

MINUTES

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

COMMITTEE ON LABOR & EMPLOYMENT RELATIONS

Call to Order: By Chairperson Russell, on June 27, 1989, at 5:55 p.m.

ROLL CALL

Members Present: All with the following exception:

Members Excused: Rep. Glaser

Members Absent: None

Staff Present: Eddy McClure, Legislative Council

Announcements/Discussion:

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor:

Rep. Cobb, District 42, stated that HB 58 appropriates money to the Workers' Compensation Tax account from the Coal Severance Tax Bond Fund. This would enable the unfunded liability to be paid without taxing the employees and employers any more. Interest will be lost from the coal money but the money would be well spent and allow Montana taxpayers to keep a larger portion of their earnings.

Testifying Proponents and Who They Represent:

Rep. Fred Thomas, District 52
Rep. Clyde Smith, District 5
Rep. Jerry Driscoll, District 92

Proponent Testimony:

Rep. Thomas stood in support of this bill.

Rep. Clyde Smith asked that he be placed on record in support of this bill.

Rep. Jerry Driscoll stood in support of HB 58.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members:

Rep. Simpkins asked Rep. Cobb if the coal tax money was currently being used to fund any other government programs other than investment purposes. Rep. Cobb explained that this bill would not take money that is already in the trust fund but it would take coal tax money before it went into the trust.

Rep. Driscoll asked if this affected the 15% that is generated by the investment program. Rep. Cobb responded that it is not affected unless it is contained in another bill before the present legislative session.

Closing by Sponsor: Rep. Cobb closed.

DISPOSITION OF HOUSE BILL 58

Motion: Rep. Pavlovich moved that HB 58 DO PASS.

Discussion: Rep. Pavlovich did not think this bill could pass the full House because of the requirement of a 75% vote in favor but it is the only vehicle left. The full House should be given the opportunity to vote on it.

Rep. Thomas stated that this bill will stop the spiral and begin to act for the future of the workers of this state - to keep them working - or protect the coal trust. When the Legislature meets again, the hole will be deeper and rates will go higher.

Rep. Lee fully supported Rep. Thomas' remarks and added that if there was ever a rainy day with Workers' Comp., then it has arrived. It is entirely appropriate to make a diversion from the trust at this time to help solve the problem.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Roll call vote was taken. The motion that HB 58 DO PASS CARRIED.

HEARING ON HOUSE BILL 57

Presentation and Opening Statement by Sponsor:

Rep. Jerry Driscoll, District 92, stated that House Bill 57 imposes a 5 cent per 12 ounce can tax on soft drinks and \$3.20 per gallon on syrup. The money raised through this tax would be used for the unfunded liability of Workers' Compensation. There are conflicting reports on the amount

of money that would be raised by this tax. Rep. Pavlovich has introduced a similar bill for property tax relief in the Taxation Committee and if that bill passes then Rep. Driscoll will reconsider this bill.

Testifying Proponents and Who They Represent:

Rep. Janet Moore, District 65
Rep. Bob Pavlovich, District 70

Proponent Testimony:

Rep. Janet Moore stated that she is a proponent of this bill. She introduced a similar bill in the 1987 session which would have raised \$13 million a year in new on-going revenue. The soda pop industry claimed at that time that such a tax would put them out of business and Rep. Moore doubted that it would then or that it would now. She encouraged the committee to start taxing luxury items such as soda pop.

Rep. Bob Pavlovich stated that he introduced a similar bill which is presently in Taxation Committee. Exhibit 1.

Testifying Opponents and Who They Represent:

John Olson, President and owner of Blue Rock Products Company,
Sidney
Don Harrington, Pepsi of Butte and Helena
Laurie Shadoan, Bozeman Chamber of Commerce and Bozeman business
owner
Becky Rabey, Employee, RB Drive-In
Charles Brooks, Montana Retail Assn.
Leon Stalk, Montana Restaurant Association

Opponent Testimony:

John Olson testified that he is a bottler and distributor of Pepsi products in 16 Montana counties in Eastern Montana and his firm employs about 60 people and is opposed to HB 57. The economy is in decline and the soft drink business is not immune to these economic factors. Soft drinks are not non-essential to the thousands who work for bottlers as well as the retail merchants who sell his products. These people contribute to the business climate and they are subject to all taxes of the state. This is an unjust and unfair tax.

Don Harrington stated that this bill would be an unfair and punitive tax on only one industry. There are 16 soft drink bottlers in 25 locations in Montana. Montana does not consume the national average of soda pop so the tax will not bring the return that is projected. He was concerned about the regulation of products that are transported into the state such as frozen drinks and powdered drinks that are presently unregulated.

The soda pop industry is being singled out for discriminatory taxation.

Laurie Shadoan stated that this bill would represent an increase from \$25 to \$41 for a container of soda pop syrup. That tax would have to be passed on to consumers. This is a selective sales tax is not the proper route to be taking.

Becky Rabey stated that she works in a locally owned drive-in. Many young people drink soda pop and would be paying this tax with money they earned. The proceeds from this tax will not benefit these young people in any way.

Charles Brooks stated that this is a selective sales tax. He urged the committee to enact a broadbased sales tax that will assist in the funding the shortfall in funding throughout the various public service interests.

Leon Stalk testified that it does not take courage to pick on a small group of taxpayers but it does take courage to look at the overall picture and enact legislation for the benefit of all of Montana. He urged rejection of this selective tax.

Questions From Committee Members: Rep. Pavlovich asked Ms. Shadoan if she had previously testified against the bill that would increase the employers' tax for Workers' Compensation. Ms. Shadoan responded affirmatively. Rep. Pavlovich then asked Ms. Shadoan if her restaurant sold canned pop or fountain pop and at what price. Ms. Shadoan replied that she sold a 12 ounce glass of pop for 60 cents and that the glass is at least one-half full of ice. Rep. Pavlovich pointed out that that glass would contain no more than four ounces of pop. Ms. Shadoan then stated that she understood the dilemma of Workers' Compensation but questioned a 60 percent increase on one product. Rep. Pavlovich then asked Ms. Shadoan if her business served beer or liquor or had poker machines. Ms. Shadoan responded that they did have a liquor license and there is one poker machine. Rep. Pavlovich then asked if she would be willing to pay an additional 10 percent on that poker machine. Ms. Shadoan responded that she would not and she will testify against such a tax. Rep. Pavlovich then pointed out that it appeared that she was protesting increasing taxes to employers but did not see a problem with increasing taxes to employees.

Closing by Sponsor: Rep. Driscoll pointed out that there is no such thing as a fair tax. People like soft drinks people are willing to pay for it and it is a luxury and not a necessity.

DISPOSITION OF HOUSE BILL 57

Motion: Rep. Driscoll moved that no action be taken on this bill at this time. Rep. O'Keefe moved that HB 57 be TABLED.

Discussion: None

Amendments, Discussion, and Votes: None

Recommendation and Vote: Voice vote was taken. The motion to TABLE CARRIED with Rep. Kilpatrick opposing.

HEARING ON HOUSE BILL 60

Presentation and Opening Statement by Sponsor:

Rep. Jerry Driscoll, District 92, stated that this bill puts a tax on progressive poker machines. The machines are legal with a \$100 limit on the prize. This bill would make progressive prizes legal. As drafted, the bill is unworkable with the 25% tax since that would not leave anything for prizes. Mr. Driscoll offered an amendment to strike that language from the bill. If Rep. Pavlovich's bill that is similar passes from the Taxation Committee then Rep. Driscoll will request that this bill be tabled.

Testifying Proponents and Who They Represent:

Rep. Pavlovich, District 70
Gary Sweetus, Co-owner, Bull Pen Live Car Room, Bulldog Saloon,
Whitefish and co-owner of Montana Video
Margaret Turner, Northwest Dealers' Assn., Flathead Valley
Stu McQuade, self

Proponent Testimony:

Rep. Pavlovich stated that he presented the same bill in the Taxation Committee for property tax relief. This is a compromise bill with the Governor in which some property tax relief would be given and Rep. Pavlovich's bill would be attached to the coal severance tax bill when it comes to the House from the Senate. The Governor's part is stalled in the Senate so this bill is sitting in Taxation Committee. There is not enough money in the bill to help Workers' Comp. but it can be amended to help the problem.

Gary Sweetus testified that his group is willing to pay more taxes. They would like the present gambling law to be expanded to include live blackjack. There is an ambiguity in the law and this amendment would help clarify that plus legalize blackjack.

Margaret Turner presented a 2000 signature petition (Exhibit 2) that asks that blackjack be legalized. Many tourists,

especially Canadian, visit the Flathead Valley to play poker. There is great interest and if the amendment is not passed then 75 dealers in the Valley will be loosing their jobs on October 1 when a law takes affect that changes the status of some of the live card games.

Stu McQuade testified that the majority of the card dealers employed in his area are females who are trying to support themselves and in many cases, their children. These people are in danger of loosing their jobs. Job opportunities are not abundant and they cannot easily replace those jobs.

Testifying Opponents and Who They Represent:

None

Opponent Testimony:

None

Questions From Committee Members: Rep. Kilpatrick asked Rep. Driscoll if this bill was the "jacks or better" bill that was killed in the regular session. Rep. Driscoll responded that the amendment would allow "jacks or better". It was approved by the House and killed by the Senate and it was contained in HB 431, the big gambling bill, during the regular session. The progressive poker part of the bill never left the House Taxation Committee.

Closing by Sponsor: Rep. Driscoll stated that his intent with the "Workers' Comp." bills was to try to find enough money to pay the unfunded liability as fast as possible. He first wanted to stop the rate increase on July 1, 1989 and 1991 and any more rate increases. \$20 million is needed to do that. The money can only be used for the unfunded liability portion and no administration costs will be allowed. If the problem is not dealt with then there will be great pressure to reduce benefits in the future.

DISPOSITION OF HOUSE BILL 60

Motion: Rep. Pavlovich requested that no action be taken for another day because he was preparing amendments and they were not ready.

Discussion: Rep. Russell granted Rep. Pavlovich's request.

Amendments, Discussion, and Votes: None

Recommendation and Vote: None

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 54

The hearing on House Bill 54 was held on June 27, 1989 at 1:00 p.m.

Motion: Rep. Cocchiarella moved that HB 54 DO PASS.

Discussion: Rep. Driscoll stated that it was his intent to amend this bill into his bill (HB 56). Rep. Smith agreed with Rep. Driscoll that this bill would increase the cost to employers plus add new revenue from the employees and freeze the benefits. This bill would balance out the effects. Rep. Smith stated that if one of the bills passes, both bills should.

Rep. Cocchiarella withdrew her motion.

Rep. Driscoll requested that the committee move to HB 56. Rep. Kilpatrick objected by saying that he thought each bill should be considered separately since members could vote differently on the bills. At the chair's request, Ms McClure explained that even if both bills were passed, the Legislative Council coordinates the bills and that the bills would end up in conference committee. Rep. Driscoll was concerned that the Senate would kill one of the bills and pass the other.

Rep. Kilpatrick moved DO PASS on HB 54.

Rep. Driscoll stated that both bills should be tied together. Rep. Smith agreed with Rep. Driscoll. If the bills are not tied together, then neither one of them will pass.

Rep. Pavlovich stated that he was going to vote against this bill. He did not want the burden placed on the employee but felt that there was middle ground and also felt that the two bills should be tied together.

Amendments, Discussion, and Votes: None

Recommendation and Vote: Roll call vote was taken. The motion CARRIED 10 to 6. HB 54 will be recommended DO PASS.

DISPOSITION OF HOUSE BILL 56

The hearing on House Bill 56 was held on June 27, 1989 at 1:00 p.m.

Motion: Rep. Driscoll moved HB 56 Do Pass.

Discussion: Rep. Driscoll explained amendments that he had previously written. The bill as originally written had the

Department of Revenue collecting the tax and the duty should rest with the Workers' Comp. Division as are all other Workers' Comp. taxes.

Amendments, Discussion, and Votes: Rep. Driscoll moved the amendment. Voice vote was taken. The motion CARRIED unanimously.

Rep. Whalen offered an amendment that would eliminate the 3 percent employee payroll tax. Rep. Pavlovich asked Rep. Whalen to clarify that the only thing remaining in the bill would be the benefits' freeze. Rep. Whalen responded affirmatively because he felt that passage of this bill would be creating more problems than it would be solving. Rep. Thomas spoke against the amendment stating he will move to further amend the bill. Rep. Driscoll opposed the motion because those affected by the freeze will suffer far more than those forced into paying into the fund. Rep. Smith agreed with Rep. Driscoll - if the money is not raised in this manner it has to be found elsewhere. Rep. Whalen expressed his concern with future litigation if the committee voted to tax employees for this purpose.

Ms. McClure stated that there has never been any litigation on the Montana Constitution, Article 2, Section 16. The court system may or may not find it unconstitutional. She felt Rep. Whalen was correct in stating that it is open to litigation. The State of Washington is the only other state that taxes employees and, to her knowledge, their constitution is not similar to Montana's.

Rep. Smith stated that we are not only dealing with the Workers' Comp. premium but also with a tax for the unfunded liability. Rep. Whalen would make that argument when representing an employer after a lawsuit is filed. If the Supreme Court were to decide that this was unconstitutional it could allow lawsuits directly against employers to continue or require a payback to employees.

A roll call vote was taken on Rep. Whalen's amendment. The motion FAILED on a tie vote (8-8).

Rep. Driscoll moved to amend page 14, line 21 by changing the ".3" to ".45" (4.5% on employers and 3% on employees - which would amend the Bardanouve bill into this bill).

Rep. Smith stated that if this bill is to pass then this is the only way that it will pass.

Ms. McClure explained the amendment to the committee stating that the changes would be made in page 14, line 21 plus some changes in the title.

Roll call vote was taken. The motion CARRIED 13-3.

Rep. Driscoll offered a technical amendment. Ms. McClure explained that this amendment was inadvertently omitted by the drafter. You must have something in the bill to supersede present statutes and this amendment would provide for that.

Rep. Driscoll moved the technical amendment. Voice vote was taken. The motion to amend CARRIED unanimously.

Rep. Driscoll moved HB 56 Do Pass As Amended.

Rep. Pavlovich asked Ms. McClure if there was a possibility of taxes being increased because of the amendments. Ms. McClure responded that the same statute was being amended so it would not be "doubling" the tax to employers.

Rep. Kilpatrick stated that there is no way that this additional tax should be added to the employees' tax burden. He did not think it should be combined with Rep. Bardanouve's bill. There must be another way that the problem can be solved.

Rep. Driscoll stated that this bill would cost the average weekly wage earner \$48 per year. The income tax surcharge will cost them considerably more. The money has to be found somewhere and there are not many alternatives - it must be fixed or injured workers will not continue to be paid.

Rep. Rice asked Rep. Driscoll what other alternatives there might be to solve this problem such as taking \$20 million from the General Fund. Rep. Driscoll responded that his amendment provided for \$10 million from the General Fund. \$20 million is possible but the problem will still be there in 1991 because there is no ongoing source of revenue to provide the funds needed. It would be a short term fix to the problem but it is possible.

Rep. Cocchiarella felt the same as Rep. Kilpatrick but she will vote for this bill in committee so the bill will reach the floor of the House to be voted on by the full House. She will vote against the bill in the House.

Rep. Lee did not think a series of band-aid fixes is the solution to the problem. It simply postpones the day of reckoning and probably increases the problem. The real solution is to correct the deficiencies in the program and the system that are driving the unfunded liabilities. It is too easy to put on taxes but generally they prove very difficult to remove.

Rep. Thomas re-emphasized that this bill should be passed to the full House because effective January 1 the system will be changed in Montana. This is a very critical time in Montana and this Special Session is a pivotal point for many people in Montana and these issues should be dealt with now.

Rep. Driscoll stated that this bill will be easy to repeal after the unfunded liability is paid. The bill provides for a sunset date of July 1, 1991 so unless a bill is passed next session this tax will be removed at that time.

Rep. Russell stated that she cannot support an employee's tax. She voted incorrectly and requested permission of the committee to change her vote on Rep. Whalen's amendments. Rep. Driscoll objected because it would change the bill by allowing Rep. Whalen's amendment. Rep. Smith also objected.

Rep. Whalen offered the amendments again to allow another vote. Rep. Russell withdrew her request.

Rep. Russell called the question for Do Pass As Amended.

Recommendation and Vote: Roll call vote was taken resulting in a tie vote (8-8). The measure FAILED.

ADJOURNMENT

Adjournment At: 7:05 p.m.


Rep. Angela Russell, Chair

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DAILY ROLL CALL

LABOR AND EMPLOYMENT RELATIONS

COMMITTEE

DATE 6-27-89 late

[illegible]

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STANDING COMMITTEE REPORT

"An Act Appropriating to the Workers' Compensation
Tax Account Certain Coal Tax Severance Revenue"

June 28, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Labor report that HOUSE
BILL 58 (first reading copy -- white) do pass.

Signed: *Angela Russell*
Angela Russell, Chairman



The Big Sky Country

HB 57

6-27-89 late
mtg

MONTANA HOUSE OF REPRESENTATIVES

June 27, 1989

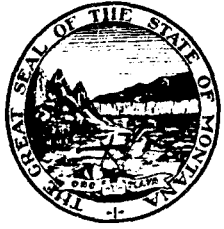
The Honorable John Vincent
Speaker, House of Representatives
State Capitol
Helena, Montana 59601

Dear Mr. Speaker:

The House Labor and Employment Relations Committee TABLED
HB 57 on this date.

Sincerely,

ANGELA RUSSELL
Chair



LEGISLATIVE AUDITOR:
SCOTT A. SEACAT
LEGAL COUNSEL:
JOHN W. NORTHEY

STATE OF MONTANA
Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59620
406/444-3122

Mike Winward

June 16, 1989

EXHIBIT 1 P.1
DATE 6/27/89 - 10k mt
HB 57

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON
Operations and EDP Audit
JAMES GILLET
Financial-Compliance Audit
JIM PELLEGRINI
Performance Audit

Representative Robert Pavlovich
1375 Harrison Avenue
Butte, MT 59701

Dear Representative Pavlovich:

Per your request we have gathered information concerning the approximate number of soft drink franchisees/distributors in Montana and their associated tax liabilities. Attached is a description of the taxes most distributors would likely have to pay as part of their operations. However, we were unable to obtain any specific dollar figures on the amount of taxes paid by the soft drink distributors.

Please feel free to call me if I may provide any additional information or assistance.

Sincerely,

Dave Gould

Dave Gould
Performance Audit Manager

MW/v/b6/ltr

Attachment

Office of the Legislative Auditor

SOFT DRINK DISTRIBUTOR TAX LIABILITIES

June 16, 1989

The following provides information on number of franchisees/distributors and describes the various types of taxes for which a soft drink distributor would be responsible. The information is based on discussions with soft drink distributors and data obtained from the Department of Revenue.

OF SOFT DRINK DISTRIBUTORS

The fiscal notes attached to both of the bills introduced in the 1987 Legislature concerning a tax on the sale of soft drinks indicated there were 50 soft drink distributors in Montana. When we asked soft drink representatives about this figure they stated there are 16 franchisees in Montana. These franchisees are assigned selected geographical areas. Due to the size of some of these areas, they often enter into agreements with others to distribute their products. The soft drink distributors could not provide an exact number of distributors, but agreed the "50" figure noted in the fiscal note is a valid approximation.

TAX LIABILITIES

The following identifies the various taxes a soft drink franchiser or distributor would be liable for and provides (where possible) the percentage rate of taxes they would be responsible for. We are unable to determine the amount of their taxes without specific information regarding their operations.

Corporation License Tax- Foreign and domestic corporations are subject to a corporation license tax at $6 \frac{3}{4}$ percent of all net income for the taxable period. Sales corporations may elect to pay $\frac{1}{2}$ of 1 percent of gross sales in Montana. For tax year 1988, all corporations were required to pay an additional surtax of 4 percent of their respective tax liabilities.

Income Tax- Each individual is liable for income tax on his Montana taxable income. This quantity is derived from gross income by making certain adjustments and taking a variety of allowable deductions and exemptions. For tax years 1987 and 1988, individuals were required to pay an additional surtax of 10 percent of their tax liabilities.

Property Tax- Both real and personal property are subject to property (ad valorem) taxation. Tax liability for business property is determined by a formula which considers market value, the classification rate, taxable value, and state and local mill levies.

Licensing Taxes- Depending upon the city and county of residence, soft drink distributors pay license fees for such things as vending machines, delivery permits, business licenses, and other county and local assessments.

Gross Vehicle Weight Tax- GVW fees on trucks, tractors, and trailers must be paid annually, and are based upon the maximum gross loaded weight thereof as set by the licensee in his application. The fees range from \$3.75 for a trailer weighing up to 2,500 pounds to \$1,653 for a truck tractor with a semi-trailer.

Workers' Compensation- With a few statutory exceptions, all employers must provide workers' compensation coverage for their employees. The Workers' Compensation Division assesses an amount sufficient to fund its direct costs and an equitable portion of its indirect cost, with a minimum assessment of \$200.

Unemployment Insurance- Percentages are based on the number of employees and is collected by the Department of Labor and Industry.

SUMMARY

Based on the discussion of tax liabilities with soft drink franchisees/distributors and Department of Revenue personnel, the above lists all the types of taxes the franchisees/distributors are responsible for. There does not appear to be any special taxes on either soft drinks or soft drink franchisees/distributors by either local, state, or federal entities, i.e. such taxes as a federal excise tax. The current taxes paid appear to be the same as those tax liabilities of other businesses offering a product or products which must be distributed.

MW/v/b6.mem

June 15, 1989

TO: Representative Bob Pavlovich
FROM: Paul Verdon, Legislative Researcher *Paul*
SUBJECT: Incidence of proposed soft drinks tax

Here is the information gathered in response to your questions posed on June 13:

Do any other states levy an excise tax on soft drinks?

State Tax Guide, published by Commerce Clearing House, does not list a soft drinks tax, as distinguished from general sales tax, as levied by any state. In a somewhat related field, Rhode Island imposes a tax of 4 cents on each case of beverage containers sold by a beverage wholesaler to a beverage retailer or consumer within Rhode Island. It appears, however, that the purpose of this law is for litter control rather than for revenue.

How many soft drink distributors operate in Montana?

The fiscal note for a similar bill in the 1987 Legislature reported there were 50 soft drink distributors in the state. There is no apparent reason to believe that figure has changed in two years.

Does the proposed tax cover soft drinks sold under house labels in supermarkets?

It seems to me that the definition of "bottler" in the bill includes every person who manufactures or imports softs drinks for consumption in Montana.

M5008 c:\data\wp\poptax



JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA
Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

EXHIBIT # 1
6/27/89 HB 57 2.5 -

May 24, 1989

Representative Bob Pavlovich
1375 Harrison Avenue
Butte, MT 59701

Dear Representative Pavlovich:

If each 12 ounce can (or its equivalent) of soft drinks were assessed a tax of one cent, an estimated \$4.3 million of revenue would be raised annually. This estimate is based on average yearly consumption of 50.42 gallons per person, the assumption used in the 1987 legislative session when two bills proposing a tax on soft drinks were introduced. Realizing this amount of revenue is dependent on all soft drinks being taxed, not just those sold in cans. The following table shows annual revenue raised by tax rates from one cent to five cents per can.

Annual Revenue from Alternative Taxes
on Soft Drinks

<u>Tax Rate Per Can</u>	<u>Millions of Revenue</u>
\$.01	\$ 4.3
\$.02	8.6
\$.03	13.0
\$.04	17.3
\$.05	21.6

If I can provide additional information, please contact me again.

Sincerely,

Judith Curtis Waldron

Judith Curtis Waldron
Senior Fiscal Analyst



LEGISLATIVE AUDITOR:
SCOTT A. SEACAT

LEGAL COUNSEL:
JOHN W. NORTHEY

STATE OF MONTANA

Office of the Legislative Auditor

STATE CAPITOL
HELENA, MONTANA 59620
406/444-3122

EXHIBIT # 1
6/27/89 HB 57

DEPUTY LEGISLATIVE AUDITORS:

MARY BRYSON
Operations and EDP Audit

JAMES GILLET
Financial-Compliance Audit

JIM PELLEGRINI
Performance Audit

May 18, 1989

Representative Robert Pavlovich
1375 Harrison Avenue
Butte, MT 59701

Dear Representative Pavlovich:

Per your request we have gathered information concerning legislation introduced during the 1987 session regarding a tax on soft drinks. Attached is a description of both the applicable bills and the projected revenue estimates from a soft drink tax. We have also included copies of the introduced legislation, the fiscal notes and fiscal year 1990 and 1991 population estimates along with the description.

Please feel free to call me if I may provide any additional information or assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Dave Gould".

Dave Gould
Performance Audit Manager

MW/v/f2.1tr

Attachments

Office of the Legislative Auditor

SOFT DRINK TAXATION LEGISLATION

May 18, 1989

Two bills were introduced in the 1987 Legislature which would impose a tax on the sale of soft drinks. The following describes each bill and the potential revenue estimates from the tax.

House Bill 213

Introduced by Representative Compton. The bill was intended to be a direct tax on the retail consumer, but precollected by the soft drink bottlers. The tax was to be 30 cents a gallon on beverages imported, manufactured, mixed, blended, or diluted by a bottler and \$1.80 a gallon on syrup or concentrate used by the retailer to mix with carbonated water or other ingredients. The tax was to be paid in full to the Department of Revenue, less a five percent defrayment for the bottler's collection and administrative expenses. The department was to deposit the soft drink tax in the General Fund--there was no specified purpose for this revenue.

The fiscal note attached to HB 213 indicated the state would have collected (after expenses) approximately \$11.93 million in fiscal year 1987-88 and \$11.98 million from the tax in fiscal year 1988-89. The revenue estimates were based on 1985 estimates of both soft drink consumption and Montana population projections. The fiscal note indicated HB 213 had several technical or mechanical defects which would have required modification prior to becoming law. HB 213 was killed in the Taxation Committee.

House Bill 547

Introduced by Representative Moore. This bill was also intended to be a direct tax on the consumer and precollected by the bottlers; however, the proceeds were to be used to support higher education. The tax was to be 0.25 cents per ounce (32 cents per gallon) on beverages imported or manufactured by a bottler and \$1.92 a gallon on syrup or concentrate used by a retailer to mix, blend, or dilute with other ingredients. The imposed tax was to be paid to the Department of Revenue, less a five percent defrayment for the bottler's collection and administrative expenses. The remaining proceeds were to be deposited in a state special revenue fund for the use of the Commissioner of Higher Education for the purposes of higher education.

The fiscal note attached to HB 547 had revenue projections which used the same soft drink consumption and population estimates used in HB 213 fiscal note. However, because the proposed tax was 2 cents per gallon higher than the tax proposed in HB 213, the state would have collected (after expenses) approximately \$12.72 million

in fiscal year 1987-88 and \$12.78 million in fiscal year 1988-89. HB 547 (in an amended form) was given an adverse Taxation Committee report which was adopted by the House.

Summary

The revenue estimates from the soft drink tax appear to be based on statistics obtained from 1985 resources. We were unable to determine whether the soft drink consumption statistic was/is an accurate statistic. We contacted the Montana and National Bottler's Association regarding consumption figures, however no updated figures were available. Utilizing the 1985 soft drink consumption statistics, and Montana population estimates for fiscal years 1989-90 and 90-91, the following chart shows the revenue projections for a range of taxable amounts on a 12 ounce soft drink.

Revenue Projections Based On Tax Per 12 Ounce Container

<u>Tax Per Can</u>	<u>Revenue in FY 1989-90*</u>	<u>Revenue in FY 1990-91*</u>
\$.01	\$4,174,238	\$4,199,784
.02	8,348,476	8,399,569
.03	12,522,715	12,599,353
.04	16,696,953	16,799,137
.05	20,871,191	20,998,921

*- five percent deducted for bottler's administrative and collection expenses, but state agency administrative expenditures were not deducted.

Source: Compiled by the Office of the Legislative Auditor

v/f2.mem

EXHIBIT 2
 DATE 6/27/89
 HB 60

We, the undersigned, SUPPORT
Tacks or Better, a game enjoyed by tourists.

NAME	ADDRESS	CITY
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EXHIBIT # 2 CONSISTS OF 58 PAGES OF PETITIONS WHICH WERE SIGNED BY 2,000 PEOPLE. THEY CAN BE SEEN AT THE HISTORICAL SOCIETY.

WILLIAM LUTHER	227 FALLSWATER CR. N.E.	Calgary, Alberta
Ann's Bellare	323 Runchuck Cr. N.E.	Calgary, Alberta
Victor Klimov	7152 Temple Dr. N.E.	Calgary, Alberta
Val Hadden	218 Victor Cres	Regina, Sask.
Red Yee	555 Park St.	Regina, SASK.
GORD SMITH	Box 938	SWIFT CURRENT SK.
ter Melvin Greiger	Wymark	Saskatchewan
DAVE ANDERSON	1105 CANADIANA AVE	W. VANCOUVER B.C.
Ray Hill	7905 Yack River Rd. Trent	Troy, Mt.
Steve Thompson	119 SCHRAEDER Mountain Music Camp	Kalispell, MT

VISITORS' REGISTER

Labor

COMMITTEE

BILL NO H B 57DATE 6/27/89SPONSOR Disicoll

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Tom Brooke	Butte		X
John Pellegrini	Angonada		X
John Harrington	Butte		X
John L. Olson	Sidney		X
John	Helena		X
P. Raby	Helena		X
Jim Luby	Helena		X
Bill Dimick	Billings		X
Sam Yerkes	Great Falls		X
Steve Browning	Helena		X
Rich PERRY	Missoula		X
STEVE DAMVIN	MISSOULA		X
JAMES L. WOETTLER	GREAT FALLS		X
Russ Royce	Missoula		X
Ruth Royce	Missoula		X
Charles R. Sorensen	N.T. Retn./Assoc		X
Laurie Shadon	Bozeman Chamber		X

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Labor

COMMITTEE

BILL NO. 60DATE 6/27/89SPONSOR Disicoll

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<u>Rep. Moore</u>	<u>Condon</u>	<u>X</u>	
<u>GARY SCHWEDER</u>	<u>Whitefish</u>	<u>X</u>	
<u>BARBARA TURNER</u>	<u>"</u>	<u>X</u>	
<u>STU McQuade</u>	<u>Kalispell</u>	<u>X</u>	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6-27-89

BILL NO. HB 58

NUMBER #1

late mtg.

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA		X
REPRESENTATIVE COMPTON	X	
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK		X
REPRESENTATIVE LEE	X	
REPRESENTATIVE O'KEEFE		X
REPRESENTATIVE PAVLOVICH	X	
REPRESENTATIVE RICE	X	
REPRESENTATIVE SIMPKINS	X	
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES		X
REPRESENTATIVE THOMAS	X	
REPRESENTATIVE WHALEN		X
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair	X	

TALLY

11 5

Tami Dore
SECRETARY

CHAIRMAN

MOTION: Rep. Pavlovich moved HB 58 Do Pass.

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89 late mtg BILL NO. HB 54 - Bandman NUMBER #2

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON		X
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK	X	
REPRESENTATIVE LEE		X
REPRESENTATIVE O'KEEFE	X	
REPRESENTATIVE PAVLOVICH		X
REPRESENTATIVE RICE		X
REPRESENTATIVE SIMPKINS		X
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES	X	
REPRESENTATIVE THOMAS		X
REPRESENTATIVE WHALEN	X	
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair	X	

TALLY

10 6

Tami Dine
SECRETARY

CHAIRMAN

MOTION: DR motion

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89 BILL NO. HB 56 *Whalen* NUMBER 3

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON		X
REPRESENTATIVE DRISCOLL		X
REPRESENTATIVE GLASER		X
REPRESENTATIVE KILPATRICK	X	
REPRESENTATIVE LEE	X	
REPRESENTATIVE O'KEEFE	X	
REPRESENTATIVE PAVLOVICH		X
REPRESENTATIVE RICE	X	
REPRESENTATIVE SIMPKINS		X
REPRESENTATIVE SMITH		X
REPRESENTATIVE SQUIRES	X	
REPRESENTATIVE THOMAS		X
REPRESENTATIVE WHALEN	X	
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair		X

TALLY

8

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Tennis Doe
SECRETARY

CHAIRMAN

MOTION: Whalen amendment - taking out 3% test
on employees

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89 BILL NO. HB 56 - Driscoll amendment NUMBER #4

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON	X	
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK		X
REPRESENTATIVE LEE	X	
REPRESENTATIVE O'KEEFE	X	
REPRESENTATIVE PAVLOVICH	X	
REPRESENTATIVE RICE		X
REPRESENTATIVE SIMPKINS	X	
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES	X	
REPRESENTATIVE THOMAS	X	
REPRESENTATIVE WHALEN		X
REPRESENTATIVE McCORMICK, Vice-chair	X	
REPRESENTATIVE RUSSELL, Chair	X	

TALLY

13 3

Terrill Dool
SECRETARY

CHAIRMAN

MOTION: Driscoll amendment to incorporate
HB 54 provisions

ROLL CALL VOTE

LABOR AND EMPLOYMENT RELATIONS COMMITTEE

DATE 6/27/89

BILL NO. HB 56

NUMBER #5

NAME	AYE	NAY
REPRESENTATIVE COCCHIARELLA	X	
REPRESENTATIVE COMPTON	X	
REPRESENTATIVE DRISCOLL	X	
REPRESENTATIVE GLASER	X	
REPRESENTATIVE KILPATRICK		X
REPRESENTATIVE LEE		X
REPRESENTATIVE O'KEEFE		X
REPRESENTATIVE PAVLOVICH	X	
REPRESENTATIVE RICE		X
REPRESENTATIVE SIMPKINS	X	
REPRESENTATIVE SMITH	X	
REPRESENTATIVE SQUIRES		X
REPRESENTATIVE THOMAS	X	
REPRESENTATIVE WHALEN		X
REPRESENTATIVE McCORMICK, Vice-chair		X
REPRESENTATIVE RUSSELL, Chair		X

TALLY

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Danni Dore

SECRETARY

CHAIRMAN

MOTION:

Driscoll amendments with HB 56