

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

March 22, 1977

The forty-ninth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:10 a.m.

ROLL CALL: Roll call found all the members present with the exception of Sen. Roskie, excused.

The following witnesses were present:

Glen Drake	League of Cities
Hugh R. Kelleher	Helena Airport
Art Korn	Butte Airport
Thomas H. Mahan	Helena Airport

CONSIDERATION OF HOUSE BILL 415: The bill was presented by several of the witnesses in the absence of sponsor, Rep. Lynch. Mr. Kelleher first spoke and said at present the Department of Revenue can levy taxes against property that the airport authorities rent to private individuals, however the bill addresses properties, buildings, owned by public agencies on the premises of the public airports. Mr. Mahan then spoke as a proponent and said the bill clarifies the taxation of airport properties. The D.R. felt the '69 statute required them to tax properties on the airport areas, but they had agreed not to implement the tax until the matter had been presented to the Legislature. He presented testimony to the committee in Exh. #1.

Other proponents of the bill to give brief testimony were Mr. Korn and Sen. Murray, who represented the Missoula County Airport Authority, who said at present the buildings are taxed at the rate the assessors choose to put on them. Mr. Drake said the League also supports the bill.

Chairman Mathers asked for further testimony and following, questions by the committee. It was brought out that airports enter into contracts with airlines and there is no clause in them to raise the leases in the event of raises in taxes. They said they did not realize they would be paying taxes and taxes assessed after the agreements were entered into, would be paid by the taxpayers. Further, they were not included in their bonded indebtedness. Sen. Goodover spoke in support of the legislation also, saying they have the same problem at the Great Falls Airport. Mr. Groff of the D.R. made the point that anything that is owned by the public but is leased out privately is subject to tax.

Sen. Towe moved Amend. #1 to HB415; the motion carried.

DISPOSITION: Sen. Goodover Moved HB415 As Amended, Be Concurred In. The motion carried unanimously.

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CONSIDERATION OF HOUSE BILLS 616 and 617: Rep. Fabrega said these were companion bills and discussed both. He said problems existed where land is purchased around cemeteries and held for expansion by the cemeteries; in some counties the county assessor was assessing such land. The land itself was not being utilized and in most cases was useless land and purchased to keep the area free of clutter and undesirable business expansion. He therefore felt that as long as the land was not being used for profit, it should be exempt from taxes until the time it is annexed into the non-profit cemetery associations.

Chairman Mathers called for other proponents or opponents and as there were none, permitted questions by the committee. They felt that the bill should be amended so the land could not be utilized in some other manner and still maintain its tax-exempt status. An amendment was proposed to clarify this, as well as one to change the acreage to conform to the size of a section.

On the committee's inspection of HB616 it was found it was in direct contradiction to HB617, therefore they agreed it should be killed and the amendments put in HB617. Rep. Fabrega, on reading the portion of HB616 that was at variance with the companion bill, agreed with the committee's decision.

DISPOSITION: Sen. Towe Moved HB617 Be Amended, as on committee report attached. Motion was carried unanimously.

Sen. Watt then Moved HB617 As Amended Be Concurred In. This motion carried unanimously.

Sen. Norman Moved HB616 Be Not Concurred In. Motion carried unanimously also.

Following disposition of these bills the committee directed their attention to HB595, previously heard. An amendment had been proposed by Sen. Turnage to limit the time such bonds could be issued and this amendment was moved.

Sen. Turnage Moved Adoption of Amend. #1; motion carried.

DISPOSITION: Sen. Towe then Moved HB595 As Amended, Be Concurred In. His motion carried.

Since so many of the committee were absent when the voting was done on HB324, they agreed to take it up again and further discuss the proposal, with a motion to reconsider the bill. They discussed the bill and a number of amendments were suggested. Sen. Watt had 3 amendments to try to assure corner lot owners of even, or average, distribution of the tax increase due to street improvements.

Sen. Watt Moved Adoption of his amendments. They were adopted, see roll call vote attached.

Sen. Goodover then made a Substitute Motion that HB324 Be Not Concurred In. A roll call vote was taken and the 3-6 vote indicated this motion failed.

Sen. Towe then asked if anyone had objection to holding the bill until they could obtain additional information on such assess-

3-3/22

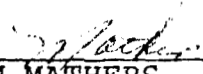
ments from a city engineer. The committee agreed to do this and no further action was taken on the bill.

They then discussed HB553, also heard previously. They stated there were no wells of this depth in the state at this time but felt the legislation might encourage further drilling.

Sen. Towe Moved HB553 Be Not Concurred In.

DISPOSITION: As A Substitute Motion Sen Goodover Moved HB553 Be Concurred In. A roll call vote was taken which carried by a 5-4 vote.

The meeting then adjourned.

  
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WILLIAM MATHERS

CHAIRMAN



HOUSE

BILL 415, 616, 617

DATE 3/22/77

NAME	REPRESENTING	BILL #	(check one)	
			SUPPORT	OPPOSE
<i>Edw. Dean</i>	<i>League of Cities</i>	<i>415</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Walter Kelleher</i>	<i>Helena Airport</i>	<i>415</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Airt KORN</i>	<i>BUTTE AIRPORT</i>	<i>415</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Thomas H Mahan</i>	<i>Helena Airport Montana Airport Management</i>	<i>415</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

SENATE COMMITTEE TAXATION

Date 3/22 N. Bill No. 324 Time 9:10

NAME	YES	NO
SEN. WATT	X	
SEN. BROWN	X	
SEN. GOODOVER		
SEN. HEALY	X	
SEN. MANNING	X	
SEN. NORMAN	X	
SEN. ROSKIE		
SEN. TOWE	X	
SEN. TURNAGE		X
CHAIRMAN MATHERS	X	

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Nita Fjeseth  
Secretary

William L. Mathers  
Chairman

Motion: Moved Amends #1, 2, 3

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE TAXATIONDate 3/22 W Bill No. 324 Time 9:15

NAME	YES	NO
SEN. WATT		X
SEN. BROWN	X	
SEN. GOODOVER	X	
SEN. HEALY		X
SEN. MANNING		X
SEN. NORMAN		X
SEN. ROSKIE		
SEN. TOWE		X
SEN. TURNAGE	X	
CHAIRMAN MATHERS		X

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Nita Fjeseth  
SecretaryWilliam L. Mathers  
Chairman

Motion:

Be Not Come In  
As AmendedFailed

(include enough information on motion--put with yellow copy of committee report.)

SENATE COMMITTEE TAXATION

Date 3/22 21. Bill No. 553 Time 9:25

NAME	YES	NO
SEN. WATT		X
SEN. BROWN	X	
SEN. GOODOVER	X	
SEN. HEALY	X	
SEN. MANNING	X	
SEN. NORMAN		X
SEN. ROSKIE		
SEN. TOWE		X
SEN. TURNAGE		X
CHAIRMAN MATHERS	X	

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Nita Fjeseth  
Secretary

William L. Mathers  
Chairman

Motion: Be Conc. In. Carried

(include enough information on motion--put with yellow copy of committee report.)



Eph. #1

STATEMENT SUPPORTING HOUSE BILL 415

I am Thomas H. Mahan, a Helena attorney. I represent the Helena Joint City-County Airport Board and the Montana Airport Management Association. We are proponents of House Bill 415 for the following reasons:

First of all, this legislation would not do anything to change the existing law in Montana in existence since 1889. The 1889 Constitution exempted property owned by cities and counties and airports from paying taxes.

But, the picture changed with the acceptance of the 1972 Constitution. The 1972 Constitution exempted property owned by cities, counties and subdivisions such as airports, from taxation under Article VIII, Section 5, which states:

"Property tax exemptions. (1) The legislature may exempt from taxation: (a) Property of the U. S., the state, counties, cities, towns, school districts, municipal corporations and public libraries, but any private interest in such property may be taxed separately."

Section 84-202 exempts from taxation the property of the United States, the state, counties and cities. Section 84-204 holds public property taxable when held under contract of sale or lease with option to purchase.

So the problem arises with the change of wording in the new Constitution which left the taxation up to the legislature where it was not left up to the legislature before.

In 1969, the legislature enacted Section 84-207. This was before the new Constitution went into effect, but this statute is still on the books. It states:

"From and after the effective date of this act there is imposed and there shall be collected a tax upon the possession or other beneficial use enjoyed by any private individual, association or corporation of any property, real or personal, which for any reason is exempt from taxation. No tax shall be imposed upon the possession or other beneficial use of public lands occupied under the terms of mineral, timber or grazing leases or permits issued by the United States or the State of Montana or upon any easement unless the lease, permit or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit or easement relates."

The code goes on to state that this tax shall be in the same amount and to the same extent as if the possessor or user of the government-owned property were the actual owner thereof, provided that there shall be credited against the tax so imposed upon the beneficial use of the property, that property owned by the federal government the amount of payments which are in lieu of taxes.

There is a difference of legal opinion as to whether Section 84-207, which was enacted in 1969, would be still in effect for provisions of the 1972 Constitution which did not go into effect until July 1, 1973.

Now going to specific statutes involving airport property. We find in Section 1-920 the following:

"Airport property and income exempt from taxation. Any property in this state acquired by an authority for airport purposes pursuant to the provisions of this chapter, and income derived by the authority from the ownership, operation, or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes."

From the above, it would appear that if an airport is being run as an airport authority, the property would be exempt from taxation. However, the final clause, which states, "to the same extent as other property used for public purposes" may limit the exemption and give the Department of Revenue enough of an argument that the airport board in Helena and other cities would have to pay taxes on properties which have been leased to private businesses.

The reason that the airport boards throughout the state want this matter clarified is that several of them have entered into long-term leases with the airlines in support of new terminal buildings. There is nothing in these leases that would allow the airport authorities to go back in and tax the airlines for the property which they have rented in the terminal buildings or elsewhere. In other words, most of these leases, if not all of them, state that the

airline shall not be required to pay any other charge of any kind in relation to the leasing of the office space or other space on the airport. So, in effect, if a tax is imposed upon building property leased to airlines, the airport authority is going to end up paying the tax and is not going to be able to shift this off to the private business which would be the airlines. If the airport authority has to pay the tax then it is coming right straight out of the funds to run the airport. Many airports around the state collect up to two mills from the taxpayers to run the airports. It seems ridiculous to turn around and have them pay taxes on property that is leased to airport-related businesses in conjunction with the running of the airport. So, the problem is, the old Constitution made it mandatory that property owned by counties and cities is exempt from taxation. The new Constitution leaves all exemptions up to the discretion of the legislature. Then, Section 84-207, which was enacted in 1969, states, in effect, that if it is leased out to private parties, they must pay a tax equal to that which they would pay if they owned the land outright.

Therefore, unless this matter is clarified, the Department of Revenue will probably implement the tax as called for in Section 84-207 against office space and other property leased by private businesses such as the airlines from the airport authorities or the airports throughout Montana.

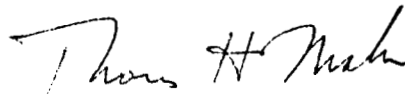
This creates quite a problem. Now if the airports had never leased any property to private businesses and were not going to do so until the legislature decided the tax question, it would be very simple in writing the lease for the airport authority to state in the lease that if the state imposes any property taxes on this particular building or real estate, the amount of the lease rent would be increased to take care of the tax imposition. In the case before us, this cannot be done. Several of the airport authorities and airports in Montana have up to 20 year leases with the airlines and by agreement in the lease, they will be unable to collect

any taxes which may be imposed so that it will have to come out of the airport authority or airport funds.

This bill is intended to correct this situation. It merely leaves the law the way it was under the old Constitution which states that airport property owned by cities and counties and run by airport authorities or as joint city-county airports or as municipal airports is exempt from taxation and even if they leased properties to private airport-related businesses, those businesses could not be required to pay an equivalent sum to what a private individual would have to pay as real estate taxes. This bill does nothing to affect the right of the state or the county to tax office buildings on Main Street or any place else in town. It solely has to do with clarifying the situation as to airport property. We have worked this out with the Montana League of Cities and Towns and they consent to this bill as does the Department of Revenue.

It is respectfully urged that this bill be passed.

Thank you.



THOMAS H. MAHAN  
Attorney for the Helena Joint  
City-County Airport Board, and  
The Montana Airport Management  
Association

# STANDING COMMITTEE REPORT

March 22 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 617

Respectfully report as follows: That HOUSE Bill No. 617,

third reading bill, be amended as follows:

1. Amend page 1, section 1, line 25.

Following: line 24

Strike: "750"

Insert: "640"

2. Amend page 2, section 1, line 1.

Following: "provided"

~~Insert: "such cemeteries and any land claimed to be exempt"~~

Strike: "the same"

Insert: "such cemeteries and any land claimed to be exempt"

AND AS SO AMENDED,  
BE CONCURRED IN

DO PASS

WILLIAM MATHERS

Chairman.

# STANDING COMMITTEE REPORT

March 22 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 415

Respectfully report as follows: That HOUSE Bill No. 415,

third reading bill, be amended as follows:

1. Amend page 1, section 1, line 19, through line 24.

Following: "use of"

Strike: "public lands or buildings located on public airports owned or operated by public entities, including the department of community affairs or its successor, a county, a city, or a duly constituted airport authority or a joint city-county airport board"

Insert: "buildings owned by public entities and located upon public airports"

AND AS SO AMENDED,  
BE CONCURRED IN

DO PASS

WILLIAM MATHERS

Chairman.

# STANDING COMMITTEE REPORT

.....March 22..... 19 77.....

MR. PRESIDENT.....

We, your committee on TAXATION.....

having had under consideration ..... HOUSE Bill No. 595.....

Respectfully report as follows: That..... HOUSE Bill No. 595,.....

third reading bill, be amended as follows:

1. Amend page 13, section 2, line 3.

Following: "BODIES."

Insert: "No bonds with tax increment provisions for the repayment thereof may be issued subsequent to 10 years after the effective date of this act."

AND AS SO AMENDED,

BE CONCURRED IN

~~DO PASS~~

*P. M.*

# STANDING COMMITTEE REPORT

416  
March 22

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MR. PRESIDENT

## TAXATION

We, your committee on.....

having had under consideration ..... HOUSE Bill No. 553

Respectfully report as follows: That ..... HOUSE Bill No. 553

BE CONCURRED IN

~~DEPASS~~



# STANDING COMMITTEE REPORT

March 22 1977

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 616

Respectfully report as follows: That HOUSE Bill No. 616

BE NOT CONCURRED IN

~~DO PASS~~