HOUSE TAXATION COMMITTEE MEETING MINUTES
April 1, 1981

A meeting of the House Taxation Committee was held on Wednesday, April 1, 1981 at 10:00 a.m. in Room 102 of the State Capitol. All members were present except Rep. Neuman, who was excused, and Reps. Harrington and Vinger, who were absent. EXECUTIVE ACTION was taken on HOUSE BILLS 160, 27 and 852 and HOUSE JOINT RESOLUTIONS 57 and 61.

HOUSE BILL 852 was discussed. Rep. Nordtvedt submitted that this should be one of the variables available in the Highway Program funding package. He moved that the bill DO PASS.

Rep. Harp made a substitute motion of DO NOT PASS. He submitted that the industry had already taken a $4 million increase in their costs and supported this and he didn't feel it would be fair to pass this bill in light of that. This increase doesn't correlate with the other things the Legislature is trying to do.

Rep. Asay submitted that the cost of the highways should be more evenlyborne by all users and not just the transportation industry. He thought the increase in the fuel tax was justified but in light of that, this bill wasn't justified.

Rep. Roth submitted that this bill provided for a pretty fair use tax. These trucks are operating for profit and they should be made to pay their due share.

Rep. Oberg said that the railroads were driving the trucking business out of the Highline. He felt that an increase at this time would make things that much more difficult and the farmer would be the one who would suffer. The bill for overweight fees has been signed by the governor and this will have a big impact on the industry. The cumulative effect of all the increases would be too much for the industry to absorb gracefully.

Rep. Williams rose in support of the substitute motion. There has been considerable legislation providing a tax incentive to help business and this bill would be a dearth to business in Montana. Also, at present the trucking industry is being depended almost wholly on to take local freight hauls.

On the average this bill would mean a $20 - $25 increase in fees to the farmer.

Rep. Brand said that a weight/distance tax was needed. What is being done at present is not rational. Many people in the trucking industry are disturbed the most by the fact that the people licensed in Montana are paying the taxes but the people coming from out of State are taking advantage of the situation. He stressed that this needed to be addressed. Those coming through Montana seem to have some kind of a hotline whereby they avoid the weigh stations. He submitted that a law where everybody would have to pay their fair share was needed.

Rep. Harp said when someone is coming into another State, they used a "trip lease;" however, those people are paying for the GVW's who sell the trip leases.

Rep. Williams asked Mr. Havdahl, Montana Motor Carriers, if, generally speaking, the chances for abuse were slim. Mr. Havdahl said Rep. Williams was correct and the problem that Rep. Brand was addressing was a different one. Taxes on trucks are paid on the basis of mileage. On the registration on the GVW fees, Montana is the member of the International Registration Plan. This means that all trucks domiciled in other States pay their share to Montana based on the mileage they travel in Montana. He pointed out that there had been an increase in income from GVW fees because of this. This increase is projected to continue. As far as permits, he said Rep. Williams was correct that once in a while these people do get by, but this isn't the usual case.

The question was called for on the motion of DO NOT PASS; motion carried with Reps. Nordtvedt and Roth opposed.

Rep. Dozier moved that HOUSE BILL 27 DO PASS. It was pointed out that the bill had been amended on March 27th, see Exhibit "A." The question was called for; motion carried unanimously.

Rep. Zabrocki then moved that HOUSE JOINT RESOLUTION 61 DO PASS. Rep. Nordtvedt proposed some amendments; see Exhibit "B." He felt that the Revenue Oversight Committee should be the proper Committee to do the study. He stressed that the study wasn't of local government in general but of the fiscal condition of local government.

Rep. Dozier said that the Revenue Oversight Committee's prime consideration was to the State and it was his feeling that a Committee to deal strictly with the local government problem would be more proper.

Rep. Williams said he saw Rep. Dozier's concern, but the Oversight Committee should be able to do the job. Another advantage to putting the Resolution into the Oversight Committee was that its chances of taking place would be increased. He pointed out that the Oversight Committee was much better equipped to do the job than an interim Committee was.

The question was called for on the amendments; motion carried unanimously.

Rep. Harp then moved that HOUSE JOINT RESOLUTION 61 DO PASS AS AMENDED. Rep. Nordtvedt moved that the word "interim" be sticken wherever reference was made to the Revenue Oversight Committee.

The question was called for; the motion of DO PASS AS AMENDED carried unanimously.

Rep. Dozier then moved that HOUSE JOINT RESOLUTION 57 DO PASS. Rep.

Williams was concerned that the Resolution specified that a business and occupational license tax be the replacement revenue. He didn't feel the Revenue Oversight Commitee should be limited in this way.

Rep. Underdal suggested that the Resolution be amended to include other tax options. Rep. Williams said he would like language that didn't specify any kind of tax in particular. Rep. Nordtvedt suggested that after the word"feasibility" on line 6, "of alternatives to the present property tax system " be inserted. Rep. Williams rose in support of the amendment.

Rep. Sivertsen felt that this would be going beyond the intent of the Resolution. Rep. Oberg submitted that this was covered in HJR 61.

Rep. Devlin made a substitute motion that the Resolution DO NOT PASS; motion carried with Reps. Harp and Neuman opposed.

HOUSE BILL 160 was considered again. Rep. Nordtvedt submitted that the bill should be passed out of Committee. Rep. Harrington moved that the bill DO PASS. Rep. Williams said he preferred HOUSE BILL 34.

Rep. Sivertsen felt that this Committee should do its work and shouldn't let someone else make the decisions. He submitted that the Committee had decided already that HB 34 was the better bill and felt this decision should stand.

Rep. Harrington submitted that HB 34 was bogged down in the Senate and that was why the veterans wanted this bill to go over there.

Rep. Oberg said that as he saw it, this bill was strictly an honorarium. The reason behind giving a tax break was more than an honorarium; it also recognizes that the disabled veterans' income possibilities are reduced and that is why property taxes are reduced. However, the veteran who still has a large income shouldn't get this break.

Rep. Nordtvedt was opposed to leaving the bill in Committee.

Rep. Hart said that the veterans shouldn't be penalized for going out and making money and therefore she was in favor of not having income limitations.

Rep. Nordtvedt agreed with this. If a tax break is given and it is based on income, in effect a high marginal tax rate is being created on these peoples' low income. A tax break works just like a tax; if it is based on income. When a benefit that is independent of income is given, a disincentive to supplement the income sources by more effort is not made.

The question was called for on the motion of DO PASS; motion carried 14 - 4; see roll call vote.

The meeting was adjourned at 10:50 a.m.

Ken Nordtvedt

Rep. Ken Nordtvedt, Chairman

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HOUSE BILL NO. 27

1. Title, line 5.
Following: "TAX"
Insert: "BASE"
Following: "TO"
Strike: "$1,200"
Insert: "$1,000"

2. Title, line 6.
Following: line 5
Strike: "15-30-112, MCA"
Insert: "1, 3, AND 5 OF INITIATIVE NO. 86 AND SECTION 9, CHAPTER 689, LAWS OF 1979; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 1, line 9.
Following: line 8
Strike: Section 1 in its entirety
Insert: see attached

"SECTION 1. SECTION 1 OF INITIATIVE NO. 86 IS AMENDED TO READ:

"Section 1. Section 15-30-101, MCA, is amended to read:

"15-30-101. Definitions. For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January-1,-1980~~ JUNE 30 OF THE TAXABLE YEAR;

(b) the exemptions contained in 15-30-112, BUT UNADJUSTED BY SUBSECTIONS (7) AND (8), in effect on ~~January 1,-1980~~ JUNE 30 OF THE TAXABLE YEAR;

(c) the maximum standard deduction provided in 15-30-122, BUT UNADJUSTED BY SUBSECTION (2), in effect on ~~January-1,-1980~~ JUNE 30 OF THE TAXABLE YEAR.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

~~(1)~~(3) "Department" means the department of revenue.

~~(2)~~(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

~~(3)~~(5) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

~~(4)~~(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

~~(5)~~(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

~~(6)~~(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

~~(7)~~(10) "Knowingly" is as defined in 45-2-101.

~~(8)~~(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

~~(9)~~(12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(10)~~(13) "Purposely" is as defined in 45-2-101.

~~(11)~~(14) "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(12)~~(15) "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(13)~~(16) "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(14)~~(17) "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(15)~~(18) "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations.""

Section 2. Section 3 of Initiative No. 86 is amended to read:

"Section 3. Section 15-30-112, MCA, is amended to read:

"15-30-112. Exemptions. (1) Except as provided in subsections (7) and (8), in the case of an individual, the exemptions provided by subsections (2) through (6) shall be allowed as deductions in computing taxable income.

(2) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(3) (a) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he has attained the age of 65 before the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse has attained the age of 65 before the close of such taxable year and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer.

(4) (a) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the taxpayer if he is blind at the close of his taxable year.

(b) An additional exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for the spouse of the taxpayer if a separate return is made by the taxpayer and if the spouse is blind and, for the calendar year in which the taxable year of the taxpayer begins, has no gross income and is not the dependent of another taxpayer. For the purposes of this subsection (4)(b), the determination of whether the spouse is blind shall be made as of the close of the taxable year of the taxpayer, except that if the spouse dies during such taxable year, such determination shall be made as of the time of such death.

(c) For purposes of this subsection (4), an individual is blind only if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) (a) An exemption of ~~$800~~ $1,000 shall be allowed for taxable years beginning after December 31, 1978, for each dependent:

(i) whose gross income for the calendar year in which the taxable year of the taxpayer begins is less than ~~$800~~ $1,000; or

(ii) who is a child of the taxpayer and who:

(A) has not attained the age of 19 years at the close of the calendar year in which the taxable year of the taxpayer begins; or

(B) is a student.

(b) No exemption shall be allowed under this subsection for any dependent who has made a joint return with his spouse for the taxable year beginning in the calendar year in which the taxable year of the taxpayer begins.

(c) For purposes of subsection (5)(a)(ii), the term "child" means an individual who is a son, stepson, daughter, or stepdaughter of the taxpayer.

(d) For purposes of subsection (5)(a)(ii)(B), the term "student" means an individual who, during each of 5 calendar months during the calendar year in which the taxable year of the taxpayer begins:

(i) is a full-time student at an educational institution; or

(ii) is pursuing a full-time course of institutional on-farm training under the supervision of an accredited agent of an educational institution or of a state or political subdivision of a state. For purposes of this subsection (5)(d)(ii), the term "educational institution" means only an educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.

(6) In the case of a nonresident taxpayer, the exemption deduction shall be prorated according to the ratio the taxpayer's Montana adjusted gross income bears to his federal adjusted gross income.

(7) For taxable years beginning after December 31, 1978, and before January 1, 1981, the amount allowed as a deduction in subsections (2) through (6) shall be adjusted as provided under section 9, Chapter 698, Laws of 1979 AS AMENDED BY THIS ACT.

(8) For taxable years beginning after December 31, 1980, the department, by November 1 of each year, shall multiply all the exemptions provided in this section unadjusted by subsection (7) by the inflation factor for that taxable year and round the product to the nearest $10. The resulting adjusted exemptions are effective for that taxable year and shall be used in calculating the tax imposed in 15-30-103.""

Section 3. Section 5 of Initiative No. 86 is amended to read:

"Section 5. Section 15-30-142, MCA, is amended to read:

"15-30-142. Returns and payment of tax -- penalty and interest -- refunds -- credits. (1) Every single individual and every married individual not filing a joint return with his or her spouse and having a gross income for the taxable year of more than ~~$940~~ $1,180, as adjusted under the provisions of subsection (7), and married individuals not filing separate returns and having a combined gross income for the taxable year of more than ~~$1,880~~ $2,360, as adjusted under the provisions of subsection (7), shall be liable for a return to be filed on such forms and according to such rules as the department may prescribe. The gross income amounts referred to in the preceding sentence shall be increased by ~~$800~~ $1,000, as adjusted under the provisions of 15-30-112(7) and (8), for each additional personal exemption allowance the taxpayer is entitled to claim for himself and his spouse under 15-30-112(3) and (4). A nonresident shall be required to file a return if his gross income for the taxable year derived from sources within Montana exceeds the amount of the exemption deduction he is entitled to claim for himself and his spouse under the provisions of 15-30-112(2), (3), and (4), as prorated according to 15-30-112(6).

(2) In accordance with instructions set forth by the department, every taxpayer who is married and living with husband or wife and is required to file a return may, at his or her option, file a joint return with husband or wife even though one of the spouses has neither gross income nor deductions. If a joint return is made, the tax shall be computed on the aggregate taxable income and the liability with respect to the tax shall be joint and several. If a joint return has been filed for a taxable year, the spouses may not file separate returns after the time for filing the return of either has expired unless the department so consents.

(3) If any such taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of

the person or property of such taxpayer.

(4) All taxpayers, including but not limited to those subject to the provisions of 15-30-202 and 15-30-241, shall compute the amount of income tax payable and shall, at the time of filing the return required by this chapter, pay to the department any balance of income tax remaining unpaid after crediting the amount withheld as provided by 15-30-202 and/or any payment made by reason of an estimated tax return provided for in 15-30-241; provided, however, the tax so computed is greater by $1 than the amount withheld and/or paid by estimated return as provided in this chapter. If the amount of tax withheld and/or payment of estimated tax exceeds by more than $1 the amount of income tax as computed, the taxpayer shall be entitled to a refund of the excess.

(5) As soon as practicable after the return is filed, the department shall examine and verify the tax.

(6) If the amount of tax as verified is greater than the amount theretofore paid, the excess shall be paid by the taxpayer to the department within 30 days after notice of the amount of the tax as computed, with interest added at the rate of 9% per annum or fraction thereof on the additional tax. In such case there shall be no penalty because of such understatement, provided the deficiency is paid within 30 days after the first notice of the amount is mailed to the taxpayer.

(7) By November 1 of each year, the department shall multiply the minimum amount of gross income necessitating the filing of a return by the inflation factor for the taxable year. These adjusted amounts are effective for that taxable year, and persons having gross incomes less than these adjusted amounts are not required to file a return.""

Section 4. Section 9, Chapter 698, Laws of 1979 is amended to read:

"Section 9. Deductions for exemptions in 1979 and 1980. ~~(1)~~ The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1978, and before January 1, 1980, by $50 ~~for each $2.5 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $14 million as of June 30, 1979~~ and for taxable years beginning after December 31, 1979, and before January 1, 1981, by $250.

~~(2) The exemption amounts allowed in 15-30-112 are increased for taxable years beginning after December 31, 1979, and before January 1, 1981, by $50 for each $2.8 million by which the general fund balance, as certified by the director of the department of administration to the director of the department of revenue, exceeds $13 million as of June 30, 1980.~~"

SECTION 5. EFFECTIVE DATE. THIS ACT IS EFFECTIVE ON PASSAGE AND APPROVAL."

1. Title, ~~line 6.~~
Following: line 5
Strike: "ASSIGNMENT OF AN INTERIM"
Insert: "THE REVENUE OVERSIGHT"

2. Page 1, ~~line 16.~~
Following: line 15
Strike: "overly"

3. Page 1, line 17.
Following: "that"
Insert: "in many cases"

4. Page 1, line 22.
Following: "in"
Strike: "revenue available"
Insert: "the tax base"

5. Page 2. line 11.
Following "that"
Strike: "an interim committee be"
Insert: "the Revenue Oversight Committee is"

6. Page 2, line 24.
Following: "the"
Strike: "interim committee"
Insert: "Revenue Oversight Committee

7. Page 3, line 4.
Following: "that the"
Strike: "interim committee "
Insert: "Revenue Oversight Committee"