

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

February 7, 1985

The twenty-fifth meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8:08 am in Room 413-415 of the Capitol Building.

ROLL CALL: With Senator Neuman's absence noted, all other members of the committee were present.

CONSIDERATION OF SB 261: Senator J. D. Lynch, chief sponsor of the bill, was recognized. Senator Lynch said the bill would eliminate the use and ownership restrictions currently required for golf courses to be taxed at one-half of the Class 4 rates. He said the bill would affect seven golf courses in the state and make all taxed at the same rate. He said that while tax revenue would decrease slightly, it must be noted that the value of surrounding real estate increases created a richer tax base.

PROPOSERS

Mr. Roger Tippy, representing the Committee for Fair Golf Course Taxation, spoke from written testimony (Exhibit 1).

Mr. Elmer Link of the Pryor Creek Golf Course said that taxes on the land for his golf course were originally \$350. He said currently they are \$32,000, of which the golf course pays \$24,000. He said that if this bill passes, the business would be able to break even. He said he had budgeted \$10,000 to \$12,000 for taxes originally. He said they aren't asking for a special break, but only to be taxed like everybody else.

Mr. Dennis Flick of Lake Hills Golf Course said his was a pre-1979 privately owned for-profit organization. He said that municipal-owned courses were off the tax rolls entirely. He said that they do contribute to the community in other ways as well; for example, by allowing high schools to use their course at no charge.

OPPOSERS

Ms. Marie MacLear, representing the Montana Association of Counties, said that they oppose the bill as another small chip in the tax structure that would decrease the income to county governments.

Questions from the committee were called for.

Senator Mazurek clarified that there would be additional tax income from the development of homes surrounding the courses.

Senator Eck asked if any counties other than those indicated by Exhibit 1 would be affected. Mr. Tippy said he was not aware of any except one in the northwestern corner of the state where the Crystal Lake Golf Course, now in receivership, was located.

Senator Lynch closed without comment.

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MOTION: Senator Mazurek moved that SB 261 do pass.

Senator Eck said she was concerned about the impression of voting tax breaks to golf courses.

With Senator Brown voting no; Senator Neuman absent, and all other members voting yes, the motion carried.

Chairman Towe then pointed out to the committee that they had failed to note the flaw on the fiscal note regarding an effective date for the bill.

MOTION: Senator Hager moved that the committee reconsider its action on SB 261. The motion carried unanimously.

MOTION: Senator Hager moved that the bill be amended to include an effective and applicability date. The motion carried unanimously.

MOTION: Senator Mazurek moved that SB 261 do pass as amended. With Senator Brown voting no, Senator Neuman absent and all other members voting yes, the motion carried.

Vice Chairman Mazurek assumed the chair. (Senator Neuman joined the committee at 8:36 am.)

CONSIDERATION OF SB 284: Senator Towe was recognized as chief sponsor of the bill. He said that in many cases loans were more appropriate than outright grants. He said the loan language passed last session is basically unworkable as not one loan has been issued.

He said this bill clarifies how these loans can be repaid. He said that first on lines 23 and 24 of page one fees generated from the loan itself can apply to the payback. Secondly, he said the bill allows the use of property taxes from coal to be used to pay back the loans.

He pointed out that normal indebtedness limits do not apply to these loans; and limitations on that were discussed.

#### PROPOSERS

Mr. Murdo Campbell, Administrative Officer for the Montana Coal Board, read into the record a statement by Mr. Hershel Robbins, Chairman of the Coal Board. It said that review of the loan procedure is necessary to get a workable loan program. He said the Montana Coal Board voted unanimously to make the loan program a viable part of the local assistance programs offered by the board.

#### OPPOSERS

Mr. James Mockler, Montana Coal Council, said that 75 percent of the property taxes in Big Horn County are paid by the coal companies. He said that coal companies are taxed for the money to lend and then taxed for the money to pay back the loan, totally circumventing a vote of the people, and doubling the statutory limits on indebtedness. Mr. Mockler said that when the loan door was opened they were promised that this would not happen.

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Ms. Pat Wilson, Montco/Thermal Energy, said that her company also opposed the loan program with repayment from property taxes based on double taxation. She said paying the loans back with fees, used in the example of rent paid on a teacherage, was no problem. She said they supported the concept in lines 23 and 24 on page one and opposed the remainder of the bill.

Questions from the committee were called for.

In response to a question from Senator Hirsch it was clarified that the coal board had not made one loan to date and that the loan program would apply to designated and nondesignated counties alike.

Mr. Rich Weddle, counsel to the Coal Board, explained to the committee the current legal limitations on school board problems with borrowing money.

(Senator Neuman was excused from the committee at 9:04 am.)

Senator McCallum clarified with Mr. Mockler that he had no objection to lines 23 and 24 on page 1.

Senator Towe closed by saying that the reason he had distinguished between fee repayment and property tax repayment was that he knew the committee may want to separate those items. He said that the statutory provisions regarding indebtedness should be looked at to be sure they are in keeping with the will of the people. He felt the school district loan for a teacherage on the reservation was a good example of the need for the bill. He said if the Governor's proposal to take \$6 to \$7 million from the coal board was passed, this program would be even more necessary.

Senator Towe resumed the chair.

FURTHER CONSIDERATION OF SB 64: Chairman Towe first called the committee's attention to the amendments to the bill proposed by its sponsor, Senator Aklestad.

MOTION: Senator Eck moved that SB 64 be amended as proposed by Senator Aklestad (Exhibit 2). Senator Eck said in support of her motion that the amendments drawn by Senator Aklestad do a good job in defining bona fide agricultural land. She said the discussion satisfied her that \$1800 in annual gross income would cover any bona fide agricultural enterprise. She talked about the cost of subdivisions to county governments and their commensurate inability to fund these things because the subdivisions are taxed at agricultural classifications. She felt the amendments would insure that any farmer engaged in agricultural activity would get the deduction.

Senator Goodover asked about fiscal impact of the amendments. Mr. Groepper said that with the amendments the taxable value would increase about \$51 million netting \$12.5 million increased taxes paid of which the state general fund portion would be approximately \$3 million.

Senator Severson felt it might be important to further amend the bill to allow agricultural designation to follow with a lease to a bona

fide agriculturist.

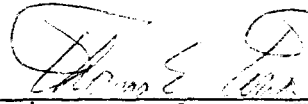
Senator Towe wanted the amendments to insure no penalty to a person trying to supplement his/her income with genuine agricultural operations. It was clarified that the gross income limitation was disjunctive and that alone would qualify a farmer for the deduction.

Senator Lybeck asked how a person harvesting a christmas tree crop once in every seven years would fit into these limitations.

Mr. Groepper explained to the committee that if the legislature does not act on this issue the Department of Revenue would have a hearing on elimination of the present discount and would move assessment to an adjustable market value.

Senator Towe suggested various amendments to the committee. The committee discussed the possibility of a committee bill which would separate the issues of farm residence taxation and changes in the green belt legislation. Senator Mazurek said the matters must be tied together to pass either one.

Chairman Towe requested that amendments be fully prepared for tomorrow's meeting which will reflect committee intent clearly. He adjourned the meeting at 10 a.m.

  
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Chairman, Thomas E. Towe

# ROLL CALL

## SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date February 7, 1985

808 am

Location -- Room 413-415

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Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman		✓	
Senator Severson	✓		
Senator Towe	✓		

COMMITTEE ON

# VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME James D. Mockler BILL NO. SB. 284

ADDRESS 2301 Copraial Dr DATE 5/7

WHOM DO YOU REPRESENT Mt. Coal Council

SUPPORT \_\_\_\_\_ OPPOSE ☒ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

COMMITTEE ON TAXATION  
STATE SENATE  
SB 261 BY LYNCH

Golf Courses Are Not Taxed Equally

Under present Montana law, the taxable value of most golf courses is 4.275% of their appraised value. A few golf courses are taxed at twice this level, or 8.55% of appraised value.

Treated Differently For No Clear Reason

The handful of golf courses - seven or eight - paying the higher rate of property tax do so because they were built after 1979 or because their ownership is some business form other than a nonprofit corporation. The great majority of golf courses being in existence prior to 1979 and set up as nonprofit corporations, qualify for lower rate. There is no rationale in the law for drawing these distinctions.

Tax Equity Would Not Cost Much

SB 261 has a fiscal note indicating minor fiscal impact to the state from halving the taxable valuation of the seven or eight existing golf courses now paying the higher rate. No unit of local government would be significantly impacted either.

Passage of SB 261 Averts Legal Challenge

The lack of a rational basis for taxing golf courses two different ways leaves the classification open to a lawsuit charging it violates equal protection guarantees in the Montana and U. S. Constitutions. Enactment of SB 261 would put all golf courses on the same footing again.

Courses Affected by SB 261 Need Relief

The seven or eight golf courses subject to the higher property tax rate have on the average operated at or below break-even levels recently. The relief which SB 261 would bring would dilute the red ink for some of them.

COMMITTEE FOR FAIR GOLF COURSE TAXATION

Pryor Creek Golf Club, Huntley--Highlands G.C., Missoula--Black Butte C.C., Havre--Lake Hills G.C., Billings--Eagle Bend G.C., Bigfork--Briarwood C.C., Billings--Meadow Lake C.C., Columbia Falls.

Roger Tippy, Lobbyist



Amendments to Senate Bill No. 64  
Amend SB 64, introduced copy

1. Title, line 6.  
Following: "VALUE;"  
Insert: "TO CLARIFY THE DEFINITION OF AGRICULTURAL LAND;"  
Following: "AMENDING"  
Strike: "SECTION"  
Insert: "SECTIONS"  
Following: "15-6-101"  
Insert: "AND 15-7-202"

2. Page 1, following line 17.  
Insert: "Section 2. Section 15-7-202, MCA, is amended to read:  
"15-7-202. Eligibility of land for valuation as agricultural.  
(1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year it meets any of the following qualifications:

~~(a) the area of such land is not less than 5 contiguous acres when measured in accordance with provisions of 15-7-206, and it has been actively devoted to agriculture during the last growing season, and it continues to be actively devoted to agricultural use, which means:~~

~~(i) it is used to produce field crops including but not limited to grains, feed crops, fruits, vegetables, or~~

~~(ii) it is used for grazing, or~~

~~(iii) it is used for growing timber, or~~

~~(iv) it is in a cropland retirement program, or~~

it produces not less than \$1300 in annual gross income in 1984 dollars, adjusted annually for inflation, from the raising of livestock, poultry, field crops, fruit, and other animal and vegetable matter for food fiber;

(b) it agriculturally produces for sale or home consumption the equivalent of 15% or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership; or

~~(c) it is used to raise animals in confined areas for the production of food or fiber, including but not limited to livestock, feedlots, dairies, fish hatcheries, and poultry farms.~~

it produces not less than 520 bushels of wheat, 695 bushels of barley, 30 tons of hay, or an equivalent measure or weight of any other field crop by comparison in the market for the year;

(d) it serves as grazing land supporting 40 animal unit months;  
or

(e) it would have met the qualifications set out in subsections (1)(a) through (1)(d) were it not for independent intervening causes of production failure beyond the control of the producer, in which case proof of qualification in a prior year will suffice.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation."

Renumber: subsequent sections

3. Page 1, line 22.  
Following: "on"  
Strike: "more than 5 acres of"

4. Page 2, line 6.  
Following: "Section"  
Strike: "2"  
Insert: "3"

5. Page 2, line 8.  
Following: "section"  
Strike: "2"  
Insert: "3"

6. Page 2, line 12.  
Following: "31,"  
Strike: "1984"  
Insert: "1985"

# STANDING COMMITTEE REPORT

February 7, 1935

MR. PRESIDENT

We, your committee on Taxation  
having had under consideration Senate Bill No. 261  
the first reading copy ( white )  
color

## ELIMINATING USE AND OWNERSHIP REQUIREMENTS FOR GOLF COURSE TAX REDUCTION

Respectfully report as follows: That Senate Bill No. 261

be amended as follows:

1. Title, line 7.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY  
DATE"

2. Page 3.

Following: line 15

Insert: "NEW SECTION. Section 3. Effective date--applicability.  
This act is effective upon passage and approval and applies  
to taxable years beginning after December 31, 1934."

AND AS AMENDED

DO PASS

EXHIBIT

Senator Thomas E. Yowe, Chairman.