Director of the Montana League of Cities and Towns, then rose in support of the bill. In 1979, the Legislature authorized a local gas tax.

Yellowstone County looked at this possibility and it was found there were some problems with the bill which passed in relation to collection of the tax. It was determined that the bill wasn't workable. The Department of Revenue and the Governor's office had this bill drafted to make the original bill workable.

John Clark, Department of Revenue, then verified Mr. Mizner's remarks. The original bill was too ambiguous, so much so that they couldn't even determine who the taxpayer was to be. They feel this bill will make that law workable.

Tex Pate, President of the Montana Oil Marketers, then rose in OPPOSITION to the bill. Jobbers are opposed to this bill and still feel it is unworkable without a large increase in the auditing staff of the Department of Revenue. He questioned who would be able to make sure that the big marketers paid. He didn't see how the bill could be worked out to not be discriminatory against the small marketers.

Don Allen, Montana Petroleum Association, then spoke. The people who understand how the business works are never consulted, he submitted that the person who drafted the bill didn't know how the industry worked. Two years ago they testified that the bill wouldn't be workable, the sponsor ignored this argument. He didn't know how this bill could be made to work, even with miracles. Line 18's language "sold at retail" contradicts the provision on the next page for a way to refund gas not sold on the public streets. The decision on whether or not to choose the County or the State shouldn't be made by the voters because it would take a 10-page explanation to give the full

story of the pro's and cons. Line 6, P. 2, says, "to the agency specified," and another area refers to the form of local government. A whole new set of bookkeeping would be required under this bill. On lines 14 - 16, page 2, they don't say why this part of the bill is necessary. The part on line 8, page 3 which says "may be allocated" doesn't say what would happen if it wasn't. Line 18, page 3 addresses disposition of funds, but doesn't say how it will be done. In the interest of trying to save the Legislation he suggested that a subcommittee be assigned to work up amendments and he expressed willingness to work with the subcommittee. He submitted that the present law did need clearing up; therefore this bill needed to be worked on.

John Braunbeck, Montana Intermountain Oil Marketers Association, then underscored what Mr. Pate and Mr. Allen said about the bill; he emphasized: (1) their organization is not in opposition to the idea of the people voting a gas tax increase, but they have a problem with the mechanics. If a jobber is operating in many Counties, this bill would require a complete set of books for each County. (2) auditing would be a complete nightmare. He stated that their organization would be more than happy to work with a subcommittee to try to iron the bill out.

Questions were then asked. Rep. Williams asked Mr. Allen if it would be feasible to collect the tax at the local level right at the gas pump and let the dealers pay directly to the City or County. Mr. Allen replied that it could be done, but there was a problem with what kind of mechanism to use. Also, the problem would arise with service stations popping up just outside City limits. Rep. Williams submitted that this bill wouldn't cause service stations to go beyond the City limits. He pointed out that other States collected the tax at the point of sale.

Norris Nichols, Administrator of Motor Fuels, stated that their intent in drafting the bill was to keep things simple. That is why the word "distributor" was retained. Oregon counties have similar taxes. The distributor collects the tax. The Dalles collects the tax at the time the gas is sold at the gas station.

Rep. O'Hara then closed. He said he would have nothing against Rep. Williams' idea. The hearing on HB 835 was then closed. Chairman Nordtvedt announced that a Subcommittee would be formed.

SENATE BILL 192, sponsored by Sen. Roger Elliott, was then heard. This bill deals with the property appraisal problem. The current statutory deadline cannot be met by the Department of Revenue and either they need additional time to get the job done or they need to hire many more appraisers to get the job done within the current allotted time. His attitude was to accept the extension provision. At present, the State doesn't have the huge disparity it had in the past. He pointed out that the Senate Committee had amended the bill down from

20 to 10 years and the cycle to begin after the implementation of values began in 1979. He went over the other amendments made in the Senate and the bill in general. He felt the intent of the bill was good and urged a concurrence in it.

Dennis Burr, Montana Taxpayers Association, said they had no objection to extending the appraisal cycle; however, it shouldn't be extended until the decision on the inequity between commercial and residential property was solved. He submitted that this wasn't an endorsement of the bills addressing this issue.

John Clark, Department of Revenue, then rose in OPPOSITION to the bill. Basically, what the Committee is looking at is an invitation to more lawsuits. At present, personal property is reappraised every year. By extending the cycle to ten years, newer property is put on an even more unequal footing than ever before with personal property. The trend is towards a shorter cycle and not a longer one. The possibility exists that someone with a lot of personal property will bring suit because of the disparity. The State is in a dilemma because they depend on a property tax and at the same time the area is hard to administer.

Questions were then asked. Rep. Sivertsen wanted to know how the Department of Revenue intended to shorten the cycle. Mr. Clark replied that in order to make the thing function right, administrative problems needed to be worked out and hopefully the information could be put into a computer. Rep. Sivertsen wanted to know if Mr. Clark thought it was possible that maybe the administrative costs in comparison to taxes collected would be lowered. Mr. Clark felt that they would reach some sort of steady state eventually; it would be costly to get started. He submitted that at present they didn't have enough appraisers. Eventually if it was ever done correctly, the costs would drop. Considering the way the State depends on property tax and the amount of money it generates, this needs to be looked at carefully.

Rep. Nordtvedt wanted to know how the situation was handled in California. Mr. Clark replied that appraisals in many localities had been keeping up with the market, which wasn't desirable. Proposition 13 was generated because of problems with this. Rep. Nordtvedt submitted that perhaps Montana didn't need very frequent full appraisals because as long as all property was appraised on the same basis the values probably stayed pretty good. Mr. Clark said his only problem was that personal property kept up better than real property under the present setup.

Rep. Brand asked Mr. Clark what the assessors did vs. what the appraisers did. Mr. Clark said the assessors traditionally handled personal property and the County Commissioners employed appraisers who did real property. Now, the Department of Revenue has appraisers who do this. Assessors aren't actually involved in actual physical appraisal of property. Rep. Brand wanted to know how many appraisers

the Counties had in relation to what the State presently provided. Mr. Clark didn't know. Rep. Brand wanted to know if there was a law requiring the County to make appraisals over a certain amount of time. Mr. Clark said the State Board of Equalization handled this to try to keep equality among the Counties and if a County was out of line they would issue an order for reappraisal. When the State took over it was found that every County was doing things differently.

Rep. Bertelsen asked Mr. Clark about the necessity of the bill. Mr. Clark said the Department should be able to do the reappraisals in a shorter time after 1990. They won't be able to finish the program in the present five-year cycle, by 1983.

Rep. Harrington said it was his understanding that often reevaluation took a lower priority as far as the Department of Revenue, and he wanted Mr. Clark's input on the present situation. Mr. Clark said that with 90 appraisers and a lot of new construction and remodeling, the first priority was to get this on the rolls and also to determine splits of parcels of land. That dominates their workload and this is why the Department is behind.

Rep. Bertelsen submitted that the reason there weren't as many lawsuits before the State took over was because the people were able to take care of their complaints outside of the courts because the taxpayers were able to take advantage of "cronyism."

Rep. Williams pointed out that in those days, assessors were also the tax appeals board.

Sen. Elliott then closed. This is a classic case of government vs. the taxpayer and he expressed hope that the Committee would side with the taxpayers rather than the Department of Revenue, which he didn't have faith in. The only reason the personal property tax is carrying more of a burden is because of the indexing method they use. Actually, the reverse is true, and if a fee system is adopted, personal property taxes will become an insignificant part of the tax structure. Real property is easy to value in comparison to personal property. He didn't think the Committee should confuse this problem with this bill, which is a good bill which is trying to keep the cost of government down. The hearing on SB 192 was then closed.

Rep. Williams then asked John Clark another question regarding the issue of HB 835. He wanted to know if it would be possible to collect the tax at the pumps. Mr. Clark said this was an alternative, but when this bill was drafted, they tried to keep it consistent with the idea of taxing the distributor. Rep. Williams wanted to know if any other sections of the law needed amending if this were done. Mr. Clark said some substantial amendments would have to be made to the bill. Rep. Williams agreed to work on a Subcommittee; and further volunteers would be solicited later.

Rep. Nordtvedt said that Rep. Wallin wanted HB 292, dealing with the

Inheritance tax, to be put on the Floor of the House to be debated as an alternative.

Rep. Williams said he was opposed to putting the bill on the Floor, and rose in opposition to the bill. Rep. Dozier submitted that it wasn't the Committee's job to give the alternatives to the Floor; it was their job to make the decisions in Committee.

Rep. Burnett moved that HB 292 DO PASS.

Rep. Williams said that he thought Sen. Turnage's bill took the right approach by using only lineal descendants. If this is expanded on, equity is not maintained. He pointed out that often organizations inherited money and they should have to pay their share of the Inheritance tax.

Discussion took place regarding the fiscal impact of Sen. Turnage's bill. The ultimate impact will be \$4 million per year. Rep. Wallin's bill would be about \$6 million and a slightly higher initial impact. Rep. Bertelsen said he had cosponsored the bill because he was in favor of tax relief; however, he felt the Senate bill was the better one.

The question was then called for on the motion of DO PASS; motion failed, with Reps. Nordtvedt, Burnett, Switzer, Vinger and Harp voting yes. The vote was reversed for a DO NOT PASS.

Rep. Harp submitted letters from the Cherry Growers of Flathead Valley on what would happen if HB 293 in its present form was passed. Some amendments were suggested to the bill, and Mr. Oppedahl, Legislative Council, distributed copies of them; see Exhibit "A."

Discussion took place on the bill. Rep. Burnett explained that he had Mr. Oppedahl write up the amendments for Rep. Holliday. Mr. Oppedahl explained the amendments. Rep. Dozier said this wouldn't solve the entire problem. He suggested that Line 4 on p.2 be changed from "annual" to "Montana adjusted gross income."

Rep. Zabrocki moved that HB 293 DO PASS. Rep. Williams rose in opposition to the proposed amendments. Rep. Nordtvedt agreed with Rep. Williams and submitted that this would make the bill too specific and it would only be protecting a very narrow interest.

Rep. Harp then made a substitute motion that HB 293 be TABLED. Rep. Switzer said that Mussellshell County had a very serious problem in this area; the people want facilities and the County has to pay for them. Rep. Nordtvedt pointed out that the County commissioners could always turn down requests.

Rep. Neuman rose in opposition to tabling the bill. More taxable valuation is needed to maintain roads serving the rural population. Rep. Harp rose in support of the burden being put on the people populating the area.

Rep. Burnett rose in support of the bill as amended.

Rep. Dozier said that the problem occurred when agricultural land was broken down and more services were required. He submitted that the fear was that people on the larger plots of land were worried about their taxes going up. Rep. Zabrocki said that usage of the land should be the criteria by which the tax should be adjusted.

Rep. Williams said one had to look at who the legislation would benefit. He asked, would it help a lot of people at the expense of a few or vice versa. He questioned whether the amendment covering the cherry growers was a serious enough problem or whether the people in Mussellshell County had a bigger problem. He submitted that the Legislature needed to look at the whole picture.

Discussion took place regarding what the bill was trying to do. Rep. Hart wanted to know what the difference in valuation was between recreational and agricultural land.

Rep. Burnett said it was at least 25% or more. Rep. Nordtvedt said that in many cases, it was a factor of 4 or 5 depending on the market value.

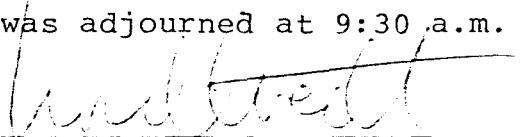
Rep. Williams asked for Dennis Burr's comments. Mr. Burr said changing the acreage will cause people to buy bigger pieces of land to continue to get the tax status they wanted. The system of taking one more acre out of twenty which has the homesite on it is not proper. He said the problem was with faulty appraisal, and the Legislature couldn't solve this. If land was not being used for agricultural purposes, it should be priced accordingly.

Rep. Nordtvedt pointed out that if anyone was interested in following up on the bill, this could be done if the bill was Tabled.

Rep. Williams suggested amending the bill back to forty acres and passing out of Committee. Rep. Harp said a \$2 million industry in Flathead County would be wiped out if this was done.

The question was called for on the substitute motion that the bill be TABLED; motion carried with Rep. Burnett opposed.

The meeting was adjourned at 9:30 a.m.


Rep. Ken Nordtvedt, Chairman

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PROPOSED AMENDMENTS TO HB 293
Second Reading Copy

1. Page 1, line 17.

Following: "(a)"

Insert: "except as provided in subsection (b),"

2. Page 1, line 23.

Following: "crops,"

Strike: "fruits,"

3. Page 2, line 2.

Following: line 1

Insert: "(b) it is used to produce fruits for sale or home use, the area of such land is not less than 3 contiguous acres when measured in accordance with provisions of 15-7-206, and was actively devoted to the production of fruits during the last growing season and continues to be actively devoted to the production of fruits."

Renumber: subsequent subsections

STANDING COMMITTEE REPORT

April 3,

1931

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 835

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY CLARIFY AND REVISE THE LOCAL OPTION MOTOR FUEL TAX; ALLOWING THE DEPARTMENT OF REVENUE TO COLLECT THE TAX; ESTABLISHING FILING PROCEDURES FOR DISTRIBUTORS; ESTABLISHING PENALTY AND INTEREST FOR DELINQUENT TAX, ENFORCEMENT PROCEDURES, AND A STATUTE OF LIMITATIONS; AMENDING SECTIONS 7-14-301 THROUGH 7-14-304, MCA."

Respectfully report as follows: That HOUSE Bill No. 235

DO PASS