

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 21, 1985

The fifty-fifth meeting of the Senate Taxation Committee was called to order at 8:10 am by Acting Chairman, Senator Eck in Room 413-415 of the Capitol building.

ROLL CALL: Senators Lybeck, Mazurek, Severson and Towe were temporarily excused. Senator Lybeck joined the committee at 8:40 am; Senator Towe at 8:45 am; Senator Severson at 9:10 am; Senator Mazurek at 9:40 am. All other members were present at roll call.

CONSIDERATION OF HB 596: Representative Gene Donaldson, House District 43, was recognized as chief sponsor of the bill. He said that a number of groups are already excluded from corporation license tax. He said this bill would exclude the farmers' market associations.

PROPOSERS

Ms. Karen Lewis of the Helena Farmers' Market said that the fee they get from sellers for insurance and advertizing is used only for that. She said it is a total volunteer operation. She said that no federal tax is paid as no income is earned but that this state tax still applies. She said it was very difficult for their association when they had to pay back tax and penalty of \$250 because they had not been aware that they should be paying the tax.

Mr. Ed Homer, a board member of the Helena Farmers' Market, said he supported the bill.

Ms. Betty LaSalle, Helena Farmers' Market, said she supported the bill.

OPPOSERS

None were heard.

Questions from the committee were called for.

Senator Neuman asked if this would include Hutterite sales. Representative Donaldson said, yes, if they participate in a farmers' market. Senator Neuman asked if this would induce farmers to set up marketing on a nonprofit basis. Representative Donaldson said that perhaps there would be some abuse, but that the inclusion of this one additional group would not make a difference.

Senator Halligan suggested that additional language about the seasonal and temporary nature of the activity could tighten the bill. Mr. Gregg Groepper of the Department of Revenue suggested that a statement of intent could direct the Department regarding the committee's intent.

Senator Hager was assured that individuals did not benefit and that funds left over from one season were used for the next season's initial expenses.

Senator Goodover asked about the bill including handicrafts and other manufactured items. Representative Donaldson felt that some language about the private nonprofit nature of the organizations would address Senator Goodover's concerns.

Without further comment Representative Donaldson closed.

CONSIDERATION OF HB 168: Representative Gene Donaldson, House District 43, was recognized as chief sponsor of the bill. He said that agricultural lands are currently assessed on their 1963 basis. He said SB 33 continues that basis through the next appraisal cycle. He said the methodology used to arrive at the current figures remains unknown. He also noted that the relationships between various kinds of land were not clear. He said that HB 168 would direct the Department of Revenue to do it in a certain way. He said that when money is invested a certain return is anticipated and that agricultural interests deserve a reasonable rate of return.

Representative Donaldson then discussed the details of the bill with the committee. He offered amendments to the committee that would remove the MSU agriculture economics staff from the bill (Exhibit 1). He said that they did not want to be involved. The bill also sets up an advisory committee on which those people would be given representation.

In discussing the capitalization rate he said that it averaged the federal land bank loan rate and added to that the effective tax rate for the formula described in the bill. It is necessary, he said, that agricultural lands be appraised, but that market value and replacement costs are not suitable measures for that valuation. This method, he said, accounts for the productive value of the land.

PROPOSERS

Mr. Gregg Groepper said that the bill basically reflects the study work of the eight-month committee and that the Department has no problems with the bill.

Mr. Alan Eck, Montana Farm Bureau Federation, submitted written testimony in support of the bill (Exhibit 2).

Senator Ted Neuman, a member of the interim committee that developed the bill, said that if land is taxed on its productive value then the formula in the bill makes the most sense. He said the inequalities in the current system are shocking and that changes must be made.

OPPOSERS

None were heard.

Questions from the committee were called for.

Senator Brown asked about the separation of timber lands from agricultural land. Representative Donaldson said that timber requires a different approach and the two cannot be combined. He said that the Legislature should look at a severance tax on timber, but he noted that this is not a timberland bill and that should not be the main consideration.

Senator McCallum asked how the changes on dry land would change. Representative Donaldson said that the data has not been developed into which the formula would be plugged. He said that initially it appeared that there was a reduction in agricultural land value using this method, but that the bill adds federal payments to the gross income figures. He said it was especially hard to make the comparison as no one knew how the 1963 figures were arrived at. He said the bill was not designed to increase revenue, but to address tax equity and land value relative to productivity of the land.

Senator McCallum said that then no one knew what this bill would do. Representative Donaldson said, that is true, but that the bill also allows three years in which to build a data base. He said that there is logic to the approach and that the Department of Revenue is doing a good job at trying to arrive at a fair solution.

Senator Brown said the timber people have been hurt first by being on the same valuation tables as agricultural land and now if the classes are separated they would be hurt again. Representative Donaldson said that the Department of Revenue did back off on their timber proposals. He said that problem would have to be addressed, but that timber and agriculture were basically incompatible.

(Senators Lybeck and Towe joined the committee's discussion at this point. Senator Towe resumed the chair.)

In response to a question by Senator Goodover, Representative Donaldson said that the Legislature had already rejected the market value approach. He said that his own land subdivided would be worth five to six times its agricultural land value. He said if land is taxed on market value it would be forced into subdivision. He said the increase in millage is already pushing agricultural land out of production. This, he concluded is the merit in valuing land on its ability to produce.

In response to a question by Senator Hirsch Mr. Groepper discussed the various classes of land. Basically they are: summer fallow; continuous crop; wild hay, alfalfa; high, medium and low irrigated, which is further divided by level of production.

Senator Brown asked why the soil type could not be used for the productivity information. Representative Donaldson explained that

the baseline data is not available and would be too expensive to obtain. He said precipitation and elevation factors would have to be crossed with the soil type as well. Senator Brown said it made more sense to him to consider the land itself than convoluted economic formulas. Senator Neuman said that would be too costly.

Senator Towe asked if it is acceptable to use a capitalization rate that adds land bank interest and the tax rate. Mr. Groepper answered that in the method of the bill this is not used as expense on the income side. He said it cannot be used twice, but that because it is not included in the numerator it can be used in the denominator. He said there is not enough data at this time to do it any other way. Senator Towe asked if that would make a difference in the formula outcome. Mr. Groepper said that theoretically it would work the same used either way.

Senator Towe asked if the bill was supported by the agricultural community. Representative Donaldson said that none opposed the bill. He said that the Department of Revenue had been very helpful and worked very hard to try to resolve the differences. His testimony commended the Department of Revenue for their work on this issue.

Senator McCallum asked if timber interests had testified on the bill.

Representative Donaldson closed by thanking the committee for the good hearing. He said the House had spent time on the bill and that it must be looked at seriously. He said there must be a better method found and this is the only one left for consideration. He said he was willing to work with the committee in any way necessary.

CONSIDERATION OF HB 596: Senator Neuman said he wanted to propose an amendment to the bill. The committee discussed how to amend the bill to be certain that it could not be used as a marketing loophole by agricultural interests.

MOTION: Senator Neuman moved that HB 596 be amended per the Standing Committee Report attached here. The motion carried unanimously.

MOTION: Senator Neuman moved that HB 596 be concurred in as amended. The motion carried unanimously. Senator Eck, absent at the moment, was assigned to carry the bill.

CONSIDERATION OF SB 460:

MOTION: Senator Halligan moved that SB 460 be tabled. The motion carried unanimously.

CONSIDERATION OF HB 580:

MOTION: Senator Halligan moved that HB 580 be concurred in. Senator Lybeck felt the bill was supportable because the mill would be added only at local option.

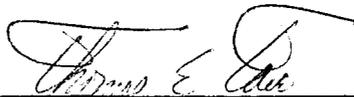
Question was called. Senators Hirsch and Goodover voted no, Senators Eck and Hager were excused, all other members voted yes. The motion carried. Senators Halligan and McCallum agreed to carry the bill.

CONSIDERATION OF HB 317: Mr. Jim Lear, committee staff, said that the intent of the bill was to change the definition of livestock to be more neatly defined in the tax code, but that the bill as written takes a wrong approach. He presented Exhibit 3 to the committee as an alternative way of doing that. Mr. Groepper, Department of Revenue, said that the bill was written to insure that livestock in its broad definition be taxed at 4 percent in class six rather than at 16 percent in class 10. After discussion on the amendments the committee agreed to changes which are indicated in the exhibit.

MOTION: Senator Severson moved that HB 317 be amended per Exhibit 3. The motion carried unanimously.

Because of more work needed from the Department of Revenue to complete work on the bill Chairman Towe agreed to hold the bill in committee.

The meeting was adjourned at 10:02 am.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date March 21, 1985

Johnson

Location -- Room 413-415

Name Present Absent Excused

Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	9:40		
Senator Mazurek	9:40		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	9:10		
Senator Towe	9:40		

Suggested Amendments - HB168

1. Page 3, after line 16
Insert: "(6) TO THE DEGREE AVAILABLE, THE DEPARTMENT SHALL;"
2. Page 3, line 17
Strike: "(6) MONTANA STATE UNIVERSITY SHALL ANNUALLY"
Insert: "(a)"
3. Page 3, line 20
Following: "DATA"
Strike: "SHALL"
Insert: "MAY"
4. Page 3, line 21
Following: "PRICES"
Strike: "SHALL"
Insert: "MAY"
5. Page 3, line 21
Following: "INCLUDE"
Strike: "BUT NOT BE LIMITED TO"
6. Page 3, line 24
Following "SHEEP."
Strike: "SUCH COMMODITY PRICES SHALL INCLUDE"
7. Page 3, line 25
Following: "PAYMENTS"
Strike: "CALCULATED PER UNIT OF MEASURE."
Insert: "MAY BE CONSIDERED."
8. Page 4, line 1
Following: "ARRANGEMENTS"
Strike: "SHALL"
Insert: "MAY"
Strike: "COMPILED FOR EACH USE"
Insert: "CONSIDERED."
9. Page 4, line 2
Strike line 2 through annually
Insert: "(b)"
10. Page 4, line 3
Strike: "ADEQUATE"
11. Page 4, line 5
Strike: "SHALL"
Insert: "MAY"

12. Page 4, line 6
Strike: "SHALL"
Insert: "MAY"
Following: "INCLUDE"
Strike: "BUT NOT BE"
13. Page 4, line 7
Strike: "LIMITED TO"
14. Page 4, line 12
Following: "ARRANGEMENTS"
Strike: "SHALL BE COMPILED FOR EACH LAND USE."
Insert: "MAY BE CONSIDERED."
15. Page 4, line 13 and 14
Strike: lines 13 and 14 in their entirety
16. Page 4, line 15
Strike: "(9)"
Insert: "(7)"
17. Page 4, line 19
Strike: "(8)."
Insert: "(6). THE ADVISORY COMMITTEE SHALL INCLUDE ONE MEMBER OF THE MONTANA STATE UNIVERSITY STAFF."
18. Page 4, line 20
Strike: "(10)"
Insert: "(8)"
Renumber: Subsequent subsections.
19. Page 4, line 25
Strike: "(9)"
Insert: "(7)"



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Phone (406) 587-3153

TESTIMONY BY: Alan Eck

BILL # HB-168

DATE 3-21-85

SUPPORT XXX

OPPOSE _____

Mr. Chairman and members of the committee, for the record my name is Alan Eck. I'm representing the Montana Farm Bureau Federation. We would like to go on record as supporting HB-168. We feel that the capitalization of net income is the fairest way to reach the valuation of agricultural land. We urge you to give HB=168 a "do pass" recommendation. Thank You.

Exhibit 2 -- HB 168
March 21, 1985

Alan Eck

SIGNED

Amend H.B. 317, third reading copy

1. Title, line 6.

Following: "AMENDING"
Strike: "SECTION"

Insert: "SECTIONS 15-1-101, 15-6-136,
15-6-207, AND"

Exhibit 3 -- HB 317
March 21, 1985

2. Page 1.

Following: line 8

Insert: "Section 1. Section 15-1-101, MC
is amended to read:

" 15-1-101. Definitions. (1) When Except as otherwise
specifically provided, when

terms mentioned in this section are
used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of livestock, swine, poul-
try, bees, and other species of domestic animals

and wildlife in a captive environment
and the raising of

domestication

field crops, fruit, and other animal and vegetable matter for food or
fiber.

(b) The term "assessed value" means the value of property as defined in
15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior
to reconditioning and profit margin shown in national appraisal guides and
manuals or the valuation schedules of the department of revenue.

(d) The term "credit" means solvent debts, secured or unsecured, owing
to a person.

(e) The term "improvements" includes all buildings, structures, fixtures,
fences, and improvements situated upon, erected upon, or affixed to land.
When the department of revenue or its agent determines that the perman-
ency of location of a mobile home or housetrailer has been established, the
mobile home or housetrailer is presumed to be an improvement to real prop-
erty. A mobile home or housetrailer may be determined to be permanently
located only when it is attached to a foundation which cannot feasibly be
relocated and only when the wheels are removed.

(f) The term "leasehold improvements" means improvements to mobile
homes and mobile homes located on land owned by another person. This
property is assessed under the appropriate classification and the taxes are
due and payable in two payments as provided in 15-24-202. Delinquent taxes
on such leasehold improvements are a lien only on such leasehold improve-

(g) The term "livestock" means cattle, sheep, swine, goats, horses, mules, and asses.

(h)

The term "mobile home" means forms of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

(h)(i) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

(h)(j) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

(i)(k)

The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

(k)(l)

The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and 15-23-801; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

(l)(m)

The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board. "

Section 2. Section 15-6-136, MCA, is amended to read:

15-6-136. Class six property - description - taxable percentage. (1) Class six property includes: (a) livestock and poultry, and the unprocessed products of both; (b) all unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer;

such animals and wildlife
bees, and other species of domestic animals and wildlife raised in domestication or a captive environment

~~for profit~~, except cats, dogs
and other household pets not raised for profit

(c) items of personal property intended for lease in the ordinary course of business provided each item of personal property satisfies all of the following:

- (i) the full and true value of the personal property is less than \$5,000;
- (ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and
- (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis.

(2) Class six property is taxed at 4% of its market value. "

Section 3. Section 15-6-207, MCA, is amended to read:

" 15-6-207. Agricultural exemptions. The following agricultural products are exempt from taxation:

- (1) all unprocessed, perishable fruits and vegetables in farm storage and owned by the producer;
- (2) all nonperishable unprocessed agricultural products, except livestock, held in possession of the original producer for less than 7 months following harvest; and

~~except as provided in subsection (4),~~

(3) ~~livestock, defined as cattle, sheep, horses, or mules,~~ which have not attained the age of 9 months as of the last day of any month if assessed on the average inventory basis or on March 1 if assessed as provided in 15-24-911(1)(a) and swine which have not attained the age of 3 months as of January 1. " "

Renumber: subsequent sections

3. Page 1, lines 10 through 15.

Following: "Definition." on line 10

Strike: remainder of line 10 through end of line 15

Insert: "As used in this part, "livestock"

includes:

- (1) those animals specified in 15-1-101(g);
- (2)

STANDING COMMITTEE REPORT

March 21, 1985

MR. PRESIDENT

Taxation

We, your committee on

having had under consideration..... House Bill No. 580

third reading copy (blue)
color

(Senator Eck)

AUTHORIZING COUNTY FUNDING OF SEARCH AND RESCUE UNITS.

Respectfully report as follows: That..... House Bill No. 580

BE CONCURRED IN

DO PASS

SENATOR ECK

.....
Senator Thomas E. Towe,

Chairman.

STANDING COMMITTEE REPORT

March 21, 1985

MR. PRESIDENT

We, your committee on Taxation
having had under consideration House Bill No. 596
third reading copy (blue)
color

(Senator Halligan/Senator McCallum)

EXEMPT FARMERS' MARKET ASSOCIATION FROM CORPORATE LICENSE TAX PROVISIONS

Respectfully report as follows: That House Bill No. 596

be amended as follows:

1. Page 4, line 4.

Following: "association"

Insert: "not organized for profit and no part of the net income of which inures to the benefit of any member, but is"

AND AS AMENDED
BE CONCURRED IN

DOBBES

DOBBES

Senator Thomas E. Towe,

Chairman.