

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

January 30, 1985

The fourteenth meeting of the Taxation Committee was called to order in Room 312-1 of the state capitol at 8:02 a.m. by Chairman Gerry Devlin.

ROLL CALL: All members were present with the exception of Representative Harp and Representative Iverson, who were absent. Also present were Dave Bohyer, Researcher for the Legislative Council, and Alice Omang, secretary.

GENERAL: Dave Hunter, Director, Office of Budget and Program Planning, explained the fiscal note procedure. He said his office does not have any problem changing the fiscal note if a representative feels a mistake has been made. He said Terry Johnson of his office checks all of the fiscal notes for taxation. Representative Raney said one of the questions was how the OBPP arrived at their assumptions on how many motorboats there are in the state. Mr. Hunter said that the figure comes from the Department of Revenue and is an actual figure from the past year. Representative Raney said that the figure only reflects the number of motorboats or motorcycles that were licensed and there are more above and beyond that number that weren't licensed in Montana. Mr. Hunter indicated the sponsor of the recreational vehicle bill made an assumption on the number of motorcycles in the state; the fiscal note was based purely on historical data and was inflated by a trend of growth alone. This issue was discussed in length.

Regarding the specific fiscal note in question, Mr. Hunter said there will be a statewide impact but some counties will see more impact than others, depending on the mill levy.

CONSIDERATION OF HOUSE BILL 229: Representative Swift, House District 64, said this bill would exempt mink under 11 months of age from taxation under the livestock taxation. Representative Swift represents the folks from Ravalli County where they have 8 operations involving 5,000-6,000 animals on commercial mink ranching. He informed the committee that a mink is considered an adult at 11 months of age. Representative Swift explained that, as it is now, the ranchers are being taxed on January 1 for all of the animals they have and the life cycle for this animal starts in March or April when the animal is mature and breeds, which is only once a year. He continued that gestation is between 40-76 days; the animal born in June or July will only be 6 months

old in January, when they are taxed; but will not be able to breed until March or April and that is the reason for this bill.

PROPOSERS: Dan Huggans, a mink producer from Ravalli County, said this bill is what they would like in this area.

Corey Richwine, President of the Montana Furbreeders Association, said he thought the bill was correct the way Representative Swift presented it. Mr. Richwine said he represented about 25 ranchers in Montana.

OPPOSERS: There were none.

QUESTIONS ON HOUSE BILL 229: Representative Gilbert asked how old mink are when they are harvested for fur sale. Mr. Huggans responded that they are harvested at about 6 months of age.

Representative Gilbert said this bill would mean the fur-bearing mink would also be exempt from taxation. Mr. Huggans said, "Yes, it would."

Representative Gilbert asked if Mr. Huggans is taxed on the fur later. Mr. Huggans replied, "No, they are not taxed on the sale of the fur aside from state income tax."

Representative Ellison asked Mr. Huggans what kind of reasoning this bill has. He said other livestock are taxed after sale.

Mr. Huggans said 2% of the mink are incapable of reproducing. He explained, out of the 98% left, at least 20% won't bear any offspring and, as the bill stands, the operators are being taxed for animals that aren't reproducing. He advised that this bill would mean only proven breeders would be taxed.

Representative Ellison asked what would be the difference between minks and, say, fox.

Mr. Huggans said there are only about 200 fox raised in Montana and their numbers are minimal.

Representative Devlin asked how the department arrived at a value on a breeding mix the operator would have on January 1.

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Mr. Huggans responded the national average of all mink pelts sold is taken, which is compiled with a 1.25 ratio of the pelt price, which is then divided by the 5 females that are kept for every male used for breeding.

Representative Williams asked if there was a difference in the value between a male and a female animal.

Mr. Huggans said that there was. He advised, however, that this year, the black females were more valuable than the males but, generally speaking, males are more valuable by about \$3 or \$4.

Representative Raney asked Mr. Huggans what dollar impact this bill would have on 100 animals.

Mr. Huggans answered probably about \$150.

Representative Raney questioned how many animals a rancher would have on his ranch.

Mr. Huggans replied it would be hard to say on an average; in the Bitterroot area, there are about 1,000 females per ranch and about 7 ranches and this is not all of the females, just the ones under 11 months - the rest are already included in the taxable amount.

There were no further questions; Representative Swift closed saying this is a minimal amount; and the hearing on HB 229 was closed.

CONSIDERATION OF HOUSE BILL 346: Representative Bob Gilbert, House District #22, sponsored this bill at the request of the Department of Commerce. He stated, in the last year, the FAA has allowed an STC on certain types of aircraft and, according to the fiscal note, about 1/5 of the planes in the state qualify. Representative Gilbert advised that aviation gas is about \$2 per gallon versus \$1.10 for automobile gas; a Cessna 182 burns between 12 to 14 gallons an hour; and a person can save between \$1 and \$1.20 per gallon just on this tax alone. He said this is a tremendous savings.

PROPOSERS: Mike Ferguson, Administrator, Aeronautics Division, Department of Commerce, testified that they feel this bill is just and there is a provision in the law whereby certain users of auto fuels in airplanes may receive a rebate. He advised if it is used for agricultural purposes, they can get 100% back; of the 15¢ in this bill, the person would get 14¢ back and 1¢ would go into the aeronautics

account, and people using automotive fuel with a supplemental certificate issued by the FAA are entitled to this rebate. He said most of the aircraft using automobile fuels are the smaller planes but there is becoming widespread use of automobile fuels. He contended that few commercial users would use automobile fuel and this bill would primarily affect private users.

OPPONENTS: There were none.

QUESTIONS ON HOUSE BILL 346: Representative Ream said the fiscal impact statement said there would be additional revenues from this bill. He was confused by this.

Mr. Ferguson said 1¢ per gallon tax is the tax on aviation fuel so if we give back the 15¢ per gallon on automobile fuel, we still get some money from the 1¢ tax.

Representative Ream noted that there would then be an offsetting loss to the automobile tax.

Mr. Ferguson advised the impact would not be quite that negative because, under the existing laws, a lot of these people can already get portions of the rebate.

Representative Asay asked the Department of Revenue to respond to this issue.

Norris Nichols, Department of Revenue, said they agreed to refund 14¢ from the 15¢ tax for commercial use and the bill applied only to commercial use when they worked up the figures; and the Department of Commerce changed it to casual use also. He explained, at present, they reimburse 14¢-per-gallon for all gasoline used off-highway; this bill would refund 14¢ back to the purchaser because he has paid the 15¢ upfront at the time he purchased the gas; and they would put 1¢ in the aeronautics division fund.

Representative Ellison noted Mr. Nichols specified commercial use; and asked about agricultural users.

Mr. Nichols responded they would treat that as a commercial use; they only make 3 refunds at the present time; and two of those are dusters. He pointed out that if this bill passes, this will be open ended.

Representative Sands asked if this would not have a negative impact on the gas tax.

Mr. Nichols answered he has not seen that fiscal note and cannot respond to that question.

Representative Schye explained there would be an impact on the highway fund because of the 1¢ that goes to the aeronautics division fund.

Representative Sands indicated that is correct except for the fact that this bill expands the number of people who get the refund; in which case, the state is losing money.

Representative Devlin clarified that this would mean the Department of Revenue would not give the entire 15¢ back; it would give 14¢ back and send 1¢ to the aeronautics division fund.

Representative Raney asked if they were not already giving this tax back.

Mr. Nichols said, last summer when this issue came up, they agreed that they would give 14¢ back for off-highway use for commercial airplanes.

Representative Patterson said the difference this new law would make would allow the same break as agricultural and commercial users for private users and the loss would be what the private users get reimbursed for.

Representative Sands questioned, if the Governor's 3¢-gas-tax increase goes through, would this still be 15¢.

Mr. Nichols said he assumed it would be 18¢.

Mr. Ferguson contended that there are people who weren't using automobile fuel before, so it is an increase in this area.

There were no further questions. Representative Gilbert closed saying that these are new users of the off-highway tax break; and the hearing on HB 346 was closed.

CONSIDERATION OF HOUSE BILL 319: Representative Gerry Devlin, House District 25, said this bill changes the amount of tax gasoline distributors pay on the shrinkage they are allowed, tying the 2% in with the existing tax on fuel now, which is 15¢.

PROPONENTS: John Scully, representing the Montana Petroleum Marketing Association, said the bill was first enacted in 1969 and dealt with 2% of the first 6¢ on the tax at that time.

He advised there is a portion of gas that is lost to shrinkage; in 1971, the act was amended to remove aviation fuel from this consideration; and the loss under the present tax system is .003¢ per gallon as a result of the loss. Mr. Scully said these people (distributors) collect \$64.5 million per year for Montana and the state does not pay these people administrative costs for collecting that tax.

Doug Alexander, a gasoline distributor from Bozeman, testified that the cost of gasoline has increased over three times over what it was when this bill was first accepted in 1969, but their costs for shrinkage have remained the same. He said he is a small distributor but he is responsible for collecting \$1,050,000 per year.

John Braunbeck, representing the Intermountain Oil Marketers Association, said they are the lowest paid tax collectors in the state and he asked for concurrence in HB 319.

OPPONENTS: Gary Wicks, Director, Department of Highways, stated they opposed this bill because it takes money away from the highway earmarked account and, consequently, makes it harder for them to do their jobs. He contended if any fewer dollars were available in that account, they would have to go back over their projects and adjust their project list because they simply don't have the money for those projects if there are significant changes in the tax. He said the previous bill dealing with aviation use of gasoline does not have a significant impact on that account, but this bill does by about \$1.5 million over the biennium. He advised, if they pass this bill, they will probably see a similar bill for diesel fuel, which would also impact that highway earmarked account.

He indicated that each distributor gets about \$5,000 but, if this bill passes, it would be about \$12,700 for all 102 distributors and the \$1.5 million loss to the earmarked fund would have more of an impact than that impact because much of that money is used for federal matching money, which would be about \$9 million of federal dollars.

Bill Olson, Secretary/Manager of the Montana Contractors' Association, said they oppose HB 319 because this is eroding a very viable program (meaning the projects funded with highway earmarked funds) and he felt they are facing enough problems in Congress with interstate cost estimates which,

if not approved, Montana stands to be backed up about \$13-\$18 billion dollars. He contended the gasohol bill and this bill would erode the current program, and contractors in the association build approximately 90-95% of the highways in the state of Montana. They requested HB 319 do not pass.

Jim Manion, Assistant Manager, Montana Automobile Association, and Montana Highway Users' Association, said both of these groups would like to go on record as opposing HB 319. He stated neither group has any argument about what Mr. Skully proposed, but they are concerned with the erosion of the highway earmarked account. He said this erosion would have a significant impact on the highway projects list and recommended HB 319 do not pass.

There being no further testimony, the hearing was opened to questions from the committee.

QUESTIONS ON HOUSE BILL 319: Representative Zabrocki asked Representative Devlin if this bill covers dealers and marketers as well as distributors.

Representative Devlin answered they took a section of law where there was an established allowance and updated it for people who already are getting the allowance.

Representative Zabrocki asked about the dealers.

Representative Devlin responded they could probably be added in if this committee so desires.

Representative Ream told Mr. Skully that he has a friend who has a store; this person loses inventory through breakage; outdated shelf life, and shoplifting; and he adds these losses up and adds the cost to the remaining inventory to recoup the losses. He asked Mr. Skully if this is not done in the gasoline industry.

Mr. Skully replied a sales tax needs to be added to the business to be more manageable and these two issues aren't the same.

Representative Ream asked if the losses aren't tacked on to the charges to the consumer.

Mr. Skully responded, "No, they are not passed on."

Representative Ream asked Mr. Wicks if they couldn't tax the entire 15¢.

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Mr. Wicks answered the less taken from highway earmarked money, the better.

Representative Asay asked Representative Devlin if we couldn't move the effective date for this bill to the next biennium, saving any problems with the current programs that have been budgeted with this move.

Representative Devlin replied that this committee can do that if it is the consensus of the committee but it has been a long time since these people have had an increase.

Representative Cohen inquired, if this money is approved, will we see some increased competition or gas wars.

Mr. Skully responded that there probably would be some competition and he advised the losses were not all attributed to shrinkage and that administrative costs are included. He said a study showed that shrinkage and administrative costs run about 3.27%.

Representative Cohen said he thought this bill would lower the distributors' costs and, consequently, lower the price people pay for gasoline.

Mr. Alexander said competition determines the price for gasoline; dealers set the price on gasoline and distributors don't.

Representative Sands asked Mr. Wicks if there would, if this bill passes, be enough money in the highway earmarked fund for the federal dollars.

Mr. Wicks explained there are several measures before this legislature that would impact that account; they could absorb the \$1.5 million cost to the account for this bill; but, down the road, there won't be enough to match federal dollars if all of these measures are passed. He said the highway earmarked account cannot operate in the deficit and he would have to delete projects in the primary system.

Representative Koehnke asked Mr. Alexander if the money involved here would vanish due to competition.

Mr. Alexander said, yes, it could - competition could accomplish that.

Representative Harrington asked why gas is 9¢ more in Butte than in Helena.

Mr. Braunbeck replied when you are in business you sell what the market allows and there are some transportation costs involved.

Mr. Skully said, just because the price drops in one area does not mean the industry will feel the impact.

Representative Williams inquired if the suppliers allow any evaporation loss to the distributors.

Mr. Skully responded that they do, but the temperature controls the shrinkage.

Representative Williams asked if there is a percentage allowance.

Mr. Skully replied that there is not, but they assume the temperature correction will take care of any allowance. However, the temperature variations between cities create a significant difference, he explained.

There being no further questions, Representative Devlin closed and the hearing on HB 319 was closed.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 168: Representative Devlin presented proposed amendments to this bill (Exhibit 1). Mr. Bohyer went over the amendments and explained what they do. The third amendment adding subsections (6), (7), (8), and (9) merely gives Montana State University some direction on what the department needs to make the determination of productive capacity value. The fourth amendment changes the way the department will calculate what the effected tax rate is on agricultural land.

Representative Cohen asked who would pay the university to do this work. Representative Devlin said, if the amendments are accepted, a fiscal note will have to be prepared.

Representative Ellison mentioned that some of this information is already available at the present time.

Representative Asay commented this is not asking them to do anything they aren't already doing now.

Representative Ream asked, assuming that none of the other bills pass and this one does, what the impact would be on timber land (value).

Mr. Bohyer said, if none of the other bills pass, there could be a problem similar to what happened in the 34% cases because you have property in the same class taxed at the same rate that would be valued by different methods. According to testimony, timber values are based on stand volume tables and an estimated increase in the volume based on growth and access to markets and agricultural land values are based on datas prepared for the 1963 evaluation. Mr. Bohyer said the timber people might have an argument that their value was based differently than land in the same class. There was a good deal of discussion regarding this issue.

Representative Sands wanted the value formula included in the bill. Representative Devlin said Mr. Bohyer will work on this and bring the bill back to the committee.

Representative Ream moved to accept the amendments on Exhibit 1 and to amend the bill to include the value formula. The motion to accept the amendments carried unanimously.

Executive Action was closed on HB 168.

DISPOSITION OF HOUSE BILL 346: Representative Gilbert moved that this bill DO PASS. Mr. Bohyer said, if the Governor's proposal to raise the gas tax by 3¢ passes, 15-70-204, MCA, will say "18¢" and this bill will still say 15¢ and there will be a conflict. To solve this problem, the bill should say 15-70-204, MCA, and not have a figure. Representative Ream made a motion to amend the bill as follows:

Page 2, Line 5  
Following: "15-70-204"  
Strike: "at the rate of 15 cents"

The motion to amend CARRIED unanimously.

Representative Sands moved to amend the bill to say, "the refund made is permitted only in circumstances where the airplane is used for commercial purposes". Representative Schye said this is already being done for commercial purposes and there would be little impact if only commercial purposes were approved. Representative Sands withdrew his amendment. The motion "TO BE CONCURRED IN" passed unanimously.

Executive Session was closed on HB 346.

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DISPOSITION OF HOUSE BILL 315: Representative Sands  
moved to amend the bill as follows:

Page 4. Line 15  
Strike: "1984"  
Insert: "1985"

The motion to amend carried unanimously. Representative Keenan moved that this bill DO PASS AS AMENDED. The motion passed unanimously.

ADJOURNMENT: There being no further business, the meeting was adjourned at 10:57 a.m.

  
GERRY DEVLIN, Chairman

  
Alice Omang, Secretary

DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date January 30, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN		X	
IVERSON, DENNIS		X	
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

# STANDING COMMITTEE REPORT

January 30, 19 85

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **346**

**First** reading copy ( white )  
color

**AN ACT PROVIDING A REFUND OF TAX PAID ON AUTOMOTIVE FUEL USED IN AIRCRAFT; RESERVING AN UNREFUNDED PORTION OF SUCH TAX ON AUTOMOTIVE FUEL FOR USE BY THE DEPARTMENT OF COMMERCE;**

Respectfully report as follows: That **HOUSE** Bill No. **346**

**Be amended as follows:**

1. Page 2, line 5.  
Following: "15-70-204"  
Strike: "at the rate of 15 cents"

**And as amended**

**DO PASS**

# STANDING COMMITTEE REPORT

January 30, 19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 315

first reading copy ( white )  
color

**AN ACT TO PRORATE TAXES ON COMMON ELEMENTS OF A CONDOMINIUM PROJECT  
AND COMMON ELEMENTS SERVING LOTS IN A RESIDENTIAL OR COMMERCIAL PROJECT;**

Respectfully report as follows: That HOUSE Bill No. 315

**Be amended as follows:**

1. Page 4, line 13.  
Strike: "1984"  
Insert: "1985"

And as amended,

DO PASS

Exhibit 1  
HB 168  
1/30/85  
Devlin

Proposed Amendments to House Bill 168, Introduced Bill

Strike: "may"  
1. Page 2, line 23  
Following: "sources"  
Insert: "shall"  
Following: "include"  
Strike: "the"

2. Page 2, line 24.  
Strike: "department of agriculture"

3. Page 2, following line 24  
Insert: "(6) Montana state university shall annually compile commodity price data reflecting the average prices received per unit of measure by Montana farmers and ranchers. Such data shall be obtained from all geographical areas of the state. Commodity prices shall include but not be limited to wheat, barley, alfalfa hay, grass hay, corn for grain, corn for silage, sugar beets, dry beans, potatoes, cattle, and sheep. Such commodity prices shall include government payments calculated per unit of measure. Typical rental arrangements shall be compiled for each use.

(7) Montana state university shall annually compile adequate production cost data reflecting average costs per unit of measure paid by Montana farmers and ranchers. Such data shall be obtained from all geographical areas of the state. Such production costs shall include but not be limited to costs relating to irrigation, fertilization, fuel, seed, weed control, hired labor, management, insurance, repairs and maintenance, and miscellaneous items. Variations in specific production cost data, when affected by different levels of production and typical rental arrangements, shall be compiled for each land use.

(8) The commodity price and production cost data shall be made available to the department of revenue annually.

(9) The department shall appoint an advisory committee of persons knowledgeable in agriculture and agricultural economics to review the data prepared by Montana state university and advise the department on the implementation of subsections (2) through (8)."

Renumber: subsequent subsections.

4. Page 3, lines 11 through 13  
Following: "total" on line 11  
Strike: "dollar value of all property taxes levied in the state by the total taxable value of all taxable property in the state"  
Insert: "estimated tax due on agricultural land in the state by the total productive capacity value of agricultural land in the state"

WITNESS STATEMENT

Name Dan J. Higgins Committee On Taxation  
Address 2949 Highway 93 South, Hamilton Date 1/30/85  
Representing HB 229 Higgins & Rocky Min Support   
Furco  
Bill No. HB 229 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. We need to exempt mink for a period of 11 months so they reach the age of Maturity.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Stephen E. Conner Committee On Taxation  
Address Darby, Montana Date 1-30-85  
Representing MINK RANCHERS Support X  
Bill No. HB 279 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. *Here testifying on behalf of mink ranchers*
- 2.
- 3.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

WITNESS STATEMENT

Name Cory E. Richwine Committee On Taxation  
Address Rt 1 Box 19 a B Ronan, MT Date 1-30-85  
Representing Montana Fur Breeder Support   
Bill No. HB 229 Oppose \_\_\_\_\_  
Amend \_\_\_\_\_

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

Here to Represent Mink Ranchers of Montana

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.





