

HOUSE TAXATION COMMITTEE MEETING MINUTES
March 31, 1981

A meeting of the House Taxation Committee was held on Tuesday, March 31, 1981 at 8:00 a.m. in Room 102 of the State Capitol. With Vice Chairman Rep. Bob Sivertsen presiding, all members were present except Rep. Vinger, who was absent and Chairman Rep. Nordtvedt was excused for the first part of the meeting. HOUSE BILL 862 was heard and EXECUTIVE ACTION was taken on HOUSE BILL 859 and SENATE BILL 457.

HOUSE BILL 862, sponsored by Rep. Earl Lory, was presented. He gave a background on the bill. The reappraisal effort is a shambles; this situation can be approached in two ways and the best one is granting an extension of the reappraisal, which has been done by Rep. Sivertsen's bill. This bill funds that extension. \$5.1 million for the next five years is what the General Fund will be taxed. This bill will provide for a steady source of money for the reappraisal effort.

There are three solutions: (1) tell the Department of Revenue to forget what they are supposed to do; this would preclude reappraisal of all property; (2) HOUSE BILL 827; or (3) this bill - a three-mill Statewide levy. In the past this matter has been put "under the rug." Although this solution to the problem won't be popular, it will be the best.

Ellen Feaver, Director of the Department of Revenue, then rose in support of the bill. In the last biennium there was no funding provided for reappraisal. The prior reappraisal cycle was done and many people had the opinion that reappraisal wouldn't be an expensive process anymore. Last year when the Department asked for funding for the effort, the Subcommittee refused them. The consequences were not laid out very clearly but they have been substantial. The Department now has half the number of people as when the last reappraisal was done; they are requesting additional staff. Until the law is changed in this area, the Department is obligated to ask for money in order to comply with their statutory duties. 25,000,000 pieces of property need appraising and there are only 90 people assigned to do the job.

The current property tax system inequities are another good reason for doing the reappraisal. Agricultural, timber, and industrial land values are over 20 years old and were never appraised in the last cycle. She said that personal and utility property taxes were paying an unduly high portion of the property tax burden because they are appraised annually. Other properties are appraised at very low values. The property system is very vulnerable itself.

She felt the State was overdependent on property taxes and felt the burden should be spread to other sources. She submitted that at present, these replacement ideas were not in place. The present system needs to be made workable in light of this, As the burden becomes more distinct on certain groups there might even be something akin to a revolt on the part of the taxpayers. Until the laws are changed, the Department needs to work with what it has got.

Although reappraisal is desperately needed, the Administration is more

in favor of the General Fund route than the mill levy. This is defensible because the burden on the property taxpayer is already great. On behalf of the Governor she urged the Committee to consider the General Fund route more favorably than this one.

There were no OPPONENTS to the bill. Questions were asked. Rep. Harrington wanted to know about the adequacy of the training system for appraisers. Ms. Feaver said people would be trained throughout the summer before they were sent out. At present, there is a hiring freeze in the Department and they have been hard pressed to do anything in the past few months. However, in the summer they are in hopes of taking care of this and possibly hiring unemployed realtors. Ms. Feaver said that property tax reassessment was definitely her biggest problem and it was the No. 1 priority.

Rep. Brand wanted to know how many people were employed for appraisal. Ms. Feaver said the Tax Division was about 400. 260 people are involved in the assessment function. She said the assessor did the personal property assessment and prepared the tax rolls. She said they were included in the 400 figure; at one time they were paid by the Counties. Rep. Brand wanted to know what the other 400 were doing when there used to be 800 employees. Ms. Feaver said they were doing the re-appraisal. The Department needed 214 more people, she pointed out. The last time there was a crash program, and therefore twice as many people had been needed.

In response to Rep. Brand, Mr. Gribble said that the last appraisal of timber land was in the late 50's or early 60's. Around 1972 a schedule purported to apply to the values of the stumpage brought up valuation slightly.

Rep. Williams asked Ms. Feaver if new construction had been keeping up with everything pretty well, and she replied that this was the case.

Rep. Bertelsen brought up the possibility of spreading the tax load in such a way that it wouldn't need a Statewide valuation if the Counties' burden was levied in the Counties and the States' portion was levied elsewhere. Rep. Sivertsen said that if the 40 and the 6 mills for equalization were taken off, the Counties could be left alone. Ms. Feaver pointed out that there would always be centrally assessed properties. Also, the people who owned land in two Counties might be quite differently assessed.

Rep. Harrington wanted to know how much the local governments were suffering because of the slowdown in the reappraisal system. Ms. Feaver said the degree of suffering varied; Richland County couldn't keep up with the property because there was so much oil-related activity. The County has hired its own people to supplement the Department of Revenue staff. In Deer Lodge County or the Butte area, however, the values are depressed at present, and possibly lots of industrial properties exist which never made it to the tax rolls. At

present, a lot of the industrial properties do a self-assessment. Basically, the residential people are taking up the burden for industrial.

Rep. Switzer wanted to know what the budget was for the Property Tax Division, Department of Revenue. Ms. Feaver said approximately \$8 million per year and \$5 million would be added to this. Once a defensible job is done, reappraisal in the next cycles will cost significantly less. Until some reasonable values and good data is gotten, they are not in a position to propose any less costly or more innovative methods of doing the job.

Rep. Switzer wanted to know if real estate people would be qualified to reappraise land as well as improvements. Ms. Feaver said the training programs would have to be tailored for what the people would be doing. Rep. Switzer wanted to know if she anticipated the high turnover the Department had experienced in the past, and she submitted the salaries were low and therefore, turnover would always be significant. However, there is little turnover in the Department at present because of the economy. Also, better Department management would keep turnover down.

Rep. Dozier brought up the tremendous amount of nitpicking in the past with people adding on to their property while others without any changes weren't reappraised. Ms. Feaver agreed that this was one of the big problems with the present system.

In response to Rep. Devlin, Ms. Feaver said that no County had been completely reappraised. She said that first all the market data was needed before the work could be finished. Rep. Devlin wanted to know if the appraisers would be transferred to another County if they had finished their work, and Ms. Feaver said they would be if they didn't have continuing responsibilities in the original County.

It was revealed that State law said that all Counties had to come under the new value at the same time. Rep. Brand wanted to know if there weren't previous court cases which disputed this. Ms. Feaver said that Lewis & Clark County tried to put their values on the books before the others, but the Supreme Court ruled that this wasn't acceptable. The appraisals on existing properties could be increased until the end of the cycle.

Rep. Williams rose in support of the bill. Most people are convinced that they paid on a user fee basis and he felt this was a good way of approaching assessment. Going back to the State theory of reappraisal, the Counties need to be told to lower their mill levies to reach equalization. The idea was that once this was done, Statewide, County mill levies would be reduced. This hasn't been done because the Statewide assessment hasn't been completed.

In response to Rep. Zabrocki, Mr. Gribble Said that the classification system was a method of allowing to estimate reproduction cost. In

response to Rep. Burnett, he said that the cost approach to value wouldn't mean that one would pay more for a home than one would pay for a comparable one. Depreciation is figured in in the cost approach. Also, community economic conditions are taken into consideration. Reproduction cost is an upper limit which is started with on the eventual arrival at current market value.

Rep. Lory then closed. The problem is, how does the State finance reappraisal, and not the quality of reappraisal. There are three answers: he rose in support of HB 862's approach. The hearing on HB 862 was then closed.

Control of the meeting was then relinquished to Rep. Nordtvedt, and the Committee recessed from 9:00 to 10:00 a.m.

The committee reconvened at 10:00 and HOUSE BILL 859 was considered. Rep. Nordtvedt said that Montana was one of very few States in which corporations weren't allowed to make charitable contributions and receive deductions like individuals did on their personal income taxes. This bill addresses that. An amendment was presented to exclude the inclusion of contributions in the rate base of corporations; see Exhibit "A." The IRS has certain tests which apply to organizations who receive charitable contributions as tax deductible. They have to meet certain nonprofit, nonpolitical standards in order to be an acceptable charity.

Dave Goss, Billings Chamber of Commerce, confirmed that requirements were specified and added that these organizations were also tax-exempt. Another section limits the maximum.

Rep. Nordtvedt moved the amendments; motion carried unanimously.

Mr. Goss said the impact would be about \$600,000 for Montana if the national average was used.

Rep. Burnett moved that the bill DO PASS AS AMENDED. Rep. Nordtvedt said this bill would help make fund drives more effective. The question was called for; motion carried unanimously.

Rep. Williams moved that SENATE BILL 457 NOT BE CONCURRED IN. Rep. Switzer made a substitute motion that the bill BE CONCURRED IN. Rep. Nordtvedt offered several amendments which would enable contributions to be made to a public high school and also excluded certain corporations from taking the tax credit. It was brought up that this would also exclude the trucking industry. Rep. Nordtvedt said that the purpose of the amendment was that if rates are determined by negotiation with the PSC, he didn't feel that contributions and gifts should be included in the rate-making process.

Rep. Nordtvedt moved the amendments. Discussion took place. He said he felt the language in the bill would include the secondary Vo-Tech Centers, junior colleges, and regular colleges. The question was

called for and the amendments were unanimously adopted.

Rep. Harp rose in opposition to the motion that the bill BE CONCURRED IN. Reductions in the ANB, flow from public to private schools, loss of support for public schools were three reasons. He felt the bill would put the State in Court.

Rep. Switzer said the bill would stimulate anxiety on the part of the public schools and there was very good chance the children would come out of public schools better educated.

Rep. Williams said that instead of creating anxiety in public schools, the opposite needed to be done. He felt the approach was bad; it eroded the tax base as far as the State was concerned; it was a double dose as far as corporations were concerned, in light of the other bill passed which allowed for deductions for contributions by corporations. He felt it was a serious mistake to get involved in this type of legislation and also submitted that it would be declared unconstitutional because of the issue of separation of church and state. It would be eroding the public school system, which instead needs more support.

Rep. Bertelsen said the bill would be incorporating church and state and would open the door to using State funds to support church schools. This mistake would grow year after year.

Rep. Asay submitted that this was an opportunity for people to make an input in the educational system. One of the big expenses of colleges is to maintain classes below their level to get students prepared for college level instruction. It is the taxpayers' obligation to see that the quality of education is maintained at a high level.

Rep. Harrington said that he was in support of the bill. He opposed the statement that the public schools weren't doing their job and didn't feel the bill would have an effect on this. Parochial school education is diminishing and he felt it was important to maintain it.

Rep. Dozier rose in opposition to the bill. If people want to send their children to private schools, that is fine, but the public school base shouldn't be eroded in quality. He submitted that the problem was with the parents, as far as the education of the students.

Rep. Oberg rose in opposition to the bill. It is a detriment to the public school system. He said he was a supporter of the dual school system. He wanted to know if tax credits were offered for private schools in Europe. Rep. Nordtvedt said that in those countries that had a historically established church/school system, there were substantial public monies poured into their support. Rep. Oberg submitted that private schools could survive without aid. Regarding using a tax credit for charity like this, he submitted that this would engender a series of similar requests in the next session of the Legislature.

He also expressed concern about the fiscal impact in total dollars.

If a person stands to reduce his taxes, he would probably contribute the money and he felt Montanans would do this and it would mean a tremendous loss of revenue to the State. Rep. Nordtvedt pointed out that the credit was only for half of the contribution.

Rep. Roth submitted that State funds wouldn't be taken. She felt a little aid would be a good stimulus for the competition in learning. One of the reasons the education associations are opposed to the bill is because of the sake of their own aggrandizement.

Rep. Brand said that with the amendments he opposed the bill and also because of the probable fiscal impact.

Rep. Devlin submitted that the public schools would also benefit from contributions.

Rep. Nordtvedt said he had certain problems with strong tax credits. Probably the promotion of a pluralized education system has overriding importance in this society. If there are any church/school systems, it is the public school system, and the uniform secular religious attitude that is espoused in that system. Unlike other countries with one dominant church, the United States is very pluralistic. If there is any monolithic attitude being presented in education it is through the public school system, which is very powerful.

There is a trend towards centralization of the public school system. Because there is sort of a monopoly in public education, it is a worthy goal to try to produce more choice in pluralism in education.

As far as previous court rulings relevant to the bill, judges are just like Legislators and in coming years they will have a different attitude on this. He submitted that the bill would be a good thing for public education from a competitive standpoint. He submitted that public schools were afraid of the competition, and this was reflected in their testimony against the bill. He had some reservations about the tax credit idea, but was in support of the bill.

Rep. Williams asked Rep. Nordtvedt about the statement that the public schools were probably the most religious supported schools in the country. Rep. Nordtvedt said that as far as espousing a uniform philosophy and attitude towards life, and presenting a "national doctrine," public schools were probably more dominant than any other religious or private school because of the pluralism of religion in the United States.

Rep. Williams submitted that when the nation depended on private schools the quality of education was poor and this problem wasn't overcome until a free public education was offered. He felt that if this money could be contributed to private schools, the public education system would be torn down and also it probably wouldn't do that much good for the private schools. The fact was, that in order to give the public who deserve a public education a strong public school system is needed. He submitted that he had nothing against private schools but they should

be self-supporting. He felt public school people had to stand up for public schools, one of the most important things in the nation. He submitted they weren't trying to aggrandize the thing. This type of legislation deteriorates a system which is good and is working well.

Rep. Sivertsen said one of the problems at present was that education was being centralized in the country. The discipline problems come not only from the parents but from the court judgments against discipline. People putting their children in private schools are dissatisfied with the public schools. He didn't think there would be a mass shift from the public schools, because the public schools are trying to cut away from the centralized education system. He pointed out that private schools would cost more to send children to with or without this bill. He submitted that people want the freedom to have an alternative to public education. He said that the public school system was getting the message from the people that a change was desired.

Rep. Switzer said education couldn't be improved entirely by throwing money into it. Efficiency can be stimulated by competition and that is the main point. He submitted that there were probably more well-educated children than poorly educated.

Rep. Neuman said that one possible threat to society would be non-english speaking schools. Rep. Nordtvedt pointed out that this trend was occurring in the public school system, also. Rep. Neuman said that President Reagan was opposed to different languages in schools, also. Rep. Nordtvedt said accreditation standards would be dealing with this. Rep. Harp said that in some areas, the language was spanish and submitted there was nothing wrong with this. He rose in support of carrying on traditional languages if the majority of the people wanted to do this.

Rep. Devlin said that at present, as far as separation of church and State, churches can be donated to and a deduction can be gotten, and he didn't see any difference between this and what the bill proposed. He submitted that there wasn't much difference between a credit and a deduction.

Rep. Harp disagreed that national policies were influencing local school boards. Each area has its own criteria.

Rep. Williams said the reason for centralization was because of the local people who wanted State aid and every time the State pays the bill, they get involved.

The question was then called for on the motion that the bill DO PASS AS AMENDED; motion failed 11 - 7; the vote was reversed for a DO NOT PASS recommendation; see roll call vote.

The meeting was adjourned at 11:00 a.m.

Rep. Ken Nordtvedt, Chairman

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VISITORS' REGISTER

HOUSE _____ COMMITTEE _____

ALL _____ Date _____

SPONSOR _____

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Frank [unclear] Elmer [unclear]	Olan Kellum	Dept of War Dept of [unclear]	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WHY SHOULD REAL PROPERTY BE REAPPRAISED?

What do Montana statutes mandate?

Present law requires that the state appraise and assess all property subject to taxation. This task can be broken into five parts:

- a) classification of all taxable land (e.g., agricultural land, timberland);
- b) appraisal of all city and town lots;
- c) appraisal of all taxable rural and urban improvements (residential, commercial, industrial);
- d) assessment of all personal property; and
- e) appraisal of all centrally assessed property (e.g., railroads, public utility lines which cross county borders, net and gross proceeds of mines).

The first three of these deal with real property and, therefore, potentially come within the scope of the reappraisal effort. If there is to be no reappraisal effort then the statutes of the state should be changed to reflect the fact. The legislature, by choosing not to fund a reappraisal program, will set a course which is arguably in violation of its own mandate that all items of property should be on the tax rolls at market value.

What happens if there is no reappraisal of real property?

The answer here depends on the perspective one takes. In the short term, the owner of real property might believe that he was enjoying the best of all worlds. He would see his tax burden falling in relation to those who have large amounts of personal property or those whose property is centrally assessed because such property is revalued (that is reappraised) each year and, thus, tends to keep up with the market value standard set in Montana statute. If real property is not periodically reappraised to reflect the activity of the market, the values placed on such property tend to slip further and further behind those placed on other types of property.

The property tax is a tax on the wealth of the property owner as measured in terms of the amount and type of property he owns. The setting of values on all the various items of property is society's way of dividing up the burden of the property tax. By choosing not to periodically reappraise real property, the Legislature would, in effect, be saying that personal property and centrally assessed property should bear an increasing property tax burden. The question of whether this is legal under present statutes, let alone whether it is fair under any notion of tax equity

is almost certain to be the subject of litigation.

Should the job be done by the state?

There are two principal reasons why the state ought to be the entity in charge of the program.

Cost. If there is to be a reappraisal at all, it makes no sense to have fifty-six different programs. The state offers economies of scale which cannot be achieved by local governments.

Uniformity. Each taxpayer ought to have assurance that, if he has property in two or more counties, he will not endure radically different treatment from county to county.

Can the state do the job?

It has worked elsewhere. Washington, Oregon and Utah, as well as California and Arizona, have legislatively mandated, state-wide reappraisal systems. The Department of Revenue has, over the last year, taken the following steps in an effort to lay a solid foundation for a successful reappraisal program:

1. The Property Assessment Division has been reorganized along the lines of its statutory mandates.
2. Considerable experience in the appraisal field has been added to the managerial staff.
3. The present appraisal staff has been evaluated.
4. The existing appraisal data base has been evaluated.
5. A physical parcel count has been conducted.
6. The process of planning a full reappraisal program has begun. A complete analysis of the work effort required, translated into personnel and costs has been prepared.

An outline of the elements of a successful appraisal system is attached. If a reappraisal is done, the Department plans to do it within the ambit of these standards.

COMPONENTS OF AN EFFECTIVE APPRAISAL SYSTEM

There are ten key components of an effective appraisal system:

1. Adequate budget, competent staff, and effective internal controls
 - a. An organization plan.
 - b. Statements of duties and responsibilities.
 - c. Standards of practice.
 - d. Edit procedures.
 - e. Time and production reports.
 - f. Security procedures.
 - g. Pertinent legal compilations and administrative regulations.
2. Complete maps and files
3. Accurate property data
4. Accurate sales data
5. Effective cost approach
6. Effective sales comparison approach
7. Effective income approach
8. Modern data processing and storage
9. Open public relations
10. Periodic assessment-ratio studies

PROPOSED AMENDMENTS TO HB 859
Introduced copy

1. Page 6, line 12.

Following: "(7)"

Strike: "Charitable"

Insert: "Except as provided in subsection 7, charitable"

2. Page 6, line 14.

Following: "amended."

Insert: "(8) The public service commission shall not allow in the rate base of a regulated corporation the inclusion of contributions made under subsection 7"

STANDING COMMITTEE REPORT

April 3, 1951

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 862

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR A STATEWIDE 3-MILL PROPERTY TAX LEVY TO PROVIDE MONEY FOR THE EXPENSES OF THE CYCLIC PROPERTY REAPPRAISAL PROGRAM ADMINISTERED BY THE DEPARTMENT OF REVENUE; TO APPROPRIATE MONEY FOR THIS PURPOSE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 862

DO NOT PASS

~~DO PASS~~

.....Rep. Ken Nordtvedt, Chairman.