

## **MINUTES**

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

#### **COMMITTEE ON INCOME/SEVERANCE TAX**

**Call to Order:** By BOB REAM, CHAIR, on March 13, 1991, at 8:00 a.m.

#### **ROLL CALL**

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

Rep. Dan Harrington, Chairman (D)  
Rep. Bob Ream, Vice-Chairman (D)  
Rep. Jim Elliott (D)  
Rep. Mike Foster (R)  
Rep. Bob Gilbert (R)  
Rep. Marian Hanson (R)  
Rep. Jim Madison (D)  
Rep. Bea McCarthy (D)  
Rep. Tom Nelson (R)  
Rep. Bob Raney (D)  
Rep. Barry Stang (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.

**Announcements:** REP. REAM stated HB 121 and HB 547 are bills that deal with store licenses. HB 121 repeals the state store license requirements and HB 547 exempt certain nonprofit groups and student groups from store license requirements. Both bills can be dealt with at the same time.

#### **Subcommittee Discussion on HB 121**

REP. RANEY stated he had asked Denis Adams, DOR, to break things down for the committee. He said if a person has 5 stores, each with retail licenses selling less than \$350,000 a year, he would pay \$206 per store. The more stores one owns the more progressive the cost. If more than \$350,000 is sold, they would pay \$36 per store. The total take is \$222,000 for 11,000 licenses. The wholesale licenses are a flat fee.

REP. ELLIOTT asked Denis Adams if store licenses include wholesale licenses. Mr. Adams said yes. Both wholesale and retail licenses are considered store licenses.

REP. REAM asked Denis Adams to explain the memo. Mr. Adams said if a person has a higher volume operation with more stores, he would pay less than if he had a many small stores. The rates are fixed in statute and has been so for a long time.

REP. STANG stated these fees are the most ridiculous in the state. It is one license a store owner pays the state for and gets nothing in return. REP. MADISON said that store licenses have had a long history and originated in 1933. It was enacted for two purposes; (1) the state was in the middle of the depression, property taxes were sagging; and it was passed as a revenue producing measure. It was not regulatory in any degree. (2) It was to send the message that public policy was that the state favored small businesses rather than chain operations. Over the years, the bill has been changed by different Legislators, and that is why it exists as it does.

REP. ELLIOTT said the bill costs the state \$250,000 annually in its present form and would change the bill so it would be a graduated rate. REP. GILBERT said it is an unfair tax. It is revenue raising and doesn't do anything. REP. RANEY said it could be made a reasonable bill by simply cutting the section of the bill that says if you sell over \$350,000 a year, your prices go down. REP. REAM said it would be hard to do under HB 121 because it is a repealer. REP. RANEY said it could be done because the bill is repealing many sections. They would only repeal the section dealing with licenses.

REP. RANEY said he didn't mind paying \$11, but it angers him to pay the wholesale license which is \$43.50. REP. GILBERT said the state needs the money. The committee should table HB 121 and let Revenue Oversight look at it during the interim. The statute needs to be revised.

Motion/Vote: REP. STANG RECOMMENDED THAT HB 121 BE TABLED.  
Motion carried 9 to 1 with REP. ELLIOTT voting no.

#### Subcommittee Discussion on HB 547

REP. MCCARTHY asked if the committee could delete "certain" from the title of HB 547. This would leave "exempting nonprofit groups and student groups from store license requirements". Denis Adams, Department of Revenue, explained the amendments passed out by REP. M. HANSON. He stated the amendments made HB 547 easier to administer and would identify the nonprofit organizations when its affected. REP. GILBERT asked if they would address the concerns of REP. MCCARTHY. Would it be talking about generating income used only for the purposes for which the operator is organized or are the exemptions being left in? REP. MCCARTHY said Section 2 takes care of her concerns, but asked the committee if "store" on Line 10 would cause a problem. They are

not talking about a store but an individual selling from a booth. REP. M. HANSON said that 4-H children have to buy a "store" license to sell from a booth.

**Informational Testimony:**

REP. REAM asked Lee Heiman, Legislative Council, to explain the provisions of 15-31-102. Mr. Heiman said (a) is labor, agriculture, and horticultural organizations; (b) is a fraternal benefit society order or association operating under a lodge system or for the exclusive benefit for members of fraternity operating under a lodge system providing life, sick, accident, and other benefits. This is a mutual benefit insurance company not an Elks Club; (c) is a cemetery company owned and operated exclusively for its members; (d) is a corporation for association organized and operated exclusively for religious, charitable, or educational purposes; (e) is business league, chamber of commerce, or board of trade not organized for profit, (f) is civic leader organization not organized for profit; (g) is a club organized exclusively for pleasure, recreation, and other nonprofitable purposes; and (h) farmers market associations not organized for profit. These exemptions are for the corporate income tax not an exemption from store licenses.

**Discussion:**

REP. M. HANSON, Sponsor of HB 547, said her intent in the bill was that the small groups, including the 4-H groups, would be exempt from the \$11 store license. REP. REAM asked if this would exempt all of the university book stores. REP. GILBERT said they would be exempt with the passage of the amendments.

**Motion:** REP. STANG RECOMMENDED THAT HB 547 DO PASS.

**Motion/Vote:** REP. STANG moved the amendments to HB 547. Motion carried unanimously.

**Motion/Vote:** REP. STANG MADE A SUBSTITUTE RECOMMENDATION THAT HB 547 DO PASS AS AMENDED. Motion carried unanimously.

**Subcommittee Discussion on HB 617**

REP. REAM, Sponsor of HB 617, stated HB 617 requires a tax expenditure budget. The fiscal note shows a large fiscal impact and should be sent to Appropriations.

REP. REAM asked Denis Adams, Department of Revenue, if the \$340,000 would be an ongoing expenditure annually or is it just to start administering it. Mr. Adams said it would be for starting the process only. The DOR has some taxes that are not computerized such as the corporate tax system. This would be excelling the DOR's time table. This is a one time cost.

REP. REAM asked how far beyond the expenditure report that the DOR turns into the Legislature. Mr. Adams said the items are just taking a percent of federal numbers and have no basis to come up with Montana numbers. REP. ELLIOTT said the money allocated in the fiscal note is something the DOR would be doing at some later date and asked why it was in the fiscal note. Mr. Adams said the reason it is in the fiscal note is that it would not be picked up in this biennium.

REP. GILBERT said Section 2 requires the Governor to recommend a level of spending for a particular program with recommendation to use through the appropriations process and Legislature and asked if this was a function of the Governor. The Governor recommends a budget and that is his function for the Legislature. How we deal with tax expenditures is a Legislative prerogative. REP. ELLIOTT said it is appropriate for the Governor's office to do this. There should be some suggestion made by the Governor if a program loses money for the state. REP. REAM said he sees it as providing the Governor with the opportunity to make recommendations on changes or priorities in the tax structure.

REP. MCCARTHY said the Governor couldn't enforce the bill. Section 2, #3, states if the Governor recommends a deduction, he would have to recommend why it is retained at the current rate. If there is an increased rate, he has to tell why. REP. REAM said it was being practiced in other states. David Adams said the report is based on current law. They make no assumptions as to anticipated changes from the Governor or Legislature.

REP. MCCARTHY asked if Section 3 changes the time frame. REP. RANEY said it wouldn't change the time frame; it is existing law. REP. REAM said Page 7, Subsection 5, adds that the deadline is August 1 for the DOR to submit the report to the Governor. Section 4 would be the time frame for the Governor to submit the budget to the Legislature before its convening.

**Motion:** REP. REAM RECOMMENDED THAT HB 617 DO PASS.

**Motion:** REP. REAM recommended to amend HB 617. The amendment was an omission in Chapter 30 on income tax. Motion to amend carried unanimously.

**Motion/Vote:** REP. REAM recommended to further amend HB 617. On Page 3, Line 2, after including the, insert "type, income class, and aggregate number of filers claiming". Motion carried 9 to 1 with REP. MCCARTHY voting no.

**Motion/Vote:** REP. ELLIOTT RECOMMENDED THE SUBSTITUTE MOTION OF DO PASS AS AMENDED. Motion carried unanimously.

Announcement from committee

REP. ELLIOTT said he had drafted a bill that would tax cigarettes, which were consumed by non-Indians, on reservations. The bill seemed to be going bad and he had the bill canceled. There has since been a Supreme Court decision that says states can do this but enforcement is the problem. He has been talking to the lawyers of the Indian tribes and have reached a tentative agreement. REP. MADISON said he was in favor of the concept, but the DOR has worked many times with the Indian tribes trying to get just exactly that system. The tribes were having the cigarettes shipped in from out of state. You cannot interfere with interstate commerce.

Motion/Vote: REP. ELLIOTT RECOMMENDED A COMMITTEE BILL ON THE ABOVE CONCEPT. Motion carried unanimously.

ADJOURNMENT

Adjournment: 9:00 a.m.



BOB REAM, Chair



LOIS O'CONNOR, Secretary

BR/lo