

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 26, 1979

The fifty-eighth meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all the members present with the exception of Senators Manley and Roskie, who were excused. Witnesses providing testimony are listed on attached Registers.

CONSIDERATION OF HJR42: Representative Azzara distributed several items which concerned Greenbelt laws and their affect on properties in the state, and said there have been so many difficulties with the appraisal of agricultural lands, many problems have been created. For this reason he was introducing this resolution in the hopes of having such study done. Exh. #1 and 2 are attached, illustrating some of the testimony he referred to in his introduction. Also testifying was Dennis Cole with the Planning Division of the Department of Community Affairs. He explained some of the problems that had been encountered by property owners who must pay the rollback taxes in other states and agreed there should be a study on the matter. He said often that the rollback taxes result in hidden costs to the lot buyer and too, that the rollback tax often works contrary to its intent by placing higher penalty on the taxpayer.

The Chairman called for other proponents or opponents and there being none, permitted some discussion of the problem by the committee. Mr. Burr of the Department of Revenue responded to one of the queries saying when the land use is changed the tax is also changed. Rollback tax is not put on the property until the following year, he stated. Representative Azaara said some of his concerns were that a great deal of prime agricultural land is being gobbled up, sometimes whether the owner wishes to sell or not and he was therefore interested in whether the rollback tax should be increased, or estimated over a longer period of time. Also, he wondered if it is an appropriate mechanism to taxing such lands, whether taxes on agricultural land should be assessed differently, also what constitutes 'prime land.' Following some additional discussion, hearing on HJR42 was closed.

Discussion then began on HB150 and the amendments that had been proposed to the bill. The bill is the bank tax bill and was up for the committee's executive action. They discussed the loss which the state and counties would sustain and the 80-20 split. Following the implications of the fiscal impact, the committee voted to move the bill:

Senator McCallum Moved HB150 Be Concurred In. Motion withdrawn.

The committee then discussed the Statement of Intent they considered adopting and then moved such statement. On motion by Senator Towe, Statement of Intent for HB150 was Adopted. Motion carried. Amendments were then discussed and adopted on motion by Senator Towe.

Senator McCallum then Moved HB150 and its Statement of Intent,

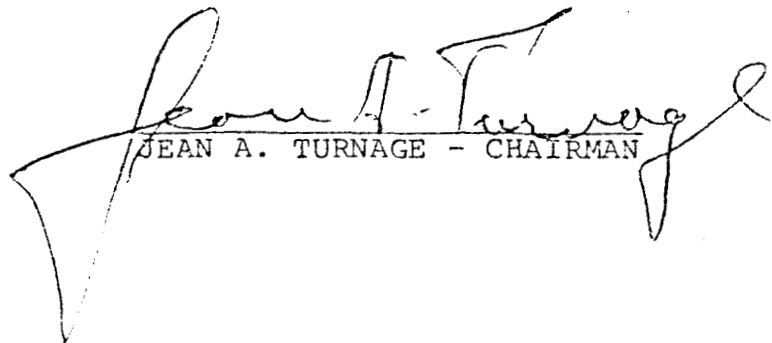
and Amendments, be Concurred In. Motion carried. Note for the record "No" vote cast by Senator Norman.

Chairman Turnage then asked the committee to consider HB573, already heard by the committee. They discussed the fact that there is a federal deduction that can be claimed by those who restore historically-significant buildings. They also looked at the register of such buildings, see Exh #3, attached, and noted there are many of them in the state and that several of such structures are restored, owners claiming the federal deduction, for other than just the historical value.

Senator Watt Moved HB573 be Tabled. Motion carried.

HB45 was then discussed and an explanation of the bill was distributed to the committee, see Exh. #3. Researcher Terry Cohea had researched the bill to see how closely it paralleled the federal revenue bond act. Discussion then followed and the problems possible with the counties operating some of the projects possible under the bill's provisions.

Following this discussion the meeting was adjourned.


JEAN A. TURNAGE - CHAIRMAN

SENATE COMMITTEE TAXATION

Date 3-26-79 House Bill No. 150 Time 8:35

NAME	YES	NO
SEN. GOODOVER (Vice Chairman)		
SEN. BROWN		
SEN. HAGER		
SEN. MANLEY <i>Absent - Excused</i>		
SEN. MANNING		
SEN. MCCOLLUM		
SEN. NORMAN		X
SEN. ROSKIE <i>Absent - Excused</i>		
SEN. SEVERSON		
SEN. TOWE		
SEN. WATT		
CHAIRMAN TURNAGE		

Nita Fjeseth
Secretary

Jean A. Turnage
Chairman

Motion: Be Conc. In
As Amended
Statement of Intent

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

hill county

Havre vicinity. **TOO CLOSE FOR COMFORT SITE (WAHPA CHUGN BUFFALO JUMP AND ARCHEOLOGICAL SITE)**, (12-30-74) PH0055964

jefferson county

East Helena vicinity. **CHILD, W. C., RANCH**, S of East Helena on SR 518, (11-23-77)
Elkhorn. **FRATERNITY HALL**, Lot 14, Main St., (4-3-75) HABS.

lake county

St. Ignatius. **ST. IGNATIUS MISSION**, About 0.1 mi. SE of MT 93 in St. Ignatius, (6-19-73) PH0091057

lewis and clark county

Helena. **FORMER MONTANA EXECUTIVE MANSION**, 6th Ave. and Ewing St., (4-28-70) PH0091065 HABS.
Helena. **HELENA HISTORIC DISTRICT**, Irregular pattern from Hauser Blvd. to Acropolis and between Garfield and Rodney Sts., (6-2-72) PH0091073 HABS. G.
Helena. **KLUGE HOUSE**, 540 W. Main St., (4-28-70) PH0091081 HABS.
Helena vicinity. **WASSWEILER HOTEL AND BATH HOUSES**, W of Helena on U.S. 12, (8-1-78)

madison county

Alder vicinity. **ROBBERS ROOST (DALY'S PLACE)**, 5 mi. N of Alder at MT 387A, (1-1-76)
Dillon vicinity. **BEAVERHEAD ROCK-LEWIS AND CLARK EXPEDITION**, About 14 mi. NE of Dillon, (2-11-70) PH0091090 G.
Virginia City. **VIRGINIA CITY HISTORIC DISTRICT**, Wallace St., (10-15-66) PH0122394 NHL; HABS.

meagher county

White Sulphur Springs. **SHERMAN, BYRON R., HOUSE**, 310 2nd Ave., NE., (9-15-77)
White Sulphur Springs vicinity. **FORT LOGAN AND BLOCKHOUSE**, 17 mi. NW of White Sulphur Springs, (10-6-70) PH0091103 HABS.

missoula county

LOLO TRAIL, Reference—see *Clearwater and Idaho Counties, ID* (1-2-74)
Lolo vicinity. **FORT FIZZLE SITE**, 5 mi. W of Lolo, (7-21-77)
Lolo vicinity. **TRAVELER'S REST**, 1 mi. S of Lolo near U.S. 93, (10-15-66) PH0091111 NHL.
Missoula. **MISSOULA COUNTY COURTHOUSE**, 220 W. Broadway, (9-1-76)

pondera county

Browning vicinity. **TWO MEDICINE FIGHT SITE**, About 25 mi. SE of Browning, (10-6-70) PH0091120

powell county

Deer Lodge. **GRANT-KOHR'S RANCH NATIONAL HISTORIC SITE**, Edge of Deer Lodge, (8-25-72)
Deer Lodge. **MONTANA TERRITORIAL AND STATE PRISON**, 925 Main St., (9-3-76)

prairie county

Terry. **GRANDEY ELEMENTARY SCHOOL**, off U.S. 10, (11-16-78)

ravalli county

Conner vicinity. **ALTA RANGER STATION**, S of Conner in Bitterroot National Forest, (12-19-74) PH0091138

Hamilton. **DALY, MARCUS, MEMORIAL HOSPITAL**, 211 S. 4th St., (12-15-78)

Hamilton vicinity. **CANYON CREEK LABORATORY OF THE U.S. PUBLIC HEALTH SERVICE**, W of Hamilton city limits, (10-15-70) PH0091146
Stevensville. **BASS MANSION**, 216 N. College St., (11-14-78)

Stevensville. **ST. MARY'S CHURCH AND PHARMACY**, North Ave., (10-6-70) PH0091162 HABS.

Stevensville vicinity. **BIG CREEK LAKE SITE**, W of Stevensville, (5-17-76)

Stevensville vicinity. **FORT OWEN**, About 0.5 mi. NW of Stevensville, (10-6-70) PH0091154 HABS.

roosevelt county

FORT UNION TRADING POST NATIONAL HISTORICAL SITE, Reference—see *Williams County, ND* (1-2-74)
Poplar. **FORT PECK AGENCY**, (5-19-70) PH0091171

sheridan county

Medicine Lake vicinity. **TUPI HILLS**, SE of Medicine Lake in Medicine Lake National Wildlife Refuge, (8-1-75)

silver bow county

Butte. **BUTTE HISTORIC DISTRICT**, (10-15-66) PH0091189 NHL.
Butte. **CLARK, CHARLES W., MANSION**, 108 N. Washington St., (10-22-76)
Butte. **CLARK, W. A., MANSION**, 219 W. Granite, (10-6-70) PH0091197
Butte. **WHEELER, BURTON K., HOUSE**, 1232 E. 2nd St., (12-8-76) NHL.

sweetgrass county

Springdale vicinity. **YELLOWSTONE CROSSING, BOZEMAN TRAIL**, NE of Springdale on U.S. 10, (12-1-78)

wibaux county

Wibaux. **WIBAU, PIERRE, HOUSE**, Orgain Ave., (9-10-71) PH0091201 G.

yellowstone county

Billings. **BILLINGS CHAMBER OF COMMERCE BUILDING**, 303 N. 27th St., (1-20-72) PH0091219 HABS.
Billings. **NORTH, AUSTIN, HOUSE**, 622 N. 29th St., (11-23-77)
Billings. **O'DONNELL, I. D., HOUSE**, 105 Clark Ave., (11-23-77)
Billings. **PARMLEY BILLINGS MEMORIAL LIBRARY**, 2822 Montana Ave., (10-26-72) PH0091235 HABS.
Billings vicinity. **HOSKINS BASIN ARCHEOLOGICAL DISTRICT**, (11-20-74) PH0091227
Billings vicinity. **PICTOGRAPH CAVE**, 7 mi. SE of Billings in Indian Caves Park, (10-15-66) PH0091243 NHL.
Pompey's Pillar vicinity. **POMPEY'S PILLAR**, W of Pompey's Pillar on U.S. 10, (10-15-66) PH0122416 NHL.

NEBRASKA

adams county

Hastings. **CHAUTAUQUA PAVILION**, Chautauqua Park, (10-19-78)
Hastings. **BURLINGTON STATION**, 1st St. and St. Joseph Ave., (3-29-78)
Hastings. **MCCORMICK HALL**, Hastings College campus, (5-12-75) PH0140431
Hastings. **RINGLAND HALL**, Hastings College campus, (5-12-75) PH0140449
Hastings vicinity. **THIRTY-TWO MILE STATION SITE**, 6 mi. SW of Hastings, (2-20-75)

antelope county

Neligh. **NELIGH MILL**, 111 W. 2nd St., (10-15-69) PH0091251 G.

box butte county

Marsland vicinity. **RUNNING WATER STAGE STATION SITE (HUGHES RANCHE)**, 3 mi. SW of Marsland on Niobrara River, (2-20-75)

boyd county

Lynch vicinity. **LYNCH ARCHEOLOGICAL SITE**, (12-2-74) PH0091278

buffalo county

Kearney. **FRANK, GEORGE W., HOUSE**, Kearney State College, (2-23-73) PH0091286 G.

burt county

Oakland vicinity. **LOGAN CREEK SITE**, (1-26-70) PH0091294

butler county

Abie vicinity. **BARCAL SITE (SKULL CREEK SITE)**, About 2 mi. N of Abie, (3-24-72) PH0091308

Bellwood vicinity. **BELLWOOD ARCHEOLOGICAL SITE**, (8-13-74) PH0091316

Linwood vicinity. **LINWOOD SITE**, SW of Linwood on NE 115, (3-16-72) PH0091324

cass county

Ashland vicinity. **ASHLAND ARCHEOLOGICAL SITE**, 1 mi. SE of Ashland, (2-10-75)

Elmwood. **THE ELMS (BESS STREETER ALDRICH HOUSE)**, Off NE 1, (3-24-77)

Murray vicinity. **GILMORE, WALKER, SITE (STERN'S CREEK SITE)**, 5 mi. SE of Murray, (10-15-66) PH0091367 NHL.

Murray vicinity. **NAOMI INSTITUTE**, 3 mi. E of Murray, (3-24-77)

Nehawka vicinity. **NEHAWKA FLINT QUARRIES**, (1-26-70) PH0091359

Weeping Water. **WEEPING WATER HISTORIC DISTRICT**, (12-8-72) PH0091375

Weeping Water vicinity. **DAVIS, THEODORE, SITE**, 1.5 mi. E of Weeping Water on SR Spur 350, (5-19-72) PH0091341

cedar county

St. Helena vicinity. **SCHULTE ARCHEOLOGICAL SITE**, N of St. Helena, (7-30-74) PH0091383

Wynot vicinity. **BOW VALLEY MILLS**, N of Wynot (11-17-78).

Wynot vicinity. **WISEMAN ARCHEOLOGICAL SITE**, (12-2-74) PH0091391

chase county

Wauneta vicinity. **LOVETT SITE**, 12 mi. N of Wauneta on U.S. 6, (5-5-72) PH0091405

cheyenne county

Potter vicinity. **STEVENS, WES, SITE**, E of Potter, (8-28-73) PH0091421

Sidney. **FORT SIDNEY HISTORIC DISTRICT**, (3-28-73) PH0091413 G.

colfax county

Schuyler vicinity. **SCHUYLER SITE**, (8-14-73) PH0091430

Schuyler vicinity. **WOLFE ARCHEOLOGICAL SITE**, NW of Schuyler, (7-30-74) PH0091448

cuming county

Bancroft. **NEIHARDT, JOHN G., STUDY**, NW corner of Washington and Grove Sts., (7-28-70) PH0091456

NEW LISTINGS

ENTRIES IN THE NATIONAL REGISTER

STATEMONTANA

Date Entered DEC 29 1978

<u>Name</u>	<u>Location</u>
Deer Lodge County Courthouse	Anaconda Deer Lodge County
St. Mark's Episcopal Church	Anaconda Deer Lodge County

FEBRUARY 9, 1979

Hauser Mansion, Helena	L & C County
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JANUARY 29, 1979

Boulder Hot Springs Hotel	Boulder Jefferson County
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FEBRUARY 26, 1979

Bozeman Carnegie Library	Gallatin County
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Also Notified

Honorable Max Baucus
Honorable John Melcher
Honorable Pat Williams

STANDING COMMITTEE REPORT

March 26 1978

MR. President

We, your committee on Taxation

having had under consideration Statement of Intent, House Bill No. 150

Respectfully report as follows: That Statement of Intent, House Bill No. 150
be adopted.

STATEMENT OF INTENT RE: HB 150

In granting the Department of Revenue rule-making authority in section 6(4), the Senate Taxation Committee intends that the distribution be based on a comparison of total assets or total resources attributable to the branch as opposed to total resources of the main office or according to some other equitable means of determining the distribution.

DO PASS

STANDING COMMITTEE REPORT

March 21 1979

MR. President

We, your committee on Taxation

having had under consideration House Bill No. 150

Respectfully report as follows: That House Bill No. 150, third reading bill, be amended as follows:

1. Title, line 11.
Strike: "COLLECTING AND"
2. Page 2, line 8.
Following: "governments,"
Strike: "all"
Insert: "a portion of the"
3. Page 2.
Following: line 9
Strike: "collected"
Insert: "received"
4. Page 9, lines 7 and 8.
Strike: ", except as provided in [section 5]."
5. Page 9, line 17.
Following: "Section 5."

DO.PASSx

(continued)

5. continued

Strike: remainder of line 17 through line 12 on page 10

Insert: "Department of Revenue - special duties for transmitting corporation license tax revenues collected from banks or savings and loan associations to counties. (1) Within 30 days after receiving corporation license tax returns and payments from banks or savings and loan associations, the department of revenue shall transmit to the county treasurer in which the business is located the revenues calculated under [section 6(b)]."

6. Page 10, lines 18 and 19.

Strike: "and the county treasurer of the county in which the business is located"

7. Page 10, line 22.

Following: "for"

Insert: "their portion of the"

Following: "overpayment"

Insert: "received"

8. Page 11, line 8.

Strike: "collecting the taxes,"

Following: "refunds"

Strike: ", "

9. Page 11, line 11.

Following: "collected"

Strike: "by county treasurers"

Insert: "from banks or savings and loan associations"

10. Page 11, line 12.

Following: "taxes"

Insert: "collected from banks and savings and loan associations"

90
And, as so amended,

BE CONCURRED IN

.....JEROME A. TURKACE.....

Chairman.

Date MAR. 24 1979

ROLL CALL.

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

NAME	PRESENT	ABSENT	EXCUSED
SEN. GOODOVER (Vice Chairman)	✓		
SEN. BROWN	✓		
SEN. HAGER	✓		
SEN. MANLEY	.		✓
SEN. MANNING			
SEN. McCOLLUM	✓		
SEN. NORMAN	✓		
SEN. ROSKIE			✓
SEN. SEVERSON	✓		
SEN. TOWE	✓		
SEN. WATT	✓		
CHAIRMAN TURNAGE	✓		

Each Day Attach to Minutes.

The bill would also allow counties (p. 4, lines 9 - 22) to enter into long-term agreements with industrial plants to provide water or sewer facilities to reduce the plant's pollution of water. The plant would reimburse the county for the costs of operating the system.

E. What interest will the bonds bear?

The interest rate may not exceed 9% annually (p. 12, lines 17 - 19).

F. How are the bonds sold?

The bonds may be sold privately to any agency of the federal government or by public sale to anyone else. If the bonds are to be sold publicly, notice must be given in local, state, and national newspapers.

G. May the county issue refunding bonds?

Sections 22 through 26 establish the authority and procedures for issuing refunding revenue bonds to refund interest and principal if the revenue pledged to pay the bonds is not sufficient.

TOC:hm

JANUARY 9, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES
46th Session

HOUSE BILL 45: Representative Thomas R. Conroy, Sponsor was introduced. He gave a brief history of the bill and asked members to obtain a copy of the study on subdivisions entitled "Montana Subvision Laws, Problems & Projects". He stated the concern was with counties being able to issue revenue bonds for projects. Researcher Debbie Schmidt then spoke, stating she would be available and would work closely with the utility companies if there were any problems.

Chairman Robbins called for proponents. Cliff Christian of the Montana Association of Realtors spoke in favor, stating that at certain times subdividers run into problems and this would keep areas from going to septic tanks and wells as had happened in the valley, and that the property owners would eventually pay the costs.

Dean Zinnecker of the Mont. Assoc. of Counties stated they were in support, that this gives the same authority the county has always had. He offered amendments to the bill which are attached as Exhibit A. The amendments would be to delete the word corporate as this does not apply to counties.

Chairman Robbins then called for opponents. Dan Meisner of the Mont. League of Cities and Towns stated he was not really an opponent but wanted to offer some amendments that might put him in opposition. The amendments were to add "municipality" in several sections and are attached as exhibit "B".

Sponsor Conroy then gave closing remarks, stating he agreed with Mr. Christian, and also suggested holding the bill until the committee was comfortable with the wording. There were then questions from Representatives Waldron, Pistoria, Moore, Bertelsen and Hurwitz. There was some question regarding the provision of not having a vote of the public on revenue bonds.

Chairman Robbins then appointed a Sub-Committee, requesting Debbie Schmidt to work with them on this bill. Committee will be Daniel Kemmis, Chairman, Burt Hurwitz and Arlyne Reichert.

JANUARY 18, 1979
PROCEEDINGS OF THE
LOCAL GOVERNMENT COMMITTEE
HOUSE OF REPRESENTATIVES

Chairman Robbins then called for a report from the Subcommittee on HB 45. Chairman of the Subcommittee, Representative Kemmis gave the report of the committee and the proposed amendments which are attached as their report. All members of the committee were in agreement with the proposed amendments, which would include adding

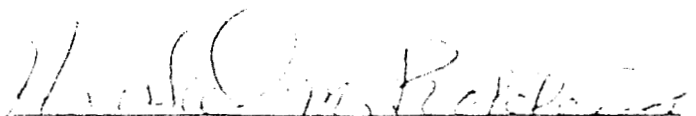
inserting "or municipality" in several lines, and adding language that notice must be given to planning boards when undertakings are within the other's jurisdiction, and the issuance of bonds authorized without an election. Chairman Kemmis reported that the subcommittee recommended do pass as amended, and he would make that motion. Vote was called and all voted "aye" and motion carried that House Bill 45 do pass as amended.

Chairman Robbins then announced that the committee would be meeting at 1:00 pm until further notice since sessions would convene at 3:30. He also announced that bills HB 114, 139, 155, 156 and 163 would be heard January 23. Chairman Robbins then stated that any bills receiving a unanimous vote of the committee may be placed on the consent calendar with another unanimous vote of the committee. Rep. Pistoria moved to put HB 91 on the consent calendar. Three members voted "no" and the motion did not carry.

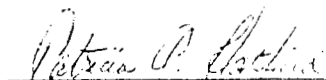
Chairman Robbins then advised members that bills receiving an adverse committee report could be brought back on the floor with 10 signatures.

It was announced that the subcommittee on HB 46 would meet Monday, January 22 at 11am.

There being no further business the meeting was duly adjourned at 2:30 pm.



HERSHEL M. ROBBINS, CHAIRMAN
LOCAL GOVERNMENT COMMITTEE



Patricia A. Hatfield
Committee Secretary

January 12, 1979
LOCAL GOVERNMENT COMMITTEE
Sub-Committee on House Bill 45
3:00 p.m.

Sub-Committee met at 3:00 p.m. on Friday, January 12, 1979 to discuss proposed amendments to House Bill 45. Present were Chairman Kemmis and Representatives Hurwitz and Reichert.

All members were in agreement with the first proposed amendments suggested at the hearing. The sub-committee suggests the following amendments:

1. Page 5, line 4
Following "counties"
Insert: "or municipalities"
2. Page 5, line 11
Following: "the"
Delete: "corporate"
3. Page 5, line 11
Following: "county"
Insert: "or municipality"
4. Page 5, line 12
Following: "county"
Insert: "or municipality"
5. Page 5, line 12
Amend Sec. 6 by adding new
Subsection 4 as follows:
"(4) No county may construct an undertaking wholly or partly within the jurisdiction of a city-county planning board without first granting an opportunity to the city-county planning board to issue comments on the proposal."

It was then agreed that the sub-committee recommend Do Pass as Amended for House Bill 45. The meeting was duly adjourned at 3:30 p.m.

Ed. #3

Ste. Genevieve. **KREILICH ARCHEOLOGICAL SITE**, 3 mi. NW of St. Mary, (5-21-69) PH0078808

Ste. Genevieve. **STE. GENEVIEVE HISTORIC DISTRICT**, (10-15-66) PH0132802 NHL; HABS.

Ste. Genevieve vicinity. **COMMON FIELD ARCHEOLOGICAL SITE**, S of Genevieve, (7-29-69) PH0078786

stoddard county

Bernie vicinity. **RICH WOODS ARCHEOLOGICAL SITE**, N of Bernie, (1-25-71) PH0067873

Puxico vicinity. **MINGO NATIONAL WILDLIFE REFUGE ARCHEOLOGY DISTRICT**, W of Puxico, (5-12-75)

taney county

Hollister. **DOWNING STREET HISTORIC DISTRICT**, Downing St. between 3rd and 4th Sts., (12-29-78)

texas county

Buckyrus vicinity. **WHITE ROCK BLUFFS ARCHEOLOGICAL PICTOGRAPH SITE**, 2 mi. S of Buckyrus, (5-21-69) PH0067881

vernon county

Arthur vicinity. **COAL PIT ARCHEOLOGICAL SITE**, NW of Arthur, (2-12-71) PH0067903

Fair Haven vicinity. **BROWN ARCHEOLOGICAL SITE**, W of Fair Haven, (2-12-71) PH0067890

Nevada. **VERNON COUNTY JAIL, SHERIFF'S HOUSE AND OFFICE**, 229 N. Main St., (8-16-77)

Nevada vicinity. **CARRINGTON OSAGE VILAGE SITE**, N of Nevada, on W edge of Green Valley Prairie, (10-15-66) NHL.

Shell City vicinity. **HALLEYS BLUFF SITE**, (7-24-74) PH0067911

warren county

Marthasville vicinity. **BORGMANN MILL**, 5 mi. E of Marthasville on CR D, (11-10-70) PH0067920

Marthasville vicinity. **CALLAWAY, FLANDERS, HOUSE**, 1 mi. S of Marthasville off MO 94, (7-29-69) PH0067938

Warrenton. **WARREN COUNTY COURTHOUSE AND CIRCUIT COURT BUILDING**, Main St., (3-17-72) PH0067946

washington county

Caledonia vicinity. **LAND ARCHEOLOGICAL SITE**, 3 mi. NE of Caledonia on secondary rds., (5-5-72) PH0067962

Caledonia vicinity. **LOST CREEK PICTOGRAPH ARCHEOLOGICAL SITE**, 2 mi. NE of Caledonia, (1-25-71) PH0067971

Fertile vicinity. **CRESSWELL PETROGLYPH ARCHEOLOGICAL SITE**, 2 mi. E of Fertile, (2-12-71) PH0067954

Fertile vicinity. **WASHINGTON STATE PARK PETROGLYPH ARCHEOLOGICAL SITE**, 1 mi. NE of Fertile, (4-3-70) PH0067989

wright county

Mansfield vicinity. **WILDER, LAURA INGALLS, HOUSE**, 1 mi. E of Mansfield on U.S. Business 60, (5-19-70)

MONTANA

beaverhead county

LEMHI PASS. Reference—see Lemhi County, Idaho (1-2-74)

Dillon. **DILLION CITY LIBRARY**, 121 S. Idaho St., (11-14-78)

Dillon vicinity. **BANNACK HISTORIC DISTRICT**, 22 mi. from Dillon off MT 278, (10-15-66) PH0122408 NHL; HABS; G.

Dillon vicinity. **LAMARCHE GAME TRAP**, (9-28-76)

Wisdom vicinity. **BIG HOLE NATIONAL BATTLEFIELD**, 12 mi. W of Wisdom, (10-15-66)

big horn county

Fort Smith. **BIGHORN DITCH HEADGATE**, W of Fort Smith at mouth of Bighorn Canyon, (12-12-76)

Fort Smith vicinity. **FORT C. F. SMITH HISTORICAL DISTRICT**, E of Fort Smith in Bighorn Canyon National Recreation Area, (10-10-75)

Hardin vicinity. **CUSTER BATTLEFIELD NATIONAL MONUMENT**, 15 mi. S of Hardin, (10-15-66)

Kirby vicinity. **BATTLE OF THE ROSEBUD SITE**, 6 mi. S of Kirby, (8-21-72) PH0090867

Pryor vicinity. **CHIEF PLENTY COUPS MEMORIAL**, 1 mi. W of Pryor off MT 416, (10-6-70) PH0090875

blaine county

Chinook vicinity. **CHIEF JOSEPH BATTLEGROUND OF THE BEAR'S PAW (BEARPAW MOUNTAIN FIGHT)**, About 15 mi. S of Chinook, (10-6-70) PH0090883

broadwater county

Avalanche Gulch. **RANKIN RANCH**, (5-11-76)

carbon county

Bridger vicinity. **DEMIJOHN FLAT ARCHEOLOGICAL DISTRICT**, (11-20-74) PH0090891

Dryhead vicinity. **EWING-SNELL RANCH**, S of Dryhead, (5-12-77)

Hardin vicinity. **PRETTY CREEK ARCHEOLOGICAL SITE**, 70 mi. S of Hardin in Big Horn Canyon National Recreation Area, (1-17-75)

Hillsboro and vicinity. **CEDARVALE**, Present town of Hillsboro and its environs in Bighorn Canyon National Recreation Area, (8-19-75)

Warren vicinity. **BAD PASS TRAIL (SIOUX TRAIL)**, E of Warren along Big Horn River in Bighorn Canyon National Recreation Area, (10-29-75)

Warren vicinity. **PETROGLYPH CANYON**, 6 mi. SE of Warren, (11-20-75)

cascade county

Great Falls. **GREAT FALLS CENTRAL HIGH SCHOOL**, 1400 1st Ave. N., (9-1-76)

Great Falls. **RUSSELL, CHARLES M., HOUSE AND STUDIO**, 1217-1219 4th Ave., N, (10-15-66) PH0090913 NHL.

Great Falls vicinity. **GREAT FALLS PORTAGE**, SE of Great Falls at jct. of U.S. 87, 89, and 91, (10-15-66) PH0122424 NHL.

Great Falls vicinity. **MULLAN ROAD**, N of Great Falls in Benton Lake National Wildlife Refuge, (3-13-75)

Ulm vicinity. **ULM PISKUN (ULM BUFFALO JUMP)**, (12-17-74) PH0090921

chouteau county

Big Sandy vicinity. **LEWIS AND CLARK CAMP AT SLAUGHTER RIVER**, 40 mi. S of Big Sandy River on Missouri River, (12-16-74) PH0090956

Fort Benton. **FORT BENTON**, (10-15-66) PH0350117 NHL.

Fort Benton. **FORT BENTON HISTORIC DISTRICT**, (9-14-72) PH0090948 G.

Fort Benton. **GRAND UNION HOTEL**, 14th and Front Sts., (1-2-76)

Fort Benton vicinity. **CITADEL ROCK (CATHEDRAL ROCK)**, E of Fort Benton, (11-13-74) PH0090930

Winifred vicinity. **JUDITH LANDING HISTORIC DISTRICT**, SR 236, NW of Winifred at Missouri River, (12-6-75) (also in Fergus County)

custer county

Miles City vicinity. **FORT KEOGH**, 2.5 mi. (4 km) SW of Miles City, (3-8-78)

dawson county

Glendive. **KRUG, CHARLES, HOUSE**, 103 N. Douglas St., (6-3-76)

Glendive vicinity. **HAGEN SITE**, 5 mi. SE of Glendive, (10-15-66) PH0090964 NHL.

deer lodge county

Anaconda. **DEER LODGE COUNTY COURTHOUSE**, U.S. 10, (12-29-78)

Anaconda. **HEARST FREE LIBRARY**, Main and 4th Sts., (6-4-73) PH0090981 G.

Anaconda. **MARCUS DALY HOTEL**, Park Ave. and S. Main St., (4-26-73) PH0090972 HABS.

Anaconda. **ST. MARK'S EPISCOPAL CHURCH**, 601 Main St., (12-29-78)

fergus county

JUDITH LANDING HISTORIC DISTRICT. Reference—see Chouteau County

Landusky vicinity. **ROCKY POINT**, 30 mi. S of Landusky in Charles M. Russell National Wildlife Range, (5-21-75)

Lewistown. **ST. JAMES EPISCOPAL CHURCH AND PARISH HOUSE**, 502 W. Montana St., (11-16-78)

Lewistown. **ST. JOSEPH'S HOSPITAL**, U.S. 87, (9-13-78)

flathead county

Kalispell. **CONRAD, CHARLES E., MANSION**, 313 6th Ave. East, (2-20-75) G.

West Glacier. **BELTON CHALETs**, U.S. 2, (11-15-78)

West Glacier vicinity. **LEWIS GLACIER HOTEL**, N of West Glacier, (5-22-78)

West Glacier vicinity. **SPERRY CHALETs**, E of West Glacier, (8-2-77)

gallatin county

Bozeman. **SOUTH WILLSON HISTORIC DISTRICT**, Willson Ave. between Curtiss and Arthur Sts., (12-18-78)

Logan vicinity. **MADISON BUFFALO JUMP STATE MONUMENT**, 7 mi. S. of Logan, (4-28-70) PH0091006

Three Forks vicinity. **THREE FORKS OF THE MISSOURI**, NE of Three Forks on the Missouri River, Missouri Headwaters State Monument, (10-15-66) PH0091014 NHL.

glacier county

Babb vicinity. **MANY GLACIER HOTEL HISTORIC DISTRICT**, W of Babb, (9-29-76)

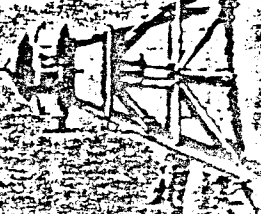
Browning vicinity. **CAMP DISAPPOINTMENT**, 12 mi. NE of Browning, (10-15-66) PH0091022 NHL.

granite county

Philipsburg vicinity. **MINERS UNION HALL**, E of Philipsburg in Deerlodge National Forest, (12-19-74) PH0091031 HABS.

Philipsburg vicinity. **SUPERINTENDENT'S HOUSE**, E of Philipsburg in Deerlodge National Forest, (12-17-74) PH0091049 HABS.

INDEPENDENT RECORD



FROM
MONTANA'S
CAPITAL
CITY

Helena, Montana, Tuesday evening, January 17, 1978

Green Belt tax law stings suburbanites

By ART HUTCHINSON
IR Staff Writer

A dream became a reality last year for Thomas Fenton, an employee of the Helena Cable TV Co.

He bought a 2½-acre plot in Tract Two of Blue Sky Heights, a development near Clancy. He had a home framed for him by a contractor and now is completing it himself.

But, as a new suburban property owner, Fenton was puzzled when he didn't get a property tax notice from Jefferson County last November. Inquiries to the assessor brought a shock that jarred Fenton's suburban idyll.

He would not only owe property taxes on his residential lot and his new residence this year. Fenton was told, but he also would owe about \$150 more in an added property tax he didn't even know existed.

Fenton found he had become liable for the little-known roll-back tax because he bought a residential building lot that had been carved from land classed as agricultural on the Jefferson County tax rolls.

He is only one of thousands of persons fleeing Montana's cities and city taxes for homesites in rural fringe areas around urban centers who are liable for the retroactive tax.

And, to add insult to injury, experts agree that

the tax isn't doing the job it was designed to do.

The roll-back tax is the heart of a "Green Belt" law passed in 1973. It was then and still is the legislature's intent to keep farm and grazing land in agricultural use by taxing it on its value for agriculture instead of the speculative value it would have if subdivided and sold as suburban lots.

So a law was written that if the use of the land shifted from growing crops or grazing livestock to raising residences on lots, it would become subject to the roll-back tax, "which tax shall be a lien upon the land and become due and payable at the time of the change in use."

The trouble is it's vague language. It doesn't

specifically say when the change in land use occurs, or just who is liable for paying the tax.

The full four-year maximum roll-back established by the law became effective Jan. 1. Persons buying a lot that used to be part of a farm or ranch are subject to all four years of back taxes on that lot at its value for a residence — even though no house has existed there.

The tax is based on the average valuation of residential lots in the taxing district multiplied by the average mill levies over the roll-back period.

(Continued on Page 2)

Green Belt tax . . .

Continued from Page 1)

grazing livestock, he said. By inference the change in the land's character compels the buyer to put a house on it.

"The effect of that opinion was to take the tax off the developer, which was the legislature's intention, and put it right on the buyer," says Dennis Burr, administrator of the property assessment division of the state Department of Revenue.

That is how Fenton — and other buyers of suburban tracts — found the monkey on their backs.

Real estate developers don't have a problem with the roll-back tax, although

they opposed it. They simply point out that if they pay the tax it only will increase the price of the lot to the buyer. Fenton was told by the seller of his lot that he could either pay the roll-back to the developer or to Jefferson County, but either way he'd pay it in the end.

Fenton owed no taxes for the 1977 tax year because his house had not been erected on the assessment date of Jan. 1 and the developer of Blue Sky Heights had already paid the property tax on the entire 120 acres of tract two.

The bill was \$15, based on its old agricultural value. "We've been expecting a law suit but none has developed," Burr said. He said the amount of the roll-back tax, averaging around \$70-80, doesn't justify hiring a lawyer and fighting it in court.

However, with the full four-year roll-back period now in effect, Burr speculates that a group of buyers may band together in a test suit. In fact, this is just the approach Fenton is trying to organize.

"At one time title insurance companies, who were being asked to pay the tax, were mildly interested in challenging it," Burr said. Instead, the title insurance companies simply write an exclusion in their policies on the roll-back tax. By now, most real estate dealers now are telling prospective buyers about the roll-back division, but

The state revenue agency does not like the flawed law designed to keep rural land in agriculture and prevent urban sprawl. It is difficult to administer and it simply does not work.

"It doesn't do any good because it is after the fact of the land changing character," Burr said. "It should be up front before the change (in land use) takes place."

Burr said the aims of the Green Belt law could be better achieved by zoning instead of taxation. "The property tax system is just not sensitive enough."

S. Keith Anderson, president of the Montana Taxpayers Association, called the Green Belt roll-back provision a "can of worms" that is unworkable and unfair. "It's not a tax," he said. "It's a penalty for changing the use of the land."

As it is now the roll-back is a penalty on the residence owner despite the legislature's intent to penalize land speculators.

Problems with the law were pointed out to the 1977 Legislature by the Department of Revenue which sponsored a bill to repeal the roll-back tax.

The House Taxation Committee killed the repeal measure. The law stayed on the books unchanged.

Explains Burr: "Most everybody realized there are problems with it, but those who call themselves liberals couldn't bring

Friday, February 3, 1978

Great Falls Tribune

By encouraging ag land development

Greenbelt law missing mark

By THOMAS KOTYNSKI
Tribune Capitol Bureau

HELENA — Montana's "greenbelt" law, contrary to its intent, is actually encouraging development of the state's agricultural lands, a Department of Community Affairs study has discovered.

The law, passed in 1973, was heralded as a way to prevent erosion of the state's food-producing land by discouraging rural subdivision and development.

The law allows for lower assessment of agricultural land while discouraging development of that land with a "roll back" tax.

When a property owner converts agricultural land to a non-agricultural use he must pay the difference between the taxes paid on the property during the four years preceding the conversion and the taxes which would have been paid if the property had been taxed according to its market value during those four years.

The department's study concluded that:

—The roll back tax is ineffective as a deterrent to conversion of land from agriculture to development;

—The greenbelt tax is inequitable in its application because of an official opinion by former Atty. Gen. Robert Woodahl. Woodahl ruled that the roll back tax would apply to the actual developer, not necessarily the subdivider. The tax has thus worked as a tax shelter for subdividers while developers and purchasers of land get stuck with paying the roll back tax.

—The greenbelt tax works contrary to its intent by penalizing preferable

land-use conversion and favoring less desirable conversion;

—If the current law is strengthened it would actually encourage undesirable and poor development patterns.

The report is entitled "Differential Taxation and Agricultural Land Use."

Prepared by the department's planning division, it calls for actions necessary to remedy the law's inadequacies and tends to endorse "agricultural districting" as an alternative to greenbelt.

But, the report says Montanans are unlikely to embrace agricultural districting or any other device for protecting farmland "until they become convinced the vitality of the state's agricultural industry is actually being threatened by the unchecked erosion of our land resource."

Agricultural districting allows local governing bodies (including state legislatures) to create districts in which the conversion of land to non-agricultural uses is banned.

A legislative interim subcommittee in 1976 suggested the concept as an answer to Montana needs.

The report says the development of agricultural land should not be penalized when the land area in question has marginal productivity and is in the path of urban growth.

But, "paradoxically, Montana's (greenbelt) law functions in direct opposition to both of these fundamentals," the report said.

Because the roll back tax varies directly with the undeveloped market value of the land in question, it tends to encourage development of land located at a distance from existing urban areas

and to discourage urbanization of land adjacent to cities and towns, the report said.

The greenbelt law seems to penalize development of marginal land more harshly than the conversion of prime land, the report points out.

That is because agricultural taxes are higher for productive land than for poor land and that all things being equal, the greater the value of the land for agriculture the lower the roll back tax will be when it is taken out of production.

The report presents examples showing the impact of Montana's roll back tax will be negligible based on current market conditions and assessment rates.

It used as an example a land speculator who buys an acre for \$2,000 who invested another \$2,000 in it and sold lots for \$6,000 an acre.

The roll back tax for that speculator would be just \$111 for that acre, not significant enough to affect any decision to subdivide or the marketability of the land.

The report notes that the greenbelt law does not distinguish between productive and marginal land and fails to discourage development from the productive lands.

Because of this Montana's law provides tax windfalls to owners of property in areas where there is no development pressure and penalizes land development which may be best suited for urban growth, the report says.

The department said it would prepare a publication on agricultural districting in the future.

Should roll-back tax be rolled away?

The 1973 legislature passed a bill often described as an attempt to discourage subdivision and development of agricultural land.

The legislation commonly is called the greenbelt law, but technically it is a differential taxation law. And there is some confusion about the law's purpose. Was it drawn up as a land use bill to control rural subdivision or as a statute to reduce the farmer's tax burden?

Here's what the bill did:

— It determined that agricultural land would be taxed according to its value for agricultural purposes. This is in contrast to the basis of Montana's real property law: that land should be taxed at its fair market value.

— It also established a roll-back tax, which takes effect when there is a change in land use from agricultural to non-agricultural. The tax is equal to the difference between the taxes actually paid on the property for the last four years and the amount that would have been paid had the land been

taxed at its fair market value during that time.

While there has been confusion about the greenbelt law's main purpose, there is little question that the roll-back tax provision is not effective in slowing rural subdivision. In fact, the tax actually may be counter-productive.

The planning division of the Department of Community Affairs has explained why in a report first issued two years ago and revised and republished recently. The DCA points out that the roll-back penalties are not large enough to be a decisive factor in a decision of whether or not to subdivide.

Worse, the tax has the detrimental effect of encouraging subdivision of prime agricultural land over that of marginal land. When the roll-back tax is applied, it turns out to be lower for prime agricultural land and higher for marginal land.

Another problem stems from an attorney general's opinion determining that the filing of a subdivision plat does not constitute a change in land use. That

means it is not the subdivider who pays the tax. More often than not, it's the lot-buyer who will pay for the land use change. While the tax ordinarily is not too big, it is an unexpected cost.

Why the concern about the roll-back tax?

First, because the greenbelt law is attracting some attention now. County assessors have started to notify people who must pay the tax, which will reach its full impact this year.

Second, because it is ridiculous to have a counter-productive tax on the books. Alternatives that would discourage subdivision of prime agricultural land do exist and should be examined by the 1979 legislature.

But first, Montanans have to agree that subdivision activity is endangering agricultural property. And that may take some doing.

In the meantime, what Montana may need is a look at current subdivision activity across the state with emphasis on the impact on agricultural land.

Great Falls Tribune, Feb. 15, 1978

Greenbelt rollback tax ruling to get court test

Tribune Capitol Bureau

HELENA — The Department of Revenue will take the state's Tax Appeals Board to court over its ruling that the Greenbelt rollback tax is unconstitutional.

Dennis Burr, administrator of the department's Property Assessment Division, said that he doesn't believe the tax is unconstitutional.

"The main problem is that we have what is essentially an executive branch agency (the appeals board) declaring that a law passed by the legislature is unconstitutional," said Burr.

"I really think this is a scary precedent. Even though the board has a special standing as an appeals board it is still part of the executive branch."

Burr said he won't be displeased, however, if the courts concur with the appeals board and find the law unconstitutional. The tax has been unpopular in the department.

But, the department has been applying the law for five years and many

people have paid it, "so we have to challenge it," he said.

Burr said the board's ruling didn't appear very well researched or anchored to state and federal constitutional citations and therefore appears to be only "a layman's opinion."

The Greenbelt Act was passed by the 1973 legislature to prevent urban encroachment on prime agricultural lands. Agricultural lands receive lower assessments until they are developed.

When the development occurs and the land is taken out of agricultural production a rollback tax is applied and the land is taxed at its market value level for a period of four years preceding the development.

Appeals board member James A. Steffack said the board made its ruling to prevent collection of the rollback tax until the issue is resolved in court.

Burr said the department will continue to make rollback assessments and developers will have to appeal to prevent levy of the tax.

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Department of Community Affairs - Planning Division Comments on
"Greenbelt" Law and House Joint Resolution No. 42

Representative Azzara has asked the Department of Community Affairs (DCA) to describe its concerns regarding Montana's Greenbelt Law.

Montana is not the only state with a Greenbelt Law - over half of the 50 states have adopted some form of taxation which provides preferential taxation for agricultural lands. In many of these states, like Montana, the effectiveness of the laws are being questioned. These states passed their laws for essentially the same reasons that Montana's legislature passed ours. With the increase in growth which has occurred near many urban areas in the 70's more and more people have been concerned about the large areas of agricultural land being converted to urban uses, largely residential development. A recent Federal government report estimated that from 1967 to 1975 over 23 million acres nationally was converted to non-agricultural use and that about 1/3 of that was prime agricultural land.

In most urbanizing areas the value of land for development purposes will far exceed the value of the land for agriculture. Many farmers and ranchers became concerned that if their land was taxed at market value it would place an impossible tax burden on them at a time when agriculture was already facing difficult market conditions and force them to sell their land. This fear of high taxes has been the major reason that most states have passed greenbelt laws. As a matter of fact, however, this never was a serious problem in Montana before the Greenbelt Law was passed in 1973. In 1963 the State Board of Equalization directed all county assessors to assess agricultural land on the basis of its agricultural value, even though existing state law required that all land be assessed at market value. That policy existed until the Greenbelt Law was passed.

Simply stated, differential taxation is a method of taxation in which agricultural land is taxed at its value for agricultural purposes, unlike other real property which is taxed at market value. Most of the states have passed either one of two types of differential taxation:

- 1) the first type is preferential taxation in which all land in bona fide agricultural use is given a tax break
- 2) the second combines preferential taxation with a tax penalty when agricultural land is converted to non-agricultural use

Montana's law requires that when a property owner converts agricultural land to a non-agricultural use he must pay the difference between the taxes paid on the property during the four previous years

and the taxes which would have been paid if the land had been taxed at its market value - the so-called "roll-back tax."

In 1975 we prepared our first study of the Greenbelt Law. We had received a number of inquiries from other states regarding the effectiveness of our law in discouraging conversion of agricultural land and we wanted to know ourselves. In January of last year DCA published an update of the earlier report to reflect a number of relevant events that had taken place in the three years since its release.

We concluded in our first report three years ago that the preferential taxation aspect of the law probably achieves its limited objective - at least it provides that the farmer or rancher operating in an area where land values are rising because of development or speculation will not be squeezed out of agriculture by rising taxes. However, the goal of the roll-back provision was to actively discourage conversion of agricultural land. If anything we feel even more strongly about our original conclusions regarding the roll-back tax. Put plainly, it does not work and the effect may be the opposite of its original goals. The heart of the problem is the way the tax is computed itself. The roll-back tax is determined by subtracting actual taxes paid from the taxes which would have been paid at market value for the past four years. This means that the higher the value of the land for agriculture the smaller the roll-back tax will be and conversely the lower the value for grazing or crops the larger the tax will be. For example, given two pieces of land in a suburban area of about equal market value, one good agricultural land and one marginal land, the roll-back tax on the good land will be less because the difference between its value as good farm land and its market value for a building site is less than the difference between the value of poor farm land and its value as a building site. Instead of penalizing conversion of prime lands the tax places a higher penalty on developing poor agricultural lands and a lower penalty on developing the best agricultural lands.

Another frequently stated goal of the roll-back tax was to discourage urban sprawl or leapfrog development. Again, the practical effect of the roll-back tax is the opposite. In general, the farther land is from an urban area the less market value it has for development. For example, assume two pieces of agricultural land, both of about equal value for agricultural use, one close to an urban area, the other ten miles away. With the roll-back tax, the result will be that the land close to town, which should be developed, having a higher market value, will have a higher roll-back tax than the land ten miles out.

The roll-back tax was also viewed as a means of discouraging conversion of agricultural land by penalizing the subdivider for taking land out of production. As originally enforced by the Department of Revenue the roll-back was imposed when a subdivision plat was filed for a piece of land and the subdivider was responsible for the roll-back. However in January, 1976, former Attorney General Woodahl ruled that the filing of a subdivision plat by itself does not constitute a change in use.

According to the opinion, the land meets the requirements for agricultural classification until it is sold and a house erected. The result of this has been that it is the unsuspecting lot buyer, usually a year after he has bought his lot and built his house, who gets clipped for the penalty. The roll-back tax creates a hidden cost for the lot buyer who in most cases is not aware he is liable for a tax penalty until he receives his tax notice in the mail. The roll-back is being used, too. It was applied to about 350 pieces of property in Gallatin County alone last year. At the time our report was being revised in January, 1978 there were 22 appeals of the roll-back tax pending before the State Tax Appeals Board.

We also doubt whether the amount of the roll-back tax can seriously deter development of agricultural land. Our report uses an example of land selling for \$2,000 per acre in the Billings Area. According to taxing rates as of a year ago the roll-back would have been about \$111 per acre. According to a newspaper article the roll-back in nearby Jefferson County was about \$75 per acre last year. With land selling at \$1,000 to \$2,000 per acre it is unlikely that a roll-back of \$75-100 would seriously discourage development. In any case, most people believe that this amount would only be passed on to the lot buyer - a lot buyer who is already strapped for cash with today's rising housing costs.

Montana is not the only state to have problems with its Greenbelt Law. Three years ago the President's Council on Environmental Quality, the federal counterpart to Montana's Environmental Quality Council, published a 400 page report on differential taxation, the most thorough study yet. They found that greenbelt laws were not effective in preventing conversion of agricultural land. The basic reasons are that even if agricultural land is given a tax break or if you have tax penalties that cannot change the fact that a rancher may want to retire, or that farming is not profitable, or that when the rancher dies his family must pay large inheritance taxes. In suburban areas a tax break on agricultural land or penalties cannot save a farmer from kids or dogs pestering his livestock, from nuisance complaints from neighboring homeowners when he fertilizes, or from rising mill levies when new schools or fire stations are needed in the area.

Last February the State Tax Appeals Board declared the Greenbelt Law unconstitutional. The Department of Revenue has challenged the Tax Appeals Board's ruling in Great Falls District Court in the hope that they can finally get a definitive decision on the legality of the roll-back tax. From conversations with the people from Revenue and STAB we understand that court action is stalled and that the case is in limbo right now.

The Department of Community Affairs supports the proposal contained in House Joint Resolution No. 42 to create an interim committee to study the Greenbelt Law and recommend improvements. The

Committee may wish to consider broadening the interim committee's charge to not only examine the Greenbelt Law but also

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March 19, 1979

TO: Senate Taxation Committee

FROM: Teresa Olcott Cohea, Staff Researcher

RE: HB 45

As the Committee requested, I prepared the following brief analysis of HB 45.

COMPARISON WITH MUNICIPAL REVENUE BOND STATUTES

HB 45 is closely modelled upon the Municipal Revenue Bond Act of 1939. In fact, the language in the bill is in the majority of its provisions an exact replica of 7-7-4401 through 7-7-4505 with the word "county" substituted for municipality throughout.

The only differences are as follows:

1. Page 5. The House Local Government Committee added amendments that would allow cooperation between cities and counties. The Municipal Revenue Bond Act limits cooperative agreements to municipalities.

2. HB 45 omitted the following section contained in the Municipal Revenue Bond Act:

7-7-4407. Role of state agencies. It shall not be necessary for any municipality proceeding under this part to obtain any certificate of convenience or necessity, franchise, license, permit, or other authorization from any bureau, board, commission, or other like instrumentality of the state in order to acquire, construct, purchase, reconstruct, improve, better, extend, maintain, and operate an undertaking, but the supervisory powers and duties of the department of health and environmental sciences shall continue as heretofore.

History: En. Sec. 12, Ch. 126, L. 1939; and Sec. 106, Ch. 349, L. 1964; R.C.M. 1947, 11-2412.

The election provision (section 12) of HB 45 as introduced was identical to the provisions of the current statute governing municipal revenue bonds. Municipal governing bodies may at their "sole discretion" issue revenue bonds with or without an election. As worded, the bill still gives the governing body discretion to hold an election or not.

According to Bruce McKenzie, corporate counsel for D. A. Davidson, cities rarely hold an election for their issuance. Since the

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majority of revenue bonds are issued for sewer and water systems, the public hearing on rate increases to finance the bonds is usually considered sufficient.

MAJOR PROVISIONS OF HB 45

A. What projects may be financed by county revenue bonds?

Water and sewer systems, public airports, convention facilities, public recreation facilities, public parking facilities, and other revenue-producing facilities and services authorized by statute for counties.

B. How are the bonds issued?

Any county governing body may issue revenue bonds with or without an election on the question of their issue. Section 3(2) provides that this discretion may be exercised -- and the bonds issued without election -- even if other statutes would require an election.

C. What security is pledged for the repayment of the bonds?

Section 9 specifically provides that revenue bonds do not constitute a general obligation of the county. Rather, the bill would allow the county governing body to:

1. pledge all or part of the project as security for the bonds;
2. pledge all or part of the revenue generated by the bonds as security; and
3. "create and maintain reasonable reserves" to repay the bonds. These reserves may be financed from the project's fees.

Section 10 requires the county governing body to set rates or charges for the project to insure that it will be self-supporting.

These bonds have no recourse to the county's general funds. However, the county governing body may make payments to the project for its services (p. 10, lines 14 - 18).

Alternately, the county governing body may not transfer any of the project's revenue to the county general fund unless "adequate provisions" for repaying the bond and creating a reserve for "its betterment" have been made (p. 8, lines 17 - 19).

D. Who will operate the project, once constructed?

The bill would allow (p. 3, lines 10 - 14) the county governing body to operate the project financed by the bonds for the use of "public and private consumers within or without the territorial boundaries of the county".