

House Blocks Property Tax Restriction

BY BOB MERCER
State Capitol Bureau

PIERRE — The state House of Representatives rejected an attempt Wednesday to repeal the 3 percent limit on the annual growth of property tax revenue for county, city and township governments. The vote on HB 1218 was 23 yes and 45 no.

The measure's prime sponsor, Rep. Dennis Feickert, D-Aberdeen, said counties have been on a downward spiral since the limit was approved by the Legislature in 1995.

"Maybe, just maybe, it's time to do something," Feickert said.

The limit was passed as part of what became a 30 percent reduction in local property taxes from their 1994 levels.

Rep. Lee Schoenbeck, R-Watertown, said Feickert's legislation would also repeal the opt-out provision for property taxes.

"That's local control at the purest sense," Schoenbeck said about the opt-out, which allows a government to exceed the limit subject to a referendum.

He called Feickert's proposal "the largest tax increase South Dakota will see" and predicted levies will be increased in 63 counties.

But Rep. Nancy Rasmussen, R-Hurley, said her area's roads are in very bad shape and there will be roads closed.

"I think we are headed in the right direction for taking care of our roads," Rasmussen said. "However, in my area, we are going backwards."

Rep. Don Haggar, R-Sioux Falls, said counties spend most of their money on roads and law enforcement or jails.

"This would be a mistake," he said about repealing the 3 percent limit. "The

policy makers who put the limitation in place were correct."

Haggar said it's like putting a jar of candy on a desk. "Their appetite will rise to the level of candy available," he said.

Rep. Elizabeth May, R-Kyle, said she's been struggling with how to help counties.

"I'm sorry folks, the train has wrecked," May said. "Who's going to pick up the debt? There's no answer."

May said Bennett and Jackson counties are strained to the point that roads aren't maintained. She said county commissioners need the option.

Rep. Thomas Brunner, R-Nisland, said the Legislature seems "almost to be in a tax frenzy this year." He said he understands some counties are in trouble but they have the opt-out.

"The tools are in the counties' hands to do the job they have to do," Brunner said.

Rep. Kyle Schoenfish, R-Scotland, spoke in support. He said county and township officials in his area are property owners who often are farmers and business owners.

"They're going to have to pay those too," Schoenfish said. "And I trust them."

Rep. Lance Russell, R-Hot Springs, said he realized during the committee hearing that the topic needed at least a debate by the House.

He said the same troubles have beset schools.

"What Gov. Janklow did averted an absolute disaster," Russell said about the 1995 decision.

But now property assessments are rising and so are costs for law enforcement and jails, he said, at the same time that more K-12 school costs are being borne at the local level.

"We're backing our property taxpayers

into a corner again like we did twenty years ago," Russell said. "We've got a problem here. It needs to be addressed."

Russell said he couldn't vote for Feickert's bill however because there is so much need pent-up.

Rep. Burt Tulson, R-Lake Norden, stood to support Feickert. The roads are in bad shape and counties have difficulty passing opt-outs when many voters don't live in the rural areas, he said, while cities have sales tax revenues.

"In our lives we have to decide, a want or a need," Tulson said. "Our county commissioners are elected, they're voted on, and they're going to choose need."

Rep. Isaac Latterall, R-Tea, said he's surprised "such a large tax increase made it out of committee." He said Feickert's proposal would give county commissioners the authority to raise taxes against the will of the people.

Feickert in rebuttal said he hopes the Legislature approves more road and bridge funding but there are "at least half a dozen counties" that will need to borrow or issue bonds for their needs.

"Folks, we've got issues," Feickert said. "We're heading for another blow-out on property tax. There's no question about it. What do you want to do about it. We've got to talk."

House Republican Brian Gosch of Rapid City countered that he hoped the House would defeat Feickert's bill. Gosch said the opt-out is available. He recalled the annual growth of property taxes prior to 1995 was running 6 percent.

"That's the mechanism in place. It works," Gosch said.

Feickert said it's "pretty tough to get an opt-out passed" in Brown County with about 25,000 people in Aberdeen and about 13,000 in the areas outside the city.

Legislative Roundup

Breastfeeding Mothers To Get State's Protection

BY BOB MERCER
State Capitol Bureau

PIERRE — South Dakota could soon have a freedom of breastfeeding law. The measure won final legislative approval Wednesday from the state House of Representatives.

It allows a mother to breastfeed her child in any public or private location where they are allowed to be. It also prohibits municipalities from banning breastfeeding in public places.

Sen. Phil Jensen, R-Rapid City, is prime sponsor of SB 77. The lead House sponsor is Rep. Lynne DiSanto, R-Rapid City. Sen. Phil Jensen, R-Rapid City, is prime sponsor of SB 77. The lead House sponsor is Rep. Lynne DiSanto, R-Rapid City. It now goes to the governor for consideration.

• **FREE AGENT TEACHERS:** The state Senate approved more freedom for school boards and superintendents to negotiate special packages with individual teachers Wednesday.

The vote was 26-7 along Republican-Democratic lines. The legislation, Senate Bill 132, now heads to the House of Representatives.

"Businesses use these practices all the time and why shouldn't school boards have the opportunities," Senate Republican leader Tim Rave of Baltic said.

The legislation would allow a school district to pay a signing bonus, moving expenses and tuition reimbursement.

The special compensation would be in addition to the amount in a negotiated teacher's contract and couldn't be negotiated with the teacher's designated collective bargaining representative.

"One size fits all policy is not reasonable or practical because each recruitment situation is different," Rave said.

Democrats, however, said the governor's new education task force can study the issue.

Sen. Buhl O'Donnell, D-Sioux Falls, said some districts have already used these features within the current negotiating structure.

"This feels an awful lot like we're getting down the road of picking winners and losers," she said.

"It is just bad

management," Sen. Bernie Hunhoff, D-Yankton, said. "The problem isn't how we're stirring the pot. The problem is the pot isn't big enough."

• **DEFEATED AGAIN:** State senators rejected an expansion of South Dakota's trespass law to cover hunters, anglers and trappers who are convicted of illegally crossing private property to reach other land.

South Dakota already allows a judge to take away the licensing privileges for hunting, fishing and trapping for one year upon conviction for trespassing while hunting, fishing or trapping.

Sen. Betty Olson, R-Prairie City, wanted the penalty to cover them while they travel to a hunting, fishing or trapping spot as well.

The vote on SB 129 was 12 yes and 21 no.

"This is only aimed at the bad actors, not the good guys out there who are trespassing by mistake," Olson said.

Sen. Ried Holien, R-Watertown, said it's unnecessary. "Up in the northeast part of the state, we've got a lot of bad feelings," Holien said.

Holien said fishing and trapping involve water and the question of flooded private lands hasn't been resolved yet. He said people have been shooting at others.

"I just don't think it's the right time," Holien said. "It's in the hands of the courts."

Sen. Mike Vehle, R-Mitchell, supported the change and said it's a matter of common courtesy. "These people who say they don't know? Then go ask," Vehle said.

"You show respect for that person who owns that land and who has put money into owning that land and owning that cattle," Vehle said.

Vehle said the threat of the loss of license privileges can be an important deterrent.

Sen. Art Rusch, R-Vermillion, said the question of intent would have to be decided at a jury trial. He is a retired circuit judge.

"I don't think this is necessary," Rusch said.

The South Dakota Stockgrowers Association sought the change. This is the third consecutive year that an expanded trespass measure has been tried and failed.

Nebraska

Proposals Would End Mandatory Minimums

BY GRANT SCHULTE
Associated Press

LINCOLN, Neb. — Prison reform advocates are asking Nebraska lawmakers to end mandatory minimum sentences for certain gun and drug crimes, saying the get-tough-on-crime approach has backfired.

Their comments at a legislative hearing on Wednesday came as Sen. Ernie Chambers of Omaha presented a bill to eliminate the minimums for mid-level felony charges.

Chambers said such laws were popular when they were approved, but now the state is dealing with overcrowded prisons.

The measure would apply to felonies such as robbery, use of a deadly weapon, aggravated assault and various drug-crimes. Mandatory

minimums would stay in place for first-degree sexual assault and sexual assault of a child.

Eliminating mandatory minimums could allow inmates to qualify for parole an average of 2.3 years earlier, which in turn could ease prison crowding, according to the Legislature's fiscal office. It also could save the state nearly \$142,000 over the next two fiscal years, according to its estimates.

A second bill by Chambers would eliminate mandatory minimum sentences for certain offenders deemed habitual criminals.

Nebraska's prison population has grown despite a drop in violent crime and property-related offenses, such as burglary and theft. The statewide prison population was 5,221 inmates as of December, more than 59 percent higher than its

design capacity. Without new prison beds or other reforms, the crowding is expected to worsen.

ACLU of Nebraska lobbyist Alan Peterson said mandatory minimums would help ease prison crowding and give offenders an incentive to behave, because they could qualify right away for good-time credit that effectively cuts their sentences in half.

The current set-up requires inmates to serve their mandatory-minimum sentence before they start receiving the credit.

"This is a front-end reform aimed at reasonable changes to sentencing, which may and probably will have a good impact on the crowding problem," Peterson said.

Mandatory minimum sentences for selling drugs near a school have resulted in prison time for college

students who operated out of their dorm rooms, said Sarah Newell, a former public defender.

"You're seeing people getting charged with major felonies with mandatory minimums without a significant (criminal) history," said Newell, who now works for the Nebraska Commission on Public Advocacy.

Representatives for Omaha Mayor Jean Stothert and the police department opposed the bill, saying it would undermine their efforts to clamp down on gun crimes and gang violence. It also was opposed by the lobbying group for Nebraska's county attorneys, who argued that mandatory minimums serve as a deterrent.

Omaha sees 30 to 40 homicides per year, and most are gang-related.

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— Dennis Daugaard,
South Dakota Governor

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