

TAXATION COMMITTEE
45TH LEGISLATURE

Rep. Herb Huennekens, chairman of the Taxation Committee, called the meeting to order in the Governor's Reception Room of the Capitol Building, Helena, January 26, 1977, at 8:00 a.m. All members of the committee were present. Bills to be heard were House Bills 168 continuation, 198, 237, 277, 358.

Rep. Jack K. Moore, District #41, Cascade County, read a letter from the Governor to the National Guardsmen, describing the importance of the National Guard, and his appreciation for their efforts.

HOUSE BILL 168 continued Rep. Moore introduced General Harry Thode, Assistant Adjutant General, Department of Military Affairs. The National Guard is only available to the Governor. The state provides 3% of the expenses of the National Guard and the federal government pays 97%. Approximately \$750,000 is paid into the general fund through income taxes from members of the National Guard. \$15 million of federal money is spent in Montana for the National Guard, which is \$150,000 less than income tax paid in by the National Guard. There are 48-500 personnel in the Guard. Income tax relief could help keep young men in the guard, bringing into the state \$150,000 over and above their expenses. If the guard is not kept up to certain standards, Montana will lose their spending power and begin to lose headquarter units and could lose a squadron if their strength would be reduced. We are looking for a way to help recruit and retain the people they have.

Colonel Hugh McElwain, Montana National Guard Association, Helena, supports HB 168 as an incentive measure. See his attached testimony.

There were approximately 25 other supporters of this incentive measure at this hearing. See their testimony attached.

Rep. Esther Bengtson, District #59, Yellowstone County, sponsor of HOUSE BILL 358, explained this bill lowers the tax rate on livestock from Class 3, 33 1/3%, to Class 7, 7% or from an effective tax rate of 13.3% to 2.8%. See Exhibit A for a more detailed analysis of livestock taxes, and income produced by the livestock industry in comparison with other industries in the state. HOUSE BILL 358 The livestock industry carries an unreasonable share of taxes. Rep. Bengtson urges the Legislature to provide for an equitable taxation process for all unprocessed products and that they be taxed at the same rate. Cattlemen sell at retail, and their taxes are based on market value - inventories of other businesses don't list at retail, they list at their cost. Costs of today are much greater than they used to be for the livestock industry. Cattlemen are still going behind because of the erosion of the dollar due to inflation and low selling prices. Simple equity demands that something be done. Let's get it equitable and then decide how to get the revenues.

Zack Stevens, Montana Farm Bureau, supports HB 358. See his testimony attached. Believes tax savings offered in HB 358 can help in providing the stimulus needed to aid Montana's economy.

Ed Lord, rancher from Granite County, supports HB 358. See his testimony attached, "C". He thinks the livestock man is unfairly taxed.

Jack Hayne, rancher north of Dupuyer, Pondera County, spoke in support of HB 358. He believes cattle should be taxed the same as other inventories. See his testimony "D".

Roy Merit, Western Montana Stockmen's Association, representing 900 members, supports HB 358, believes there should be fairness in taxation. Other agricultural products are taxed at 7%, some not at all - believes there should be a more equitable tax rate. Western Montana Stockmen's Association urges the Montana Legislature a more equitable method of taxation be established, using an average inventory assessment. Exhibit "F".

Thomas E. Lane, Livingston, Montana, Park County Legislative Association, supports this bill. See his testimony requesting a more fair method of taxation. Exhibit "E".

Donald A. Berg, rancher, Martinsdale, Montana, Wheatland County, supports the bill. See testimony attached.

David L. Bertelsen, Ovando, Montana, Blackfoot Stockmen's Association, stated the livestock industry is the highest producing and lowest paid group in Montana. Just want fair and equal treatment. Supports HB 358.

E. Maynard Smith, Glen, Montana, Southwestern Montana Stockmen, Silver Bow County, urges support and approval of HB 358, which moves livestock to 7% classification. The present classification places an undue burden on livestock, which should be considered as an unprocessed livestock product at 7%.

George Lacey, Drummond, Montana, stockman, chairman of the Farm Credit Board and the Bank at Spokane, sees people throughout the Northwest and sees the trouble that cattlemen are in and it is serious. Old line cattlemen are in real financial difficulty. Any time any equity can be made, it would make it better for them. Supports HB 358.

Leo F. "Frank" Haegen, Buffalo, Montana, Fergus County Livestock Association, has 100 members. They need anything to help find tax equalization, so stockmen can stay in business.

The Beaverhead Ranchers Roundtable are in support of HB 358. 13 members signed.

Joe Tadevick, Shonkin, Montana, President of the Chouteau County Livestock Protective Association, stated they are in favor of this bill, and demand equal based taxation.

George Vogt, Sula, Montana, stockman, supports HB 358, saying taxes on our cows are \$6.86 in 1976. 10-12 years now taxes on a cow whose life length is that, adds up to about 1/2 her average when sold at 14¢ a pound. 10 years ago there were 9 stockmen in the cow and calf business, and in 1970 there were three left.

Jerry C. Tonne, Geraldine, Montana, Vice-president of the Montana Polled Hereford Association, supports this bill. They have 80 members. See his testimony. Taxes on cows are paid every year, while other inventories only pay once on the same product.

Lee Gibson, Buffalo, Montana, had to take out a loan to buy into his dad's place. His tax on cows is higher than the interest on the loan to buy the cows. It would help young men to get a start if taxes were lower.

Kenneth Vralstad, is in support of HB 358.

Jeff Doggett, White Sulphur Springs, Montana, Meagher County Commissioner and stockman, is a proponent for HB 358.

George Lackman, Department of Agriculture, Helena, is a proponent.

Cliff Haugen, Moccasin, Montana, Montana Red Angus Association, feels it would be fair and equitable to have all forms of commodities, including livestock, assessed on the same 7% basis.

Francis Engellant, Geraldine, Montana, is a proponent.

Clyde Deschamps, Ronan, member of the Board of Livestock, said in looking at the age of people who are in the livestock business and those who would like to be in the business, there is going to have to be some help or all of Montana is going down the tube.

Rep. Burt Hurwitz, District #45, Meagher County, is in support of HB 358. The Legislature has done away with solvent credit taxes and has put the burden on the back of a cow; has done away with household goods taxes, which went onto the back of a cow. Capital of banks is at 7%, wheat in the bin is at 7%, and none on solvent credits. There are other bills coming in to reduce taxes. He thinks it is about time to listen to the cowman.

Rep. Orval Ellison, District #73, Park County, supports HB 358, saying historically the cattle business has been one of the low return on the investment required, and it has always been this way - it has ups and downs - and has a low rate of return. What the cattlemen want is not a tax break, but just tax equity.

Other proponents of HB 358 left testimony attached. They are:

Bog Goggins, Goggins Herefords, Ennis; Roy D. Merrit, Hot Springs, representing the Western Montana Stock Association; J. Gail Patton, Lonepine, Montana, President of the Western Montana Stockmen; Carl Antern, Livingston, Montana; Dean Stanchfield, Wise River, Standfield Cattle Co.; Lowell Mallon, Wise River, Wise River Stock Association; Dorothy V. Cady, Martinsdale, Cady Ranch; Bruce M. Cady, Martinsdale, Cady Ranch; Wilmer L. Schmitt, Stanford, Judith Basin Stockgrowers; Mons Teigen, Executive Director of the Montana Stockgrowers & Woolgrowers Association, Helena; Chas. Zimmerman, Jr., Wilsall, Montana; Lee Gibbs, Buffalo, Mountain View Hereford Ranches; Jack M. Hayne, Dupuyer; Leroy Hill, Geyser, rancher, livestock feeder; Conrad Bodner, Raynesford, Montana; Bob Pimperton, Belt, Judith Basin Stockgrowers; Robert Anderson, Raynesford; Jim McDonald, Geyser; Tom Evans, Stanford; Donald

Jones, Wilsall; Dick Gardiner, Arlee, Western Montana Stockmen; C.E. "Ted" Lucas, Highwood; Wayne Hannah, Moore; Roger Bohleen, Wilsall, Park County Stockgrowers; Virge Holliday, Wilsall, who recommends dropping cattle down to 7% or raising inventories and livestock to the same class; Charles F. Petranek, Fergus, Petranek & Sons ranch; and many other livestock people were present.

Dean Zinnecker, Executive Director, Montana Association of Counties, advised there is no tax equity at the present time on cattle. Because of the fluctuations in the revenue from taxes on livestock and because of low price and numbers, the counties are uncertain of their revenue. If livestock taxes are lowered, real property will be taxed higher. When cattle prices are down, the real property is taxed more. The question is whether you want taxes based on the price of a cow or on the real property. Up to 20% of the taxes in some counties is on the cow. Cows have decreased in value the last year - our tax system cannot be on the basis of a cow. Their feeling is, because the inequities exist, all like inventories should be in the 20% class, putting all like inventory items in the same class. Urges the committee to request a fiscal note on this bill before passing it out.

Rep. Bengtson gave the committee petitions showing over 1,000 signatures in support of HB 358 and requesting reducing livestock taxes in general. She feels it is time to respond to their request.

Rep. Sivertsen asked: How are we going to alleviate the dilemma in the counties? When a stockman leases land, he doesn't pay the taxes on that land, but pays on his cows. Teigen stated there is no way to relieve the burden on county government - the tax burden will be placed on something. The problem today is inequity. There is no reason for the cowman to be treated inequitably. A man running primarily on the state or public land or leased land (the average run of ranchers in Montana have some public land in their operation) would have his cattle assessed at 7% rather than 33 1/3%.

Rep. Vincent mentioned the loss for the biennium in revenue would be \$3.6 million in 1975; \$450,000 loss in Beaverhead County. Rural people are very tax conscious and are aware that these lost taxes will have to be made up some other way.

Rep. Severson advised that the federal government is paying the county for in-lieu taxes payments.

Rep. Bertelson said if this tax is transferred to land, all the men who are raising something will be carrying a more equitable burden. Cattle are presently carrying \$4 million - there are some other commodities, and other property that could be considered. He doesn't feel it is fair for cattle to carry the burden they have all these years. Rep. Fagg asked if this is a means of getting a shift to urban property. It is an attempt to get equity. Rep. O'Keefe questioned assessing land at its market value. At one time counties owned a great deal of land that didn't bring in any taxes. 1 1/2-2% is the return on investment from income on farm land production.

Mr. Zinnecker recommends coming out with an inventory bill that would have all inventory-like items in the same class.

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This was a well-packed hearing in the Governor's Reception Room. The ranchers had come a long way to ask for equity in taxation of their inventories.

Rep. Ora Halvorson, District #16, Flathead County, sponsor of HOUSE BILL 281, advised this bill repeals the Montana Card Games Act, leaving bingo and raffles as the only authorized form of HOUSE BILL gambling in the state.

281 Rep. Aubyn Curtiss, District #20, Lincoln County, read a letter (attached) from Dorothea A. Armstrong, Kalispell, Montana, in favor of HB 281. The Mayor of Eureka feels there should be no expansion of gambling - see her testimony attached.

Rep. John Scully, District #76, Gallatin County, advised HB 281 is an alternative to Senator Lynch's bill. Rep. Scully is a deputy county attorney, and feels this bill needs some amendments. The Supreme Court recognized keno as a bingo game, in which there are no cash prizes. He cautioned the committee that in anything done in the gambling arena in discussion to take a look at the present language you have. You have to really know that we need control over the gambling - at the present time there really is no control. He thinks the committee should consider the fact that if you are going to have gambling operations, there should be control of it.

People will make money by selling their bars to someone else who will not be for the best interest of the state, but will be in the business to make money. If the gambling measures pass, small businesses will be wiped out. He urges the committee to pay particular attention to the bingo section and the raffles section of the present law and HB 281.

Carl Relshall, First Baptist Church, Eureka, active citizen of the county, pastor of the first Baptist Church of Eureka, is confused as to the proper language and form a bill should take, but is appalled at any type of legislation that smacks of a gambling enterprise. Any type of legalized gambling has a means of siphoning off money and activity from needs of families; and encouraging people in spending on nonproductive activity should not be done. See his testimony. Urges support of HB 281 - thinks young people should not have their problems increased by this legislation - there are no healthy benefits from gambling.

Rev. Lyle R. Person, pastor of the Evangelical Covenant Church, Helena, feels gambling takes money from those that can least afford it. He spoke in favor of HB 281 on behalf of the poor people.

Rev. George Harper, United Methodist Church, Helena, doesn't think gambling is necessary. Stands in support of this bill.

Rep. Hal Harper, District #30, Lewis & Clark County, supports the concept of this bill. There are people in trouble because of gambling. There is something worse going on right now. Any society begins to soften to illegal gambling when responsible society begins to condone gambling.

Rev. David Hayden, Christian Reliance Church, Helena, is a proponent of this bill from the standpoint of dealing with some illusions: dealing with the illusion of safety - we have lost the feeling of safety. There are many social problems. We have lost the feeling of security - the government has failed them. Anything in the field of government that allows the feeling of insecurity, then the government is failing the people themselves. History statistics show that what is going on in our society is a negative influence.

Rev. Tom Hocutt, Montana Southern Baptist Fellowship, Helena, supports HB 281, saying, "When we have gambling, you have problems". See his testimony.

Ann Maughan, Helena, supports HB 281. See her testimony.

OPPONENTS OF HOUSE BILL 281:

Neil J. Lynch, Taxpayers Relief Association, Helena, opposes this bill but is not necessarily in favor of sin! The question is what crime is being brought in by what gambling we have. The FBI has no evidence of organized crime that is moving into Montana. There was no evidence of any unusual criminal activity because of the existing forms of gambling. A measure the committee sponsored at the request of the president suggests that substantial or major portions of gambling are controlled by persons only slightly or not at all connected with organized crime. The gambling business may know if others are in the state and may do business together, but there is no single syndicate that controls gambling throughout the state. In 1972, the Constitution was 2-1 in favor of the provision for gambling being taken out. People voted for gambling for revenue and recreation. 51 out of 56 counties voted for gambling. Gambling was prevalent in the early stages of America. In 1890 all gambling was banned and during the Prohibition of the 1940s. It would be completely outlawed here until the new Constitution put the power in the Legislature to do something about it. The same people against alcohol are fighting gambling and want the Legislature to legislate morality. 6 out of 7 states voted to liberalize gambling. We need a good control law. Other bills coming in could enact a good control law. People are unhappy about the revenue provided. More revenue from gambling comes in than from alcohol. There is not a single business pursuit where you do not take the risk of a loss. He doesn't feel Montana is ready for that yet. We need to clean up existing laws - look at all legislation coming and enact legislation to control this. ERA - opponents based their argument that the ERA is immoral. Morality was the issue, but it didn't stop drinking. We have to make crime illegal!

Board of Crime Control representative hoped discussion of this bill would not bog down in discussion of morality. There is need for proper state control. Keno operations in the State of Montana have had them put in place because they are following the law. Over 100 keno operations' average investment is \$5-10,000; average employment is between 3-5 persons. Asks your vote against HB 281.

Robert A. Fowler, Butte, opposes HB 281. See his testimony.

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Kevin B. Maguire, Veterans of Foreign Wars #1087, Great Falls; and Joseph Silvernail, VFW Post want the laws left as they are now. Passage of HB 281 will hurt these clubs financially.

Ed C. Buller, Moose Lodge, Great Falls; and Mel Hasbrouch, Moose Lodge #532, Great Falls want laws left alone. They would have to do away with some of their services if these laws are repealed. They believe the automatic and mechanical types of bingo and keno machines are the most honest.

Rep. Melvin Underdal introduced Stan Watkins of Shelby, who is not in favor of putting restrictions on keno and doing away with electric and mechanically operated machines.

John E. Wolf, Eagles' Lodge #14, Great Falls, says to leave law as it is. Funds derived from bingo go for youth activities.

Sidney A. Dillman, Helena Artic Circle Drive in, Helena, enjoys bingo, and does not support HB 281, although he does not want gambling to go into the heavier types.

Mel Barber, Montana Coin Machine Operators Association, opposes 281. See his testimony.

Randy Cole, American Legion, Great Falls, operates bingo and keno type machines. If you take bingo-type machines away, he could not operate. He has many old people in the afternoons. He thinks the bill should be killed.

John P. Poston, Montana Coin Operators Association and Treasure State Games, Helena, advised the actual vote on the Constitution passed by 116,900-113,000. An amendment to allow the legislature to make laws on gambling was voted in 118,000 to 139,000. Montana Board of Crime Control advises that 91% of the people polled were in favor of bingo. The attorney general was asked if keno were included with bingo, and his answer was yes. Manually operated machines allow cheating. There is no evidence that organized crime is invading Montana at the present time because of gambling laws. They don't want to see any liberalization, but do not want to see gambling restricted.

Sidney D. Smith, Helena, opposes HB 281. See his testimony.

Rep. Halvorson closed, saying she believes the comments by the churches may be a little soft. Laws have already caused us problems in Montana. They have organized crime, according to their judge. We have organized drug rings. Some people are gambling to their complete detriment. Youth activities should be funded from something else other than gambling. We don't get enough revenue to provide the rest of the state to be able to bail her area out. The only difference is it hit us first since they are closer to places with organized rings. Let's get something done to control this.

The issue was to take the prohibition of gambling out of the Constitution and allow the people through the legislature to decide what they wanted. Rep. Scully advised the legal issue is the one that was voted on. It is hard to arrive at a standard of what the people were really voting for. They were voting for some sort of gambling.

Rep. Joe Quilici, District #84, Butte, sponsor of HB 198, handed out exhibits A, B, C. Doing away with the net proceeds tax on metals and replacing it with the gross proceeds tax. Net proceeds tax is paid only on the book projection. Gross proceeds is paid on value. The Anaconda Company pays approximately 96% of the total net proceeds in the state - they will also pay about the same percentage by changing to gross proceeds. This will have very little effect on the rest of the state. Because some years no tax was paid on net proceeds, it made it very difficult to run their local government and schools. In some years the company will pay more in net proceeds tax than they did on gross proceeds. When the county receives no net proceeds tax, somebody has to pick up this tab. We are attempting to come close to what has been paid under gross proceeds so that we can even out the payments.

Ken Morrison, Department of Revenue, Property Valuation Division. The department is a proponent because of ease of administering by the gross proceeds method. The net proceeds tax was in the 1889 Constitution, and the legislature had to devise a system for taxing minerals. There are three ways to do this: tax minerals in place; net proceeds tax; gross proceeds tax. Net proceeds tax takes value of the mineral after extraction which would allow for the valuation with a levy applied to arrive at the tax. At that time they chose net proceeds because of a lack of a better approach and that method is being used now. Gross proceeds on mineral is 45% and gross proceeds on metal mines would be 6%. Oil and gas net proceeds is 60% of their gross. The metal industry would be affected by this bill at a rate of 6%. In trying to place a value on the mineral, a levy would be applied in the local taxing district.

Dennis Burr advised the DOR has been working on the concept of gross proceeds for years. For many years the net proceeds tax has been locked in. The problem has been the fluctuations in the net proceeds tax. Any time there is production, there will be a tax under gross proceeds method. Under net proceeds the department has an awful time with audits. Interpretations of the law were different. Compromises had to be made. 6% of the gross production in any given year will be producing some income.

Rep. Harrington supports HB 198. He would like to see removal of the net proceeds tax. In Silver Bow County \$19 million worth of minerals were removed, but no tax was paid. He feels this is unfair.

Pat Smith, Northern Plains Resources, supports HB 198 because it has direct implications in development of the Stillwater area. They strongly endorse taxation of minerals on gross proceeds because there is usually an insufficient tax base to cover the cost of mineral development. Local tax base should be stabilized to avoid overtaxing

local properties. Gross proceeds tax is a much more equitable method of taxing. See his testimony attached.

Bill Sternhagen, director of government affairs of Anaconda Company, stated the thing wrong with gross proceeds is that you require the company (Anaconda Company) who do not have the money to pay the tax in many years, and don't feel it is fair to have to pay taxes when they don't have the money. They lost \$40 million in the last year. He doesn't think this is the year to raise taxes. HB 198 was supposed to equalize Anaconda's net proceeds tax by making it a gross proceeds tax but would raise taxes from \$800,000 to \$2 million. The committee asked to study the figures he presented (attached).

Gene Phillips, Kalispell, ASARCO stated they are presently investigating the possibility of underground copper mining near Bull Lake. Gross proceeds tax does not apply in the case of copper. When taxes on coal are raised, the consumer is the one who pays the tax. Copper is subject to the vagaries of a world market. Gross proceeds tax would still make for a fluctuation in tax revenue. It is hard to figure their tax impact.

Russell Chadwick, Interwest Mining Association, said look at the whole tax picture relative to other states and in Montana there is already between the source indemnity tax and metalliferous tax of 2%, and in addition, the corporate income tax and with the existing net proceeds tax, Montana is much higher in its total tax package relative to mining than any other state and scares off any prospective developers of mining. Existing and potential developments should be given consideration because of the fact that the gross proceeds tax is scary to anyone who is contemplating development or exploration.

Victor D. Wright, Alberton, Montana, Montana Mining Association, stated 7 out of 20 counties budget their expenses. Companies are afraid of the political situation in this state and back up on their proposed investment because of taxes. Anaconda has one of the lowest dividends on the stock market board.

D.B. Eamon, and D.H. Nearly, Anaconda Co., Butte, oppose HB 198.

William Banmeter, Silver Bow County, is not an opponent to this type of tax. Anaconda has been manhandled to the point of going out of business. ARCO is now Anaconda. They would have a higher rate of taxation under a gross proceeds tax, and this will only succeed in shutting down operations and Silver Bow County will be in trouble. The rate of the tax rate is the problem. Montana has much better mineral, but it isn't produced because of higher taxation. 4 or 5 companies would move into Montana if taxation were reduced.

Rep. Quilici closed, advising that Anaconda has never been audited and has been taxed using the figures they have presented to the DOR under the net proceeds method. This would be a tax on the minerals in Montana - they are a non-renewable resource and should be compensated for now. This is recommended by the DOR. It will cut the small miners tax in half; applies penalty; and gross proceeds taxes can be collected in 1977.

Mr. Sternhagen disagrees with the approach to the tax and on the rate, which would make it almost 3 times what it is now. They would have to pay in serious loss years, when they don't have the money to pay the tax. He based their figures on their projected five-year plan, which is shown in the exhibit he handed out. He recommends 2% which would equalize their taxes rather than the 6% as proposed by HB 198.

Rep. Fabrega advised that Decker is a bigger taxpayer than is Anaconda. What percentage would this increase Anaconda's tax overall including all property? They are the biggest taxpayer in the county and outside of Decker, the biggest in the state.

ARCO operates so that each part is accustomed to making money and doing things in such a manner so they aren't subsidizing any other part.

Burr advised in oil production, net proceeds is paid by the crude value; in metals, expenses are allowed. Net proceeds tax is not a strict showing of net income of a company. The DOR feels that over a period of time the 6% rate will average out.

Allowable deductions sometimes wipe out the tax base. Years showing no net proceeds are not necessarily loss years. The committee requested more information on deductions allowed by Anaconda in figuring their tax.

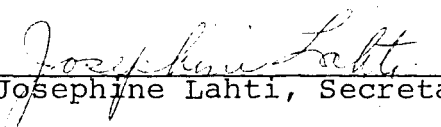
Rep. Hershel Robbins, District #46, Musselshell County, introduced Rep. Dassinger, who will carry House Bill 237 for him. HB 237
HOUSE BILL would change the coal severance tax exemption from 5,000 tons a quarter to 20,000 tons a year. This would give the small
237 miner a little leeway. He could mine 20,000 tons in the last quarter of the year. This bill is generally to try to relieve them from a high rate of taxation. These mines are mostly for home trade, and would allow mining of 20,000 tons in any one quarter with reduced taxation.

House Bill 277 was not heard.

Meeting adjourned at 12:00 noon.



REP. HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary