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HOUSE TAXATION COMMITTEE
46th Legislature

Rep. E.N.Dassinger, Vice-chairman, called the hearing to order at 8:30 a.m., March 9, 1979, in room 434, Capitol Building, Helena. All members finally were present except Rep. Vinger who was excused. Randy McDonald, staff attorney was present.

Bills to be heard were HB 372 and 397. Rep. Huennekens assumed chairmanship.

Rep. Jay Fabrega, District #44, Great Falls, chief sponsor, explained HB 372 repeals the rollback tax on agricultural land. It is part of the Greenbelt problem of who should pay the tax. When land is taken out of agriculture and is developed it was the intent of the legislature in passing
HOUSE BILL 372 the rollback tax the developer would have to pay the tax, but it didn't work that way and has worked in the opposite direction. See Fact Sheet explaining HB 372. Exhibit #1 and #2.

Stephen A. Birch, representing himself and Western Properties Associates, supports HB 372 to repeal the rollback tax on property whose use has been changed from agricultural use to some other use. See testimony attached.

Dennis Burr, department of revenue, said they have been trying to administer this for several years. When the law was passed in 1975, if agricultural land was subdivided a subdivision plan was made and they would apply the tax to the developer. It may still be grazed or used for wild hay. It is the individual who buys a lot and changes the use of the land who is the one who pays the tax. The rollback is probably \$100-\$150 per acre. Lots in Helena are selling from \$10,000 - \$12,000. \$150 isn't much penalty anyway. Rollback provisions when the land was changed was given a tax break - have given agricultural land tax breaks since 1950. It doesn't really work. It doesn't change use of agricultural land. People don't know that they are going to pay it when they buy the land. The rollback tax was appealed to the tax appeal board and it was declared unconstitutional. Doesn't believe STAB has authority to repeal state law, but it isn't working.

If this bill is passed it would reinstate 15-7-208 and 15-7-214 which were both repealed. One section simply allows the department to produce forms to change the classification of land if it is changed from agricultural use. Won't be able to assess land even if it is changed. 214 allows to change classification of land when it is changed and 208 simply allows the department to make forms to do that. Would support it then.

David Cole, Department of Community Affairs, Helena, said Montana is not the only state having problems with rollback tax laws. Many buyers have been unaware of the tax that would have to be paid because of these taxes - developers passed the tax through to the buyers. See testimony attached.

Mons Teigen, Montana Stockgrowers and Woolgrowers Association, Helena, supports HB 372. Several sessions ago they supported the Greenbelt. He agrees that the bill is not working in the manner in which they expected it would do. Would like to have something substituting in lieu of this.

Opponents -

Steve Perlmutter, Environmental Information Center, Helena, opposes HB 372. He feels the tax is not large enough to create an effective deterrent. Thinks the tax is unfair when sprung on some unknowing buyer. By clarifying who is liable for the rollback tax would be a better solution than repealing it. Strongly recommends do not pass.

James McIntyre, Western Properties Association, Great Falls, supports the bill.

Rep. Fabrega closed saying he doesn't think HB 372 creates an agricultural districting system. The agricultural valuation is even based on productivity and therefore the rollback is a contradiction because as long as that land was in agricultural production that was its correct agricultural value in accordance with our tax laws. It is the unfairness about the whole thing that bothers people not the \$50-\$100-\$150 rollback tax, and it didn't fall on the person who made the change. You are increasing the cost to those home owners who have moved out a mile or so and taken some prime agricultural land. This rollback has done more harm than good.

15-7-209 says the owner still has to notify department of any change. Take away the rollback tax itself and that section remains and the obligation of the owner to notify the department of the change that is there so it can be put into a new classification and correct taxes can begin to be collected. Until you build a house or put a fence around it, it continues to be agricultural land.

Questions from the committee -

Rep. Reichert remarked some people thought it was unfair to give agricultural land preferential treatment but this had already been done since about 1957.

Rep. Huennekens said it was the intent to place the rollback in the bill. Rep. Burnett is not so concerned with the tax, he feels there should be some kind of a bona fide court decision - not too much interested in getting the tax, but wants to get a decision as to whether STAB can make changes in the law. The one involving the appeal board would have to go a little further on.

Rep. Fagg said the planning division favored developing land closer to cities. He asked if they had any thoughts as to how to develop non-productive land. Another alternative or some form of rollback that geared the land to some productive value. Why did the department resist.

Rep. Dassinger resumed as chairman so Rep. Huennekens could present HB 397.

Rep. Herb Huennekens, District #68, Billings, sponsor of HB 397 which would clarify liability for the rollback tax under the Greenbelt Act. The original concept was that small tracts of open land, small farms on the perimeter disappeared because as the value of that land was increased, these small open spaces were sold for development purposes. These small open spaces were desirable for esthetic reasons and there is a biological value to open space. Photosynthesis converts carbon dioxide to oxygen - obviously we don't breathe carbon dioxide - oxygen is going to be part of the survival of man. Places where it is just the minimum, it is lower.

We approached the idea that the esthetic part was good; the biological factor was good; and there is an extra element - around our cities there are small truck farms and we felt this was good and it also provided a little local industry. Instead of hauling products they were grown locally. There are the old folks who just don't adapt well and wanted to get out and have a little space - that is their answer to the problem of retirement. This is a very desirable thing to have - a way, a means for someone to have his own retirement.

He is opposed to dropping the Greenbelt. The idea of valuing agricultural land on productivity is necessary. There is an unearned increment that accrues to land in an urban environment. The owner has done nothing to increase its value - the city has increased the land's value by growing. Adding a new subdivision costs a city a great deal. The owner of the small acreage should be willing to pay a little bit in the cost of city expansion. He wants to maintain the concept and the money itself from the result of the concept. He will take issue with the aspect of a counter-productive effect. The poor land should be developed first - the farm land shouldn't be touched. We are still chewing up beautiful farm land by putting houses on it. Some people are obsessed with the idea that there is no need of open space.

Thinks it is desirable to have a break with small open tracts. Get a little bit of increased value when sold for other than open space back because of city's added value. What we are trying to do is not going to solve all the problems of urban development but it is good for society and good for Montana.

There were no opponents.

Rep. Huennekens did not feel the need for closing.

Questions from the committee -

Rep. Lien said on page 2 the seller will be liable within five years for any tax because of rollback. If I sell some agricultural land and I sign this deal, I have no control over what the buyer does with it. But in 3-4 years he decides to turn it into a non-agricultural use, it comes back on me? Rep. Huennekens answered Yes, the normal route to go would be to get the purchaser to sign a waiver that he is aware of the fact that he will maintain it in farm land and he incurs on himself the payment of the rollback. If you just sell, you can add any rollback tax that could accrue to the purchase price, or you can get a statement that payments can be made by the purchaser. You are going to add it on before you sell or or you add it on afterward to the buyer. Are providing two routes to go.

Rep. Burnett said we can't pass both these two bills. Have to kill one or the other. Does HB 397 assist you in administration? Mr. Burr wouldn't specify either or both - the person who sells it would be the person who pays the tax. The buyer doesn't think he should pay.

Rep. Fabrega said so many of these are grazing lands - who is going to check to see if it is being used as stated? Rep. Huennekens said the way the law has read, is if there is a change in use, a notice to the assessor is required. If he doesn't run cows or horses, the new owner would be liable if he hadn't grazed the land. The department checks.

Rep. Fabrega asked whom do you collect from if the first buyer leaves the country? Rep. Huennekens said there would be cases where the owner who sells the land and

disappears or sells the land and spends the money - in some cases it would be impossible to collect the rollback tax.

Rep. Johnson asked about agricultural land tax. Rep. Huennekens said essentially it would be based on its productivity. The department has been using a graduated tax between use value and the development value but take it at the end of the 4-year period assuming that the two values kind of go up together. Mr. Burr suggestion was to invert the productivity to land - it might be assessed at \$90 then if it is poor land that is valued at \$2 per acre. You can't say that the rollback is so small that it makes no difference to them, but it is forcing them out of production when good land is developed. Don't think the rollback has the effect of causing urban development to be decreased.

Rep. Reichert said over half the states have Greenbelt laws and wonders if they are also suggesting repealing their Greenbelt laws. Mr. Cole said he doesn't know. Others have investigated and adopted this. Agricultural change includes a zoning district.

Rep. Williams said a five-year buyer will pay when it changes. Who will pay the tax? Can't collect after five years. Rep. Fabrega advised after five years, if the buyer changes use, he pays the tax - before five years, the original owner pays.

Rep. Gilligan came in. Rep. Huennekens resumed as chairman.

EXECUTIVE SESSION

HOUSE BILL 646 - Rep. Fabrega moved HB 646 DO PASS. He further moved the proposed amendments be adopted. The amendments made a tax break available only to promote insurance companies in Montana. If not a Montana corporation, they would not be given this tax break.

Rep. Reichert mentioned the fiscal note says revenue could be lost or no loss at all. Rep. Fabrega said there are only 9 domestic companies, one of which sells haystack insurance, and is the only known company that does make this insurance available. Rep. Williams asked how many out-of-state companies sell insurance in Montana. There are 1100 companies registered in Montana.

Rep. Fabrega said determination of what a Montana company is is based on investment of their assets being in Montana and wholly owned by Montana people. The investment of their assets in Montana would reduce their tax from 2 3/4% to 3/4% which is an investment decision.

Rep. Sivertsen questioned if the deductions are sufficient. Rep. Fabrega answered this seems to work in other states and is a viable incentive. Rep. Williams advised they are able to deduct their property tax from their premium tax so they pay very little tax. Obviously seems to be constitutional.

There were no Noes on the amendments. The motion HB 646 DO PASS AS AMENDED was adopted unanimously with no Noes. Reps. Vinger and Fagg were absent.

HOUSE BILL 630 - Statement of Intent. Rep. Sivertsen moved to adopt the proposed Statement of Intent. Motion was adopted with Rep. Nordtvedt voting No. Reps. Vinger and Fagg were absent.

HOUSE BILL 395 - Rep. Johnson moved HB 395 DO NOT PASS. After discussion, the DO NOT PASS motion was adopted by a vote of 14-2. Reps. Lien and Underdal voted No, Rep. Nordtvedt voted to abstain, Reps. Vinger and Fagg were absent.

Rep. Lien said there has been several million dollars spent in the alternative energy grants. If the program were to be dropped right now, they have \$1 million left to grant if they chopped it off right now. Much more acceptable grants are now being made than have been made. A lot of commercial things are coming in right now. Whether we want to keep putting that kind of money into demonstration grants is questionable - should look for new areas in which to put that money. Can only go so far putting money into demonstration grants.

Rep. Nordtvedt thinks the status quo is subsidizing a few private citizens.

HOUSE BILL 547 - Rep. Harrington moved to reconsider action taken on HB 547. Reconsideration was approved. He then moved to adopt proposed amendments. Rep. Williams asked if page 2, lines 9, 10, 11 regarding high schools should be separated from Vo-Tech teachers. Rep. Harrington explained the Vo-Tech teachers would be on the same salary schedule as the high school teachers and any increases would be across the board basis.

Rep. Underdal asked if this might jeopardize either one of the high school levies. Wouldn't they be better off separated? Rep. Daily said they would not be. Rep. Nordtvedt asked if Rep. South had seen these amendments. Rep. Daily said Rep. South had written them up.

Amendments were adopted with Rep. Nordtvedt voting No. Rep. Vinger was absent. HB 547 was adopted with a DO PASS AS AMENDED recommendation with no Noes. Rep. Vinger was absent.

The Statement of Intent that had been proposed for HB 547 was discussed. Randy McDonald explained that a statement of intent is not statutorily mandatory and it takes a 2/3 vote of the committee members present to put a statement of intent on a bill. He didn't think the statement of intent added anything to the bill. Rep. Harrington moved the statement of intent be adopted. Reps. Hirsch, Lien, Sivertsen, Dozier, Huennekens, Gilligan voted No. Rep. Vinger was absent. Since 2/3 of the members present did not approve adoption, motion failed.

HOUSE BILL 869 - To be reconsidered and brought back to the committee for tabling.

HOUSE BILL 64 - Because of the fuel problems developed by Iran's not exporting crude oil, it was suggested that perhaps usage of gas would be reduced because of the threat of rationing, and perhaps HB 64 could be reconsidered as a means of funding the highway patrol. Rep. Fagg said he would resist bringing the bill back because he does not want a department to indicate their desires to the committee.

Rep. Dassinger thinks the usage of oil and gas would increase regardless of price but now it has come to the attention of the department that gas may be rationed and that it may not be available, and the revenue derived from gas tax that goes to funding of the highway department may not be sufficient if gas usage is lessened.

Rep. Sivertsen is not in favor of bringing HB 64 back. If usage goes down, that is one of the facts we would have to live with. Can't see giving a department that shelter.

Rep. Huennekens feels primary roads will get first call on available funds.

Rep. Hirsch said if less gas is burned, less use is made of highways. Would have problems with bringing HB 64 back to committee.

Rep. Lien said we meet every two years and if loss of revenue causes too much problems, could call ourselves back into session. Doesn't like the idea of allowing them to set the tax. Would rather call ourselves back into special session than allow a department to set revenues.

Rep. Dassinger raised the thought of there being a possibility that some form of obtaining funds on the building of roads would be necessary. Mr. Groff advised they had a bill in that did the same thing. The department was to be allowed to be given more funds some way. They gave them the authority to add some sort of revenue.

Rep. Nordtvedt is against bringing this bill back. There is a 5% attrition in the highway patrol - doesn't like giving them a defense against a lesser income - not being able to replace highway patrol perhaps was one way to cut down expenses.

Rep. Dozier is opposed to bringing it back. He feels the whole country is spending too much money on roads and automobiles. We have quite a few gas taxes in right now and somewhere we have to set some priorities and that wasn't considered a priority.

Rep. Williams resists bringing it back - we are going to have to take a look at financing highways - have to see that they are going to be completed.

Rep. Dassinger withdrew his motion to have HB 64 returned to the committee.

HOUSE BILL 727 - Rep. Harrington moved proposed amendments DO PASS. There were no Noes, Reps. Burnett, Fagg, Fabrega, Vinger were absent. Rep. Harrington moved HB 727 DO PASS AS AMENDED. Motion was adopted unanimously. Reps. Fabrega, Vinger and Fagg were absent.

HOUSE BILL 753 - Rep. Dozier moved HB 753 DO NOT PASS. After discussion, Reps. Dassinger, Gilligan, Hirsch, Bertelsen, Underdal voted No. Reps. Vinger, Fagg, Fabrega were absent. Motion carried.

HOUSE BILL 758 - Rep. Burnett moved HB 758 DO NOT PASS. Rep. Dassinger stated Rep. Frates had asked that this bill be held so he could have it amended. Rep. Dassinger asked that it be held - permission was granted.

HOUSE BILL 765 - Rep. Underdal moved HB 765 DO PASS. Rep. Dassinger explained this bill would consolidate small lots having a taxable value of not more than \$20 onto one assessor's statement. Proposed amendments were recommended to be adopted by Rep. Underdal. Amendments were adopted with no Noes. Rep. Vinger was absent. Rep. Robbins asked what was meant by consolidating several pieces of property onto one notice. Rep. Underdal said it would be like property. Rep. Robbins related their county assessor got fouled up from some notice from the department of revenue - they had the business and homes on the same notice and there was no way of separating them. Had a terrible time trying to get them back to the assessor to split them up. People are complaining - they have to have them separated.

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Rep. Underdal said amendment #3 would make it similar property. Rep. Huennekens said he needs to know what rental property taxes are. Rep. Sivertsen thinks there would be a real problem. They have to go through this process anyhow - doesn't think it will lighten up their work that much. This will make the owner break the tax down for his purposes. Rep. Fagg said he could see big savings in mailing costs. Rep. Huennekens suggested that maybe the words "at owner's request" might be added. Rep. Burnett mentioned he had been getting about 20 sheets of paper notices and he asked them to all be put on one and they said they couldn't do that because the law won't let them.

Rep. Dassinger spoke against the motion. Rep. Sivertsen said a lot of people use these as their records - they are valuable records. The savings wouldn't be that very much money. The amendments will allow for the treasurers to go to work and combine the data just the same way as before. They are just speaking about the mailing.

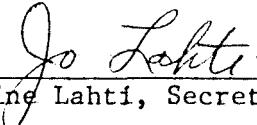
Rep. Fabrega wants a separate tax notice in each of his files on each piece of property. Rep. Underdal feels the county treasurer could consolidate 150 statements.

The motion of HB 765 DO PASS AS AMENDED failed by a roll call vote of 6-12. Reversed it was a recommendation that HB 765 DO NOT PASS 12-6.

Meeting adjourned at 11:30 a.m.



REP. HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary