

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on March 15, 1993, at
9:00 a.m.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary

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

Committee Business Summary:

Hearing: HB 664
Executive Action: HB 362 Table

HEARING ON HOUSE BILL 664Opening Statement by Sponsor:

REP. HAL HARPER, HD 44, Helena, said the bill was introduced on behalf of a large and growing number of frustrated hunters who are losing access to hunting opportunities and lands, including access to federal land which they believe to be their own. The bill is intended to spotlight a problem. He said the bill would be very difficult to implement and the chances of it passing are very small. The fiscal note is vague because there is not enough information available; however, the concept is very simple. When the activity on the land changes, the tax should follow the activity. If the land is used for agricultural purposes, it should be taxed at the agricultural rate. Conversely, if it is used for commercial purposes, it should be taxed at the commercial rate. The two problems the bill seeks to address are loss of hunting opportunities for Montana residents and the impact of taxation and land use patterns on property closure.

REP. HARPER said there are extremes at both ends of the problem. He said the bill is not aimed at farmers and ranchers or at outfitters. Both are valuable businesses in this state. There is a growing trend that is cutting off hunting opportunities for Montanans. This is a critical point in time in the battle for access. The Legislature needs to make a stand and search for a solution to the access problem. He noted Rep. Hibbard is serving as Chairman of an action task force which is addressing outfitting, hunting, and land access issues. He said he hopes that all sides can present themselves in a positive way during the hearing, that the bill can be tabled, and the action task force can come to a resolution that will be acceptable to everyone.

Proponents' Testimony:

Dr. Jim Kehr, President, Prickly Pear Sportsmen Club, Helena, said his organization had asked Rep. Harper to carry this bill. He said his group is interested in tax fairness and feels landowners should be able to do exactly what they want with their property; however, a great deal of rural land is being taxed at an agricultural rate and being used commercially. He said there is a lot of money passing back and forth and not being tracked for tax purposes. He quoted examples from the Flying D Ranch owned by Ted Turner **EXHIBIT 1**. The Flying D is one of the few outfitting operations in the state that puts out an annual report. Gross revenue for 1990 was \$192,000, generated by 21 hunters in a period of 5 weeks. Only one of the hunters was from Montana. He said the fiscal note is flawed because no one has

accurate figures, but big money is being generated and no one knows how much. Outfitters are taking hunters out for one or two days and they are getting \$8,000 to \$10,000 for a deer or an elk. The outfitters are not paying anything back to the state. They should pay commercial rates if they are using their property for commercial purposes.

Stan Frasier, Helena, said agriculture has been asking for and receiving special treatment such as the open range law for years. Tax policy is a complicated issue. He does not want to see anyone pay more but thinks there should be equity. If land is being used for commercial purposes, it should be taxed at a commercial rate.

REP. BRAD MOLNAR, Laurel, said this is a fairness issue. There should be different rates for different land use. Commercial use of state owned wildlife should be taxed commensurately.

Opponents' Testimony:

Jean Johnson, Executive Director, Montana Outfitters and Guides Association, commended **REP. HARPER** for trying to find a solution to this problem. When a cow eats grass it is agriculture. When an elk eats grass it becomes commercial. For the landowner who provides the grass for the elk, it is just compensation for them to be able to diversify their land use. She asked the Committee to table the bill.

Lorna Frank, Montana Farm Bureau, said her organization opposes the bill because it tells property owners what they can and cannot do with their land. The Legislature has never proposed reimbursing landowners for damage from elk, antelope, deer and other animals on their lands the landowners are being reimbursed for those losses through pay hunting. She asked if the word "consideration," page 3, line 4, should be defined more clearly. It could include anything from a bottle of wine from a hunter who has been allowed to hunt on the land to \$8000 guided hunting trips. She said this is an access bill, not a tax bill. The end result may very well be closure of more land and fencing wildlife out completely.

Jo Brunner, Executive Director, Montana Water Resources Association, stated firm opposition to the bill. Irrigated landowners have no right to keep hunters off their land because hunters are guaranteed access to all irrigation ditches. A small segment of hunters believe that if they cannot have free access to all land, there should be a law to punish the landowners. Agriculture is asked to give and give again. Farmers and ranchers feed fish, elk, deer, antelope, pheasants, and many

other animals and receive no reimbursement or credit in return. Private landowners have a right to use their land in a way that provides them a return on their investment by harvesting crops that are sustained by the land.

Bob Stephens, Executive Director, Montana Graingrowers Association, said he recognizes there is a serious problem regarding access hunting. He lives close to Dutton and is surprised at how many hunters they get from the Helena area. He said if you want to get land closed, this bill is the best way.

Kelly Flynn, 4th generation hunter from Broadwater County, submitted testimony in opposition to the bill. **EXHIBIT 2**

John Bloomquist, Montana Stockgrowers Association, said he agreed with the foregoing testimony. He said this same issue has been addressed in HB 326 which has been tabled. He said the Rules Committee should make a ruling as to whether this bill presents the same issue for consideration.

CHAIRMAN GILBERT said the rule only applies to moving a bill from one house to the other where a similar bill has already been killed. HB 326, having been tabled, is still alive, and HB 664 is being correctly considered.

Questions From Committee Members and Responses:

REP. McCAFFREE said the bill seems to apply a higher annual tax rate to land that is used to generate recreational hunting fees rather than applying the higher rate specifically to the period for which it was used for hunting.

REP. HARPER said that is a mechanical problem which is not well addressed in the bill.

REP. McCAFFREE asked if sports groups feel landowners should feed wildlife all year without any compensation.

REP. HARPER said sportsmen feel the preservation of wild animals does not do much good if the public has no access to them. Just because the landowners feed them, they do not have the absolute right to charge for the harvesting of the animals. He said the general public does not benefit at all.

REP. FOSTER said the bill is confrontational and nonconciliatory. It flies in the face of everything that has been said about finding common ground and compromise in discussions about similar legislation. He said he has trouble fitting the two points of view together.

REP. HARPER said the bill was requested by a number of his constituents. It is what he terms a "signal clearer." It represents the views of large and growing numbers of very frustrated hunters. The access issue is a serious and growing problem. This is a Fish and Game issue which is exacerbated by a tax issue because the problem is commercial use of Montana's wildlife being taxed on an agricultural basis. There is no simple solution. What benefit does the public accrue when land is closed to public hunting and the landowner/outfitter sells the hunting rights for large fees but still manages to avoid any commercial taxation because of his agricultural base?

REP. REAM said SB 168, which passed the House, establishes a productivity system for taxation of agricultural land. If another system, such as commercial land use, is superimposed on the productivity system, a real tax policy issue is at stake.

REP. ANDERSON asked how this bill will improve access.

REP. HARPER said a landowner would have to move to a block management system if he wants his land to be taxed as agricultural, but he also wants to run an outfitting operation. The public would be let on the land for a small period of time during the hunting season.

REP. ANDERSON said this approach assumes that landowners are going to throw their gates wide open for public access. If this bill were to pass, there will be a lot of angry landowners who would not be willing to allow that access.

REP. HARPER said he realizes that is the case. He said he also realizes a lot of landowners have moved to contracting with private outfitters because of the damage to their property from allowing open access. Land closure and private hunting is a trend that is going to continue and some serious policy decisions have to be made. This is an access issue as well as a tax issue.

REP. ANDERSON said it would appear that the outfitters are paying additional income taxes on the income from the hunting fees.

REP. HARPER said he tried to contrast the extra income taxes and the land taxes. He said total agricultural taxes paid in Lewis and Clark County last year amounted to less than \$1 million. The state encourages agriculture with very low taxation rates. The purpose of this bill is to point out that outfitting and guide activity is not a legitimate agricultural activity.

Closing by Sponsor:

REP. HARPER said the federal government gets 3% of the gross revenues obtained from outfitting and guiding businesses. He said the references to Ted Turner's Flying D Ranch are pertinent to the discussion. The point is that a commercial activity is

operating on land that is taxed for agricultural purposes. This is a problem that exists in varying degrees all across the state. He said he is sure the bill will be tabled; however, he hoped the concepts presented and the questions asked will be addressed in a meaningful way during the interim with the hope of finding some positive solutions.

EXECUTIVE ACTION ON HOUSE BILL 362

Motion: REP. RANEY MOVED HB 362 DO PASS IN HONOR OF REP. BARDANOUVE'S LONG TENURE IN THE LEGISLATURE.

Motion: REP. RANEY MOVED THE ADOPTION OF THE ADMINISTRATIVE AMENDMENTS PROPOSED BY THE DEPARTMENT OF REVENUE (DOR) WHICH ALSO CONTAIN THE DEFINITION OF NON-ALCOHOLIC BEVERAGE (EXHIBIT #3).

Vote: Motion to amend carried.

Motion: REP. RANEY MOVED THE ADOPTION OF THE BARDANOUVE AMENDMENTS (EXHIBIT #4).

Discussion:

REP. RANEY said the Bardanouve amendments void the bill if the sales tax passes. If the sales tax passes it would allocate \$3 million of the sales tax for state parks acquisition and operation.

REP. FOSTER said he opposed the amendments. State parks should be funded through the legislative appropriations process. Making statutory appropriation of sales tax money establishes a bad precedent.

REP. HANSON asked if the \$3 million was an annual figure.

REP. REAM said it is annual.

REP. HARPER urged the Committee to give the sponsor the bill the way he wants it.

REP. RANEY said the future planning report on parks indicated it will take \$5-\$6 million a year to keep state parks operational. He also urged the Committee to grant Rep. Bardanouve his wish to see that the state's park system is funded before he leaves the Legislature.

REP. FOSTER said he still feels these amendments establish parks as the primary funding priority.

REP. HARPER said the amendments do not establish a statutory appropriation account. The allocation would still have to go through the Appropriations Committee.

CHAIRMAN GILBERT said the problem is that **Rep. Bardanoue's** bill is being inserted into the sales tax bill by these amendments. He said if these amendments applied only to his bill, he would not object.

Vote: Motion to amend the bill failed 9 - 11 on a roll call vote.

Motion: **REP. RANEY MOVED HB 362 DO PASS AS AMENDED.**

REP. BOHLINGER said although he supports a general sales tax, this bill is a very narrow regressive tax. It will be paid for by the people who can least afford it.

REP. DRISCOLL noted the tax is only one-third of the tax on beer.

REP. FOSTER said the opponents pointed out the bill is selective and discriminatory. He said problem of taxing out of state pop still has not been addressed in the bill.

REP. RANEY said the language on page 2, lines 2 and 3, addresses the "imports" of soft drinks.

REP. FOSTER said he did not interpret the language as taxing the out-of-state distributor. His interpretation was that it taxed pop which was imported by an in-state distributor.

Mr. Turner, DOR, said it was his interpretation that the tax would apply to all pop, both in and out-of-state.

REP. FOSTER used, as an example, a load of Shasta pop coming into a local Safeway store. He asked how DOR knows it is coming into the state and how it would be taxed.

Mr. Turner said they begin with a floor tax as of December 31. The tax would be assessed as of the inventory on that date based on subsequent sales.

REP. FOSTER said he could not imagine how DOR could keep track of all the pop moving into and around the state.

REP. DRISCOLL said it would be taxed just like beer is taxed. He pointed out the only beer made in Montana is Kessler; all the rest is imported. As soon as the beer is loaded for shipment the invoice and the check for the load is sent to DOR. If it doesn't arrive, the beer is banned statewide. The distributors and the stores know the invoice has to be at DOR before they can unload the shipment.

Vote: Motion that HB 362 Do Pass As Amended Failed on a roll call vote.

Motion/Vote: REP. RANEY MOVED TO TABLE HB 362. Motion carried unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 11:40 a.m.



BOB GILBERT, CHAIRMAN



JILL ROHYANS, Secretary

BG/jdr

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

3/15/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 3/15/93 BILL NO. HO 362 NUMBER _____

MOTION: by Rep. Raney that Ordinance
amends be adopted
ex. # 4

NAME	AYE	NO
REP. FOSTER		X
REP. HARRINGTON	X	
REP. ANDERSON		X
REP. BOHLINGER		X
REP. DOLEZAL	X	
REP. DRISCOLL	X	
REP. ELLIOTT	X	
REP. FELAND		X
REP. HANSON		X
REP. HARPER	X	
REP. HIBBARD		X
REP. KELLER	X	X
REP. McCAFFREE	X	X
REP. MCCARTHY	X	
REP. NELSON		X
REP. ORR		X
REP. RANEY	X	
REP. REAM	X	
REP. TUNBY		X
REP. GILBERT		X

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 3/15/93 BILL NO. HB 362 NUMBER

MOTION: by Rep. Raney that HB 362
Do Pass As Amended

NAME	AYE	NO
REP. FOSTER		X
REP. HARRINGTON		X
REP. ANDERSON		X
REP. BOHLINGER		X
REP. DOLEZAL		X
REP. DRISCOLL	X	
REP. ELLIOTT	X	
REP. FELAND		X
REP. HANSON		X
REP. HARPER	X	
REP. HIBBARD		X
REP. KELLER		X
REP. McCAFFREE	X	
REP. MCCARTHY		X
REP. NELSON		X
REP. ORR		X
REP. RANEY		X
REP. REAM	X	
REP. TUNBY		X
REP. GILBERT		X

EXHIBIT 1
DATE 3/15/93
HB 664

Typewritten information in the following
was Photocopied Directly out of this
Report

Handwritten comments are editorial
and were not contained in the official
Report.



FLYING D RANCH

1990 ANNUAL WILDLIFE REPORT

ANNUAL WILDLIFE REPORT 1990

FLYING D RANCH

The Flying D Ranch contains 107,514 acres of deeded land, 10,500 acres of Montana state leased land, 976 acres of Bureau of Land Management leased land, and 13,708 acres of U.S. Forest Service grazing permit land, for a total of 132,698 acres. The ranch acreage includes 3,305 acres of irrigated and dry cropland, and 126,150 acres of rangeland. The majority of the irrigated hayland is along the Madison and Gallatin Rivers and Cherry Creek.

25,184 acres
of public
land

Big Game License Procedure

All 21 of the clients received their permits from the outfitter subquota.

ALL NON-RESIDENT EXCEPT ONE.

The season was considered a success with 21 hunters harvesting 19 trophy bull elk for a 90 percent success. The clients also harvested 12 mule deer bucks and 2 whitetail bucks.

The complete staff for the 1990 season was as follows:

Rob Arnaud, Outfitter/Guide

Jim Doran, Guide

Bob Griffith, Guide

Jeff Griffith, Guide

Justin Obrigewitch, Assistant Guide/Packer

John Harris, Cook

Marianne Simmons, Housekeeper

Chris Francis, Fishing Guide/Shuttle Service

Ed Self, Trophy Scout

Jim Thompson, Patroller

Darin Boudreau, Patroller

Roland Moore, Patroller

Bob Cook, Biologist/Consultant

Bud Griffith, Ranch Manager/Guide

JANE - (ENTERTAINMENT) - (UNION SCALE)

which is more than Legislators make.

The guides were paid \$65/day wages plus \$50/day for their vehicle. We also furnished their fuel. The cook was paid \$2,760 for the season. The patrollers were paid \$75/day if they furnished their own vehicles. The housekeeper was paid \$5/hour. Bob Cook was paid \$500/trip to Montana. His room and board was furnished and his travel expense was also covered.

WHAT A DEAL!

TROPHY DEER HARVEST

Successful trophy whitetail buck hunters were charged an additional \$2,500.

Successful mule deer buck hunters were charged an additional \$2,500.

1990 LATE SEASON ANTLERLESS ELK HUNT

to clean
the
population

The Flying D Ranch requested the MDFWP to issue 300 permits.

Every effort should be made by Flying D Ranch employees and their families to obtain cow elk permits annually for the special cow elk hunt on the ranch. This will provide ranch families with some excellent meat and hunting opportunities.

EXHIBIT #1

DATE 3-15-93

HB-664

cow hunting - A true

"Montana Experience"

Shirt Tied - your heart will
fall out

Economic Impact

$$21 \text{ hunters} \times 7,500 = \$157,500$$

(what I hear)
it costs

$$14 \text{ Trophy Deer Fees} = \underline{35,000}$$

\$192,500

WE NEED MORE OF THIS
AND WE'LL HAVE FULL
EMPLOYMENT AND A
great TAX BASE ...

DATE 3/15/93HB 664

Mr. Chairman, members of this committee --- For the record, my name is Kelly Flynn and I am a 4th generation rancher from Broadwater County. I stand in opposition to HB 664.

Mr. Chairman and members of this committee, my family came to the Broadwater County valley before 1870 and on a small ranch attempted to wrestle a living from that land. They raised cattle and horses and barely survived. My great grandfather broke horses for other people on his own land. . . but his land was still taxed as agricultural land even though he survived with another value - added product. My grandfather took over the debt from that farm and continued to diversify. Sheep, hogs, and hay were all added to diversify the ranch. His land was taxed as agricultural ground and the income he produced from that ground was also taxed. My grandfather passed on and left the debt from that land to my father and his brother. . . And over the years my father and his brother diversified their ranches. My father increased the herd of sheep and even worked on another farm just to get some feed for the sheep in order to survive. He sheared sheep to try to make ends meet. In the 1960's he helped start farm - family vacations on our ranch as another value added product to help diversify our ranch and survive the times. The first elk appeared on our northern ranch in 1968 and in 1974 we hosted our first hunters. All through those years, our lands were taxed as agricultural lands and our income produced from those lands was also taxed by both the state and federal governments. Last April my father passed away and he left the debt of the land to his sons. We have fought for survival across the years --- our ranch has diversified and value added to survive the times. We raise commercial and are beginning to sell registered cattle. We have sheep and chickens at the farm. Barley, oats, and wheat all grow in our fields. We grow several varieties of hay and truck dairy quality alfalfa hay across Montana. We have a bed & breakfast at our main ranch, run guest cattle drives in June, host guests at our northern ranch in the summer, and host hunters at our northern ranch in the fall. We have diversified, added "value added" products, modernized, and educated in order to survive and through it all we are still a ranch. Our land is taxed as agricultural land and the receipts from the products of our land are additionally taxed.

Mr. Chairman and members of this committee - - - we are mad as heck! This bill is the reverse of what should be done. This bill penalizes landowners for trying to get fair compensation for the habitat they provide for wildlife, the open spaces, habitat, and access they provide for sportspeople, and the hassle that hunters bring to our ranches. When we should be rewarding landowners who have supported wildlife all these years, this bill is just another "smoking gun" held by the hands of a few sportspeople who for years have refused to give just compensation to landowners for access to hunt. Mr. Chairman, and members of this committee - - - we ask you to kill HB 664. . . Thank you for this opportunity to testify.

Amendments to House Bill No. 362
First Reading Copy

Requested by DOR
For the Committee on Taxation

Prepared by Lee Heiman
February 18, 1993

1. Title, line 7.

Following: "DATES"

Insert: "AND AN APPLICABILITY DATE"

2. Page 1, line 11.

Page 1, line 21.

Page 1, line 25.

Page 7, line 2.

Page 7, line 4.

Page 7, line 6.

Strike: "9]"

Insert: "10]"

3. Page 2, line 9.

Following: "(3)"

Insert: "Nonalcoholic beverage" means a beverage not defined as
an alcoholic beverage under 16-1-106.

(4)"

4. Page 3, line 5.

Strike: "1(3)(a)"

Insert: "1(4)(a)"

5. Page 3, line 7.

Strike: "1(3)(b)"

Insert: "1(4)(b)"

6. Page 3, line 21.

Strike: "within 30 days"

Insert: "on or before the last day of the month"

7. Page 4, line 7.

Following: "records"

Insert: "-- statute of limitations -- refunds"

8. Page 4, line 19 through page 5, line 6.

Strike: subsections (4) and (5) in their entirety

Insert: "(4) Except as otherwise provided in this section, a
deficiency may not be assessed or collected with respect to
the year for which a return is filed unless the notice of
additional tax proposed to be assessed is mailed within 5
years from the date the return was filed. For the purposes
of this section, a return filed before the last day
prescribed for filing is considered as filed on the last
day. If the bottler, before the expiration of the period
prescribed for assessment of the tax, consents in writing to

an assessment after that time, the tax may be assessed at any time prior to the expiration of the period agreed upon.

(5) A refund or credit may not be allowed or paid with respect to the quarter for which a return is filed after 5 years from the last day prescribed for filing the return or after 1 year from the date of the overpayment, whichever period expires later, unless before the expiration of the period, the bottler files a claim or the department of revenue has determined the existence of the overpayment and has approved the refund or credit. If the bottler has agreed in writing under the provisions of subsection (4) to extend the time within which the department may propose an additional assessment, the period within which a claim for refund or credit may be filed or a credit or refund allowed if no claim is filed is automatically extended.

(6) If a return is required to be filed and the bottler fails to file the return, the tax may be assessed or an action to collect the tax may be brought at any time. If a return is required to be filed and the bottler files a fraudulent return, the 5-year period provided for in subsection (4) does not begin until discovery of the fraud by the department."

9. Page 5, line 16.

Following: "penalty"

Insert: "-- deficiency assessment -- review"

10. Page 5, line 18.

Page 5, line 23.

Strike: "2%"

Insert: "10%"

11. Page 6, line 4.

Strike: "determine"

Insert: "estimate"

12. Page 6, line 5.

Following: "bottler."

Insert: "When the department determines that the amount of tax due is greater than the amount disclosed by a return, it shall mail to the bottler a notice, pursuant to 15-1-211, of the additional tax proposed to be assessed. The bottler may seek review of the determination pursuant to 15-1-211."

13. Page 6, line 8.

Following: "paid."

Insert: "Interest accrues from the due date of the original return to the date of payment."

14. Page 6.

Following: line 13

Insert: "NEW SECTION. Section 8. Warrant for distraint. If all or part of the tax imposed by [sections 1 through 10] is not paid when due, the department may issue a warrant for distraint as provided in Title 15, chapter 1, part 7. The

resulting lien has precedence over any claim, lien, or demand thereafter filed and recorded."

Renumber: subsequent sections

15. Page 6, line 20.

Strike: "15-1-503."

Insert: "subsections (3) through (5)."

(3) If the department determines that the amount of tax, penalty, or interest due for any year is less than the amount paid, the amount of the overpayment must be credited against any tax, penalty, or interest then due from the bottler and the balance refunded to the bottler or its successor through reorganization, merger, or consolidation or to its shareholders upon dissolution.

(4) Except as provided in subsection (5), interest is allowed on overpayments at the same rate as is charged on deficiency assessments provided in [section 7(4)] due from the due date of the return or from the date of overpayment (whichever date is later) to the date the department approves refunding or crediting of the overpayment.

(5) (a) Interest does not accrue during any period for which the processing of a claim for refund is delayed more than 30 days by reason of failure of the bottler to furnish information requested by the department for the purpose of verifying the amount of the overpayment.

(b) Interest is not allowed:

(i) if the overpayment is refunded within 6 months from the date the return is due or from the date the return is filed, whichever is later; or

(ii) if the amount of interest is less than \$1.

(c) A payment not made incident to a bona fide and orderly discharge of an actual tax liability or one reasonably assumed to be imposed by this law is not considered an overpayment with respect to which interest is allowable."

Renumber: subsequent subsection

16. Page 6, line 21.

Following: "paid"

Insert: ", minus refunds,"

17. Page 7.

Following: line 6

Insert: "NEW SECTION. Section 11. Applicability. [This act] applies to soft drinks in the bottler's possession on or after July 1, 1993."

Renumber: subsequent section

18. Page 7, line 8.

Strike: "9"

Insert: "10"

19. Page 7, line 9.

Strike: "8"

Insert: "9"

EXHIBIT 4

DATE 3/15/93

HB 362

Amendments to House Bill No. 362
First Reading Copy

Requested by Representative Bardanouve
For the Committee on Taxation

Prepared by Greg Petesch
February 16, 1993

1. Page 7, line 3.
Following: line 2

Insert: "NEW SECTION. Section 10. Coordination instruction. If Senate Bill No. 235 is passed and approved, then [sections 1 through 9 of this act] are void and [section 62] of Senate Bill No. 235 is amended to read:

"Section 62. Disposition of sales tax and use tax revenue -- appropriation required. (1) Sales tax and use tax revenue deposited in the sales tax and use tax account established in [section 61] must be distributed according to the provisions of subsection (2) and is allocated as follows:

(a) the amount determined under 15-1-111(6) to provide property tax replacement revenue for each taxing jurisdiction; and

(b) of the amount of sales tax and use tax revenue remaining after the allocations in subsection (1)(a), \$3 million to be deposited in the state special revenue fund for the acquisition, development, operation, and maintenance of sites and areas described in 23-1-102 and the remainder is distributed as follows:

(i) 25.9% to the security cash reserve account established in [section 79]; and

(ii) 74.1% that must be further allocated in the same manner as income tax revenue is allocated under 15-1-501(2).

(2) (a) Except as provided in subsection (1)(b), distribution of sales tax and use tax revenue must be made according to the provisions of the statute governing allocation of the tax in effect on the last day of the tax period in which the activity, enterprise, or product being taxed was engaged in, took place, was assembled, or was produced.

(b) All taxes collected pursuant to audit or collected after the date the tax is payable must be distributed according to the statute governing allocation of the tax in effect on the date the taxes are collected.

(3) This section provides for the disposition of sales tax and use tax revenue. Allocations may not be made from the sales tax and use tax account until appropriated."

Renumber: subsequent sections

2. Page 7, lines 7 and 8.

Strike: "[Section 9 and this section]"

Insert: "[Sections 9 through 12]"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

House Delegation

COMMITTEE

BILL NO. HB 664

DATE 3/15/93

SPONSOR(S) Rep. Harper

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Steen Frosier Helena	Prockly Pear	X	
Jim Kehn	Pinkly Pear	X	
Paul Johnson	MT Dept. of Guides		✓
Kelly Olson	Rancher - MONTANA		✓
Lerna Frank	Montana Farm Bureau		X
Bob Stephens	Mt. Quinn Brown Creek		✓
John Bloomquist	Mt. Stockgroves		✓
Brad Mohr	HO 85	✓	

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