

TAXATION COMMITTEE  
45TH LEGISLATURE

Rep. Herb Huennekens, Chairman of the Taxation committee, called the committee to order at 8:00 a.m., February 18, 1977, in room #434 of the Capitol Building, Helena. Reps. Harrison Fagg and Les Hirsch were excused because of conflicting schedules; all other members were present. Bills to be heard today were HB 434, 680, 555, and 775.

Rep. James T. Mular, District #85, Butte, MT, sponsor of HB 775, stated this bill was entered at the request of the Silver Bow County Superintendent of Schools, John Justin Sullivan. HB 775 would allow each school district to pay into its own fund instead of paying into a county fund for elementary teacher retirement which was placed against the property of the county as a whole rather than the school district in 1973. This hurt the smaller school districts.

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HB 775 asks that the mill levy set for the entire county to pay teacher retirement funds be placed on each school district separately rather than on the county as a whole. See Mr. Sullivan's testimony attached.

OPPONENTS:

Mr. Lloyd Markell, Montana Education Association, spoke in opposition to HB 775. He stated the Association believes in equalized tax support, and in 1973 the law was put into effect to move teachers retirement and social security obligations of the school districts into a special fund. In an attempt to reach equalization, the tax base was broadened to pay these kind of fixed charges for the school operation. This bill would go in reverse - instead of spreading it over a broad county base. This is fine in a wealthy school district, but Silver Bow needs the equalization in order to pay the obligations incurred. The bill makes for inequity.

Rep. Mular closed by saying HB 775 attempts to equalize, and if challenged in court, maybe it would be in trouble. Mr. Sullivan says it is a problem in equality and could require a court decision.

Rep. Melvin Williams, District #70, Laurel, chief sponsor of HB 434, explained this bill would put sprinkler irrigation systems in Class 7 instead of Class 2 for three years after their purchase. At the present time, sprinklers are in Class 2 and taxed at 20% or 70% of market value, which effective rate is 14%. Under HB 70, it will be 13%. Under HB 434, it will be down to 4.9% from 14%, which would be quite a break for purchasers of the expensive sprinkler systems now being used for other than level land. There is a suit pending regarding taxation of these systems, and if the department of revenue wins the suit, then this bill will come into action. It has real value by putting a lot of arid land into production that could not be irrigated otherwise. Irrigation equipment costs a lot of money and as a result of that, when you apply the tax in the 20% bracket which is 40% of the tax base, the tax is high. The idea of this bill is to give the

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owner a little break and take a little load off him for 3 years so he can pay more off the capital cost and interest. The equity factor regarding loss of any tax revenue to a county because of loss of revenue from sprinkler tax is offset by the additional tax placed on the value of the land which is raised when it is in an irrigated land category.

Ditches used in flood irrigation are not taxed separately as they are considered to be a part of the land and are taxed that way. This bill will have no fiscal impact in 1978, and the overall impact would not be great. The benefits from using sprinkler systems would be of greater value than any tax gained for the three years of lesser taxes allowed the owners of new sprinkler systems.

This bill allows sprinklers purchased before the effective date of this act to qualify for inclusion until the fourth January 1 after their purchase.

Tom Williams, Townsend, Broadwater County, testified in support of HB 434. They use sprinklers on 320 acres, the cost of which is around \$75,000, \$250 per acre. Taxes on this equipment are \$695; under HB 434, they would be around \$200 for the first three years. They have increased the value of their land 2,000% as they put under irrigation land of very little previous value. Because of their high cost and other land value increase, and the ability to be more productive, he believes sprinkler systems should have a tax break. He thinks the sprinkler line should not be taxed at all when the land is put under production and is raised to an I-4 classification.

J. T. Hamm, 2931 Spokane Creek Road, East Helena, stated that all the good land is not down in the valleys - a lot of it is up on the benches. Twenty-one percent of the entire surface of the earth is farmable, which allows 3 acres per person for survival. The 92-500 Clean Water Act allows no contamination of water. What this says is that there will not be any more flood irrigation. The tax break HB 434 provides is that for the first year your assessed valuation is reduced by 70%, the second year 60%, and the third year 55% of the purchase price. There will be more sprinklers. He supports HB 434.

Tom Winsor, Montana Chamber of Commerce, supports this type of legislation, and believes very strongly that sprinklers are a sound use of water, and proper use of water is a necessity. He urges support of HB 434.

Zack Stevens, Montana Farm Bureau, supports legislation that will put more land into production.

John H. Tipperian, Townsend, supports HB 434.

Chouteau County Commissioner, Dale Skaalure, president of Montana Association of Counties, feels this bill will erode away the tax base by allowing reduction of taxes on sprinklers. The county gets 7.9¢ out of every tax dollar to maintain 3,000 miles of roads. Nineteen percent of tax revenue comes from machinery in Chouteau County. If sprinklers are exempt, tractors, combines, and other big machinery should be exempt. He advised that the government allows a tax break through investment credit. He believes this bill is a discriminatory bill because it pits one producer against another.

Rep. Williams closed saying there wouldn't be much tax loss since most counties are not collecting any tax at the present time from sprinklers, and this tax break would be for only three years. More production makes for more taxes collected. The benefits accruing from the use of sprinklers far exceed any loss there might be in revenue at the present time.

Terry Cohea, researcher, will get another fiscal statement using increased land values which provide an increased tax base.

Rep. Howard L. Ellis, District #93, Missoula County, chief sponsor of HB 555, told the Taxation committee that this bill will authorize pinball machines to be licensed by the department of revenue. The DOR thinks it will cost around \$6,000 to administer this proposed licensing. The bill would  
HOUSE BILL                    require a five-year residency period before a license could be  
555                            issued to a person for operation of a pinball machine. These  
                              pinball machines are already controlled by federal law and have  
                              to adhere to interstate federal shipping regulations. Minors  
will not be able to participate in this amusement machine. The revenue income to the state could be \$3 million dollars. A federal stamp goes on each machine and the \$100 state revenue tax will be for each machine. An estimated fiscal note is on the back of the handout attached. Rep. Ellis recommends looking at any new avenue for revenue. He does not view this machine as an expansion of gambling; but that the status quo of the present laws is being maintained. Enforcement costs are minimal. The stamps will be easily visible.

Evan Barrett, lobbyist for Montana Music Rentals, Helena, advised that the revenue estimates on the back of the handout entitled HOUSE BILL 555 are very defensible. A revised fiscal note is being printed. "Automatic" is deleted because this is not an automatic payout machine. The federal license on these machines is now \$300 and the state fee will be \$200. The federal law will allow the local governments to pick up \$250 per machine. The maximum payout was decreased from \$100 to \$50, which is closer to the reality of the machine. The definition of the machine is in the bill. There have been problems with the definition of this machine, and slot machines have been trying to get in under the definition. The definition in HB 555 allows for no problem whatsoever but the definition can be tightened up as the committee sees fit. The state would receive over \$200 per machine in revenue. Restrictions have been included on persons allowed to handle such machines. The court has said it is gambling - a gambling device requiring skill. He believes the nickel play will not take up a man's paycheck. This pinball machine requires judgment, does not have an automatic payoff, and is basically an economic revenue for the county and the state.

Wallace Edland, Helena, lobbyist for Old West Association, and as a citizen, thanked the committee for the opportunity to bring the machine to Helena for viewing. There is a difference between this and other games because this one requires skill. He feels this is a very moderate form of gambling, and it falls within the realm of what we have at the present time in the form of allowable gambling.

George Sherwood, manager of the Eagles Club in Missoula, advised they provide 160 senior citizens with housing, and the revenue for this provision is not

adequate. Pinballs help make up the difference; however, they are at the mercy of the county attorney, which causes a hardship on the club. The city gets revenue out of their pinball machines, and he believes this is a good form of revenue income, but it is not stable as it is. Enacting a law would make it either lawful or unlawful which is what they wish to know. He supports the pinball machine licensing.

Dan Mizner, Executive Director of the League of Cities & Towns, advised the League took up this bill at their meeting attended by many mayors and aldermen who reported this is happening today, but they were concerned with some local control. It leaves enforcement up to local control. It is a revenue measure and could offset some of the costs imposed by the Legislature. He supports the bill.

Ray Blehm, Helena, Montana State Fireman, supports HB 555. They feel discriminated against; he thinks other people should have to pay for their amusement. There are taxes on cigarettes, liquor, etc., so he feels there should be taxes on pinball machines also.

Charles F. Follick, as a taxpayer, and representing the V.F.W. and D.A.V., Great Falls, is a member of many organizations, and feels that pinballs should be allowed and taxed.

Holly Prchal, lame duck director of the League of Cities and Towns, stated there are pinball machines in all of our towns. There will be a law enforcement problem and she is worrying whether minors will be playing them. This license will be handled through a gaming commission or board. There are a good number of business licenses in the city of Billings, and she feels pinball machines should be licensed so police or local officials will know which machines are legal. She urges that the bill be passed.

Lonny Mayer, Arlee, Retail Clerks Union, supports HB 555.

#### OPPONENTS:

Rev. George Harper, Helena, United Methodist Churches, opposes HB 555, stating that this is a pinball machine, but what this does would make slot machines unnecessary. See his statement which is attached.

Rufus King, attorney from Washington, D.C., representing D. Gottlieb Co., Williams Electronics, Inc. and Stern Electronics, leading manufacturers of pinball machine games which are only for amusement, stated this machine is one of the hottest machines ever manufactured by the pinball machine manufacturers in Chicago. This "bingo" machine promoted by Bally has been very hard to police. This machine is made as a subterfuge for a slot machine, and is on the same principle as a "one-armed bandit". He explained the operation of the machine which lines up lights. There is no limit to the number of nickels that can be put into the machine, so instead of a nickel, you can put several dollars into the machine. The machine can be changed so that it makes an automatic payoff as it is equipped with a payoff box. It is not a nickel game. There is some means of deducting from the number of games shown on the face so that the "house" has some intake from operation of the machine that is not shown on the face of the machine. This type of machine has been taxed as

a slot machine by the government and is barred by the interstate commerce commission from being shipped across state lines. \$300 to \$400 a week can be taken out of the pockets of the people when the machine is in a good spot. If you are going to go for this machine, you should know what you are going for. He left a booklet entitled "The Rise and Decline of Coin-Machine Gambling", June, 1964, of which he is the author.

Rev. David Hayden, Helena, pastor of the Helena Alliance Church, opposes this legislation because he feels from past experience this enterprise will benefit organized crime; and laws restricting the use of a device to adults only, proves to be unenforceable; see his statement attached. He doesn't think any state would find it economically feasible to enforce these licenses. In spite of many types of law, it can still be unenforceable. Passing a law doesn't guarantee enforcement.

Jan Brown, Helena, Montana Association of Churches, spoke in opposition to HB 555 and pinball machines. She left a statement and several articles pertaining to the subject of pinball machines and gambling.

James M. Hunter, Helena, United Methodist Church, spoke against HB 555, saying that a pinball machine is considered a gambling device. Skill has nothing to do with gambling. It is an attempt to raise money by gambling pure and simple. This machine should be controlled by the laws that control any other type of gambling. There is no way for juveniles to be kept from playing them.

Jack Williams, Chiefs of Police Association, Helena, stated all chiefs of police in the state are against it as it would be impossible to police this bill and keep juveniles from playing this game. They would be running 24 hours a day. This machine would take \$4 and would automatically pay off \$36. This machine is brightly colored and has flashing lights - aimed at young people. The police people oppose licensing of this machine.

Morris E. Sanford, Helena, Christian Church of Montana, opposes HB 555. See his statement attached.

Tom Hocutt, Helena, representing Montana Southern Baptists, opposes HB 555. See his witness sheet testimony attached.

Art Kussman, Helena, as a concerned citizen opposes HB 555. See his testimony which is attached.

Oliver Lundborg, Helena, opposes HB 555, for the reasons stated on his testimony statement.

Rep. Ellis closed stating that this pinball machine will only consume up to \$2 worth of nickels and the payoff is limited to \$30. The bill limits the payoff to \$50. Only two states have this machine, and he can't understand what all the litigation is about. Popularity of these machines is the challenge that you can possibly win something. He would like to get this out in the open and put a price tag on it. Hopes the committee will allow the rest of the House to vote on this.

The question of why the owner of the machine is free from restrictions placed upon the owner of the spot where the machine is situated arose. Mr. Barrett advised it would be acceptable to them to have the same criteria placed on the owner of the machine. The bill says two or more nickels can be put into the machine, with a \$2 limit, but a limit could be set in HB 555. The machine payoff is \$30, but the one we have is \$32 and that limit can be set also. If machines were placed only in bars, minors might not be able to play them; but where food is served, minors can go in and they would play them then.

The question of how much revenue would be raised arose. This depends upon how fast the machine is operated. Perhaps a game would take 3 or 4 minutes. About 300-400 of these games are operating in the state now. \$200 per month per machine, or \$2400 per year is the average that has been established by these machines. Odds that you get are controlled by something in the back of the machine. It takes a long time to put a lot of money into the machine, and also to get very much out of it.

Mr. Barrett said "each" could be put into the definition, so that it shows the license fee is applicable to each machine.

This meeting adjourned to Room 343 because of room schedules and so many interested persons.

Rep. James H. Burnett, District #71, Luther, MT, sponsor of HB 680 advised that this bill would place a 1 3/4¢ tax per gallon on aviation fuel, with the revenue to be put into a trust account to be used by local governments for loans, grants, and matching money for airports.

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680 Richard O'Brien, Conrad, MT, chairman of the Board of Aeronautics, advised this increased tax would be necessary to carry on work that could not be done with federal money since new eligibility requirements for federal aid eliminated many small airports from receiving money for airport construction and maintenance. The present fund will be depleted by FY 1979, and since 87% of Montana's general aviation airports are apt to become ineligible for federal aid, some means of obtaining money is needed to carry out the Aeronautics Division's operations. See his testimony attached.

Mr. O'Brien also left testimony written by Michael D. Ferguson, Administrator of the Aeronautics Division, regarding eligibility requirements.

Wallace Edland, Chairman of the Daniels County Air Commission, advised they wholeheartedly support HB 680. They suggest the tax be increased to 4¢ or 5¢. The Aeronautics Division has not asked for money from the general fund and have been operating on the 1¢ tax revenue only. If federal matching funds are not going to be available to the smaller airports, additional funds will be needed from some source. Enough money should be available for a revolving fund big enough to do the job that has to be done. If the eligibility requirements are put into effect, big airports will be eligible for federal funds, but the smaller airports will not be.

Al C. Newby, Belgrade Flight Line Inc., representing Base Flight Operators, advised they support HB 680. This is a use tax with the provision that the Aeronautics Division be allowed to use the money for purposes that are outlined and not for overhead. Commissioners can run the affair and are able to promote aeronautics in Montana by the use of this tax. He approves with the provision that the money be spent properly.

A. J. Patenaude, Red Lodge, Fixed Base Operators, highly recommends a Do Pass on this important legislation.

Jerry Caldwell, Jordan, MT, representing the Montana Pilots Association, does not oppose HB 680, but wants the money raised to be used and administered by local governments and the Montana Aeronautics Commission. It is not to be used for purchase of new or used aircraft.

Brent Baskfield, St. Paul, Minnesota, representing Northwest Airlines, opposes HB 680 since they feel they would be in double jeopardy with an increase in tax on gas and landing fee payments also. Since the huge price increase for gas, Western does not feel they can afford a tax increase on gas which would go to the Montana Aeronautics Division since the revenue thus provided would not go primarily for aircarrier airports, but would go to provide loans and grants to non-carrier airports. He thinks that hitting airlines with another 3/4¢ per gallon for gas to pay for the practices specified seems blatantly unfair.

Brent Baskfield read a letter (attached) from Ken Black, station manager for Hughes Airwest, Kalispell, representing his company, opposing HB 680.

Hugh Kelleher, Helena Airport, opposes this legislation because they have just completed a million dollar renovation and only through landing fees can this loan be repaid. With any additional fuel tax, it would be hard to get enough landing fees to pay off this loan.

Dale Norby, airport manager for the Billings airport, takes a stand of opposition. Around 300,000 passengers arrive and leave the Billings airport. Northwest pumps 10 million gallons of gas a year at Billings, which means an economy to the local people, representing jobs, etc. They strongly support air legislation, but an increase such as this raises the question of anyone doing business in Montana, and Montana needs that transportation.

Bruce Vanica, Billings, Northwest Airlines and the Montana Aeronautics Board opposes HB 680, because in September the budget department was advised that there were sufficient funds. They submit that this legislation does not meet the approval of the Board of Aeronautics as at no time was the director ever directed to ask for additional funds. Adoption of a tax on aviation gas was not recommended at a meeting because of the lack of a second. There is no need for this legislation.

Rep. Burnett closed saying that past law directs the Aeronautics Division to charge other individual agencies which use the airports. He will submit a joint resolution that may be put out as a committee resolution which would allow the administrative department to automatically take from the using agency and pay the Aeronautics Division for their services. Quite a sum of money is now due the Aeronautics Division.

Mr. O'Brien advised that 75.3% of the fund has been used by Montana carrier airports. The Aeronautics Board has followed the policy of making loans where they are most needed. Almost all the states have divisions of aeronautics which are funded in some specific manner.

Rep. Burnett advised HB 680 was introduced at the request of the Department of Community Affairs who provide some administrative services. The Board of Aeronautics is strictly advisory to DCA.

The question of what the operational costs in the budget were arose. A copy of the budget analysis is attached.


There was some question that aircarriers would be paying the tax which would go for non-carrier airport funding; but it was also brought out that the aircarriers use many of the smaller airports, and in another three years with the aerospace industry growing so fast, more airports are going to be needed, and upgrading will be necessary. Without the \$80,000 loan the Bozeman airport received from the Aeronautics Division, there would not have been enough matching fund money to enable them to obtain the \$4 million matching fund money. This airport serves the aircarriers.

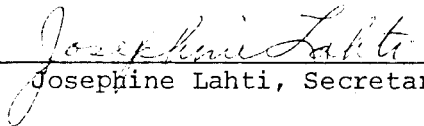
Since this is a users' fee, the airlines will pass it on to the consumer. There is a 7¢ federal tax on gas collected from general aviation users, but it is not collected from airlines who pay an 8% passenger tax instead. A 3¢ use tax is collected by some airports from light airplanes which does not relate too closely to the 20,000# rate schedule. Some airports charge a fuel flowage fee. There is a tradeoff.

Rep. Severson asked some questions regarding the budget. Mr. Ferguson of the Helena Aeronautics Board advised the budget does not include aircraft maintenance. The \$200,000 is a revolving fund that is used for maintenance of airports, but not for aircraft service and repair. Each division has a budget of its own. Last year \$50,000 was spent on air services. A voluntary fee is paid by aircraft on fuel and expenses incurred, but no salaries or rentals are paid from it. Fees are paid by helicopters when they are rented. The agency has been funded entirely by the 1¢ per gallon tax except for federal grants. The Division has never had any money from the general fund.

It was requested by persons attending the Aeronautics meeting in Bozeman who were unable to attend this hearing, that the hearing be continued until Monday, February 21. Chairman Huennekens and the committee agreed to this request.

The meeting adjourned at 11:30 a.m.

  
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REP. HERB HUENNEKENS, CHAIRMAN

  
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Josephine Lahti, Secretary