

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on June 27, 1989, at 10 a.m.

ROLL CALL

Members Present: 19

Members Excused: None

Members Absent: 3

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Announcements/Discussion: None

HEARING ON HOUSE BILL 55

A BILL FOR "AN ACT ALLOWING UNLIMITED PROGRESSIVE PRIZES IN VIDEO GAMBLING MACHINES CONNECTED TO A CENTRALIZED COMPUTERIZED SYSTEM; PROVIDING FOR A 25 PERCENT TAX ON NET MACHINE INCOME FROM EACH MACHINE ON THE SYSTEM; REDUCING THE TAX RATES ON PROPERTY IN CLASSES EIGHT AND NINE; REVISING DEBT LIMITATIONS OF LOCAL GOVERNMENTS, INCLUDING SCHOOLS, TO REFLECT THE CHANGES IN TAX RATES; STATUTORILY APPROPRIATING FUNDS TO LOCAL GOVERNMENTS AND, THROUGH THE FOUNDATION PROGRAM, TO SCHOOLS TO REPLACE REDUCTIONS IN REVENUES DUE TO REDUCTIONS IN PERSONAL PROPERTY TAX RATES; AMENDING SECTIONSAND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES.

Presentation and Opening Statement by Sponsor:

Representative Pavlovich, House District 70, Butte, and chief sponsor of House Bill 55, said this is a bill that was heard during the regular session and was tabled in committee. He said the purpose of the bill is to give property tax relief that the Governor proposed in the special session. He said there had been a similar bill in the Senate but it was held up there and this bill was introduced to take care of the Governor's request. He said he did not know what would happen in the Senate, but there was talk of them trying to raise the video poker tax to 25%. He said after hearing the bill he hoped the committee would set it aside and put whatever amendments were necessary in it. If things can not be worked out he would suggest the bill be killed. He read sections of the bill and discussed them saying he did not know for sure how much the machines would generate. He said there are two different proposals

which were passed out to the committee as EXHIBIT 1. He said he had asked for a fiscal note from the Budget Department, but had not received it yet. He explained the proposals and how they were figured to come out to the estimated gross income.

Testifying Proponents and Who They Represent:

Representative Rehberg, House District 88, Billings

Linda Dunaway, Manager of Sales, International Game Technology (IGT).

Representative Stang, House District 52, St. Regis

Representative Turner, Northwest Dealers Association

Gary Schwedes, owner of the Bullpen Card Room, Whitefish

Proponent Testimony:

Representative Rehberg said this was part of a package they had put together with the Governor for personal property tax relief, never anticipating that the Senate would hold the coal tax transfer capping hostage because Senator Crippen and several others want a sales tax so bad they are not willing to compromise on personal property tax relief until they get the sales tax. He said he would like to work for a compromise, and the combination of the coal and this bill will lower personal property taxes to 6%. He said if something is not done they will be back here in two or four years to talk about placing the entire tax burden on the residents.

Ms. Dunaway said IGT would be one of the proposed vendors of the system that is proposed in this bill and they are also one of the initiators of this bill. She said the purpose of this bill in the beginning was to help the gaming industry in general and saw this as an opportunity to assist the gaming industry to produce more revenue for the state and do it in a secure manner operated by a secure company. She said they do not consider this to be an expansion of gambling and explained why. She said if this bill gets tugged and pulled and they wind up in the middle, she would encourage the committee to kill it. If not it can help the gaming industry and help the state. She said each machine would be linked to a central location and would record the quarters that were put into the machines thus allowing a pooling process enabling them to give larger prizes and encourage more games.

Representative Stang said his county is number one of two that are consistently highest in the state in unemployment, yet they rate 7th in the state in revenues brought in from video poker machines. He said his constituents have told him to

forget the sales tax and get something going with gambling if we want to provide property tax relief.

Ms. Turner said they are proponents of this bill if it could be amended to legalize any game that is played by machine. She said there are 75 dealers in the northwest Dealers Association and about 2,000 people, mostly tourists, in the area that enjoy playing the games live.

Mr. Schwedes said he was at the hearing to support this bill, especially to support it with an amendment to allow any game that is played on a video machine to also be played in live card circumstances. He said they have a sleight ambiguity in the law relating to the game known as Jacks are Better. He said they are trying to clear that up, and in order to save the jobs of several hundred dealers across the state. They have anticipated a revenue of at least \$606,000 which the state receives from state income taxes, license fees, from tables and viewers. He said they want to make sure that the game that has been played in the Flathead Valley for eight years continues to be played. He said it is a form of poker which is exactly the same that is allowed on poker machines now. He said they want to save the jobs of 75 people in the valley, mainly single women with children, and urge passage of this bill with an amendment to that effect.

Testifying Opponents and Who They Represent:

Gordon Morris, Montana Association of Counties

Opponent Testimony:

Mr. Morris said the change of classification rate on Class 8 and 9 property has the same unintended consequences on county classes, county payroll and county mill levies. He would ask the committee to consider a technical amendment to the bill to incorporate Title 7, Section 1, Subsection 21-11. He stated that Mr. Heiman is familiar with the section which is the one that establishes county classification based upon taxable value. He said when you reduce taxable value you have to compensate by virtue of making an amendment to the bill. He said the effective date of the bill would be July 1 of 1989, and he was not sure how to incorporate the amendment into the effective date of the bill.

Questions From Committee Members: Representative Cohen said he had not been aware of the personal property tax reduction in this bill. He said in Section 24, Class 8 property is being reduced from 11% to 10%; Section 25, Class 9 property from 13% to 10%. He asked if it was felt by the Legislature if this money might be better used to subsidize the underfunded liability in Workers' Compensation if Representative Pavlovich would have any objection. Rep. Pavlovich said Representative Driscoll has a bill on Workers' Compensation

in it.

Representative Raney said when he discussed this with tavern owners in his community they weren't very happy with the idea. He said they were very pleased with their current machines and structure and just wanted to be left alone. He asked why some communities want it and some don't.

Representative Pavlovich said there were probably a lot of people in his area that feel these machines are set up in casinos, they would hurt tavern owners. He said there is some difference of opinion in each area, and felt if the bill was passed as it was presented originally it would be good for everyone down the line.

Representative Raney said that on the fact sheet handed out, one of the assumptions is that net revenue from existing video gambling machines will not decrease with installation of progressive machines. He said if he were to drop money in a machine he would go to one of the progressive machines because it would have a larger jackpot.

Representative Pavlovich said if there are both machines in a bar and 4 people to play, only one can play the machine at a time and the other 3 will play the other machines at the same time.

Representative Ellison asked if Rep. Pavlovich if he would walk through the process in which these people would be licensed and hooked up to make sure it is fair and if the casinos would be able to get all the machines they want and would the guy with only one machine have the same opportunity to get on line as the more profitable casino?

Representative Pavlovich said his assumption was that this would fall under provisions of Senate Bill 431 which would mean the Attorney General's office who will regulate it. He said the specifications are that a company will come in and bid it and put it on line. He said the proposed company is IGT out of Reno Nevada. They have set up a system in Nevada, and are currently setting one up in New Jersey and four other countries in the world, and anyone who had an all beverage license in the state of Montana that presently has a poker machine in it could tie into the system.

Representative O'Keefe asked about the proponents from the Flathead Valley who were talking about the live card games and the tie into the video machines around the state. In the new gambling law which was passed in the regular session, didn't the House have that provision in, and it was pulled out in the Senate?

Representative Pavlovich said in Senate Bill 431, Jacks are Better was brought up on the House floor, it was placed in a subcommittee in the Senate and Senators Brown and Mazurek

did not want Jacks are Better, so it was taken out.

Representative O'Keefe asked how this bill, either with or without Jacks are Better, tie into 431?

Representative Pavlovich said he did not know if it will fit in or not. He said the council would have to check that over, and his personal opinion was he did not want to cloud the bill up by putting it in.

Representative O'Keefe asked, even if it is not in there, how does it tie into 431? Representative Pavlovich answered that it ties right in with the present poker law we have now. It has the same regulations, etc., except with a new section to allow a hook up to a computer system.

Representative Driscoll asked how many taverns there are in the state and Rep. Pavlovich said 1600 all beverage license and on beer and wine said he did not know, but would estimate around 2,000 to 2,200.

Representative Gilbert asked about dedicated telephone lines. He said if you put a machine in Butte, Montana it takes a dedicated phone line. He asked if those lines could be provided and what the cost would be? Ms. Dunaway answered that they did not have the cost for Montana, and that would be put up for bid as well. She said they would absorb that cost.

Representative Gilbert asked if they could do the same for a business in Westby, Montana which is probably 120 miles from the nearest town of 5,000 people. Ms. Dunaway said that is one of the questions that has come up during the regular and special session and relates back to the earlier question. She said there will be locations in Montana that would not be able to pay for themselves in regard to telephone costs, etc. She said she could not tell the committee that there would be one in every bar in Montana, but would assume there are some that couldn't pay for themselves, and perhaps there could be some alternative solutions.

Representative Gilbert said he knew Westby and Richland and Whitewater are all small communities up in the Highline area, they have poker machines and they seem to be paying for themselves. He thought this is was not a game for everyone, it is a populated area game. Ms. Dunaway said she would not want to say the small communities couldn't afford it because they have found through experience that some of the outlying areas earn more money than some of the industrial areas. She said the Highline is a tourist area, and they might well pay for themselves. She said the reason dedicated phone lines are discussed is because the cost is not substantially more in relation to the security you get. She said there has been talk of installing dial-a phone lines where the computer would dial, but when you are

entrusting hundreds of thousands of dollars to computers, knowing what the machines are doing once a day is not enough.

Representative Gilbert asked if microwave hookups would work and Ms. Dunaway said they would, and those are being proposed in another state, and for outlying areas that already have a microwave system in place, that is a viable alternative.

Representative Grady said this type of gambling is already being done, and it seemed the biggest controversy is that a lot of people have a problem voting for any extension of gambling, and the Governor's threatened veto may be related to that reluctance. He asked Rep. Pavlovich if this would be an extension of gambling, or an expansion.

Representative Patterson asked for an explanation of Sections 29 and 40. He said they seem to have something to do with education and asked if someone was present from education that could explain it. Representative Pavlovich assured him that it had nothing to do with education. Rep. Patterson said with the personal property tax relief, it affected the schools, counties, etc., and would have to be replaced, and it refers to the personal property tax portion of the bill.

Representative Rehberg said the personal property tax relief lowers the base and somehow that money has to be replaced back to the schools, and that language is replacing the money. He said he also has a bill, House Bill 50 which is in House Education today that will complete the circle.

Representative Raney said he was still not buying this bill. He said the tavern industry is on the downhill slide in Montana for a lot of reasons, including the DUI laws, and the availability of money to spend, and he said he could see where they were staying in existence because of the machines. He said if you put these machines around, it must mean less revenue to that tavern. He said the testimony showed there might be more people playing the machines, but if you have to pay for the machines, the people who install them, the dedicated phone lines and the increased taxation, someone is going to lose, and he felt it would be the tavern owners.

Representative Pavlovich said he was correct in some respects. He said he feels these machines will generate more players and we have the tourists, Canadians who will stay longer in the state, would be a probable increase.

Representative Stang asked if the machines are in addition to the ones that are in the bars now, or do they fit into the ten total allowed? Rep. Pavlovich said they would be one of the ten.

Closing by Sponsor: Representative Pavlovich thanked the

committee for the hearing, said he hoped the committee could hold the bill until they saw what happened in the Senate which might cloud the issue, and hoped this could be put in a subcommittee for a study.

HEARING ON HOUSE BILL 51

"A BILL FOR AN ACT TO INCLUDE IN CLASS FIVE PROPERTY A NEW BUSINESS LOCATING IN MONTANA UNLESS IT IS IN COMPETITION WITH AN EXISTING MONTANA INDUSTRY; AMENDING SECTION 15-6-135, MCA; AND PROVIDING A DELAYED EFFECTIVE DATE".

Presentation and Opening Statement by Sponsor:

Representative Giacometto, House District 24, Alzada, and Chief Sponsor of House Bill 51, said we have been seeing over and over that people come in trying to get these property taxes lowered. He said there is no way of knowing how many businesses are out there that when they first look over the Montana property tax schedules, and immediately decide they are not going to come here. He said one of the major concerns is that they can't come up with a replacement revenue. He said HB 51 will give the state of Montana a lot better chance at drawing businesses in as it puts all businesses that aren't in competition with the businesses in place in a Class 5 level. He said this is a substantial decrease from the 11%. He said it would be a great incentive to get more people in the state.

Testifying Proponents and Who They Represent:

Chris Gallus, speaking in behalf of Butte, Silver Bow in place of Don Peoples.

James Tutwiler, Montana Chamber of Commerce

Proponent Testimony:

Mr. Gallus said that even if the bill came through, in their experience with competition with other states, they are 3 1/2% to 4 1/2% above the peak and to compete with those people at that level on the property tax in Montana it is almost impossible to get something like they are trying to get with the canola plant. House Bill 51 would address some of that problem.

Mr. Tutweiler said they would encourage the committee to give favorable consideration to House Bill 51. He said they believe the bill will serve a real purpose, but unfortunately it does nothing for the existing businesses in Montana. There are some efforts to provide property tax relief to those businesses in another bill. He said this would give favorable consideration to other businesses which are considering doing business in the state of Montana. He said there are some states that have no personal property taxes, and some that have lower rates than Montana has.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Representative Hoffman said he would set up a scenario. He said there might be two businesses wanting to come into Montana that are both in the same kind of business the first one to apply would be able to get this tax incentive? Representative Giacometto said there are a lot of situations that could be read into this and make it real touchy. He said there is rule making authority that will go into the Department of Revenue to enable them to make the decisions. He said it is important to try to get those businesses into Montana.

Representative Driscoll asked if page 4, Subsection 6 didn't take care of that and he read "in order to qualify as a new business property, the new business must not be in direct competition with an existing Montana business. An otherwise qualifying new business may be classified as a new business only if the property of the existing competing business is classified as Class Five property for taxation purposes. The DoR shall determine whether a business is a new business". He said he didn't know of anyplace in Montana that manufactures bullets, but if there wasn't and Peter Lange came in and they built a plant and got a Class 5; Remington wanted to come in, they would be in direct competition, but their competition is in Class 5, so they could come in. He said, you change if for retail merchandising, and he could not think of anything that is not merchandised in this state, you would always be in competition with somebody. If you include that, the department of revenue is going to have numerous arguments that there is not a Wallmark store even though there is a K Mart, etc.

Representative Giacometto said when it was first drafted, there was a 3 year incentive and then went back up to the regular rate. He said they had felt it was better to leave that open and it might be a bit of a headache for the DoR, but it would keep them from coming in each time to make another law.

Representative Stang asked if this bill were passed, what would it do to the canola plant since there are existing canola plants in the state now. Representative Giacometto said this would not affect it since that is a new business that is coming in that is in competition with something already in place. He said there is a section in the bill that would take a special piece of legislation. He said they would

have to address the other class of property and lower it in order to lower it for the new plant.

Representative Cohen asked if there was any one there from the DoR who could answer some questions. He said his concern is, suppose you attract three or four new manufacturing industries into the state. At some point weren't they going to be in a position where they would have older manufacturing industries and say they are just manufacturing industries. It is not significant that they are manufacturing different products, they are manufacturing, and therefore their tax rate is too high. Don't you feel they might have a legal claim to have their tax rate reduced?

Representative Giacometto answered that the best scenario is the more of those we get in here, the less the taxes on the businesses that are here now will be because if you have a larger tax base, the tax rate will go down.

Representative Cohen, addressing Representative Giacometto, said he lived in Flathead County, you live in Carter County, and the tax base is significantly bigger in Flathead County and the mill levies are also significantly higher. He said he wondered if the assertion Rep. Giacometto made might not be exactly the opposite. He said if you go to New Jersey where they have a big tax base, they also have a big tax levy.

Representative Giacometto expressed the opinion that if Rep. Cohen were correct they would not be here now with the personal property tax problems, and we would not have the fiscal problems we have in the state on education.

Representative Raney said he could see a hole big enough to drive a truck through, and wondered if he could close it. He said it was corporate reorganization, which makes for a new business coming to Montana. He said a prime example in his county might be a Montana rail line. He said it would be new business that came to Montana, they have 25% of the railroad in Montana now, it is a new business and is not in competition with Burlington Northern; but under the scenario another railroad could come to Montana, buy all the existing B. N. track in Montana and qualify under this.

Representative Giacometto said he did not think this could happen. There are other means of transportation in the state, and it would be in direct competition. He said whether it was on rail or truck, it would be in direct competition.

Representative Raney asked if for the executive session if Giacometto could get someone from the department to better answer all the questions which had been raised.

Closing by Sponsor: Representative Giacometto closed by saying

there is a possibility of some of these things happening and that is why the administrative rulemaking authority was included and maybe we do have to tighten it. He said, like the example Cohen was bringing up, if you get more businesses in the state there are more dollars going into the education system and into the cities and counties. He said this legislation is just trying to get more businesses into the state and therefore help with the economy of the state.

HEARING ON HOUSE BILL 52

AN ACT ESTABLISHING A 3.5 PERCENT RETAIL SALES TAX; PROVIDING FOR THE DISTRIBUTION OF THE REVENUE FROM THE SALES TAX TO THE SCHOOL FOUNDATION PROGRAM AND THE UNIVERSITY SYSTEM; REPLACING THE STATEWIDE LEVY FOR THE UNIVERSITY SYSTEM WITH REVENUE FROM THE SALES TAX; PROVIDING THAT A PERSON COLLECTING THE SALES TAX BE ALLOWED TO RETAIN 1 PERCENT OF THE COLLECTIONS TO COVER THE COSTS OF COLLECTING THE TAX; STATUTORILY APPROPRIATING A PORTION OF THE TAX PROCEEDS TO EQUALIZATION AID AND THE UNIVERSITY SYSTEM; AMENDING SECTIONS 17-7-502, 20-9-243, 61-3-501 AND 61-3-506, MCA; REPEALING SECTION 15-10-106, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

Presentation and Opening Statement by Sponsor:

Representative Wallin, House District 78, Bozeman and chief sponsor of House Bill 52, said the Legislature has been talking about the school equalization and suggested mill levies, surtax, etc., sometimes the feeling that none of us understand any of the bills. He said this is a simple bill, it takes 3.5% right off the top and makes it different from the other bills. He said it doesn't create any more money for the state to spend. He said until a retail sales tax is enacted they will not attract business to the state, because one of the things a business looks at is whether there is a high property tax and a high income tax, and do they have a sales tax. He compared the income tax, property tax and sales tax to a three legged stool which he said was much safer to sit on than a two legged stool. He said this bill is not a part of the state equalization, but the funds generated could very well be used to fund the short fall in the school bills that are under consideration. He said this would bring in new revenue and reduce real property taxes. The sales tax is not regressive but allows each individual to spend what he wants to buy. He said the 45 mill school levy stays on in this bill, so that out-of-state property tax owners still support our schools. He said at a meeting the other day he heard 280 million quarters a year are pumped into slot machines, so people are used to carrying small change that can be used for sales tax. He said there are 3600 Wally Bynum trailers in Bozeman right now with an average of 2 1/2 people per trailer and most of them have been there most of the month and will remain through the 4th of July. He said just that alone would generate a

considerable sum of money in the form of a sales tax, but even at 3 1/2% will provide a smaller sales tax than most other states. The taxes can only be raised by the vote of the people, and meets the requirements of I-105 where most of the other bills are dealing with sections of I-105. He said this bill will meet tax reform in the state since it is part of the necessary re-structure.

Testifying Proponents and Who They Represent:

Dennis Burr, Montana Taxpayers Association
Ken Weaver, Bozeman, representing himself
Bob Anderson, Montana School Boards Association
Tom Hopgood, Montana Association of Realtors
Laurie Shadoan, Bozeman Chamber of Commerce
Jim Tutweiler, Montana Chamber of Commerce
Charles Brooks, Montana Retail Association
Steve Turkiewicz, Montana Automobile Dealers Assn.
Representative Roger Knapp, House District 27, Hysham, and a
teacher of Government and Economics at the High School level
Robert Allard, representing the Governor's office

Proponent Testimony:

Mr. Burr said the sales tax bills they have supported during the last two regular sessions have contained some provisions to reform the Montana classification system for property taxes. He said they would support this bill, even though it does not reform the personal property tax classification, but feels it is important to balance the entire tax system. He does not think that will happen until the state adopts a retail sales tax so we do not stand out from our neighboring states or other states in the United States. He said right now we have the highest tax rates in the United States and some of the highest income tax rates. He said if we are going to keep business in Montana and stop losing population and encourage business to come to Montana we have to develop a tax system that is somewhere in the middle so that when companies look at locating in Montana, taxes are not a major issue. He said the Canola plant if it is located in Butte would pay four times higher taxes than it would in the other two places it might locate. He gave an example of an existing business in Montana, Western Sugar in Billings which has four plants, one is in Scotts Bluff, Nebraska and on a particular piece of equipment in 1988 paid \$3,618 in property tax. He said the same piece of equipment in Fort Morgan Colorado paid \$3,887; in Lovell Wyoming, \$1,279 and Billings paid \$9,366 in property tax. That is over seven times higher in Montana than in Wyoming. He said sooner or later we will have a vibrant economy in Montana and will have to balance the entire tax structure.

Mr. Weaver said he is a teacher, teaching Local Government at the University. He said he supports this bill but would have preferred the Bradley Crippen bill. He said he had recently

ran some numbers on all 128 municipalities in the state and found out that half of them are in trouble. He said that House Bill 52 would get the I-105 burden off the local governments and would have a revitalizing and refreshing effect. He said those who benefit from education in our state should have an opportunity to pay for that education, and the sales tax would enable us to do so.

Mr. Anderson said they support the concept of a general sales tax as one of the sources of revenue to provide funding for public elementary and secondary schools in Montana. He said the MSBA Board of Directors adopted guidelines in January of 1989 concerning tax reform and sales taxes. He said he had read them during the Crippen Bradley bill and read them again to the committee members.

Mr. Hopgood said on both bills during the regular session they had appeared in support of the sales tax, and are appearing in support of this bill. He said they believed the enactment of a general sales tax in the State of Montana is the corner stone of property tax reform, and they believe it is a step in the right direction and an opportunity to introduce meaningful tax reform in the state.

Ms. Shadoan said they support the sales tax and they feel they are on a collision course and we will see CI 27 again unless we do something. The sales tax seems to be the one thing we can look at that is a positive direction to balancing our tax system.

Mr. Tutweiler said in their communications with the small businesses across the state, they consistently hear expressions of a need for a sales tax. He said their reasons parallel the ones that have been given by other proponents.

Mr. Brooks said he represents a number of small main street merchants. During the regular session they had completed a survey of their membership as to their position on sales tax, and the results were of a 43% response rate, 63% of those responding favored a sales tax providing they would provide a property tax relief, both personal as well as property tax relief. He said 76% of those responding favored some exclusion such as food and medicine. He said those responding felt there is a need for major overhaul of the unbalanced tax system in our state.

Mr. Turkiewicz said through the various sales tax proposals in the past few months their position has been consistent. If a general sales tax be adopted, several factors regarding motor vehicles be included. He said one is that all car sales would have a sales tax applied, that the trading difference between the vehicle being traded and the one being purchased be the amount applied to, and the consideration of the current collection system and the

current new car sales tax be utilized. He said House Bill 52 does this, and they support House Bill 52

Representative Knapp said from a committee stand point, if they are to keep business viable in Montana, and keep our young people in the state, they have to consider the sales tax as an issue in the state. He said all through the years in Hysham they have educated top quality students who have graduated from our university system and who for lack of jobs in the state go elsewhere. He said if we will continue this export of our brightest and best, until we restructure some of the tax structure in the state of Montana so we can improve the economic climate. If not, that exodus is going to continue. He said he felt the sales tax is the only tax that meets the criteria of the school equalization.

Mr. Allard said he was sorry that Dr. Nordtvedt was unable to be present but he had been here earlier to tell the committee that the body of the bill is supported by the administration and by himself. He said there is an opportunity to pass a sales tax and there is no other way to settle some of these problems. He said he would ask Wallin if the hearing could be left open to hear Dr. Nordtvedt's testimony, or at least have him available for questions and answers. He said this bill would save a lot of taxing on other sources that they were opposed to.

Testifying Opponents and Who They Represent:

Robert VanDeVere

Don Judge, AFL-CIO

Earl Reilly, Montana Senior Citizens Association and Low Income Coalition

Gail Stoltz, Executive Director, Montana Democratic Party

Representative Vernon Westlake, House District 76, Bozeman

Opponent Testimony:

Mr. VanDeVere said he was a concerned citizen, lobbyist and a Republican Precinct Committeeman in Grady's district. He said when the Governor says "line up" he refuses to line up, he listens to the people outside since they are the ones he lines up for. He said if you mention sales tax to the people outside, you learn a lot of new "cuss" words. He said this is the same old hash-over, and the businesses wants to be sure they get enough money to handle the tax. He said up in the Flathead Lake area this morning over 400 people are going to be out of work because of the cherry crop. He referred to women with children who cannot afford to pay the tax and asked the committee to see how many people are on minimum wage who cannot afford to pay a sales tax. He said he hoped what he heard in the halls, "Let's kill that dead horse" is right, and urged the committee to kill the bill.

Mr. Judge said they believe this is a regressive and unfair tax,

and he feels that of all the sales tax bills that have been heard in the past several months. House Bill 52 is the most unfair. His testimony is attached as EXHIBIT 2.

Mr. Reilly said the name of the game here is shifting taxes from those who can pay but don't want to, to those who can't pay. He said he would agree with the AFL-CIO testimony that this should be put to a public vote and not arbitrarily put over on the people. He also agreed with the AFL-CIO that the constitution guarantees the people the right to reject legislation through an initiative process, and if this bill were passed he would work toward that objective.

Ms. Stoltz said they were "against" it in January and "against" it February, and are still "against" it in June. She said the party's position is to oppose the sales tax, and does not meet what the party feels is good tax policy which is basic tax on the ability to pay. She said this bill does not take that into account and no sales tax in the true form can take into account a person's ability to pay. She said there is always one group that is not represented here, the middle class families who ultimately pay this tax. She said many of them feel they are over-taxed and do not receive fair consideration since they are middle class families who will not be exempted from any sales tax in Montana. They pay a good share of the income taxes already. She said whether they like the tax or not, the majority of the people say they want to vote on it, and they would recommend a do not pass.

Representative Westlake said he was appearing as an opponent to this bill primarily because of his concern for having observed the problem faced in the past session that he felt was basically caused because they couldn't arrive at some sort of resolution for a tax reform, basically revolving about the sales tax issue. He said he felt the basic reason for the special session was to address the equalization issue and he would hoped this committee would consider some type of a tax reform proposal that includes all these things, but in the form of an interim study, and not bring the sales tax issue into the discussion. He felt it precluded them from arriving at an equalization resolution.

Questions From Committee Members:

Representative Koehnke asked if he had heard Wallin say there was something in the bill to keep it from growing like a weed and Wallin answered that any change had to be voted by the people. He said that it was on page 8, line 16 of the bill.

Representative Stang asked Dennis Burr regarding his testimony when he alluded to the Great Western Sugar Company and their cost of property tax versus the other states where they operate. He said, over the years he had been given these same figures by the Stone Container Corporation, but every

time he asked for those figures, for the total figures for the total tax liability which is their income tax, sales tax, etc., they have been unwilling to give that to him. He asked Mr. Burr if he could get that same information for the Great Western Sugar Company? Mr. Burr said he could ask and they would probably give it to him. He said U. S. West (then Mountain Bell) operated in seven states. The property tax in Montana ran \$32 per \$1,000 of investment; the average of the seven states including Montana was \$16. He said that was just property tax, and if you took all the taxes they paid in Montana compared to the other states, the total in Montana went up more than the total in the other states. We were extracting more taxes without a sales tax than the other states that have sales tax. He said he could not tell if that would be the same for Stone Container, but felt it would.

Representative Stang asked Mr. Burr who the members of the Montana Taxpayers Association were? He said he represents about 5,000 people and when he talks to them 90% of them do not want a sales tax, so he said he would like a list of the members of the Montana Taxpayers' Association so that he knows who they are because he did not feel they lived in his District.

Mr. Burr said he could not give him a list of the Montana Taxpayers' Association. He said there are about 1500 people, a lot of small businesses, and some large businesses.

Representative Stang asked Mr. Brooks how many retailers there are in the State of Montana and was told the Department of Revenue says there are approximately 6,500 to 7000. Stang asked how many of those were members of his Association and Mr. Brooks said about 1,000. Stang said, you represent less than 1/5 of the retailers in Montana and yet you come in here and say the retailers in the State of Montana are in favor of the sales tax? Mr. Brooks said as a representative of those 1,000 members, yes.

Representative Cohen asked Wallin if services come under this sales tax and was told they are excluded. Rep. Cohen referred to Section 7, page 12, the new section says the receipts from the sale of gas, water or electricity by a utility owned or operated by a political subdivision of the state are subject to the sales tax. Rep. Wallin said they are not intended to be taxed like your water, or gasoline etc. Rep. Cohen pointed out that the bill said it says above that, "except as provided in Subsection 2, all receipts are exempt" and in Section 2, it states specifically that receipts from the sale of gas, water, or electricity, etc. are subject to a sales tax. He asked why sewer or garbage receipts were not included, since you are going to tax the other municipal enterprises? Rep. Wallin said he had not caught that and it was not intended, and

wanted to emphasize that there should be a subcommittee formed to go into some of these things where there are problems.

Representative Cohen asked if Representative Wallin shared the desire of most of the members of this House to adjourn by Saturday, and if so, perhaps killing this bill would help. Rep. Wallin said all of these bills have short falls. They don't fund themselves. He said he was not here to advocate a particular plan for equalization, but all of the plans that are on the board don't generate enough money to take care of themselves, and this could be a back up.

Representative Elliott asked Representative Wallin if this was a sales tax or a gross receipts tax? He was told this is a retail sales tax. Representative Elliott asked if it was on gross receipts, and was told on any retail sales. Representative Elliott said the gross receipts tax is like when you buy a gallon of gas it is included in the price; would you pay this over and above the price of the article you buy? Representative Elliott said if you look at page 8, Section 2, it says a sales tax of 3.5% is imposed on all gross receipts, as defined in section 1, and in section 1 goes on to define gross receipts. Rep. Wallin it is his understanding that this is a sales tax, you pay the tax on the article by a separate contribution and the word "gross receipts" could be taken out and "sales tax" inserted.

Representative Elliott said it is the same for the gross receipts from the revenue on page 42 and 43, Sections 61 and 62, line 9, Subsection 3, dedicates 2 1/2% of the amount deposited in the sales tax account should be retained as sales tax administration enforcement. On page 43, line 1, it says sales tax revenue remaining after allocation of sales tax administration and a portion of the account has allocated 80% to state equalization aid, and 15% to the university system. He asked what happens to the remaining 5%?

Representative Wallin said he has a fiscal note that breaks it out as follows: Of the total amount, 78% school equalization, 19 1/2% to the university system, and the remaining 2 1/2 % for administration.

Representative Elliott asked about a vendors rebate?

Representative Wallin answered that is 1% of what they collect. He said there is a conflict in the bill because in one place it says 2%.

Representative Giacometto asked Ms. Stoltz how many members they have in their organization. Ms. Stoltz said in the last election 120,000. Representative Giacometto said he would rephrase that since a lot of them live in his area and most of them want the sales tax. He does not believe they are members of the Democratic Party. He asked what the paid membership in the party was and Ms. Stoltz said a little

over 10,000 donate to the Democratic Party. Representative Giacometto said, you don't really speak for all the Democrats in the state then? Ms. Stoltz said she speaks for the Democrats within the organization.

Representative Giacometto said Mr. Judge had indicated he represents about 20,000 which is about 2% of the population of the state. He asked him if he believed that they pay a substantial amount of income tax. Mr. Judge said the membership is closer to 23,000 and Representative Giacometto said the reason he brought this up was because Mr. Judge had brought up the constitutional right to strike down a sales tax. He did not see him in on the surtax which would also affect his organization, and he was wondering why he was here on the sales tax. Mr. Judge said they believe sound income tax, based on the ability to pay is the only way they should really be trying to raise revenue. He said property taxes could fit that mode as long as they are fair and based upon values as applied, but they have been in support of other sources of revenue. He said he happened to be the only lobbyist from their organization at the Legislature since so they are a little short handed this session, and they were busy on some other issues that will be addressed later on.

Representative Giacometto asked how many members they have in his district and Mr. Judge said he could tell him, but did not have the numbers in his head. He said he would like the list since he did not think anyone from his area belonged to either the Democratic Party or the AFL-CIO since they all wanted the sales tax.

Representative Swysgood apologized for not being in the meeting earlier since he had been in the Appropriations Committee, and asked Representative Wallin if this sales tax bill addresses personal property tax relief, and Representative Wallin said it addresses classifications, the rates and the mill levy.

Representative Swysgood asked if this bill leaves in place the 45 mill mandatory levy and removes the 6 mill state wide levy for higher education? Representative Wallin said that was correct.

Representative Swysgood asked if under this bill, wouldn't some of the eastern counties that are still comparatively rich see a tax increase, retain the 45 mills and have no benefit other than the 6 mills? Rep. Wallin said everyone will be paying the 45 mills, but the sales tax should help. He said the fiscal note states \$62 million the first year and \$152,854,000 in FY '91.

Representative Swysgood asked if it would be possible for some of these oil, gas and coal rich counties to see a substantial tax increase under the concept of this bill? Rep. Wallin

said it would be in addition to what they are paying right now; they would be getting a reduction in personal property.

Representative Raney asked if it wasn't constitutionally true that one session of the legislature cannot restrict the taxing authority of the following session of the legislature. Representative Walling said that is always true. Representative Raney asked how can you include in the bill the rate of the sales tax may not be increased unless the increase is approved by the electorate? He said, by putting that statement in the bill, he was restricting the following legislature from increasing the tax. He asked if this would take a constitutional amendment rather than a statute? Mr. Bender from DoR said that in answer to such a statement being put in the statute, that we have spending limits now, and in essence they restrict the ability of state government to appropriate money. Representative Wallin pointed out the sunset bills that go beyond the session.

Representative Ream asked if the 15% earmarked for the university system was an infusion of new money to bring the university system of Montana out of the bottom of the basin, or was there some other intent? Representative Wallin said it amounts to \$11 million a year. Representative Ream asked if this is new money or were they playing games like in the regular session when the Governor left them out of the state pay plan? Representative Wallin said this is just replacement money.

Closing by Sponsor:

Representative Wallin closed by saying he appreciated the hearing. He said he had received a telephone call from a lady he didn't know, but she told him her taxes were much greater than in California. She said she had told him she was paying for the education of her neighbor's children, because they had 5 and did not own any property. He pointed out that a sales tax would help pay the cost of government, including education. He recapped testimony that had been made, and said it was cheap to administer, and the statement of intent showed that it complies with I 105. He said what this bill amounts to is an easy way to pay property taxes. He recommended keeping this bill uncluttered so it was easy to access. He said this could very well be the means of funding the school bill.

Chairman Harrington said it was the intention of the chair to adjourn and have executive action in the morning.

ADJOURNMENT

Adjournment At: 11:50 a.m.



REP. DAN HARRINGTON, Chairman

DH/dg

150627a.min

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

DATE:

June 27, 1989

NAME	PRESENT	ABSENT	EXCUSED
<u>Dan Harrington. Chairman</u>	✓		
<u>Bob Ream, V. Chairman</u>	✓		
<u>Ben Cohen</u>	✓		
<u>Jerry Driscoll</u>	✓		
<u>Jim Elliott</u>	✓		
<u>Orval Ellison</u>	✓		
<u>Leo Giacometto</u>	✓		
<u>Bob Gilbert</u>	✓		
<u>Susan Good</u>	✓		
<u>Ed Grady</u>	✓		
<u>Marian Hanson</u>	✓		
<u>Robert Hoffman</u>	✓		
<u>Mike Kadas</u>			
<u>Francis Koehnke</u>	✓		
<u>Mark O'Keefe</u>			
<u>John Patterson</u>	✓		
<u>Bob Raney</u>	✓		
<u>Dennis Rehberg</u>	✓		
<u>Ted Schye</u>			
<u>Barry Stang</u>	✓		
<u>Jessica Stickney</u>	✓		
<u>Chuck Swysgood</u>	✓		

June 27-1989
55

ESTIMATE OF POSSIBLE TAX REVENUES RESULTING
FROM 25% TAX ON NET PROCEEDS ON PROGRESSIVE
VIDEO GAMBLING MACHINES - PROPOSAL 1

Average Annual Gross Revenue
Per Video Gambling Machine \$30,024 1/

Net Income Per Machine X .42
(42% of gross revenue) 1/ \$12,610

Total Annual Net Income for X 1,000
1,000 new progressive machines \$12,610,000

Application of 15% basic video tax
plus 10% progressive tax X .25

Total Tax Revenue on 1,000 machines \$3,152,500

Plus: license revenues for
1,000 new machines + \$100,000

Less: Video Gaming Control
Bureau expenses related
to adding progressive
machines - \$273,350

Annual Total Revenues \$2,979,150

X 2

TOTAL BIENNIIUM REVENUES \$5,958,300 2/
ON PROGRESSIVE VIDEO
GAMBLING MACHINES

1/ Based on Dept. of Commerce estimates

2/ Assumes that net revenues from existing video gambling
machines will not decrease with installation of progressive
machines

ESTIMATE OF POSSIBLE TAX REVENUES RESULTING
FROM 25% TAX ON NET PROCEEDS ON PROGRESSIVE
VIDEO GAMBLING MACHINES - PROPOSAL 2

Estimated Machine Gross Revenue Per Year (222 plays per day X 365 days) <u>1/</u>	\$81,030
Net Income per machine (42% of gross revenue) <u>1/</u>	<u>X .42</u> \$34,033
Total Annual Net Income for 1,000 new progressive machines	<u>X 1,000</u> \$34,033,000
Application of 15% basic video tax plus 10% progressive tax	<u>X .25</u>
Total Tax Revenue on 1,000 machines	\$8,508,250
Plus: license revenues for 1,000 new machines	+ \$100,000
Less: Video Gaming Control Bureau expenses related to adding progressive machines	<u>- \$273,350</u>
Annual Total Revenues	\$8,334,900
	<u>X 2</u>
TOTAL BIENNIUM REVENUES ON PROGRESSIVE VIDEO GAMBLING MACHINES	\$16,669,800 <u>2/</u>

1/ Based on Dept. of Commerce estimates

2/ Assumes that net revenues from existing video gambling machines will not decrease with installation of progressive machines



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

EXHIBIT 2

DATE Jun 27, 1989

HB 52

STATEMENT OF DON JUDGE ON HOUSE BILL 52 BEFORE THE HOUSE TAXATION COMMITTEE,
TUESDAY, JUNE 27, 1989

Mr. Chairman, members of the committee, for the record, my name is Don Judge, and I am here today to represent the Montana State AFL-CIO in opposition to House Bill 52.

As you know, historically, our federation has opposed a sales tax because it is a regressive, unfair tax. Of all the sales tax proposals you have considered through the past several months, House Bill 52 is the most unfair and the most heavy-handed, for two reasons.

The first is that it makes no pretense about raising needed funds for public services. It simply gives property tax relief which will mainly go to large corporate concerns and businesses. The ultimate purpose of a sales tax is to shift the tax burden off of the corporate world and onto working men and women. Many of these same corporations have been able to maintain profits which they themselves have sometimes called "dramatic". These are the same corporations that have demanded wage concessions from their employees to maintain those profits. After extracting millions of dollars in wage concessions from their employees and enjoying enormous profitability, these corporations are back asking for more.

The second reason that we oppose this bill is that its proponents suggest that the issue not be submitted to a public vote. We suspect that the reasoning behind this strategy is that the sales tax proponents know that the people of Montana will reject a sales tax once again. The voters know that a sales tax is inherently unfair and will not stand the test of public scrutiny. The sales tax advocates want to by-pass the people and implement a sales tax without their votes or their approval.

The name of the game with a sales tax is shifting the burden from those who don't want to pay their fair share to those who can't afford to pay more than their fair share.

We urge the Committee to reject House Bill 52 and to reject the sales tax advocates' fear of placing the issue before the voters. If legislation is passed imposing a sales tax without a vote of the people, the Montana State AFL-CIO will be more than happy to participate in the Constitutional process which guarantees the people the right to reject legislation through an initiative process.

Thank you.



HB 55
6-27-88

WITNESS STATEMENT

NAME GARY SCHVEDES BILL NO. HB-55
ADDRESS PO Box 11 Whitefish DATE 6/27/88
WHOM DO YOU REPRESENT? SELF
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend TO allow same games
on machines as also live.

4B 55

6-27-89

WITNESS STATEMENT

NAME Barbara Turner BILL NO. 55
ADDRESS PO Box 1477 DATE 6/27/89
WHOM DO YOU REPRESENT? Northwest Dealers Assoc
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Amend to allow same game
on video machines to be played
live.

VISITORS' REGISTER

Taxation

COMMITTEE

BILL NO.

HB 51

DATE _____

6-27-89

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Taxation

COMMITTEE

BILL NO. H B 52DATE 6-27-89

SPONSOR _____

NAME (please print)	REPRESENTING:	SUPPORT	OPPOSE
WEAVER, K.L.	Self	✓	
James Burr	Montana	✓	
Tom Haggard	MT ASSOC REACTORS	✓	
Laurie Shoben	Bozeman Chamber	✓	
Steve Turkiewicz	MT. Auto Dealers Assn	✓	
Jim Tutwiler	MT CHAMBER	✓	
Don Judge	MT STATE AFK-CIO		X
Charles Brooks	MT. Retail Assoc	✓	
Robert Van Der Kerk	Self		X
Vernon L. Westlake	REP. H. D 764 A.P.A.		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.