

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By DAN HARRINGTON, CHAIR, on February 20, 1991,  
at 9:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

Dan Harrington, Chairman (D)  
Bob Ream, Vice-Chairman (D)  
Ben Cohen, Vice-Chair (D)  
Ed Dolezal (D)  
Jim Elliott (D)  
Orval Ellison (R)  
Russell Fagg (R)  
Mike Foster (R)  
Bob Gilbert (R)  
Marian Hanson (R)  
David Hoffman (R)  
Jim Madison (D)  
Ed McCaffree (D)  
Bea McCarthy (D)  
Tom Nelson (R)  
Mark O'Keefe (D)  
Bob Raney (D)  
Ted Schye (D)  
Barry "Spook" Stang (D)  
Fred Thomas (R)  
Dave Wanzenried (D)

**Staff Present:** Lee Heiman, Legislative Council  
Lois O'Connor, Committee Secretary

**Please Note:** These are summary minutes. Testimony and  
discussion are paraphrased and condensed.

#### **HEARING ON SB 116**

##### **Presentation and Opening Statement by Sponsor:**

**SEN. JERRY NOBLE**, Senate District #21, Great Falls, provided  
written testimony. **EXHIBIT 1**

##### **Proponents' Testimony:**

**Mark Staples**, Montana Wholesalers Association, provided written  
testimony. **EXHIBIT 2**

**Steve Buckner, Service Distributing, Inc.,** provided written testimony. **EXHIBIT 3**

**Jeff Miller, DOR,** stood in support of SB 116.

**Opponents' Testimony:** None

**Questions From Committee Members:**

**REP. FAGG** asked **Mark Staples** to explain the fiscal note based on the part of SB 116 which was amended out. **Mr. Staples** stated this portion was taken out in Senate Taxation because it was not relevant. SB 116 asks that taxes be paid on the sale of the product rather than the purchase.

**REP. COHEN** stated cigarettes can be sold along with another product and asked **Jerome Anderson** if it is done with any other controlled substance. **Mr. Anderson** said hard liquor can be sold in fancy decanters or with shot glasses and other premiums. He has also seen cigarette lighters sold with liquor.

**REP. McCAFFREE** asked **Mark Staples** if this wasn't a promotional thing. **Mr. Staples** said yes. Incentives are used in all but four states and in every other industry. SB 116 simply allows a manufacturer of tobacco products sold in Montana to use the same business tools that they use in other states. **REP. STANG** asked if the bill is not passed, will it affect coupons on cigarettes in Montana. **Mr. Staples** said yes. **REP. STANG** asked if this would have to have a special package. **Mr. Staples** said yes. **REP. RANEY** asked if there was a base price on cigarettes. **Mr. staples** said no.

**REP. RANEY** asked **Mike Parker** if tobacco products could be promoted with lower prices. **Mr. Parker** said no. Wholesalers are prohibited by statute from selling below cost. **REP. RANEY** asked why cigarettes are sold for \$1.50 a pack in some places and \$2.50 in others. **Mr. Parker** said this is done to keep over the counter trade at a minimum.

**Closing by Sponsor:**

**SEN. NOBLE** provided a written closing. **EXHIBIT 4**

**HEARING ON SB 119**

**Presentation and Opening Statement by Sponsor:**

**SEN. JERRY NOBLE, Senate District #21, Great Falls,** stated SB 119 is an act requiring dealers to record and report deliveries of liquefied petroleum gas used to power motor vehicles. He provided written testimony. **EXHIBITS 5,6**

**Proponents' Testimony:**

Dave Galt, Department of Highways, stood in support of SB 119. The fee was revised in 1988. Since that time revenue has been constantly falling. SB 119 would enable the state to insure that all propane vehicles are paying the proper taxes.

**Opponents' Testimony:** None

**Questions From Committee Members:**

REP. STANG asked Dave Galt what the average tax per year is on a pickup. Mr. Galt referred the question to Norris Nichols, DOR. Mr. Nichols said the average tax was \$10 to \$15, but he wasn't sure. They are cheaper now because pickups do not contain the BTU's that are found in gas. REP. COHEN asked how many permits are sold quarterly. Mr. Nichols said he wasn't sure. Mr. Galt said the number of permits sold quarterly is close to 2000. Most of them being pickup trucks, class 1 vehicles, and many commercial trucks having a gross vehicle weight of 26,000 to 28,000 pounds.

REP. COHEN said at one time we had low rates to encourage the use of alternative fuel because it was plentiful, inexpensive, and clean. He asked Mr. Nichols if we wanted to encourage or discourage the use of propane as a matter of policy. Mr. Nichols said there are more problems with the use of propane that we don't have with gasohol. Propane is hard on valves and the vehicle engine must be change over to fit the fuel. He has had pickups that have ran on propane and he is changing them back.

REP. M. HANSON asked Mr. Nichols if the money collected from the taxes is presently going into the highway trust fund. Mr. Nichols said yes.

REP. FOSTER asked Mr. Nichols what is currently being done with compressed natural gas. Mr. Nichols said CNG is being treated the same as other fuels. It is seven cents lower than surrounding states. There is a bill being introduced to increase this amount.

REP. COHEN asked Mr. Galt about garbage trucks and if they would only be able to make deliveries when they can show a certificate. Mr. Galt said one license will do if the vehicle is already licensed. REP. COHEN asked if someone would have to be present for every delivery. Mr. Galt said once the license is on file they can deliver. REP. COHEN said he buys his permits quarterly, and asked how will they know if they are current and do you need a rule making authority. Mr. Galt said there would be a rulemaking authority to deal with these problems. You may also have to display your license.

**Closing by Sponsor:**

SEN. NOBLE stated all the liquefied petroleum gas delivered to farm tanks doesn't have to have a number. If the highway patrol or GBW has to check for permits, farmers will comply. If they do check, all they have to do is write one of the permit numbers down. They are not going to make it hard on anyone. SB 119 is just putting teeth into existing laws. A lot of people are not paying now. Dealers are not concerned about putting too much pressure on them with this bill.

**HEARING ON HB 677****Presentation and Opening Statement by Sponsor:**

REP. STEVE BENEDICT, Senate District #64, Hamilton, stated HB 677 is an act to allow the governing body of a county to establish a fund and levy up to 1 mill on each dollar of taxable property in the county for the support of county literacy programs. This would give the first priority to the direct instruction of adults, and would also help programs in school which serve youth. Helping adults learning to read is important. More than 6000 Montanans have not completed the 8th grade. More than 58,00 have not completed 12th grade. There are grants from the federal government and private concerns, but they are becoming more difficult to obtain. HB 677 gives up to 1 mill for program subject to the I-105 property tax freeze.

**Proponents' Testimony:**

Janet McMillan, Bitterroot Literacy Program (LVA-B), provided written testimony. EXHIBIT 7

Dixie Stark, Literacy Volunteers of America, provided written testimony. EXHIBIT 8

Catrina Shickles, Montana Resident, said HB 677 would give the counties a better chance to establish continuity in their programs. There is a greater need, than most acknowledge, for the literacy programs. There are a large number of illiterate people in Montana.

Chuck Walk, Montana Newspaper Association, Newspapers support Newspaper Education Week which is primarily aimed at school children. This bill is a logical extension to support the non-reading public. We must all have a vested interest in illiteracy.

Roberta Patterson, Former Literacy Coordinator, stated older adults (45 - 65) may have had to leave school to go to work. She asked the committee to consider these people now that their jobs are gone and they have low literacy skills. These people have third grade skills and can not compete in today's technology.

Gordon Morris, Montana Association of Counties, stated that if levy established in HB 677 were discretionary, MACO would support the bill. He suggested that the bill be amended by taking Section 2 out and leave the current level of funding within the counties. This shouldn't be an exception to I-105.

Peggy Munoz, Bitterroot Public Library, provided written testimony. EXHIBIT 9

Nansu Haynes, Bitterroot Public Library, provided written testimony. EXHIBIT 10

Opponents' Testimony: None

Questions From Committee Members:

REP. McCARTHY stated she was not comfortable with the control of the money in the fund. REP. BENEDICT said the bill is trying to address the programs already in existence and leave the option with the county. REP. McCARTHY felt this was not the best way to do it. REP. BENEDICT said that when the bill was drafted, he asked that the levy be subject to the limitations of I-105. If the tax base had increased to this point, they could establish the 1 mill levy or reallocate the money without a new tax.

REP. REAM asked REP. BENEDICT if this could be considered a local option tax. REP. BENEDICT said yes. REP. REAM asked if the county commissioners had considered putting the levy on the ballot and had it been requested of them. REP. BENEDICT referred the question to Janet McMillan. Ms. McMillan said that it had not in both cases.

REP. SCHYE said the bill had lots of merit and asked REP. BENEDICT if the bill would have to go into effect before county commissioners could do anything. REP. BENEDICT said yes. REP. SCHYE asked Ms. McMillan if they had a board. Ms. McMillan said that Hamilton has no board but they do have a direct program. It operates the same except in those programs housed in adult education. REP. SCHYE asked Chloe Fessler, Literacy Volunteers, if they coordinated their program with the job service. Ms. Fessler said yes, extensively.

REP. REAM stated the bill goes beyond I-105 and asked REP. BENEDICT if this was a good idea. REP. BENEDICT said it only allows the mechanism for counties with an increased tax base or counties that can reallocate the funds.

Closing by Sponsor:

REP. BENEDICT made no closing statement.

**EXECUTIVE ACTION ON HB 457****Discussion:**

REP. ELLIOTT wanted to retrieve HB 457 from the subcommittee to put it on the table. He stated that it was not his intention to apply the bill to a large corporation doing business in the state and doesn't know how it can be fixed. He feels that taxes on profits are better than severance taxes because severance taxes (unit or ad valorem) puts a squeeze on the margin when prices go up or down. Profits are a better place to do this because it doesn't increase the cost of doing business. The oil industry has been less than forthright in providing accurate figures on which legislative policy can be based. We need trust.

**Motion/Vote:** REP. ELLIOTT MOVED HB 457 BE TABLED. Motion carried unanimously by voice vote.

**HEARING ON SB 93****Presentation and Opening Statement by Sponsor:**

SEN. DELWYN GAGE, Senate District #3, Cut Bank, stated SB 93 is an act revising the resource indemnity trust tax by changing the rate of tax on coal and the method of valuing coal.

He stated the determination to use mine mouth cost as the method of valuing coal for determination of taxes began in 1984. SB 93 says to look at this realistically and make it easy for all, including the DOR and Base it on the contract sales price.

The fiscal note indicated the impact on the resource indemnity trust fund and that there was an error in its computation. He supplied the committee with a new one. EXHIBIT 11 He stated it would be as tax neutral as we can get and it would be good for DOR and the coal companies in Montana.

**Proponents' Testimony:**

Jim Mockler, President, Montana Coal Council, stated the problem is administrative. It is not a tax issue. SB 93 eases the administration of the DOR and the industry because it is based on the contract sales price which is what severance tax is based on. It shouldn't cost any money.

Tom Ebrery, Nerco, stated he operates the Spring Creek Mine. Even though Nerco would pay more tax under SB 93, it would reduce the costs of administration.

Ken Williams, Entech, stated SB 93 would simplify administration. Entech would pay more under the revised scheme, but he supported it.

**Opponents' Testimony:**

Richard Parks, Northern Plains Resource Council, provided written testimony. EXHIBIT 12

**Questions From Committee Members:**

REP. REAM said that he was confused by the two fiscal note because they did not agree. SEN. GAGE said that they were for different tax years and 1990 has not been filed yet. REP. REAM asked if the bill passed, would it treat the coal producers any differently from the other producers listed in Section 2. SEN. GAGE said no, they are already treated differently. There are three production taxes. Two are based on the contract sales price, which is definable. RITT is based on the point of extraction. No sale occurs so it is hard to value.

REP. COHEN asked SEN. GAGE if the producers would be paying more tax at the proposed .4% that the current .5%. SEN. GAGE said yes but that they would save money at the administration level. REP. COHEN asked Denis Adams, DOR, to comment on the fiscal note. Mr. Adams said that when the fiscal note was calculated, certain assumptions were made including RITT tax paid on the contract sales price. It was not correct. REP. COHEN asked if he could assume the \$235,000 per year in the fiscal note is the difference between the .4% and .5% on the contract sales price. Mr. Adams said yes and that it represented 1/10 of 1% of the contract sales price.

REP. O'KEEFE said currently, there was a whole laundry list of deductions coal companies can take against the contract sales price before they are taxed. SEN. GAGE said if operating costs vary in an industry from year to year, this will happen.

**Closing by Sponsor:**

SEN. GAGE said the passage of SB 93 would lighten the load for DOR. It would also cost the producers more at the .4% calculation, but they would save money on the administrative level.

**Announcements:** CHAIR HARRINGTON said HB 677 would be sent to the Property Tax Subcommittee and SB 93 would be sent to the Income/Severance Tax Subcommittee.

**EXECUTIVE ACTION ON SB 116**

**Motion/Vote:** REP. STANG MOVED SB 116 BE CONCURRED IN. Motion carried unanimously by a voice vote.

EXECUTIVE ACTION ON SB 119

Motion/Vote: REP. M. HANSON MOVED SB 119 BE CONCURRED IN.  
Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 11:02 a.m.

  
DAN HARRINGTON, Chair

  
LOIS O'CONNOR, Secretary

DH/lo



1st & 2nd  
all here

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 2/20/91

2nd  
X Action

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓	X	
REP. BOB REAM, VICE-CHAIRMAN	✓	X	
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓	X	
REP. ORVAL ELLISON 10:10 ✓	✓	X	
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT 10:10 ✓	✓	X	
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE 10:10	✓	X	
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓	X	
REP. FRED THOMAS 9:55	✓	X	
REP. DAVE WANZENRIED 10:10	✓	X	

Proy 40  
OK

3-5-  
JDB  
9:15

HOUSE STANDING COMMITTEE REPORT

March 5, 1991

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 116 (third reading copy -- blue) be concurred in.

Signed: \_\_\_\_\_

Dan Harrington, Chairman

Carried by: Rep. DAN HARRINGTON TEN

HOUSE STANDING COMMITTEE REPORT

March 5, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate  
Bill 119 (third reading copy -- blue) be concurred in.

Signed:   
Dan Harrington, Chairman

Carried by: Rep. DAVID H. FEMAN

EXHIBIT 1  
DATE 2-20-91  
HB SB 116

INTRODUCTION OF SENATE BILL 116  
BY SENATOR JERRY NOBLE  
BEFORE HOUSE TAXATION COMMITTEE  
OF THE FIFTY-SECOND MONTANA LEGISLATURE  
ON FEBRUARY 20, 1991

INTRO:

GOOD MORNING, MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. I'M SENATOR JERRY NOBLE, SENATE DISTRICT 21. I'M HERE TODAY TO PRESENT TO YOU SENATE BILL 116 ON BEHALF OF THE MONTANA TOBACCO AND CANDY WHOLESALERS, WHO COMPRISE A LARGE NUMBER OF BUSINESSES THROUGHOUT MONTANA, EMPLOYING HUNDREDS OF PEOPLE AND MAKING LARGE CONTRIBUTIONS TO EACH COMMUNITY IN WHICH THEY RESIDE AND ALSO THE STATE AT LARGE. AS TAX POLICY AND PROCEDURES IN THE STATE OF MONTANA HAVE EVOLVED, THE APPLICATIONS OF THOSE FOR MOST INDUSTRIES HAVE EVOLVED AS WELL. HOWEVER, FOR TOBACCO WHOLESALERS, CERTAIN AREAS HAVE REMAINED OUT OF DATE, CUMBERSOME AND INEQUITABLE. TO REMEDY THESE SITUATIONS, THE WHOLESALERS AND THE DEPARTMENT OF REVENUE HAVE WORKED ON THIS PROPOSED LEGISLATION OVER THE LAST YEAR, WITH THE DEPARTMENT OF REVENUE PARTICIPATING IN AND EVENTUALLY CONCURRING IN THIS LEGISLATION.

IN INTRODUCING THIS BILL, I WANT TO SAY FIRST AND FOREMOST, THIS BILL HAS NOTHING TO DO WITH THE PERCENTAGE OF THE TAX IMPOSED ON TOBACCO PRODUCTS, WHICH IS BEFORE THE LEGISLATURE IN OTHER BILLS. IT ALSO HAS NOTHING TO DO WITH TO WHOM THE TOBACCO PRODUCTS ARE SOLD, WHICH IS ALSO COVERED IN OTHER BILLS THIS SESSION. THIS BILL HAS NO WARTS ON IT. IT JUST STREAMLINES AND MODERNIZES PROCEDURES FOR BOTH THE DEPARTMENT OF REVENUE AND THE WHOLESALERS AND BRINGS FAIRNESS TO THE PROCESS.

IN SUMMARY, WHAT IT DOES IS THE FOLLOWING:

1. IT REPEALS A RULE CALLED THE 72-HOUR RULE, WHICH MADE THE WHOLESALERS PUT THEIR TAX STAMPS ON CIGARETTES WITHIN 3 DAYS OF PURCHASING THEM AND IS A REMNANT FROM THE 1940'S, WHICH HAS NO NECESSITY OR REALITY TODAY.

2. IT ALLOWS FOR A NEW METHOD OF AFFIXING THE STAMPS TO THE CIGARETTES, SIMPLY BECAUSE THE OLD METHOD IS BEING ABANDONED BY THE ONE COMPANY THAT PROVIDED THE MACHINES TO DO IT.

3. FINALLY, IT ALLOWS THE MANUFACTURER OF CIGARETTES TO SELL THEM IN CONJUNCTION WITH SOME SORT OF PREMIUM ARTICLE, SUCH AS A LIGHTER OR A PAIR OF SUNGLASSES, ETC., WHICH IS NOW ALLOWED TO MANY OTHER PRODUCTS.

FOR A MORE DETAILED ANALYSIS OF THIS BILL AND THE STREAMLINING EFFECTS THAT IT WILL HAVE FOR BOTH THE INDUSTRY AND THE DEPARTMENT OF MONTANA, I NOW TURN YOU OVER TO MARK STAPLES, WHO IS THE EXECUTIVE DIRECTOR OF THE MONTANA WHOLESALERS.

TESTIMONY OF MARK STAPLES, EXECUTIVE DIRECTOR  
MONTANA ASSOCIATION OF TOBACCO & CANDY DISTRIBUTORS  
BEFORE HOUSE TAXATION COMMITTEE  
OF THE FIFTY-SECOND MONTANA LEGISLATURE  
ON FEBRUARY 20, 1991  
REGARDING SENATE BILL 116

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS MARK STAPLES. I'M THE EXECUTIVE DIRECTOR OF THE MONTANA ASSOCIATION OF TOBACCO AND CANDY DISTRIBUTORS. SENATE BILL 116 IS THE PRODUCT OF EXTENSIVE WORK BY BOTH THE DEPARTMENT OF REVENUE AND THE ASSOCIATION WHICH I REPRESENT, TO RID THE CIGARETTE SALES TAX ACT OF UNNECESSARILY CUMBERSOME AND CONFUSING SECTIONS, WHICH HAVE WORKED TO THE DISADVANTAGE OF THE MEMBERS OF MY ASSOCIATION. THESE PROPOSED CHANGES DO NOT SEEK TO MODIFY IN ANY WAY THE PERCENTAGE OF THE TAX COLLECTED OR TO WHOM THESE TOBACCO PRODUCTS CAN BE SOLD. IN ORDER OF THEIR APPEARANCE IN THE BILL, THE SALIENT FEATURES OF THIS REVISION OF THE CIGARETTE SALES ACT AND THE CIGARETTE SALES TAX LAW ARE THE FOLLOWING:

THE FIRST STREAMLINING THAT THIS BILL CONTAINS IS AT SECTION 3, WHICH IS AT THE TOP OF PAGE 7. IT SIMPLY REPEALS WHAT WAS ONCE CALLED THE 72-HOUR RULE, WHEREBY THE WHOLESALE HAD TO AFFIX THE TAX STAMP TO EACH AND EVERY CIGARETTE PACKAGE ON HIS PREMISES WITHIN 72 HOURS OF RECEIVING THEM INTO THE WAREHOUSE. THIS BILL WOULD REQUIRE THAT THE TAX STAMP BE AFFIXED BEFORE HE SELLS THE PRODUCT OUT OF THE WAREHOUSE. FOR DECADES THE DEPARTMENT OF REVENUE HAD NOT ENFORCED THIS 72-HOUR RULE. IT ORIGINALLY WAS CREATED WHEN

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THE TAXES ON CIGARETTES WERE MINIMAL AND THIS WAS ONLY METHOD OF MONTHLY REPORTING. NOW THAT THE TAXES ARE IN THE HUNDREDS OF THOUSANDS OF DOLLARS MONTHLY, THERE ARE VERY STRINGENT MONTHLY REPORTING REQUIREMENTS ANYWAY AND THE 72-HOUR RULE HAS BASICALLY BECOME A VESTIGE OF ANOTHER ERA. HOWEVER, THE DEPARTMENT OF REVENUE, AS THEY SHOULD, HAS ADOPTED THE POSITION THAT IF IT'S ON THE BOOKS, LET'S ENFORCE IT, AND IF IT SHOULDN'T BE ON THE BOOKS, LET'S GET RID OF IT. THUS, IT PUTS AN UNDUE BURDEN ON THE WHOLESALER TO COMPLY WITH THIS UNNECESSARY RULE, AND ALSO, FOR THOSE WHO PAY CASH FOR THEIR STAMPS, UNNECESSARILY TIES UP THEIR VERY IMPORTANT CASH FLOW. THE DEPARTMENT AGREES AND CONCURS WITH THIS REPEAL OF THE 72-HOUR RULE.

THE SECOND CHANGE IS IN SECTION 4, SUBSECTION 2, AT THE BOTTOM OF PAGE 9, WHEREBY THE DEPARTMENT WILL ALLOW A CHANGE FROM THEIR CURRENT METHOD OF STAMPING CIGARETTES, WHICH IS VIA A METERED MACHINE, TO A HEAT-APPLIED MACHINE. THIS ALLOWANCE IS NECESSARY FOR TWO REASONS. THE COMPANY, PITNEY-BOWES, THAT MANUFACTURES AND SERVICES THE MACHINES THAT ARE NOW UTILIZED, IS GOING OUT OF THE TAX STAMPING BUSINESS, AND THUS, EACH OF THE WHOLESALERS IS GOING TO HAVE TO MOVE TO A HEAT-APPLICATION SYSTEM WITHIN FIVE YEARS, WHICH IS THE PITNEY-BOWES DEADLINE. THE DEPARTMENT OF REVENUE PREVIOUSLY PROHIBITED THE USE OF ANY MACHINES BUT THOSE IN USE RIGHT NOW, AND RECOGNIZING WHAT IS HAPPENING WITH PITNEY-BOWES, THE DEPARTMENT IS NOW SIMPLY ALLOWING THE NECESSARY TRANSFER TO THE HEAT-APPLIED SYSTEMS, WITH, OF COURSE, THEIR APPROVAL OF EACH MACHINE THAT IS TRANSFERRED TO.

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THE NEXT CHANGE IS THE REPEAL OF SECTION 16-10-202, MCA, WHICH HAS BEEN INTERPRETED BY THE DEPARTMENT OF REVENUE AS PROHIBITING THE SALE OF CIGARETTES IN COMBINATION WITH OTHER ARTICLES AS A VIOLATION OF THE BELOW COST SELLING PROHIBITION THAT APPLIES TO CIGARETTE SALES. THIS BILL WOULD ALLOW CIGARETTES TO BE SOLD WITH SUCH ATTACHMENTS AS A LIGHTER, A PAIR OF SUNGLASSES, CIGARETTE HOLDER OR SOME OTHER PREMIUM, WITHOUT BEING SAID TO VIOLATE BELOW COST SELLING BY INCLUDING SUCH AN ARTICLE.

FINALLY, SECTION 16-10-305, MCA, IS REPEALED. THIS SECTION PROVIDED THAT RETAILERS HAD TO PAY WITHIN 7 DAYS THE WHOLESALERS FOR TOBACCO PRODUCTS THEY BOUGHT FROM THEM. IN PRACTICAL APPLICATION, THERE ARE TIMES WHEN THIS SIMPLY IS NOT POSSIBLE BECAUSE OF LARGER COMPANY'S CORPORATE PRACTICES, AND WHOLESALERS HAVE BEEN PAID LATER THAN 7 DAYS. THIS BILL WOULD NOT EFFECT THE DEPARTMENT OF REVENUE AS THE WHOLESALER STILL HAS TO PAY IN THE AMOUNT OF TIME THAT HE HAS TO PAY AND IT SIMPLY ALLOWS THE WHOLESALER TO GIVE THAT CREDIT TO GOOD RETAIL CUSTOMERS THAT THEY MAY NEED AND IN TRUTH HAVE BEEN DEMANDING FOR SOME TIME.

IN CONCLUSION, THIS BILL IS A PRODUCT OF A WORKING COOPERATIVE RELATIONSHIP BETWEEN THE WHOLESALERS AND THE DEPARTMENT OF REVENUE. IT REFLECTS THE DEPARTMENT OF REVENUE'S PHILOSOPHY OF ENFORCING THE LAW ON STATUTES THAT ARE ON THE BOOKS AND GETTING OFF THE BOOKS OR CHANGING STATUTES THAT ARE NO LONGER WORKABLE AND AS SUCH, IT DOES NOT EFFECT THE RATE OF TAXATION IN MONTANA, CONSUMERS IN MONTANA, OR THE REVENUES TO THE STATE OF MONTANA. I URGE YOU ON BEHALF OF THE TOBACCO WHOLESALERS AND THE WORK THAT THEY HAVE DONE WITH THE



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HB SB 116

DEPARTMENT OF REVENUE TO PLEASE GIVE YOUR CONSIDERATION FOR A DO  
PASS RECOMMENDATION FOR THIS BILL.

TESTIMONY OF STEVE BUCKNER, PRESIDENT  
MONTANA ASSOCIATION OF TOBACCO & CANDY DISTRIBUTORS  
BEFORE HOUSE TAXATION COMMITTEE  
OF THE FIFTY-SECOND MONTANA LEGISLATURE  
ON FEBRUARY 20, 1991  
REGARDING SENATE BILL 116

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS STEVE BUCKNER. I AM THE PRESIDENT OF THE MONTANA ASSOCIATION OF TOBACCO AND CANDY DISTRIBUTORS. I AM ALSO ONE OF THE OWNERS OF OUR FAMILY BUSINESS, SERVICE DISTRIBUTING, INC. WITH WAREHOUSES LOCATED IN LIVINGSTON, BOZEMAN AND HELENA.

ONE PORTION OF THIS BILL BEFORE YOU DEALS WITH THE REPEAL OF SECTION 16-11-113 - THE "72-HOUR" LAW. LAST YEAR, FOR THE FIRST TIME IN 43 YEARS, THE DEPARTMENT OF REVENUE DECIDED TO START ENFORCING THIS SECTION OF THE CIGARETTE LEGISLATION WITHOUT ANY PRIOR NOTIFICATION TO WHOLESALERS. IT WAS RECOMMENDED BY THE DEPARTMENT OF REVENUE THAT OUR LICENSE BE SUSPENDED FOR 3 DAYS. THIS SUSPENSION WOULD HAVE DRASTICALLY HURT OUR BUSINESS AND SO WE APPEALED. WE WON OUR APPEAL AND AFTERWARDS AGREED WITH THE DEPARTMENT OF REVENUE THAT THERE IS NO REASON TO KEEP THE 72-HOUR LAW ON THE BOOKS. IT IS AN OUTDATED MODE OF RECORD-KEEPING FOR CIGARETTES.

CIRCUMSTANCES SUCH AS THESE LED US TO WORK TOGETHER WITH THE DEPARTMENT OF REVENUE TO ELIMINATE AMBIGUITY AND UPDATE PORTIONS OF THE CIGARETTE LEGISLATION.

THIS BILL WILL HELP THE DEPARTMENT OF REVENUE WITH ENFORCEMENT OF CIGARETTE LAWS AND CREATE A BETTER WORKING CLIMATE FOR MONTANA WHOLESALERS. PLEASE VOTE YES ON SENATE BILL 116.

EXHIBIT 4  
DATE 2-20-91  
HB SB 116

CLOSING OF SENATOR NOBLE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

1. AS YOU CAN SEE, NO OPPONENTS OF THIS BILL HAVE APPEARED,  
NOR DO WE KNOW OF ANY.

2. I THINK YOU CAN SEE THE EXTENSIVE WORK THAT HAS GONE INTO  
THIS BILL, BOTH BY THE DEPARTMENT OF REVENUE AND THE MONTANA  
WHOLESALE ASSOCIATION.

3. THE PROVISIONS OF THIS BILL HARM NO ONE AND HELP BOTH  
PRIVATE INDUSTRY AND STATE GOVERNMENT IN APPLYING AND ADHERING TO  
THE LAW.

4. ALL THIS BILL SEEKS IS UPDATING AND BASIC FAIRNESS.

### Fees for LPG License

These license fees for Liquified Petroleum Gas (LPG) are based on the licensed gross weight of the vehicle.

1. Passenger cars and pickups up to 10,000 GVW	\$108.00
10,001 - 18,000 GVW	144.00
18,001 - 48,000 GVW	361.00
Over 48,000 GVW	1,806.00
School buses on contract with school districts	144.00

These fees may be purchased by the quarter, semi-annually, or annually.

**\*Note\*** The GVW Division of the Department of Highways is the only outlet for these licenses.

Total LPG Revenue is listed below:

1990 - 231,627  
1989 - 241,695  
1988 - 247,698  
1987 - 143,930\*  
1986 - 164,280  
1985 - 175,580  
1984 - 178,260

\* In 1987 the legislature revised the fees for LPG which is indicated by the large increase in revenue for 1988.

DAG:D:GVW:2.gh

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# LEWISTOWN PROPANE CO.

DENTON

L. P. Gas & Fertilizer

STANFORD

P. O. BOX 187

PHONE 538-6791

LEWISTOWN, MONTANA 59457

V. MONCUR, MGR.

January 23, 1991

Senator Jerry Noble  
Helena, MT 59624

Dear Senator Noble:

In response to your phone call of January 21, 1991, the following are my thoughts on the loss of revenue from the sale of propane, the fuel tax or license on same for the State of Montana.

In our trade area of Fergus, Judith Basin, Wheatland and Petroleum counties you will find the loss to be 55%-65% of the fuel tax or permits that should be collected. The vehicles using LP gas as a motor fuel are not required to have a fuel bond, fuel permit or special fuel license for same. The vehicles referred to are pickups and an occasional truck or car. In considering this misaligned provision and to correct same, you must have a legal requirement for a special fuel permit to be carried in each vehicle at all times. I do not think it is necessary for obtaining a fuel permit because in consideration of permits, the user would pay State and Federal tax on using the same.

These permits should be issued by the County Treasurer, the State scale location and/or the Highway Patrol. They must be easily obtained so that the would-be user does not have a justifiable reason for not using one.

All LP gas dealers must be required to make a quarterly fuel report to the State of Montana. My reasoning for the quarterly report is that currently all LP gas dealers are required to make quarterly reports to the Internal Revenue Service. Therefore all the necessary information that would be required by the State on the fuel report is readily available from the information required on the Federal report.

I also think that all dealers should have to keep a file report on all sales of LP gas for motor fuels and this file copy should also include the fuel permit number of each customer. The dealer could probably use a copy of the sales ticket for this purpose. I also think the dealer fuel bond requirement should be increased to \$1500.00 annually. This bond could cover the dealer's use plus dealer's sales. The law states now that all motor fuel must be delivered through a liquid meter. These meters are inspected and sealed by the State of Montana. But they do not prevent a user from obtaining his fuel from a domestic tank located at his home or on the ranch.

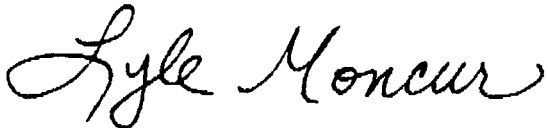


Currently I know that a large number of dealers do not collect Federal tax or request to see a State permit because they can justify not doing so because of the large number of RV units that have fixed motor fuel tanks that are used primarily for heating and cooking in the RV unit.

Jerry, I know you can make this program work if you enforce it. I guess in closing I need to reiterate the necessity of an LP gas fuel permit and fuel report. Also in consideration of using LP gas as a motor fuel if they decide to tax it on so many miles per gallon, they should reconsider the fact that LP gas is only about 80% efficient as gasoline. In other words, don't let the dealer lie to you.

If you can make this work everyone will pay less tax in the future because everyone will pay their full share.

Yours truly,

A handwritten signature in cursive script that reads "Lyle Moncur".

Lyle Moncur  
Lewistown Propane

February 19, 1991

To: House Taxation Committee

From: Janet McMillan, Literacy Volunteers of America-Bitterroot

Re: HB 677

I encourage you to vote "do pass" on HB677. For a variety of reasons, many people in Montana finish or drop out of school unable to read or compute adequately. Potential employers, job service workers and school personnel confirm the fact that many of these people have skills grossly inadequate to their everyday needs. They cannot fill out application forms, understand written instructions, operate computers, and perhaps most sinister of all, they provide a role model to their children which does not include reading. They cannot read to their children, they often do not vote, and frequently their low skills keep them in extreme poverty.

Every year literacy programs throughout the state serve more and more of these citizens. Literacy Volunteers of America-Bitterroot has served about 75 people since it began in 1987. For example, a young man who worked in a grocery store came to us because he wanted a promotion to manager. He was very experienced and capable of the work, but he couldn't read well enough to do the paper work, nor to learn the computer skills the job required. After about 18 months of tutoring he got a manager's job and is learning to use the computer. He recognized that his daughter was having problems in school which were similar to ones he had experienced himself. LVA-B helped to find a tutor for her as well. Every literacy program in Montana has similar success stories, attesting to the importance of keeping these programs in operation.

Although the services of our programs are free to the students and all the tutors are unpaid volunteers, a paid coordinator is needed. Training the volunteers, matching students, promoting awareness of the problems and proposed solutions are all important components of our literacy programs. The funding of our programs is extremely precarious, because nearly all of us in Montana depend upon federal grants from the Dept of Ed. and VISTA. However, the federal policy is to spread these around and let the community pick up the funding. To ensure that our services continue a stable source of funding is crucial. Please recommend "do pass" for HB677.

February 19, 1991

To: House Taxation Committee  
From: Dixie Stark, Literacy Volunteers of America-Bitterroot  
Re: HB 677

Elaine Williams, LVA student from Framingham, MA, put it like this, "To break out of the shell...to emerge as a new person-it's a very powerful thing. Literacy is not just reading and writing....it's much more than that." Contact with Elaine and other students at the National LVA Convention-1990 convinced me that people who cannot read are not stupid. There are as many reasons why people can't read as there are people who can't read!

I have volunteered with the local Literacy Program for two years. It provides free, confidential tutoring to adults who want to read or write more proficiently. Students reported that their children were developing the same problems with school that they experienced as children. In response, volunteers developed a program for families to help parents promote reading skills in their children. We have helped many parents change the role they play in modeling the value of reading. We have no shortage of students and families that need our services.

Funding for the past three years has been primarily through grants which focus on starting programs, not maintaining them. It is difficult to maintain continuity in a program without continuity in the budget. It is especially critical that literacy programs maintain services at this time, as sawmills and businesses close and people are thrown out of work. Many of our students were initially motivated to read better by the desire to go to school or get a better job.

Tutors volunteer time and skills, but someone must train tutors, match them with students, and increase community awareness of services. Without funding for a coordinator, many volunteer hours would remain untapped. Please support HB 677. It would facilitate development of local funding for worthwhile programs.



9  
DATE 2-20-91  
HB 677

February 18, 1991

To: House Taxation Committee  
From: Peggy Munoz, Hamilton, MT  
Re: HB677

Since the literacy program began at the Bitterroot Public Library, I have watched it evolve and succeed. Janet McMillan, our coordinator, has guided the project from no program at all to the flourishing program in existence today.

When she began she had a desk and a Vista funded position. Initially, the push was to find volunteers in the community willing to be trained in Literacy Volunteers of America techniques, to form an advisory council and to publicize the availability of the program.

Their real success has been in reaching adults who, for varying reasons, fell through the cracks in learning to read. The LVA method of one on one tutoring, confidentiality and tailoring the subjects used to the interests of the students has worked. Currently there are four English as a Second Language and twelve Basic Reading students.

The Family of Readers program started by Janet with the assistance of tutor, Dixie Stark, is designed to prevent illiteracy in low income families. Parents are taught how to read to their children, to use the library and to help with homework. Workshops have been held in Hamilton and other communities in Ravalli County.

The program has been funded by two Department of Education grants but the policy of these grants is to spread them around and let the community pick up the funding. The library budget is stretched to cover library operations. There is a need to find stable funding so a literacy program can continue. The problems of illiteracy won't solve themselves. A paid coordinator is needed to train and counsel the volunteers. Specialized materials must be made available. Local fundraising is raising some money but not enough to support a position.

Please vote a "do pass" for HB677.

February 28, 1990

TO: House Taxation Committee

FROM: Nansu Haynes, Bitterroot Public Library  
Hamilton, Montana

RE: HB 677

This letter is written in support of HB 677, funding Literacy Programs within the State of Montana through local funding sources.

Awareness of the need for literacy programs within our state has come to fruition. Various organizations and a large number of dedicated volunteers and literacy coordinators have demonstrated that the need exists. For the first time, Montana and local communities have developed statistics on illiteracy in our state. Prior to this, statistics did not exist. There was no information. The statistics and the success of local programs gives us a firm message. Long-term stable funding is crucial to the success of Literacy Programs.

The Bitterroot Public Library, through support from V.I.S.T.A., Kellogg Foundation and the U.S. Department of Education has been able to keep our Literacy Program running for 4 years. The library budget is stretched and not able to provide outright financial support. Stable funding must be found to provide continuity for literacy coordinators, tutors and students in need of the service. We can no longer rely on grant awards or the "possibility" of. The program is too important to be a "maybe".

Let's do something about literacy awareness in Montana. Let's support our thousands of volunteers and literacy coordinators in helping them make a difference in the lives of adult non-readers. Please support HB 677.

DATE 2-20-91  
HB SB 93

COAL RITT AT .4% & .5%  
CALENDAR YEARS 1988 & 1989

COMPANY	QTR	C.S.P.	RITT @ .4% (A * .004)	RITT PAID @ .5% CURRENT LAW	DIFFERENCE (B - C)
#####	#####	#####	#####	#####	#####
		A	B	C	D
TOTALS	1/88	\$85,451,805	\$341,807.22	\$0	
	2/88	\$57,767,988	\$231,071.95	\$0	
	3/88	\$61,859,742	\$247,438.97	\$0	
	4/88	\$67,758,014	\$271,032.05	\$0	
		\$272,837,549	\$1,091,350.20	\$1,054,542.70	\$36,807.50
		=====	=====	=====	=====
	1/89	\$57,429,142	\$229,716.57	\$0	
	2/89	\$59,094,849	\$236,379.40	\$0	
	3/89	\$64,150,573	\$256,602.29	\$0	
	4/89	\$67,624,245	\$270,496.98	\$0	
		\$248,298,808	\$993,195.23	\$992,114.16	\$1,081.07
		=====	=====	=====	=====

# Northern Plains Resource Council

EXHIBIT 12  
DATE 2-20-91  
HB SB 93

## Testimony of the Northern Plains Resource Council Opposing SB-93, February 20, 1991

Mr. Chairman, members of the committee, my name is Richard Parks. I own and operate a sporting goods store and fishing outfitting service in Gardiner, MT. I am appearing today in my role as legislative chair of the Northern Plains Resource Council, a statewide citizens group of approximately 6000 members and supporters.

We oppose SB-93 for two basic reasons. First, for good and sufficient reasons, the tax rate for the Resource Indemnity Trust was set at .5%. We have heard no good reason to lock in what amounts to a 20% reduction in the rate. Second, it is our understanding of the intent behind the Resource Indemnity Trust that it be a tax levied on gross production. It seems to us that the way to respond to Judge Bennett's decision is to clarify that the definition of gross means just that, not some species of net. This state has recent experience with this sort of bill in SB-410 from the last session. It too was proposed as a revenue neutral bill designed to simplify problems for the Department of Revenue. Its actual impact, not revealed by its fiscal note, was to cost the state about \$2,000,000 in the last biennium. We think this experience justifies extreme caution in this case and urge your rejection of SB-93. Thank you.

Richard C. Parks

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Texas

COMMITTEE

BILL NO.

SB 116

DATE 2/20/91

SPONSOR(S)

Sen Noble

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>John DeLano</i>	<i>Tobacco Products</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>John DeLano</i>	<i>P.M.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>MIKE PARKER</i>	<i>PENNINGTON'S, INC.</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Steve Buckner</i>	<i>Service Distributing Inc</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Mark Taylor</i>	<i>Montana Wholesalers</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Roger Tippet</i>	<i>RJ Reynolds</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Jeff Miller</i>	<i>DOR</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS  
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB119  
DATE 2/20/91 SPONSOR(S) Sen. Noble  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
DAVE GALT	D.O.H.	✓	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB 93  
DATE 2/20/91 SPONSOR(S) Sen. Gage  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Richard C. Parks	NPRC		✓
Jim Mockler	MT. Coal Council	✓	
Tom Eberly	Nerco	✓	
Ken Williams	Entech	✓	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. HB 677  
DATE 2/20/91 SPONSOR(S) Rep. Benedict  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<i>Nancy McPhee</i> <sup>Boz</sup>	<i>Bozeman Literacy Council</i>	✓	
<i>Janet McMillan</i>	<i>Bitterroot Literacy Program</i> <sup>LIBRARY</sup>	✓	
<i>Dixie Stark</i>	<i>Literacy Volunteers of America - Bitterroot</i>	✓	
<i>Chloe Fessler</i> <sup>1509 Howell</sup> <i>Missoula</i>	<i>Literacy Volunteers of Am - Missoula</i>	✓	
<i>Gordon Morris</i>	<i>MACo</i>	<i>Amend</i>	
<i>Cheryl Wall</i>	<i>MNA</i>		
<i>Richard Miller</i>	<i>MT State Library Comm.</i>		

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