

Senate Joint Resolution No. 21
Study of Taxation of Agricultural and Rural Nonagricultural Land

prepared for the
2001-2002 Revenue and Transportation Interim Committee

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Recent History

Montana Constitution

Over the years, the Montana Legislature has modified property tax policy with regard to rural agricultural and nonagricultural land in attempts to make the system as fair as possible while maintaining adherence to Article XII, Section 1 of the Montana Constitution. Art. XII, sec. 1 reads, in part: "The legislature shall...enact laws and provide appropriations to protect, enhance, and develop all agriculture."

Senate Bill No. 516

Senator Lorents Grosfield introduced Senate Bill No. 516 (SB 516) to the Senate Taxation Committee at the end of March, 2001. The minutes reflect Senator Grosfield's reasons for carrying the bill:

"Under current law, anything over 160 acres is automatically agricultural and is taxed at its productive capacity. However, in our modern economy, rural land is now being purchased by non-resident land owners and is not being used for agriculture. Some buyers are purchasing large ranches for their "American Dream" and taking the land off of agricultural production. Taking cows off the place, they may not need machinery, would not be raising hay, would not hire irrigators, would not need parts from town and would not buy bulk fuel anymore. This has a significant effect on the economy. As a result of all that, does the county lower its budget? The surrounding landowners are making up the difference of all that loss of taxable value. The rest of the people in the area are subsidizing the lifestyle of the "rich and famous" or the non-resident."

Witnesses and committee members alike agreed that a problem existed, but were uncomfortable with assigning a statutory income threshold that a landowner had to meet or exceed through the use of the land for it to be classified and taxed as bona fide agricultural land. Committee members pointed out that lease arrangements, production failure, and dryland farming particularly in Eastern Montana all contribute to the complexity of the problem that is not easily remedied by set income thresholds. A Subcommittee, composed of Senators Ellis, Glaser, and Stonington, further discussed the statutory income thresholds in SB 516 and determined that too much potential for unintended consequences existed. Recognizing that this would continue to be a real problem for Montana taxpayers, Subcommittee members recommended a Do Not Pass motion and requested instead a study resolution, which became SJR 21.

¹ pp. 3-4, minutes of the Senate Committee on Taxation, March 26, 2001

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It is clear from the Senate Taxation Committee minutes and from the text of SJR 21 what part of the problem is and why SB 516 failed to reach the Senate floor.

Preamble

The preamble makes a number of assertions that help identify the problem:

1. Agricultural land is increasingly being taken out of production for development and other nonagricultural purposes and is thereby becoming unavailable for agricultural production.
2. The Montana Legislature has long recognized that speculative land purchases and the encroachment of rural subdivisions has contributed, in part, to agricultural land being taken out of production.
3. Existing property tax laws may have the unintended consequence of taxing certain agricultural land at a higher effective tax rate than rural nonagricultural land.
4. Many large and small tracts of land qualify as agricultural land regardless of the use of the land, which may result in a shifting of tax burden to bona fide agricultural land.
5. The current property taxation of bona fide agricultural land and of rural nonagricultural land may contribute, in part, to agricultural land being taken out of production.
6. The Montana Legislature's goal is to maintain and encourage agricultural production as a viable component of the state's economy.
7. The Montana Legislature has consistently tried to achieve the goal of a fair, balanced, and equitable tax policy for rural land and agricultural land.
8. That goal has not been achieved and, therefore, a systematic study of the taxation of all rural land is appropriate.

Body of the Resolution

As the interim progresses, it will be important to revisit the language contained in SJR 21 to ensure that the study is accomplishing the analysis requested by the Resolution and passed by the 2001 Legislature. SJR 21 requests that an appropriate interim committee conduct this study, including, but not limited to:

1. an examination of the changing patterns of agricultural uses to nonagricultural uses of rural land in Montana;
2. an analysis of the underlying causes of these changing patterns;
3. a review of recent tax policy initiatives related to the taxation of agricultural land and rural nonagricultural land, including changes to the methods of valuation and classification;
4. a determination of whether existing tax policy related to the taxation of agricultural land and rural nonagricultural land is neutral with respect to whether the land

remains in agricultural use;

5. a determination of whether existing tax policy results in a shifting tax burden to remaining agricultural land and other property in a jurisdiction in which agricultural land is taken out of production and subsequently used for nonagricultural purposes;
6. an evaluation of whether existing tax policy related to rural land unintentionally subsidizes some nonagricultural uses of rural land and whether that may lead to corresponding impacts on traditional local economies;
7. an analysis of whether tax policy is an effective method of promoting continued use of rural land as agricultural land;
8. an evaluation of alternative tax policies, including changes to property tax rates and property classification, that promote an equitable and efficient tax burden on both agricultural land and rural nonagricultural land; and
9. an evaluation of whether agricultural income thresholds are appropriately used to substantiate agricultural use of rural land and an investigation of alternative methods that may be more appropriate or accurate.

Approach to the Study/Timeline

This plan proposes six general study phases, each of which will be spread out over one or two of the Committee's regularly scheduled meetings:

1. Identify the problem²
2. Analyze the causes/Review background information
3. Develop options for addressing the problem(s)
4. Identify advantages and disadvantages of the options
5. Committee analyzes options & decides which options to pursue
6. Final recommendations

The following process envisions accomplishing the analyses articulated in SJR 21.

² While the text of SJR 21 articulates part of the problem in general terms, there are other matters to consider when studying taxation of all rural land.

Meeting Date	Study Phase	Research Tasks Policy Issues	Committee Tasks Agenda Items
September 13-14, 2001	Problem Identification	<ol style="list-style-type: none"> 1. Prepare study plan 2. Provide review of current statutes/policies 3. Arrange panel discussion <ul style="list-style-type: none"> >what brought about SB 516? >what are the desired outcomes of the study? >what are the major study questions? 	<ol style="list-style-type: none"> 1. Review study plan & SJR 21 2. Adopt study plan 3. Panel discussion
December 3-4, 2001	Develop study questions, review background information, determine scope of the study	<ol style="list-style-type: none"> 1. Develop list of study questions based on panel discussion 2. Prepare background reports on: <ul style="list-style-type: none"> Other States: Do other states with similar demographics have similar problems? Montana legislative history on land use and property taxation Historical statistics, possibly on a county-by-county basis on number of farms, changes in land use over time, changes in ownership 	<ol style="list-style-type: none"> 1. Agree on problems and study questions identified, determine which are within the desired scope of the study and which are not 2. Receive reports on other states, legislative history, statistics 3. Identify initial options for staff to research
February 7-8, 2002	Develop options, analyze advantages and disadvantages	<ol style="list-style-type: none"> 1. Prepare list of options addressing each problem identified in December 2. List potential advantages and disadvantages of options and provide accompanying data 3. How have other states identified at December meeting handled the problem? 4. Prepare analysis of whether there is a correlation between historic changes in tax policy and changes in land use, ownership, and classification 	<ol style="list-style-type: none"> 1. Review report of other states and review/comment on correlation 2. Discuss options and advantages/disadvantages 3. Initial determination of preferred options

April 11-12, 2002	Finalize options to pursue, provide more information as necessary	Provide any additional information on preferred options, possibly draft legislation	Review/discuss options, recommend changes
June 6-7, 2002	Initial recommendations	Prepare/present draft legislation, other products that implement options chosen	Review legislation, other products of the study, propose changes
September 16-17, 2002	Final recommendations	Present final products based on May discussion	Take action on final recommendations

Desired Outcome/Products of the Study

1. Understanding of current tax policy, including current statutes and administrative rules
2. Clear picture of changes in tax policy over last 10-20 years
3. Clear picture of land use patterns over the last 20 years
4. Determination if there is any correlation between changes in tax policy and land use/determination of whether current tax policy is discouraging agricultural production
5. Identification of other factors (social, economic) that are contributing to decline in agricultural production
6. Legislation that the Committee has determined corrects some of the problems identified
7. Other?