

HOUSE TAXATION COMMITTEE
46th Legislature

Rep. Herb Huennekens, Chairman, called the committee to order at 8:30 a.m., February 28, 1979, in room 434, Capitol Building, Helena. All members of the committee were present except Reps. Fagg and Williams who were excused. Staff Attorney, Randy McDonald, was present.

Bills to be heard were HB 770, 297, 796.

Rep. Robert J. Pavlovich, District #86, Butte, chief sponsor of HB 297, said this bill would create a new property class - Class 21 - for athletic or recreational facilities owned by a nonprofit Montana corporation and would be taxed at 3% of market value.

HOUSE BILL J.D.Lynch, Montana Golf Association, Butte, supports HB 297.
297 Two years ago there was a tremendous increase on assessments of nonprofit recreational facilities. Taxes will be based on an increase from \$14,900 @ 13.5% to \$47,000 @ 13.%% on the new classification.

George D. Anderson, Montana Golf Association, Helena, is a certified public accountant. Reappraisal of property was started because of trying to get a little more equity in taxation. There is a complete inequity when all of a sudden someone's valuation goes up 7, 8 or 9 times. See his "Property Tax on Golf Courses for Selected Cities" which is attached.

In some places land was raised, but many buildings were raised also. The manner in which this was done is a completely inequitable use of reappraisal. People are willing to go together and form an association so people can play golf but it is not a very viable business. The amount of profits is very minimal. Amount of taxes assessed over particular facilities over past years as compared to what they had been has increased tremendously. The fiscal note picks out the worst possible situation you can find.

HB 297 is a little more equitable compared to what is being done under the present system. There will be an increase in Butte's taxes. Houses around golf courses are much more valuable. Would be looking at a reduction in taxes. Supports HB 297.

John Delano, Secretary, Montana State Trapshooting Association, Helena, supports HB 297, and offers an amendment that would include "trap and skeet clubs".

Steve Sevener, President, Butte Trap and Skeet Club, Butte, supports HB 297. Taxes in the last five years have almost tripled in an area where the land value has increased. Agrees the marketable value should be taxed, but the kind of an increase they had has raised their per day cost. People have put together and run it for public recreation. The only membership value is to be able to buy quantities of reloading components as a group. Under the 3% rule, Butte has probably had an increase, but certainly not double what it was. A range takes 40 acres of unimproved land. To go out and replace with other land would be difficult because of houses being up too close. He doesn't think there is a loss to Butte-Silver Bow. Would like to see "trap and skeet clubs" be amended into HB 297.

Ken Hoovestol, Wymont Golf Course Superintendents Association, Billings, supports HB 297. Much land is going into housing. Private country clubs are paying their own way and should not be penalized. Middle income people are big golf enthusiasts. Because of growing costs, it could again become a rich man's game.

Joe Forsley, Meadowlark Country Club, Great Falls, said Meadowlark is not a rich man's club. Hopes HB 297 will be passed.

Mayo Ashley, Montana State Golf Association, Helena, thinks overtaxing golf clubs, traps, etc., is in his view just another move of the private sector being phased out and the public sector taking over things. The closure of some of these courses and trap clubs which may be forced by higher taxes, may put more pressure on public facilities and will put more pressure on taxpayers. High school and college golf teams use these courses. They cannot use public courses because they are already so full. Various trap clubs and golf courses bring in a large amount of people and provides income in this manner. There is a tendency to evaluate trap clubs and golf courses on a different basis - whether they are in the city or on the outskirts and this bill would make for a straight classification on these things. Additionally there is a move for Greenbelt areas. These things provide a certain greenbelt and an income from that area that you do not have from non-park types.

These clubs which have not only golf but have swimming, are family facilities and by taxing an excessive rate, will tax them out of existence and put on the public sector again or turn them back to rich men's clubs again.

Lem Deskin, Secretary treasurer of the Helena Trap Club, Helena, said in Helena valley they own a little under 70 acres. They have to have a good amount of land to safely hold a trap club and the taxes in 1977 were \$695.29 and this year they are \$1,104.52. Hope the committee supports HB 297.

T.M.Quayle, Butte Trap and Skeet Club, Butte, said they could possibly accept such an increase over 10-15 years. Supports HB 297.

Bill Downs, Belmont Ski Club, Helena, is a board of trustee member and a member of the Board of Directors of the National Ski Clubs. Belmont is taxed at 13% of market value. The cost of skiing is such that it is tremendous. Ski equipment is very expensive. Non-profit organizations are developing a market - 670,000 ski tickets sold in Montana alone. In Colorado 65,000,000 tickets were sold. Belmont does not own the land, but own the buildings and equipment. Supports HB 297.

Fraser MacDonald, Montana State Golf Association, Butte, supports HB 297.

Jeff Lauderdale, Butte Country Club, Whitehall, supports HB 297.

Dane Wm. Gamble, Golf Course Superintendents Association, Green Meadow Golf Club, Helena, sees a fiscal battle, but it need not be so. Very few are aware of the effects of a golf course. An 18-hole Golf course can provide enough air conditioning for a large area. 12,000,000 gallons of water can be absorbed from a 3" rain, thereby the grass acts as an air conditioner. Greenbelt area is a non-taxed area. A golf course does not raise children, does not send kids to school, is not a tax burden to a community. Supports HB 297.

H. Fritz Apostor, Butte Ski Club and Trail, Butte, supports HB 297. They are in a very critical financial condition and can use the help HB 297 offers.

Stan Dagdale, Butte Ski Club, Butte, said their revenue is based upon the times that people ski. Most are children. Are in favor of HB 297.

John Frankino, Green Meadow Country Club, Helena, supports HB 297.

Opponents -

Dan Mizner, Montana League of Cities and Towns, said the legislature mandates expenditures at city level. Cities have had to exceed 65 mills under reclassification. The culprit is not the local government, it is the department of revenue. It is not the local cities who put taxes on. Legislature should consider some source of replacing that dollar by transferring some of the cost to someone else. Have asked in the past for other sources of revenue that can be earmarked - have asked for privilege of local people to vote on taxation. Can't form a nonprofit corporation on behalf of cities and towns in Montana - have to oppose this bill.

Dean Zinnecker, Montana Association of Counties, said there are too many classes of property tax now. Will have to consider consolidating classes. The DoR is equalizing forms of recreation facilities. This bill will go to increase taxes on other types of property. 24 counties lost valuation and 66 cities lost valuation. If no roads, facilities would not be there. Opposes the bill. See testimony accompanying.

Rep. Pavlovich closed saying everything has been said.

Rep. Dassinger asked if this has been brought up to the tax appeal board. Mr. Lynch said Helena, Butte, Missoula are all on protest. When revalued, the rate on the whole thing was 8.55%. Nonprofit recreation facilities should be at 8.55% also. Rep. Dassinger if the business people in town who are brought business could pay part of these taxes. Mr. Lynch said there is no way for them to pay this. Facilities host at least one event each year.

Rep. Reichert asked if under classification proposal, would these properties go into another bracket.

Rep. Johnson asked how it's so easy to form a nonprofit corporation. Mr. Mizner advised in California you have profit and nonprofit corporations for hunting on ranches, if the legislature allows these. It takes 3 people and \$50 and they can be put into a nonprofit recreation corporation.

Rep. Burnett questioned the comment on additional classifications. Mr. Burr said he feels very bad about the whole situation. It is a policy decision that he doesn't have any position on - whether to make it 8.55% or 3% valuation. Doesn't make any difference to the department.

Rep. Harrington asked if that wouldn't limit stockholders and put a string on this type of corporation. Mr. Mizner said down the line you could look at these things in that a bunch of them are going to change, but someone else will have to pick up the tax.

Rep. Lien said revaluation showed a dramatic increase. What procedure was used? Mr. Burr said golf courses are covered in a valuation manual. Some are in higher brackets because they had been neglected in the past. When reappraised the Butte Skeet Club, asked if any moneys or bills were available to show cost of equipment. Used equipment totalled a price of \$93 and had been reconstructed to \$5,000 value. Other clubs have had the same problem.

Rep. Fabrega asked why golf courses don't qualify under the Greenbelt law. Mr. Burr said have to show agricultural production on the Greenbelt. Feels they have done a good job on reappraisal.

Rep. Nordtvedt said Butte has 165 acres. He asked if they would sell their land for \$207,000 which is the appraised value. Are these appraisals higher than the market value of your property. The question of what market value is arose. It is what it will sell for. Mr. Anderson said their property at Butte has a big value on buildings. Must look at all of these things. Doesn't think the appraisal necessarily hits market value because you have to have a willing buyer and a willing seller.

Mr. Deskin said they would sell their buildings for what they are appraised for in Helena valley, but not the land. In their case it was the improvements that raised up - would sell them willingly.

Rep. Harrington asked if this bill does not pass, what will happen to some of these clubs? Mr. Lynch said some may have to sell or golf will become a rich man's game. Membership would drop because of higher dues which make it very exclusive.

Rep. Huennekens asked Mr. Anderson if there was any question about those in Billings selling for millions of dollars. Mr. Anderson wasn't sure.

Rep. Fabrega asked what kind of revenue is derived by the cities from municipal golf courses. Mr. Mizner said municipal golf courses are not on tax rolls. Operation is paid for by fees. Greens fees and the use of it is the way of breaking even.

Dave Hunter, City of Helena, said they anticipate they will pick up about \$4,000 this year from the golf course. Have put in 9 new holes in the municipal golf course. They don't try to cover operation and maintenance.

Rep. Robbins asked what it generally cost to operate a municipal golf course. He was told a favorable tax, etc., might allow currently in Montana 4 new golf courses. Each represents a \$700,000 investment and in Missoula, in excess of \$1 million. If you do not allow yourself the capital to grow and expand, it will die. Owners are being forced out of the golf course business. People are forced into the position of not being able to pay and end up relying on municipal and government recreation facilities. It's a question of the private sector being able to meet substantial needs of the public sector.

Rep. Reichert asked if your club would accept a higher tax rate. Mr. Lynch said anything above 4.5% would work a great hardship on them. The fees they wish to pay for is 3%.

Rep. Nordtvedt asked how many members are in the Butte Country Club. Mr. Lynch said 350.

Rep. Jack Ramirez, District #64, Billings, Chief sponsor explained HB 796 was designed to try to correct some of the problems that arose out of reappraisal process. It deals with four problems: appraisal of residence at 1972 values and residence at 1976 values and lots and other land at 1978 and 1977 values; on page 2 it requires all property be assessed on the same year's date; deals with function of revenue oversight committee; makes revenue oversight committee a permanent one and duties are expanded somewhat - they are to consider methods of reappraisal and propose written recommendations for adoption of rules. If a person has a complaint about appraisal on his property, he goes into the assessor's office, talks to the staff and they make an immediate change in appraisal and some of these immediate changes have been unfair decisions. Adjoining lots were valued much higher and no records were made of any of the adjustments. He wants adjustments made in writing by testament of assessor and perhaps some of the inequities won't be created.

Finally, commercial dealers in Great Falls appealed to STAB and it was determined by the board that there was a discrepancy in equity for all commercial properties and that property for those appealing was reduced a substantial amount but those who did not appeal did not get the adjustment. Can pay under protest, sue and recover, but that is expensive. If STAB found that there was some type of appraisal method that should have been applied to similar property in the state, it would result in lower appraisals for other people, then it could issue a notice to all of those who did not appeal saying we will let you join in the appeal at the state tax appeals level. Can come right into the state tax appeals board the same as for those people before us. A new section on page 8 sets out the basic problems to be corrected by HB 796.

There were no opponents.

Rep. Ramirez did not choose to close.

Questions from the committee -

Rep. Dassinger asked if there is a chance for the appraisal to go up. Rep. Ramirez said it is designed to try to create equality.

Rep. Bertelsen asked if in the event the committee felt that the one whole section created a problem because of distinct questions, you would be willing to give up any one problem addressed? Rep. Ramirez said market value would have to be considered. Rep. Bertelsen feels there may be some problems with STAB.

Rep. Johnson mentioned if an amendment were proposed, could get it adjusted next session.

Rep. Reichert thinks it doesn't help the fellow who is holding the bag. Does not like the reappraisal method that we have had last year. This might make people who are making appraisals more careful by knowing that they would have to treat each property owner in an accountable manner. Hopes that is what would be done.

Rep. Fabrega asked what if 5,000 commercial people decided to take appeals to STAB? This would be designed to try to get everything before one body to make the decision rather than having a number of lawsuits spread out among various parts of the state.

Rep. Sivertsen said if we do not attempt to address these inequities

they will be greater than if we pursue it under this bill which attempts to address this problem and head it off.

Rep. Fabrega wondered what the department's feeling about supplying resources to STAB for this purpose would be. See testimony presented by State Tax Appeal Board.

Rep. G.C.Feda, District #4, Glasgow, chief sponsor explained HB 770 was introduced for the purpose as the title states. To find more use for Glasgow air-base was main purpose. The bill would allow creation of foreign trade zones in Montana.

HOUSE BILL Steven R. Marks, law student at Lewis & Clark School of Law
770 at Portland, Oregon, presently working at Glasgow, explained
 in order for there to be a foreign trade zone, there has to
 be a law allowing one to be formed. These are operated under
public and private control. In a trade zone they can ship widgets into the
zone when transportation is the cheapest and then resell at prime marketing time.
Advantages to a community can be tremendous - \$1 can turn over anywhere from
4 to 20 times. He thinks the benefit to Montana is self-explanatory.

Federal law states a state must have specific legislative enactment by the legislature. As a matter of policy, they do not grant foreign trade zones to states that do not have specific legislation because they want to see what requirements the state will put on.

The difference between freeport and foreign trade zone - a freeport initially is just a port of entry which means that foreign goods can come into the port of Butte but are still subject to the immediate entry rule, 5-day rule, which means that any time foreign goods come into the U.S. they are subject to the appropriate tariff and duties. In a foreign trade zone they are not subject to tariff and duties. Another advantage is that when foreign goods come into a foreign trade zone and are manufactured and processed with American goods this allows the importer in some cases not to have to pay the full amount of tariffs and duties to the federal government and in some cases they are altogether waived. Another means of presenting Montana with a benefitting business.

Regarding an inventory tax exemption which is in the amendment, all states except Oregon have an inventory tax exemption. Older ports have more business but states tax those goods and we want to make our foreign trade zone free, not only because it is new but because it is farther away from the coast - recommends goods be exempt from taxation.

Rosemarie Strobe, Montana Chamber of Commerce, Helena, feels this is a good vehicle for economic opportunities when an entrepreneur wants to make a foreign goods business. We don't have to use it if it's on the books, but it would be nice to have it there.

Rep. Marks, District #80, thinks that it would allow establishment of such zones, although it might not happen for awhile. It might keep some of our people working in the state.

There were no opponents.

Rep. Feda said he would answer questions.

Rep. Lien said he saw no inventory list - do you see products being stored there and not paying any tax? Mr. Steven Marks said cannot finagle around the distributor.

Rep. Dozier asked if the Japanese bought a thousand tons of wheat and it wasn't shipped, could they put it there? Steven Marks said this is only good for imported goods.

Rep. Reichert asked how many other states besides Oregon have these foreign trade zones? Steven Marks said around 15 states.

Rep. Fabrega asked what other kind of taxation is there besides inventory? Steven Marks said he prefers no taxation since that would provide an incentive. There might be transportation taxes. Rep. Fabrega asked if imported meat could be stored in that trade zone? Marks said could possibly be done. The reason for bringing goods into a trade zone is to store and marry with American goods.

Rep. Vinger asked if it could be brought in in boxes? Rep. Dassinger said only the government relinquishes taxes. In section 4 they are exempt from state taxation - would lose revenue which would not have been paid anywhere. Rep. Fabrega explained current law does not impose any tax on free port goods. Inventory is assessed that is in residence on January 1. This is not a new concept.

Rep. Lien said with assessment on January 1, persons dealing in import goods all over eastern Montana would be loading into free port zones and after Jan. 1, would sell in direct competition with American made goods.

Rep. Fabrega asked if completely finished products could be brought in. Mr. Marks said yes - they leave at the same rate of tariff, the only advantage is holding until prime time for delivery.

Rep. Reichert mentioned that when the new Great Falls airport was built, they planned on free port business.

EXECUTIVE SESSION

Rep. Dassinger moved HB 524 DO PASS. He thinks by passing this bill property could provide the same amount of revenue to local entities and avoid a court case thereby saving money for the state. Railroads could be changed without getting involved in a court case.

Rep. Dozier said there is a discrepancy between the railroads and the taxation department. The railroads said they were overtaxed and the DoR said No. Rep. Dassinger suggested we could change our method of taxation and derive the same amount of revenue as now.

Rep. Sivertsen said he was having some problems with this bill - can't understand why want to move railroads into class 11. There are some real questions here and if railroads feel strongly enough about it, let them tell it in court. If we are going to raise the same amount of revenue, will have to do something.

Rep. Huennekens said they must be taxed on the same basis that commercial and industrial property must be taxed. If we leave them at 16%, they are not being taxed at the same value and in the same manner that other commercial property is at. This would bring them somewhere down near the other commercial and industrial property.

Rep. Vinger reminded railroads said they are going to go to court whatever is done. Rep. Dassinger mentioned the tax expert from the UP said if the method in taxation is made in a reasonable way, they would not go to court. If it wasn't, they would be able to go to court. If set at 5%, it possible would be pretty reasonable and they would not have a purpose in going to court. Whenever you go to court, you never know what the total effect of a court decision would be - they possibly could win the case and lock in a rate.

Rep. Nordtvedt doesn't think the bill should be passed out of committee. They ought to be taxed as other corporations are - with reference to their earnings. Railroads are doing very poorly, he was told, so market value would probably be a great deal higher than what is figured now and then taxed at 16%. He would just as soon wait and see if they take this to court because if it ever went to market value taxing railroads, they would be the losers.

Rep. Dozier said federal law 94-210 which came out in 1976 started this whole thing. The department of revenue says it is 1980 when it comes to taxation they should be treated like the rest of the utilities, but they he said not to tax according to other utilities.

Rep. Fabrega thinks the committee should delay sending this bill out. If railroads feel they should be based on the federal statute, could write up with the rate in Class 11 and use market evaluation. Need to look at whether the DoR feels comfortable with this if we pass it this way. Every corporation which failes to make a profit would have recourse. We are getting into a very dangerous area. The idea of not taxing nonprofit corporations or those that fail to make a profit can get us into a very dangerous situation. Wants specific questions and answers from the department of revenue before making a decision.

Rep. Dassinger made a substitute motion TO TABLE HB 524. Both motions were withdrawn.

Rep. Dozier commented the DoR gave some interesting figures which has something to do with the amount of profit - if went with a replacement cost BN would have had a replacement cost depreciated that would have shown a big difference. Rep. Nordtvedt said the book value of BN is about \$1.4 billion according to a broker. Rep. Fabrega doesn't think the DoR will say anything different.

HOUSE BILL 547 - Rep. Harrington moved HB 547 DO PASS. Rep. Dassinger approves the bill because it has local control. Rep. Underdal thinks it is a pretty good idea because the district where the schools are located get a greater benefit out of it.

Rep. Nordtvedt has a language problem - thinks reference to levels is intent of the bill. A discussion was held and Rep. South's bill will take this into consideration.

Rep. Nordtvedt proposed an amendment on lines 23-24, page 1, following "provides" strike "increases in excess of the" and insert "benefit levels in excess"; and on line 24 change "increases" to "levels". Rep. Lien supports the amendment. Rep. Dassinger opposes the amendment saying it is tied down in section 2. Amendment was adopted. Reps. Dozier, Huennekens, Dassinger voted No. Reps. Fagg, Harrington, Sivertsen and Williams were absent.

Motion now is HB 547 DO PASS AS AMENDED - unanimously adopted by those present. Same members were absent.

Rep. Bertelsen asked about a statement of intent. Rep. Hirsch mentioned could state that electorate include voting for vo-tech. Discussion of base budgets was had.

HOUSE BILL 573 - Rep. Reichert moved HB 573 DO PASS. Rep. Burnett moves proposed amendments Do Pass. Motion was adopted to accept amendments. Rep. Nordtvedt voted No. Reps. Fagg, Robbins, Harrington, Lien, Williams, Sivertsen were absent.

Motion was now HB 573 DO PASS AS AMENDED. Rep. Dassinger does not approve of deductions for tax purposes being allowed for rehabilitating old structures.

Rep. Lien thinks it is a good bill. We have a lot of history in the state going by the waysides. Federal grant money is available.

Rep. Reichert thinks restorers can use all the help they can get.

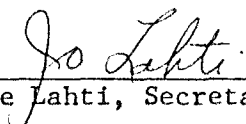
Rep. Huennekens thinks the loss of revenue will be so small it will be no problem.

Motion to DO PASS AS AMENDED HB 573 was adopted with Reps. Nordtvedt and Dassinger voting No. All others present were in favor of motion.

Meeting adjourned at 11:50 a.m.



REP. HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary