

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
HOUSE OF REPRESENTATIVES  
50TH LEGISLATIVE SESSION

January 7, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on January 7, 1987, at 9 a.m., in Room 312B of the State Capitol.

ROLL CALL: All members were present. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 25: Rep. Bob Ream, House District #54, sponsor of HB 25, said the bill would establish a coal research and development account to which portions of the coal severance tax are allocated for appropriation for specified research purposes. He explained the bill is the result of a Revenue Oversight Committee study of the matter.

PROPOSERS OF HOUSE BILL NO. 25: Larry Weinberg, Montana University System, stated his support of the bill to invest money in coal research in an effort to enhance the economy of the state, as well as the university system.

OPPOSERS OF HOUSE BILL NO. 25: Jim Mockler, Executive Director, Montana Coal Council, told the Committee he supported coal research, but was opposed to earmarking coal severance tax funds. He said tax dollars should be competed for in the appropriations process, the same as other revenue.

QUESTIONS ON HOUSE BILL NO. 25: Rep. Keenan asked Mr. Mockler why he was opposed to earmarking of funds. Mr. Mockler replied it was a matter of Coal Council policy.

Rep. Hanson asked how much money is spent by private industry on coal research. Mr. Mockler replied he was uncertain, and estimated it would be in the billions of dollars. He commented that university research is not private research.

Rep. Asay asked Mr. Weinberg what input would be solicited by the university system from coal research. Mr. Weinberg replied the university system has a relationship with the Bureau of Mines, and that it would not be self-generated research, purely of the interests of research.

Rep. Gilbert asked if the investments for the Science Technology Development Board, referred to on page 3, line 25

of the bill, would fall outside the coal development industry. Rep. Ream replied it would.

CLOSING ON HOUSE BILL NO. 25: Rep. Ream explained that much research has been conducted at Montana State University in Bozeman. He commented that the effective date of the bill could be changed to take effect after the upcoming biennium, and that if the Center for Future Studies causes concern, it could be incorporated into the bill.

CONSIDERATION OF HOUSE BILL NO. 46: Rep. Mel Williams, House District #85, sponsor of HB 46, said the bill would authorize the Department of Revenue to adopt rules relating to the collection of fees that fund the Department of Public Service Regulation and the Consumer Counsel. He provided copies of a statement of intent (Exhibit #1).

PROPOSERS OF HOUSE BILL NO. 46: Ken Morrison, Administrator, Income Tax Division, DOR, told the Committee he was concerned with the possibility of court challenges.

OPPOSERS OF HOUSE BILL NO. 46: John Alke, Montana-Dakota Utilities, said the statutes specifically describe what DOR needs to do to administer state taxation, and that this has been done, successfully, for the Consumer Counsel since 1973. He stated that when the PSC tax came up in the 1985 Special Session, he encouraged a five year limit in the bill, and now DOR wants this authorization for itself. Mr. Alke advised there appears to be inconsistency in how the PSC and DOR look at issues, and that they do not want to face this type of situation.

Mike Zimmerman, Montana Power Company, read from a prepared statement in opposition to the bill (Exhibit #2).

Gene Phillips, Pacific Power and Light, and Northwest Telephone, advised the Committee that the Consumer Counsel has operated for 14 years without these rules, and asked them to give the bill a do not pass recommendation.

QUESTIONS ON HOUSE BILL NO. 46: Rep. Sands asked Ken Morrison why rulemaking authority is needed if the statutes are clear. Mr. Morrison replied he believed rulemaking authority is necessary to allow the public to participate in the decision-making process.

Rep. Sands asked what the situation has been in the past with court challenges. Mr. Morrison replied he did not have that information, but would get it for the Committee.

Rep. Gilbert asked if the Montana Motor Carriers Association has ever challenged Consumer Counsel fees. Mr. Morrison replied that, to his knowledge, they had not.

Rep. Gilbert asked if the present situation were not indicative, then, that the system is working. Mr. Morris replied that DOR has been challenged in the past, and that is his concern.

Rep. Gilbert asked if there were a fear that DOR might try to steer the decision-making policy of the PSC, through its rulemaking authority. Mr. Morrison replied he could not answer that question.

CLOSING ON HOUSE BILL NO. 46: Rep. Williams advised the Committee that the Revenue Oversight Committee no longer sponsors bills, but agreed with DOR's request for the bill, to provide an opportunity for the public to participate in rulemaking authority.

DISPOSITION OF HOUSE BILL NO. 48: Rep. Harrington made a motion that HB 48 DO PASS.

Chairman Ramirez asked what the fiscal impact of the bill would be. Rep. Harrington replied that a fiscal note was not requested, because HB 48 is a revenue bill.

Chairman Ramirez asked why five years was proposed instead of seven years. Rep. Williams replied that the Revenue Oversight Committee learned that a number of states have done this, and it sounded logical to that committee.

The motion made by Rep. Harrington CARRIED, 10-6, on a roll call vote (attached).

DISCUSSION OF HOUSE BILL NO. 25: Chairman Ramirez asked Rep. Ream if he thought HB 25 should be assigned to a subcommittee for further study. Rep. Ellison commented the bill should be in subcommittee.

Chairman Ramirez asked Rep. Gilbert if he would call the PSC for their views on HB 25, and advised he would announce subcommittee assignments on January 8, 1987.

ADJOURNMENT: There being no further business before the Committee, the meeting as adjourned at 9:46 a.m.

  
Representative Jack Ramirez,  
Chairman

DAILY ROLL CALL  
HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Jan 7, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	/		
REP. ASAY	/		
REP. ELLISON	/		
REP. GILBERT	/		
REP. HANSON	/		
REP. HARP	/		
REP. HARRINGTON	/		
REP. HOFFMAN	/		
REP. KEENAN	/		
REP. KOEHNKE	/		
REP. PATTERSON	/		
REP. RANEY	/		
REP. REAM	/		
REP. SANDS	/		
REP. SCHYE	/		
REP. WILLIAMS	/		

# STANDING COMMITTEE REPORT

January 7

19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL 43

do pass  
 do not pass

be concurred in  
 be not concurred in

as amended  
 statement of intent attached

Representative Jack Ramirez, Chairman

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 1-7-87 BILL NO. HB 48

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN		✓	
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK		✓	
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		10	6

Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion: Do Pass

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\_\_\_\_\_

#1  
1-7-87  
46

STATEMENT OF INTENT

HB Bill No. 46

It is the intent of the legislature that the department of revenue enact rules on:

- (1) the form and content of the fee returns and reports;
- (2) the definitions of terms in the fees;
- (3) the method, manner, and time for maintaining records;
- (4) the method, manner, and information used for calculating the fees;
- (5) the method and manner for conducting audits; and
- (6) the method and manner for computing and collecting the fees when a taxpayer fails or refuses to file a return.

EXHIBIT # 2  
DATE 1-7-87  
# 46  
1/6/87

House Bill No. 46 - DOR Rulemaking Authority

House Bill No. 46 would give to the Department of Revenue (DOR) authority to adopt rules relating to the collection of fees that fund the Public Service Commission (PSC) and the Consumer Counsel. This authority, requested by the DOR, is unnecessary.

The method for determining the fee to be paid by each regulated company is set out in detail by existing statute. Section 69-1-223, for example, requires that each regulated company file with the DOR and the PSC a statement showing gross operating revenue resulting from the company's regulated activities. The statute delegates to the PSC the responsibility for determining the form of the report. Further, the regulated company, by the same statute is required to pay to the DOR a fee based on a percentage of the gross operating revenue "as determined by the DOR". The DOR's determination of the percentage is governed by details set out in section 69-1-224.

Given the detailed delegation of authority made by existing statute, there is no need for any rulemaking. This is emphasized by the fact that the statutes creating the Consumer Counsel fee were enacted in 1973 and, to date, there has been no need for any rulemaking "relating to the collection of the fee...." For fourteen years, the fee has been paid and collected without the need for rulemaking. There is no reason now to adopt rules or even to provide to the DOR the authority to do so.

Michael E. Zimmerman  
The Montana Power Company



January 7, 1987

TO: Members of House Taxation Committee

FROM: Representative Jack Ramirez

RE: Taxation Subcommittee Assignments

Tentative assignments for Coal Tax, Income Tax, and Property-Sales Tax Subcommittees are as follows:

<u>Coal Tax</u>	<u>Income Tax</u>	<u>Property-Sales Tax</u>
Asay, Chair	Patterson, Chair	Ramirez, Chair
Ellison	Harp	Gilbert
Hanson	Hoffman	Keenan
Raney	Harrington	Koehnke
Schye	Ream	Sands
		Williams

Assuming a bi-partisan joint subcommittee on Revenue Estimates is appropriate, subcommittee members are as follows:

Revenue Estimates

Harp, Chair (House)  
Ellison  
Harrington  
Sands  
Schye  
Williams

VISITOR'S REGISTER

HOUSE Taxation

COMMITTEE

BILL HB25

DATE Jan 7, 1987

SPONSOR Ream

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
J. Macklin	Helena	MT. Coal Council		
L. Weinberg	Helena	MT. Univ. Sys.	✓	
Russ Brown	Helena	N.P.R.C.		
Bill Birmingham	BUTTE	MSE, INC	✓	
Sheila Cates	Helena	State Library		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.  
 WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

Taxation

COMMITTEE

BILL

HB 46

DATE

Jan 7, 1987

SPONSOR

Williams

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
John Alke	W. Line	MDU		✓
RENEE PHILLIPS	KATHISPELL	PP&L & NTS		✓

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WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.