

## **MINUTES**

### **MONTANA SENATE 53rd LEGISLATURE - SPECIAL SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By Senator Dorothy Eck, Vice-Chair, on December 13, 1993, at 10:16 a.m.

#### **ROLL CALL**

**Members Present:**

Sen. Dorothy Eck, Vice Chair (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Fred Van Valkenburg (D)

**Members Excused:** Senators Brown, Doherty, Halligan and Yellowtail.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Beth Satre, Committee Secretary

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

**Committee Business Summary:**

Hearing: HB 15, HB 29  
Executive Action: HB 15

#### **HEARING ON HOUSE BILL 15**

**Opening Statement by Sponsor:**

Senator Stang, Senate District 26, informed the Committee that he was introducing HB 15 on behalf of Representative Larson who was unavoidably out of town. Senator Stang said HB 15 would both clarify and simplify state statute in a manner consistent with federal statutes adopted during the past summer. He stated HB 15 would have no fiscal impact, but could facilitate the collection of fuel taxes thereby helping Montana's over-all fiscal picture. Concretely, he said, HB 15 would cause only undyed fuel to be taxed while still allowing off-highway consumers to receive special fuel untaxed. He stated HB 15 would also exempt all vehicles under 26,000 gross vehicle weight (GVW) from having to obtain a special fuel users permit and an authorization permit.

He said that **Cindy Anders** and **William Salisbury**, Department of Transportation (DOT) and **Ronna Alexander**, Montana Petroleum Marketers and Wholesalers (MPMW), were present to further explain HB 15 and answer to any questions from the Committee.

**Proponent's Testimony:**

**William Salisbury**, DOT, spoke from written testimony in support of HB 15 (Exhibit #1). He explained that the federal legislation adopted during the past summer created some conflict between federal statute and state law which was established when the Legislature approved HB 539 during the 1993 regular session. He passed out two handouts clarifying and explaining the situation (Exhibits #2 and #3).

**Ronna Alexander**, MPMW, said her organization represented people who were responsible for collecting and remitting motor fuel taxes to DOT including those who were licensed by the state. She stated all those people supported HB 15. She explained that the federal changes in tax collection as well as some of the provisions in HB 539 had been prompted by tax evasion. She noted that the industry had supported the provisions in HB 539 and had been working with DOT to develop the rules necessary for their implementation until the passage of the federal legislation threw a "spanner in the works". She said the issues surrounding diesel fuel were complicated, confusing, and difficult to make understandable in a single hearing. **Ronna Alexander** assured the Committee, however, that HB 15 would simplify the whole situation.

**Opponent's Testimony:**

None.

**Questions From Committee Members and Responses:**

**Senator Grosfield** asked when the special authorization permit for pick-ups was scheduled to become effective and whether people had already purchased those permits. **Bill Salisbury** replied January 1, 1994 was the effective date for that permit and people had already started to buy them.

**Senator Grosfield** asked whether those people who had already bought a permit would get a refund. **Mr. Salisbury** replied DOT would refund the purchase price of that permit.

**Senator Grosfield** asked what dyed fuel was currently available. **Bill Salisbury** replied that as of October 1, 1993, both high and low sulphur dyed fuel was available. He noted the Internal Revenue Service (IRS) taxation issue would become effective on January 1, 1994.

**Senator Grosfield** asked whether both kinds of dyed fuel were available statewide. **Mr. Salisbury** responded that currently in

Montana dyed fuel was only available in high sulphur. He said that fuel was furnished by a Montana refinery in Great Falls and added that high sulfur might no longer be available as soon as that refinery converted to low sulphur. He assured the Committee that demand would ensure the availability of at least low sulfur dyed fuel. He noted that the refineries were installing injectors.

**Senator Grosfield** asked **Mr. Salisbury** how much more that would cost the consumer on a per gallon basis. **Bill Salisbury** replied the additional cost would be about three or four cents. He said the situation was comparable to leaded versus unleaded gasoline; at one time unleaded gas cost three or four cents more than regular, but the prices have since equalized.

**Senator Grosfield** said most agriculturalists would have to stock both dyed and undyed fuel since they would need both farm implements as well as highway vehicles. **Mr. Salisbury** noted that would be an individual's decision. He explained agriculturalists could choose to buy both and then apply for a refund. He said the refund would be disbursed according to either the 60 percent option or a disbursement record.

**Senator Grosfield** noted that the dyed fuel would be treated the same as gas. **Mr. Salisbury** replied yes. He said people could have both a dyed fuel for only off-highway use and a clear fuel for on-highway use. He said they could buy clear fuel and use it both on and off-highway. He stated, however, dyed fuel could not be used on the highway.

**Senator Harp** asked **Mr. Salisbury** to explain the tax he had mentioned which would not take effect until December 31, 1993. **Bill Salisbury** the taxed fuel on hand December 31, 1993 will be untaxed.

**Senator Harp** asked if that meant any clear diesel being stored in bulk in Montana would not be taxed. **Bill Salisbury** replied yes. He said after January 1, 1994 -- or when that user files a report in April for the end of the first quarter -- DOT would treat that fuel as taxed and would provide the consumer with a credit to offset any additional purchases of fuel taxed before consumption.

**Senator Harp** asked whether individuals filing monthly reports for that period of time for vehicles beyond the 26,000 GVW threshold would have to pay taxes on the fuel they consumed before December 31, 1993. **Mr. Salisbury** replied HB 15 would not affect user reports for 26,000 GVW and over, but added it would affect taxation on the fuel.

**Vice-Chair Eck** asked whether the House amendment which reduced the penalty complied with federal statute. **Mr. Salisbury** said even though the penalties in HB 15 were different from those set by the federal government, compliance was not a problem. He explained the state did not have to comply with federal penalty

provisions because the federal government could chose to enforce their penalties. He added that state statute only needed to comply in the areas relating to the on-highway use of dyed fuel.

**Vice-Chair Eck** asked how the federal government would enforce their penalties if it so chose. **Bill Salisbury** said that was unclear. He stated the Environmental Protection Agency (EPA) had the authority to enforce the high and low sulphur issue and the IRS had the authority to enforce the taxation issue, but neither had determined the actual method of enforcement. He noted the agencies could decide to enforce the issue themselves or they could contract with the state.

**Vice-Chair Eck** asked whether **Mr. Salisbury** foresaw any problems the reduction of those penalties in HB 15. **Bill Salisbury** replied no.

**Senator Towe** asked **Mr. Salisbury** to clarify the areas in which HB 539 conflicted with federal laws. **Bill Salisbury** replied the primary area of conflict was the state provision allowing anyone with access to bulk untaxed fuel to buy a permit to use that fuel on the highway in a vehicle with a 26,000 GVW or under. Whereas, he said, new federal statute required that untaxed fuel must be dyed, and prohibited its use on the highway.

**Senator Towe** noted that the state had collected a fee from those vehicles in lieu of that tax. He said HB 15 would repeal that fee and asked how that revenue would be recovered. **Mr. Salisbury** said people would be buying clear fuel and paying that tax.

**Senator Towe** and whether the tax revenue would be approximately comparable to the fee the state had collected in lieu of the tax. **Mr. Salisbury** replied yes. He added tax might actually generate a little more revenue since DOT had given applicants a break to encourage applications.

**Senator Towe** asked how DOT could promulgate the new regulations and still allow agriculturalists to transfer their vehicles from one field to another. **Bill Salisbury** said federal statute contained a tolerance for moving those vehicles intended to be off-highway, like tractors, tram-loaders, etc. from job site to job site.

**Senator Towe** noted a pickup would not qualify for that tolerance. **Bill Salisbury** agreed.

**Senator Towe** asked whether the federal requirement that untaxed fuel be dyed applied to fuel exempt from both federal and state tax. **Bill Salisbury** responded the federal requirement concerned only federal tax and did not include state tax.

**Senator Towe** asked **Mr. Salisbury** to explain the refund he had mentioned. **Bill Salisbury** explained individuals who bought gasoline or other taxed fuel for off-highway use would be able to

keep the appropriate dispersal records and apply for a refund. He said many people would probably choose the refund option because of the liability of having two tanks.

**Senator Towe** asked if DOT expected most farmers to have two tanks, one with dyed fuel and one without. **Bill Salisbury** replied he did not know. He noted there were indications that many farmers would keep two tanks.

**Closing by Sponsor:**

**Vice-Chair Eck** closed the hearing on HB 15 as **Senator Stang** had left to attend a meeting of the Senate Education Committee.

**EXECUTIVE ACTION ON HOUSE BILL 15**

**Discussion:**

Citing the need to move HB 15 to the floor, **Vice-Chair Eck** entertained a motion on the bill. She assured the Committee that the vote would be left open to allow those excused to vote if they so chose.

**Senator Van Valkenburg** commented that he was glad the conflict had arisen between federal and state statute, since HB 15 also resolved the bigger problem of the statutory appropriation of cities' and towns' fuel tax money. **Vice-Chair Eck** agreed.

**Motion/Vote:**

**Senator Towe** moved HB 15 BE CONCURRED IN. The MOTION CARRIED with those Senators present and **Senator Stang** voting YES.

**HEARING ON HOUSE BILL 29**

**Opening Statement by Sponsor:**

**Representative Foster**, House District 32, stated HB 29 contained the property tax rebate portion of **Governor Racicot's** package of property tax bills. He said the provisions in HB 29 currently provided an income tax credit for farmsteads, primary residences and commercial property in class four that had experienced a property tax increase greater than 10 percent in the past year as the result of reappraisal or additional non-voted mills. He noted the credit would be limited to primary residences where the taxpayer lived at least nine months of the year. He said the income tax credit in HB 29 would be limited to a \$25 minimum and \$200 maximum for residential taxpayers and a \$50 minimum and \$200 maximum for commercial. He stated rebate program would apply only to the property tax years 1993 and 1994 and would cost about \$13 million over the current biennium and \$17 million overall.

He noted the program's funding mechanism was in HB 45.

**Representative Foster** proposed some changes to HB 29 which, he said, addressed two specific criticisms that had been voiced in the House. Instead of a \$200 cap on rebates for residential properties, he proposed removing the cap and rebating only 75 not 100 percent of those tax increases greater than 10 percent. He explained the \$200 cap had been criticized because it would not really help those people hardest hit by massive property tax increases, whereas his proposed amendment would. He also noted that the new approach would actually cost slightly less than the provisions currently in HB 29. Instead of the rebate being only an income tax credit, **Representative Foster** proposed a combined check/credit option. He explained that the income tax credit approach had been criticized because some homeowners had either borrowed money to pay their first tax payment or anticipated they would to meet their second payment. He said the new proposal would provide an option that first year; the Department of Revenue (DOR) would send eligible taxpayers a form they could use to apply for a rebate check if they would prefer. He said only an income tax credit would be available the second year. **Representative Foster** informed the Committee that the actual amendments for these changes had yet to be drafted. He noted that **Mick Robinson, Director, DOR** would be able to further clarify the details of those changes for committee members.

He described the situation that HB 29 was designed to help ameliorate. He stated that one-half of Montana's property tax payers, over 176,000, had experienced property tax increases of greater than 10 percent and many of those had been hit by property tax increases in the "hundreds of percent and thousands of dollars". He identified these people as "average Montanans from all walks of life", and said some had become very worried about retaining their home. He stated the cause of the property tax increase "really did not matter", because the unaffordability of those tax increases were making Montana taxpayers angry, outraged and upset. He referred to a telephone call he had received from an elderly constituent who had informed him that she was "seriously considering moving out of Montana" and going to "try and take all her kids with her".

**Representative Foster** compared the recent property tax increase to HB 671, the income tax proposal recently suspended by the 90,000 Montana voters. He said HB 671 had been designed to raise about \$72 million over two years while the increase associated with property taxes was about \$67 million between 1993 and 1992. According to **Representative Foster**, the property tax increases would total \$135 million over two years. He concluded that the Legislature was supposed to represent the people of Montana and address their problems. He noted that HB 29 presented an opportunity to "do something good" for the property taxpayers of Montana.

**Proponents' Testimony:**

**Mick Robinson, Director, DOR**, expressed **Governor Racicot's** support of HB 29. He stated **Governor Racicot** believed that HB 29 was "very very critical" for many Montana property taxpayers and their ability to make their property tax payments for this and next year. He said paying those taxes would pose a significant problem for not just low income property owners but also middle income property owners as well as those whose incomes were not keeping pace with those increases.

**Mr. Robinson** described the proposed method of structuring and administering the program in HB 29. He noted that DOR had been preparing and working with a property tax data base in which the information was based on a 20 percent sample of the residential and commercial properties in Montana. He stated DOR anticipated expanding that data to include the total population in order to identify those individual properties on which the property taxes connected with reappraisal and non-voted levies increased by more than 10 percent. As a result of that expansion, **Mick Robinson** explained DOR would send to each eligible property owner its calculation of their rebate for a total or half year and a form which would allow them to apply for the rebate or credit HB 29 would provide. He informed the Committee that the printing of the elderly homeowner renter credit form had been postponed in order to make it possible to combine the two forms, since there would be an overlap of recipients. He noted in HB 29's current form two full years of credits would be spread over three income tax forms: one-half year credit for income tax year 1993, an entire year credit for income tax year 1994, and the final one-half year credit for income tax year 1995.

**Mr. Robinson** stated he and **Representative Foster** had discussed the proposed changes to HB 29 and he had then discussed them with **Governor Racicot**. He distributed copies of the estimated fiscal impact HB 29 would have with those changes (Exhibit #4) and expressed the administration's support for those amendments. He noted the accuracy of DOR's cost estimates declined a bit with regard to the calculations on rebates for owner-occupancy and personal income tax credits because DOR's property tax data base did not capture that information. He explained that based on US Census data, DOR estimated that approximately 60 percent of all residential properties in the state could be considered a primary residence. He said the rebate/credit costs were adjusted by an additional 10 percent to reflect non-residents or eligible taxpayers that would not file for an income tax credit. He then reviewed the figures on Exhibit #4.

**Dennis Burr, Montana Taxpayers Association (MTA)**, stated the changes proposed by **Representative Foster** would improve HB 29 tremendously and expressed MTA's support of HB 29 with those adjustments. He said at a meeting of the Governor's Advisory Commission on Property Ownership, commission members heard testimony from people who had experienced extraordinary property tax increases, one of whom had lived on his property since 1967 and whose assessed property value had risen from \$72,450 in 1992

to \$191,170 in 1993. He expressed doubt that the man's income had kept pace with the increase in his property tax between 1992 and 1993. He noted this was exactly the problem that **Governor Racicot** was trying to address with the proposal in HB 29. **Mr. Burr** stated the provisions in HB 29 which excluded the first 10 percent in tax increases was good, and noted that the proposed change to allow a percentage of the increase to be rebated was a much fairer approach than the \$200 cap. He suggested the Committee examine expanding the rebate to include more than owner-occupied residences, although the associated costs might make his suggestion untenable.

**Alec Hansen, Montana League of Cities and Towns (MLCT)**, reminded committee members that they had received a copy of the property tax reform proposal MLCT had developed on December 4, 1993. He said Montana's property tax problem had two parts: the immediate problem of mill levy and valuation increases, and the long-term problem that every reappraisal spawned a political crisis in Montana. He stated MLCT's objective was to work with the Legislature to try and fix both problems. He expressed MLCT's support of a limited two-year rebate program which would alleviate much of the pressure currently on the system and would give the Legislature time to develop a long-term solution. He stated MLCT supported the long-term approach in SB 26 which would phase-in future valuation increases over a three years and limit those increases to four percent. He stated MLCT supported HB 29 as a part of a plan to do two things, first, to preserve the property tax system and second, to set up a necessary long-term reforms the Legislature needed to develop. He noted MLCT would like to see this issue decided in the Legislature instead of "out in front of K-Mart".

**John Franklin, President, First United Bank, Sidney**, said a nine member group had come up from Sidney to testify on HB 29. He handed out his 1992 and 1993 residential property tax statements and, after describing his property, noted his 1993 taxes had increased by 70 percent over those he had paid in 1992 (Exhibit #5). He stated, however, he wanted to discuss commercial, not residential property taxes. He distributed a second handout containing information on Holly Sugar Corporation's Sidney plant (Exhibit #6). He stated property taxes on that plant had increased 156 percent since 1988 to a level which was two to three times greater than the amount Holly Sugar paid at comparable facilities in California and Texas. **Mr. Franklin** reminded the Committee that businesses were consolidating their operations for economic reasons and stated that Montana's property tax rate made the Sidney plant a prime candidate for closure. He noted Montana's tax base would suffer from the closure of that plant. He explained the plant's payroll approached \$6 million, it bought \$34 to \$36 million of sugar beets from Montana farmers, who, in turn, bought tractors and other farm implements; income tax was paid on all of that money and workers use part of their salaries to pay property tax. He stated Montana needed to include business in all property tax



relief and said HB 29 would be a good place to start.

**Gene Thompson, District Manager, Holly Sugar, Sidney,** said Holly Sugar was not a large corporation, but, he added, it was extremely important to a large portion of eastern Montana, including Custer, Prairie, Dawson, Richland and Roosevelt counties. He said many people believed that business could pass tax increases on to customers and consumers. He stated, however, that was not true for the sugar business; the market was very competitive and Holly Sugar had not made money over the years. He stated it was time to grant business some tax relief and expressed Holly Sugar's support of HB 29.

**Dolph Harris, President, Sidney Millwork Corporation,** said his company was located in Sidney and employed 52 permanent people and between five and 15 temporary people. He said his company manufactured piece-work and architectural mill work, and through November had about \$3.5 million in sales with 97 percent of that money coming from outside of Montana. He informed the Committee that his business had been vigorously recruited by other states and towns who were trying to enhance their community's economic development; he had been offered some pretty substantial incentives to relocate, which he had turned down because of his roots in the Sidney area. He said economic development was important to Montana's welfare, and, citing Dr. Robert Mathis, Professor of Management at the University of Nebraska, who also selected sites for major corporations throughout the US, he stated property tax was one of three things that makes Montana unattractive for business. **Mr. Harris** noted a tax business attitude was akin to "biting the hand that feeds you", and added Montana needed to develop a "little better attitude toward business".

**Tony Sifuentes, Union President, Local 285, Holly Sugar,** said he represented workers who were concerned about property taxes, both commercial and residential. He stated Holly Sugar employed approximately 300 workers, most of whom are seasonal workers and rely on other jobs in Sidney and other parts of the state. He said employees were concerned that Holly Sugar would be driven out of business if taxes continued to increase. He said without jobs, employees would have no income and without income they could not pay taxes.

**Dave Oehmcke, Manager, Pacific Steel & Recycling (Pacific), Sidney,** said Pacific was part of a trade circle; it had 13 branches in Montana and dealt heavily with the farm and ranch trades as farmers and ranchers dealt with other businesses. He noted that Pacific also did business with commercial entities like Holly Sugar and Sidney Millwork in Sidney. He stated expenses comprised a large part of profit and loss statements and when a certain expense becomes too large, it needed to be capped or reduced; without meaningful profits, some commercial businesses slowed spending, both with other businesses and labor, in order to survive. He said taxes could not be readily

controlled and every time a tax increase came along, the budget becomes crunched and when a business no longer makes enough profit to do business, it either goes elsewhere or closes its doors. He noted that business closures also affect vendors, employees, and the income taxes the state collects from their wages. He stated he was proud to be a Montanan and wanted to continue living in Montana. He noted if HB 29 were passed with the commercial property provision intact, that would continue to be possible.

**Heidi Rogers, Personnel Director, Holly Sugar,** said she was speaking on her own behalf and, to some extent, on behalf of the people that work with her as well as Holly Sugar. She compared the \$235 and \$264 property taxes she paid on two three-bedroom houses Wyoming and the \$700 and \$1200 she paid on her home in Sidney in 1992 and 1993 respectively. She stated she had worked closely with Wyoming business while employed by the Wyoming Department of Labor, and said Wyoming business and Montana business have very much in common; in both states Ma-Pa businesses employ the majority of people, and both states were built on a very strong work ethic. As a result, she said, it was very important for Montana's economy and people that smaller businesses continue to work. She stated the people of Montana were proud workers and wanted to continue to work and pay taxes, however, they did not want to be forced in a direction to a point where they could no longer work or meet taxes. She expressed hope that the Legislature could grant fair, across-the-board tax relief to both employees and employers in Montana.

**Kerry Rasmussen, Holly Sugar,** informed the Committee that he worked for Holly Sugar as an agriculturist and also grew beets. He stated he supported HB 29 and felt it important to grant property tax relief for both businesses and homeowners. He said Sidney residents had experienced the effects of business leaving town with the oil boom that "fizzled in the mid-1980s". He noted part of the property tax increases in Sidney were a result of residents and businesses needing to "pick up the slack" of businesses that have left town. He said Holly Sugar paid \$33 million to beet farmers who, in turn, spent a lot of money on chemicals, labor, goods and services in the community, and employed a lot of dry-land farmers and ranchers who help with the beet harvest and who were very dependent on that supplemental income. **Mr. Rasmussen** informed the Committee that he was one of probably five Democrats in Richland County and supported education. He stated, however, that education needed to become more efficient and Montanans needed to devise a more equitable way of financing it, because Montana businesses and people could no longer afford continued increases in their property taxes.

**Hugo J. Asbeck, Sugar Beet Grower,** stated something needed to be done about the tax situation. He said if Holly Sugar's taxes were lowered, it would help sugar beet farmers stay in business and help to maintain the existing tax base.

**Don Steinbeisser, Sugarbeet Grower, President, Montana Whole Sugar Grower's Association (MWSGA), and American Sugarbeet Growers Association (ASGA),** expressed his support for HB 29. He stated as long as Montana got a large portion of its revenue from property taxes, commercial property needed to receive the same consideration as residential property. He noted, however, that it was necessary to look for other sources of revenue to fund state operations. He then provided the Committee with background on the Whole Sugar industry in Montana; there are two sugar factories which combined employ over 800 people, pay \$9 million in salaries, buy \$60 million beets from growers, and make about \$20 million in local purchases. He added growers spend an additional \$20 million on seed, fertilizer, fuel and chemicals, and hire seasonal labor, thus providing extra income for people in their communities. According to **Mr. Steinbeisser**, Montana's sugar industry was "not a small thing"; it produced enough sugar to feed New York City for one year. He stated Montana needed businesses like the sugar industry and noted it was very important to keep the companies' taxes at a level at which they could continue to operate.

**David Owen, Montana Chamber of Commerce,** stated his board would support SB 29 with the amendments outlined by its sponsor.

**Nancy Thusen, Self, Flathead Valley Native,** expressed her support of HB 29. She informed the Committee that her family realized an increase of 231 percent on property they owned in the Flathead Valley. She stated she understood the need for tax increases in order to meet the demands for services, but noted a 231 percent increase in one year on a parcel of property "seemed rather exorbitant". She said she loved and supported Montana and was willing to work for the good of the state, but not by herself. She noted she would support whatever tax relief the Committee felt it could afford natives of Montana.

#### Opponents' Testimony:

**Tom Hopgood, Montana Association of Realtors (MAR),** stated that the testimony the Committee had heard on HB 29 was "proof positive of what MAR ha[d] been saying for years"; Montana's tax structure discouraged economic development and chased industry out of the state. He expressed MAR's support of tax reform, but stated that HB 29 was not a tax reform measure, but temporary relief for a situation that resurfaced every reappraisal cycle. **Mr. Hopgood** noted that questioning the propriety of tax rebates and income tax credits was currently viewed by many as politically incorrect. He stated, however, that MAR was motivated by the same ideals as its critics: what would be best for state and local governments, schools and the Montana taxpayer. He said the changes introduced by **Representative Foster** made HB 29 much more palatable than before. He stated, however, MAR did not endorse HB 29 and questioned the irony of giving tax relief at a time when Montana was in a budgetary crisis.

**Questions From Committee Members and Responses:**

Referring to John Franklin's tax statement (Exhibit #5), Senator Gage delineated the percentage increases and asked Mr. Franklin whether his solid waste assessment was a flat fee. John Franklin replied farmers were assessed a flat fee and, because he had a rural residence, he was included in that even though he did not farm.

Senator Gage noted those taxes increased by 238 percent. He asked whether he had discussed that with the proper people. Mr. Franklin replied the actual dollar amount was quite small. He said the country treasurer's office had placed him in the wrong category and that could be changed. He noted, however, that change would not be very big.

Senator Gage noted there was a 17 mill increase. He asked if that was from the schools, the county or a combination. John Franklin said he might have to refer that question, but to his knowledge that mill increase was primarily due to schools.

Senator Gage asked if Mr. Franklin had any information about what had happened to non-mill revenue in his county or agricultural land values. John Franklin replied he did not have any information, but offered to get that for Senator Gage.

Senator Gage asked Don Steinbeisser if he had any information about values on agricultural land since those valuations had been substantially changed during the past session. Don Steinbeisser replied he had no information on a county-wide basis.

Kerry Rasmussen noted Sidney had to close its landfill and purchase another property because of the new rules. He said that purchase was reflected in the rate increases for solid waste disposal on the property tax bills.

Senator Van Valkenburg asked Senator Tveit how the people of Richland County had voted on the sales tax issue, whether the vote there was substantially different than in rest of the state. Senator Tveit said he did not know if the referendum had been defeated by three to one, but it was close.

Senator Van Valkenburg asked Mr. Franklin if he had spoken to the people of Richland County before the sales tax referendum, explained the consequences of property taxation on Holly Sugar, and urged them to vote for the sales tax. Mr. Franklin said he never had the opportunity to have a meeting to make that pitch.

Senator Van Valkenburg asked whether there had been any meetings in Richland County which addressed the sales tax issue before the referendum. Mr. Franklin replied none to which he had been invited or attended.

Senator Van Valkenburg said HB 29 would give Holly Sugar a \$200

rebate. He asked whether that \$200 would keep Holly Sugar operating in Richland County. **Mr. Franklin** replied the \$200 meant nothing. He stated the state needed to start including commercial and business properties in all tax reform. **Senator Van Valkenburg** said under the sales tax proposal put out for a public vote, commercial and business property got a "far, far, far bigger tax break" than the \$200 in HB 29.

**Vice-Chair Eck** noted **Mr. Franklin** had indicated that a large portion of his property taxes were increased school mills which were necessary because local tax revenues had to make up the \$30 million the Legislature cut from state support for education. She stated if the Legislature were to grant the relief in HB 29, which may or may not help commercial entities, it would cause the need for additional education mills. **Mr. Franklin** commented on the need for a companion bill to freeze taxes against the dollars paid. He said property taxes were composed of two entities, appraisal and mill levies, and if the end cost were not addressed property taxes would continue to increase. He stated sooner or later the businesses that paid the salaries, and thus indirectly paid residential real estate taxes would no longer be in Montana.

**Vice-Chair Eck** asked **Mr. Franklin** whether he was willing to see Sidney's schools run with larger classrooms and less money if the state decreased the amount appropriated for schools. **Mr. Franklin** commented that he transferred to the First United Bank in Sidney in 1986 when the bank was in a financial wreck because of the drop-off in oil production. He noted it had been necessary to economize and to make major changes in the business, but the bank was currently operating with 12 fewer employees and servicing more dollars in loans. He said he had done a study on the Sidney school system, and although he did not have that study with him, he would guarantee that Sidney's school system had not taken the economic look at their system that First United Bank had at its system in order to stay in business.

**Senator Towe** asked **Mr. Thompson** if he could provide some background information on the other Holly Sugar plants mentioned in the handout (Exhibit #6, page 2). He noted it was hard to compare the plants without knowing their age and nature and how the assessed value relates to the fair market value. He asked how old the Tracy California plant was compared to the Sidney plant. **Mr. Thompson** replied the Tracy factory was built in 1916 and the one at Sidney was built in 1925.

**Senator Towe** said that since Proposition 13 the assessed value on that plant would not have changed. He noted if a new plant were built in Tracy California that had a slice rate of 4818 tons/day the tax would probably be two or three times as much. **Mr. Thompson** agreed. **Senator Towe** noted that would also be true of the Brawley California plant. **Mr. Thompson** replied yes, he said he did not know how old that plant was but added the Hereford Texas plant had been build in 1964.

**Senator Towe** said he understood that salaries were higher in California than in Sidney. He asked **Mr. Thompson** if that were correct. **Mr. Thompson** replied he could not provide an actual dollar amount on the difference between the salaries in Montana and California. He stated all employees at the Hereford Texas factory were paid the same rate of pay as Sidney employees, because the two plants were in the same bargaining unit.

**Senator Towe** said he had a list of the 1002 salaries in Sidney Montana and Tracy California. He noted the salaries in California appeared to be between \$0.50 and \$1 which, he said, would translate into about a \$300,000 to \$600,000 difference. He stated asked whether salaries would have a big impact on the costs of production and the determination of which plant was the most efficient. **Mr. Thompson** noted he would have to look at those salary figures. He replied, however, that salary definitely played a big role in the economics of a business.

**Senator Towe** asked if it were not also critical that the plant be located where the sugar is. **Mr. Thompson** replied yes.

**Senator Towe** referred to the information **Mr. Franklin** had submitted with regard to the taxes increases from 1988 to 1993 (Exhibit #6, page 3). He noted there had been a 113 percent increase in the mill levies and asked to what that could be attributed. **Senator Van Valkenburg** said in 1989 the Legislature increased the statewide school levy from 40 to 95 mills but had excluded the oil and gas industry from that increase. He noted that Sidney had been adamant that the oil and gas industry should not be included. **Senator Towe** said that would have meant the non-mill levy revenue did not go up, but the 95 mills would apply.

**Senator Harp** noted that MAR was opposing a lot of different property tax bills and expressing concerns about the Montana and the Montana taxpayer. He recalled the legislative debates on the sales tax during the regular session and asked **Tom Hopgood** if it were not true that MAR had then been very interested in making sure that commissions were not subject to the sales tax, not in the motive of the taxpayers. **Mr. Hopgood** replied MAR had opposed the sales tax proposal on the basis that it imposed a tax upon services and not just consumer goods.

**Senator Harp** asked whether he was correct in saying that MAR had been concerned about realtors' commissions. **Mr. Hopgood** replied MAR's opposition had only been expressed as being against the imposition of a sales tax on services in general.

**Senator Towe** asked **Representative Foster** whether the proposed change to 75 percent would place a \$200 limitation on residential similar to commercial. **Representative Foster** replied the \$200 cap would remain on commercial, but no cap would apply to residential under the proposed changes.

**Senator Towe** noted someone with \$300,000 home on Flathead Lake would receive several thousands of dollars back from the state if there were no cap. **Representative Foster** replied that would be correct assuming that the owner lived in the house for nine months of the year.

**Senator Towe** asked about the significance of the term "geocode" on page two, line 12 was. **Mick Robinson** replied that a geocode was used to identify the location of a specific piece of property on which property tax is levied.

**Senator Towe** asked whether a duplex would have one or two geocodes. **Mick Robinson** replied a duplex would be registered under one geocode. **Senator Towe** asked whether only the old owner would receive property tax relief if one of the apartments in a duplex had been sold. **Mick Robinson** acknowledged that some recent changes in ownership would not be captured in the data bases that DOR would use to identify eligible properties. He said that DOR would mail the pertinent information to the owner of record. He noted if a change in ownership had taken place and that transfer had been properly recorded, the new owner would receive that information.

**Senator Van Valkenburg** asked **Mick Robinson** if he could assure the Committee that HB 29, if adopted, could be successfully defended against equal protection claims for denying refunds to taxpayers who had less than a 10 percent increase, non-resident taxpayers, or taxpayers who are not primary residence holders. **Mick Robinson** replied he could not give that assurance; Montana's property taxes had been repeatedly challenged in court and DOR had not "been as successful as we would all like" in their defense.

**Senator Van Valkenburg** asked whether DOR had prepared a legal analysis of HB 29 which indicated the defense the state would use against such challenges. **Mick Robinson** said the same topic had been discussed during the Governor's Property Tax Advisory Council's (PTAC) deliberations. He stated the rebates might be challenged, but the opinion of DOR's legal staff was that the proposal in HB 29 would be constitutionally defensible since non-property tax dollars would be used to fund the rebates. He noted the proposal closely resembled the elderly homeowner renter credit which had been in existence and working for a number of years.

**Senator Van Valkenburg** said the fiscal note did not reflect the administrative costs associated with HB 29. He asked **Mr. Robinson** if the administrative costs connected to HB 29 with **Representative Foster's** changes had been determined. **Mick Robinson** replied the administrative costs associated with the income tax credits would be approximately \$90,000 to \$95,000. He added, however, that the costs of administering the rebate/credit program in the Property Tax Division had yet to be specifically identified.

**Senator Van Valkenburg** asked **Mr. Robinson** if he thought it preferable to provide forms to only those taxpayers DOR determined qualified rather than to provide forms to all taxpayers. **Mr. Robinson** said DOR would mail forms to those taxpayers of record which DOR calculated would qualify for a rebate. In addition to that, he noted, those forms would be made available to certified public accountants (CPAs), at county courthouses, libraries, etc. so that all individuals who think themselves eligible could file a form with DOR.

**Senator Van Valkenburg** referred to the telephone conversation **Representative Foster's** had mentioned. He asked whether that "elderly constituent" resided in Broadwater County. **Representative Foster** said she did. **Senator Van Valkenburg** asked **Representative Foster** whether he had talked to her about the effect that excluding the cement plant from taxable valuation had on tax bills and taxpayers in Broadwater County. **Representative Foster** responded he had mostly just listened to her. He stated, however, that if equalization had not hit Broadwater County, tax bills would not have been too affected by the "cement plant bill" which considerably reduced the cement plant's taxes. He stated Broadwater County residents would much rather have the cement plant in operation than have it close since it employed between 50 and 60 people.

**Senator Van Valkenburg** said, in other words, the residents of Broadwater county would prefer that the cement plant not pay taxes, but did not want to pay the taxes that are not paid because the cement plant is not paying taxes. He noted that as long as the taxes were shifted somewhere else, that would be fine with the people in Broadwater County. **Representative Foster** replied **Senator Van Valkenburg** was "twisting the story". He stated if equalization had not had the dramatic impact on Broadwater County that it did, the property tax bills in Broadwater County would have been virtually unaffected by the cement plant bill because of new construction and improvements.

**Senator Towe** asked **Mick Robinson** if he correctly understood that HB 29 stipulated that any individual whose property tax payment was one day late would not be eligible for the refund. **Mick Robinson** replied it was necessary to make sure that refunds were only paid to those people who have paid their taxes. He said HB 29 was drafted to allow taxpayers to pay the taxes for their November tax bill prior to the final May delinquency date in order to qualify for the rebate or credit for that particular tax year. **Senator Towe** directed **Mr. Robinson's** attention to page four, lines four through six which contained the provision that "payment of delinquent taxes does not make a property tax payer eligible". He said he would interpret that provision to mean that taxpayers would forfeit the rebate for that tax year if their payment was one day late. **Mr. Robinson** said that **Senator Towe** "m[ight] finally have a good point".

**Senator Towe** called **Mr. Robinson's** attention to page two and



asked about the intent of the words "for the first time". **Mr. Robinson** said **Representative Ream** had amended that language into HB 29. He explained that language was intended to ensure that rebates were not granted for any tax increases that had been voted on by the electorate. **Senator Towe** noted the phrase "for the first time" would then modify the levy, not the number of votes. He said that language might need to be clarified.

**Senator Stang** said his county had lowered taxes in 1992 substantially because of money it had received from the Bonneville Power Administration (BPA). He asked whether HB 29 contained any provision addressing those circumstances in which people would receive a windfall if rebates were calculated on only the increases between 1992 and 1993. **Mr. Robinson** replied DOR had looked critically at that element and had determined it would not be cost effective to identify those changes and allocate the rebate accordingly because of the limited occurrence of those circumstances. He noted only two counties had reacted to the inflow of BPA dollars into their county.

**Senator Stang** asked whether the section **Senator Towe** had mentioned would prevent those taxpayers from getting a further windfall from the jail and hospital levy they voted in 1993. **Mick Robinson** responded the rebates would not be calculated on increases caused by voted mill levies which went into effect in 1993.

**Senator Grosfield** wondered whether any legislative proposal or DOR internal discussion had identified a means to deal with the increased tax burden on a new home that was built in 1993. **Mr. Robinson** replied a home that was built in 1993 would not have been subject to the tax increases and would be excluded from the rebate. He mentioned, however, that identifying those increases due to improvements on an existing home posed a problem; it was difficult for DOR to ascertain whether those increases should be attributed to new construction or a refinement of information in the property tax system. He noted that some improvements placed on homes between 1992 and 1993 would be included in the rebate, but assured the Committee that the dollar amount would be "fairly small".

**Vice-Chair Eck** questioned the fairness of HB 29. She said in Big Sky property values had increased very substantially in 1991, some by 40 percent. She noted that the rebates in HB 29 would be of no benefit to such taxpayers. **Mr. Robinson** agreed. He said HB 29 would not address any increases prior to 1993.

**Vice-Chair Eck** asked whether the possibility of looking at all increases since the last reappraisal cycle in 1986 had been considered. She noted revaluations had been done in different areas in various years between 1986 and 1993. **Mr. Robinson** replied it had not been considered. He said he was unsure whether the 1986 property values and subsequent adjustments were included in DOR's data base. He stated the 1992 and 1993 values

were definitely in the DOR's computer and added DOR's manual records would contain the other information.

**Vice-Chair Eck** said she would also like to know how much of the rebate proposed in HB 29 would be based on increases in assessed value and how much would be based on increases in the mills. She asked whether **Mr. Robinson** could provide that information. **Mr. Robinson** replied that DOR had determined that the impact of mill increases and appraisal increases were about equal; 55 percent could be attributed to appraisal and 45 percent to mill levies. He said PTAC members became aware that the property tax system posed a dual problem, which was why the provisions in HB 29 focused on the total tax increase rather than on either property valuation or mill levies.

Citing the fact that state funding for education was not yet resolved, **Vice-Chair Eck** said it was possible and very probable that those mills could continue to climb. She commented that the effects of cutting \$30 million out of school funding during the regular session had been known and HB 29 was an attempt to "make it up for some people". She asked when DOR intended to send the rebate information to taxpayers. **Mr. Robinson** responded DOR planned to move into emergency rule-making in order to get the rebate process moving as quickly as possible. He stated the goal would be to get the necessary information to taxpayers by the end of February so that they could file for a rebate or income tax credit.

**Vice-Chair Eck** asked how non-residents would be handled in the process. **Mr. Robinson** replied the state could not constitutionally discriminate between residents and non-residents; if a non-resident chose to file a claim for a rebate, that claim would have to be honored if it met the qualifications. He said non-residents who did not file an income tax return could file a claim for a refund or rebate credit since the credit in HB 29 would be refundable. He noted, however, that the majority of non-residents would not meet the nine-month requirement and that a number would not aware that the credit exists or would simply not take advantage of it.

**Senator Eck** asked what duties DOR's Property Tax Division would assume in connection with HB 29. **Mr. Robinson** said the Property Tax Division would identify the eligible properties and calculate the rebates both of which would involve computer and staff time and costs. In addition to that, he stated, there would be costs associated with the printing and mailing of between 50,000 to 100,000 forms. He noted that DOR would not hire any new FTEs in order to accomplish the tasks it would assume if HB 29 were adopted.

**Senator Towe** asked whether the tax form packet had been mailed to taxpayers. **Mr. Robinson** replied the packet had been printed, was currently being bound at the printer in Denver, and would be mailed at the end of December. He informed the Committee that

the printing process had progressed to the stage that it would be more cost-effective to print the form separately and mail it directly to those people would qualify for the credit.

**Vice-Chair Eck** asked why the printing had been delayed. **Mr. Robinson** replied that only the printing of the elderly homeowner renter credit form had been delayed. He stated there had been indications that the Legislature might decide to use that credit in a property tax relief package and DOR had made the decision to wait in case any changes were made. He explained that could possible save both printing and mailing costs and would not really inconvenience anyone.

**Vice-Chair Eck** said she had understood that DOR had delayed the printing of all tax forms. **Mr. Robinson** replied only the elderly homeowner renter credit form had been delayed.

**Vice-Chair Eck** asked if statute required DOR to mail tax information by January 1. **Mr. Robinson** said DOR was not statutorily required to mail the taxpayer booklet by any specific time. He noted, however, that if that information were mailed much later, DOR would be doing a disservice to many taxpayers.

Citing the fact that it had been obvious that changes to Montana's tax system would be proposed, **Vice-Chair Eck** asked whether DOR had considered delaying the mailing or printing deadline on those booklets until some decisions had been made. She noted that could have saved a "great deal of money". **Mr. Robinson** replied DOR had waited to make the decision to print until HB 671 had been suspended and had carefully weighed the possible consequences of both the legal challenges to the petition drive as well as possible legislative proposals against its responsibilities to taxpayers. He explained taxpayers needed information for year-end decision making and software vendors needed information to adjust their software. **Mick Robinson** stated he did not expect any fundamental changes in taxpayer law to emerge from the special session aside from the elderly homeowner renter credit and had acted accordingly in order not to duplicate costs.

**Vice-Chair Eck** asked whether DOR had asked or anticipated asking for an appropriation to cover the cost associated with separately printing and mailing that form. **Mr. Robinson** replied such an appropriation would be nice, but added he did not expect DOR to receive any money to cover the costs of its decision. He said only about 4,000 to 6,000 people actually utilized the elderly homeowner renter credit and the costs for printing and mailing that form would only amount to \$3,000 to \$4,000.

**Senator Towe** asked whether DOR could print and mail the form by the end of 1993 if HB 29 were adopted. **Mr. Robinson** replied DOR would probably have that form printed and mailed by the middle of January.

**Senator Towe** noted that between 50,000 and 100,000 people would then need the form. He asked how many forms DOR sent out through Denver. **Mr. Robinson** responded that about 300,000 tax forms were mailed directly to taxpayers. He noted the cost for mailing the rebate/credit form would be "somewhat different" and would also include dissemination to CPAs, libraries, etc. He told committee members that **Senator Bartlett** had informed him that 17,000 people had participated in the elderly homeowner renter credit the previous year. He added the 4,000 to 6,000 he had indicated probably reflected the number who had participated in the low income property tax exemption. He said, however, the \$3,000 to \$4,000 accurately reflected the additional cost for mailing out the elderly homeowner renter credit forms.

**Senator Stang** asked why the forms would not be mailed to all 300,000 taxpayers if the Legislature decided to expand the credit. He asked how the people who had never taken advantage of the elderly homeowner renter credit and who did not read newspapers would know they might qualify for a income tax credit if they did not receive notice in the mail. **Mick Robinson** replied that the information would be mailed to those qualified through the property tax system. He emphasized that the credit would not be available to all taxpayers, only to those who owned property and fulfilled the nine-month owner occupancy requirement.

**Senator Van Valkenburg** asked whether one reason for the administration's decision not to mail those forms to all Montana taxpayers was so that 200,000 taxpayers would not fill out a form and discover that they did not qualify for a property tax credit that 100,000 would receive. **Mr. Robinson** stated that decision was a "very good management step" which would save dollars while getting that form into the hands of those who qualify. He admitted some qualified people might not be on DOR's mailing list mailing list, but he added that those people would have access to those forms through their CPAs, libraries, etc.

**Vice-Chair Eck** asked **Mick Robinson** if he thought that many people who would qualify for the low income elderly homeowner renter credit actually had their tax forms done by CPAs. **Mick Robinson** said he could not specifically answer **Vice-Chair Eck's** question, but added he "would guess" it would be the same proportion as in the total population of taxpayers.

**Senator Grosfield** said DOR estimated that moving from the \$200 cap to a 75 percent refund rate on residential property would not affect the program's cost. He asked whether DOR had done any analysis on the costs of applying that approach to commercial property. **Mr. Robinson** replied no. He noted, however, that DOR had previously calculated that it would cost \$7 million per year to provide a credit for any increases over 10 percent on commercial property. He noted a 75 percent rate on commercial would probably be 75 percent of the \$7 million since the same residency requirement would not apply to commercial property. He

stated that cost would be excessive given the available funding.

**Senator Gage** referred to the language on page five, lines 23-25 which stipulated that the rebates would not be taxable income. He noted that commercial property taxes were allowable as a business deduction and asked whether businesses would be required to add the refund back in to reduce that tax reduction. **Mr. Robinson** replied the language under discussion would only relate to state income tax. He stated refunds would not be considered taxable income for state income taxes, but would have to be reported as taxable income at the federal level.

**Senator Towe** noted a corporation or business entity would take all of their property taxes as a deduction on their Montana income tax form. He asked whether any rebate they would receive would be taxable. **Mr. Robinson** stated the rebates would not be considered taxable income for Montana state tax purposes. **Senator Towe** noted HB 29 would grant a special exemption even though the property taxes were a deduction when they were paid. **Mick Robinson** replied correct.

**Senator Harp** expressed the Committee's appreciation to the people from Sidney who had testified. He said he sympathized with their problems and hoped that the state would be able to find another source of revenue a relieve the property tax burden on businesses and individuals. He noted, however, he did not know when that time would come.

**Closing by Sponsor:**

**Representative Foster** thanked the citizens for their testimony in support of HB 29 as well as Alec Hanson for the constructive role the MLCT had played in the process and expressed his dismay that he could not say the same the same thing about MAR. He stated the "eyes of the property tax payers of Montana" were upon the Legislature; if the problem was not addressed during the special session, a petition which would "have extreme consequences for the current system" would most likely be circulated. He stated HB 29 offered an option for addressing the problem in a bipartisan way which would show Montanans that the Legislature could "indeed respond to their problems in a constructive, timely and cooperative manner".

SENATE TAXATION COMMITTEE

December 13, 1993

Page 22 of 22

ADJOURNMENT

Adjournment: 12:50 p.m.



SENATOR MIKE HALLIGAN, Chair



BETH E. SATRE, Secretary

MH/bs

# ROLL CALL

SENATE COMMITTEE TAXATION DATE 13 December 1993

| NAME                 | PRESENT | ABSENT | EXCUSED |
|----------------------|---------|--------|---------|
| Sen. Halligan, Chair |         |        | X       |
| Sen. Eck, Vice Chair | X       |        |         |
| Sen. Brown           |         |        | X       |
| Sen. Doherty         |         |        | X       |
| Sen. Gage            | X       |        |         |
| Sen. Grosfield       | X       |        |         |
| Sen. Harp            | X       |        |         |
| Sen. Stang           | X       |        |         |
| Sen. Towe            | X       |        |         |
| Sen. Van Valkenburg  | X       |        |         |
| Sen. Yellowtail      |         |        | X       |
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SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
December 13, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 15 (third reading copy -- blue), respectfully report that House Bill No. 15 be concurred in.

Signed: *Dorothy Eck*  
Senator Dorothy Eck, Vice-Chair

M-Amd. Coord.  
SB Sec. of Senate

*Senator Stang*  
Senator Carrying Bill

131246SC.Sma



Date: December 13, 1993

HOUSE BILL 15

Submitted by: William Salisbury, Administrator  
Administration Division  
Montana Department of Transportation

"AN ACT TO IMPOSE THE COLLECTION OF SPECIAL FUEL TAXATION ON CLEAR SPECIAL FUEL WHICH WILL CORRESPOND WITH THE FEDERAL GOVERNMENT AND STATUTORILY APPROPRIATING MOTOR FUEL TAXES TO COUNTIES AND INCORPORATED CITIES AND TOWNS."

Recently passed federal legislation on diesel fuel creates situations which make it impossible for consumers to comply with HB539 passed by the 53rd legislature of the State of Montana.

The Montana Department of Transportation appears before this committee to offer our support for House Bill 15.

The discrepancy between federal law and Montana law exists for two items: (1) exempt sales of 200 gallons or more, and (2) the restrictions on dyed fuel.

Montana law     If a consumer purchases special fuel (diesel) without the Montana tax and operates vehicles under 26,000 lbs, HB539 passed by the 53rd legislature requires the consumer to purchase a special authorization permit since the consumer has access to untaxed special fuel. The special authorization permit is a prepayment of the Montana taxes which allows the consumer to use the untaxed special fuel in on highway vehicles.

Federal law      If a consumer purchases special fuel (diesel) without the Federal tax the fuel is dyed. Federal law prohibits the use of dyed diesel fuel in on highway vehicles.

Montana grants special authorization permit holders the right to use untaxed special fuel (which could be dyed) in the on highway vehicles. Federal law prohibits the use of dyed diesel fuel on the highway. Under current state law, the Montana consumer would be forced to purchase the special fuel from the retail station and also buy the special authorization permit to protect themselves from the federal government's fines. This results in double taxation of Montana's consumer.

HB15 places the Montana tax on undyed (clear) special fuel (diesel) and allows dyed special fuel, any amount, to be purchased without the state tax. This method of taxation corresponds to the Federal legislation.

HB15 provides a refund of the taxes paid when the undyed special fuel is used off highway, and also provides a refund to governmental agencies regardless of usage. This is the same procedure currently used for gasoline.

HB15 provides for enforcement of the act to correspond to the Federal legislation and to eliminate the confusion and conflict between the State and Federal statutes.

HB15 provides for the statutory appropriations of motor fuel taxes to the counties, incorporated cities and towns of this state that was inadvertently deleted in the regular session.

# Bulk Fuel Storage for Special Fuel User

SEPARATE TAXATION

EXHIBIT NO. 2

DATE December 13, 1994

BILL NO. HB 15

## With HB15

|  | 12/31/93 | 01/01/94 | 04/30/94 |
|--|----------|----------|----------|
| Purchased 1000 gallons of fuel @ \$1/gal.                                  | \$1,000  | \$1,000  | 0        |
| MT Tax due on the delivery of bulk fuel                                    | 0        | 240      | 0        |
| Tax Return due 1st quarter 1994, 4/30/94, by the Special Fuel User. *      |          |          | \$480    |
| Tax Paid Credit on Tax return, 1st quarter 1994 for the Special Fuel User. |          |          | (\$480)  |
| Total Liability  | \$1,000  | \$1,240  | 0        |

\* This example assumes the user consumed 2000 gallons the 1st quarter ending 3/31/94.

## Without HB15

|  | 12/31/93 | 01/01/94 | 04/30/94 |
|--|----------|----------|----------|
| Purchased 1000 gallons of fuel @ \$1/gal.                                  | \$1,000  | \$1,000  | 0        |
| MT Tax due on the delivery of bulk fuel.                                   | 0        | 0        | 0        |
| Tax Return due 1st quarter 1994, 4/30/94, by the Special Fuel User. *      |          |          | \$480    |
| Tax Paid Credit on Tax Return, 1st quarter 1994 for the Special fuel User. |          |          | 0        |
| Total Liability  | \$1,000  | \$1,000  | \$480    |

\* This example assumes the user consumed 2000 gallons the 1st quarter ending 3/31/94.

DETAIL ON HB539  
VERSUS  
SPECIAL SESSION LEGISLATION HB15

Recently passed federal legislation on diesel fuel creates situations which make it impossible for consumers to comply with the recently passed Montana HB539.

Effective October 1, 1993, the **FEDERAL GOVERNMENT (EPA)** requires high sulphur diesel be dyed blue and not used in on highway vehicles.

Effective January 1, 1994, the **FEDERAL GOVERNMENT (IRS)** imposes the following:

**Diesel fuel (clear)**

- Federal tax is charged on undyed diesel fuel (clear) at the terminal/refinery level.
- Federal tax on diesel fuel (clear), which would ordinarily be taxed, may still be purchased federal-tax free by farmers for tax exempt uses or by state and local governments. The fuel vendor, who is required to pay the federal tax, will claim refund on those gallons delivered to the farmer and governmental agencies.

**Diesel fuel (dyed)**

- No federal tax is charged for dyed diesel fuel. Dyed diesel fuel is only for off highway use. (This could be high or low sulphur.)
- If dyed diesel fuel is used in **highway vehicles**, the penalty is \$1,000.00 or \$10.00 per gallon -- whichever is greater.

The 53rd Legislative Session of the **STATE OF MONTANA** passed HB539 which moves the point of taxation on special fuel (effective January 1, 1994) from the retail level to the distributor level. The only exemptions from the Montana tax are as follows:

- The United States Government, State of Montana, any other state and any county, incorporated city, town or school district of this state
- Bulk delivery quantities of 200 gallons or more
- Exports

Special Session  
Special Fuel Legislation  
November 18, 1993

The discrepancy between federal law and Montana law exists for two items: (1) exempt sales of 200 gallons or more, and (2) the restrictions on dyed fuel. If a consumer purchases special fuel (diesel) without the Montana tax and operates vehicles under 26,000 lbs, HB539 requires the consumer to purchase a special authorization permit since the consumer has access to untaxed special fuel. The special authorization permit is a prepayment of the Montana taxes which allows the consumer to use the untaxed special fuel in on highway vehicles.

Thus, Montana grants special authorization permit holders the right to use untaxed special fuel (which could be dyed) in the on highway vehicles. Federal law prohibits the use of dyed diesel fuel on the highway. Under current state law, the Montana consumer would be forced to purchase the special fuel from the retail station and also buy the special authorization permit to protect themselves from the federal government's fines. However, this results in double taxation of Montana's consumer.

The impact on the industries is explained in detail on the following pages:

- Agricultural - Page 3
- Motor Carriers (Trucking) - Page 4
- Contractors, Logging, Miners and Railroads - Page 5
- Special Fuel Dealers - Page 6
- Special Fuel Distributors - Page 7
- Governmental Agencies - Page 8

Special Session  
Special Fuel Legislation  
November 18, 1993

• **AGRICULTURAL**

Current Montana law, effective January 1, 1994, allows the agricultural user to purchase bulk special fuel (diesel) in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires agricultural users, who fuel on highway vehicles **over** 26,000 lbs GVW, from bulk special storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Agricultural users who own vehicles **under** 26,001 lbs GVW and has access to untaxed special fuel are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

• **PROPOSED LEGISLATION**

Agricultural users can purchase dyed special fuel (diesel) in **any** quantity without paying the Montana tax. Dyed special fuel **cannot** be used in **on highway** vehicles.

Agricultural users will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Agricultural users who operate vehicles **under** 26,001 lbs GVW will not be required to permit or report the usage to the department.

Agricultural users who fuel on highway vehicles **over** 26,000 lbs GVW from bulk special storage must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Special Session  
Special Fuel Legislation  
November 18, 1993

**MOTOR CARRIERS (TRUCKING)**

Current Montana law, effective January 1, 1994, allows the trucking industry to purchase bulk special fuel in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires carriers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Carriers who own vehicles under 26,001 lbs GVW and has access to untaxed special fuel are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

**PROPOSED LEGISLATION**

Carriers can purchase dyed special fuel (diesel) in any quantity without paying the Montana tax. Dyed special fuel cannot be used in on highway vehicles.

Carriers will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Carriers who operate vehicles under 26,001 lbs GVW will not be required to permit or report the usage to the department.

Carriers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

Special Session  
Special Fuel Legislation  
November 18, 1993

**CONTRACTORS, LOGGERS, MINERS, RAILROADS**

Current Montana law, effective January 1, 1994, allows the contractor, logger, miner, and railroad to purchase bulk special fuel in quantities of 200 gallons or more and not pay the Montana tax.

Montana law requires consumers, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, to keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

The consumers, who own vehicles under 26,001 lbs GVW and have access to untaxed special fuel, are required to purchase a special authorization permit which eliminates the record keeping for those vehicles.

**PROPOSED LEGISLATION**

Contractor, logging, mining and railroad industries can purchase dyed special fuel (diesel) in any quantity without paying the Montana tax. Dyed special fuel cannot be used in on highway vehicles.

Contractor, logging, mining and railroad industries will pay the Montana tax on clear special fuel (diesel) regardless of usage, but will be allowed to apply for refund on those gallons used off highway.

Contractor, logging, mining and railroad industries who operate vehicles under 26,001 lbs GVW will not be required to permit or report the usage to the department.

Contractor, logging, mining and railroad industries, who fuel on highway vehicles over 26,000 lbs GVW from bulk special fuel storage, must keep a complete dispersal record on all special fuel withdrawn from storage and report the usage to the department quarterly.

**Contractors**

All special fuel, regardless of color, consumed in conjunction with a highway project is subject to Montana tax.



Special Session  
Special Fuel Legislation  
November 18, 1993

• **SPECIAL FUEL DEALER**

Current Montana law, effective January 1, 1994, eliminates the special fuel dealer requirements to be licensed, bonded and report retail sales and remit payment to the department. This change is do to moving the point of taxation on special fuel to the distributor level.

**Exemptions at the retail or bulk dealer level:**

- Special fuel sold in quantities of 200 gallons or more not intended for resale, or
- Special fuel sold to governmental agencies.

**Credits**

- The fuel dealer, who is required to pay the Montana tax, will claim a refund on those gallons to the supplier.

• **PROPOSED LEGISLATION**

The special fuel dealer will charge the Montana tax on all **clear special fuel** sold and **not** charge the Montana tax on **dyed special fuel sold** (regardless of quantities). The consumer can apply back to the State for refund on those gallons of clear special fuel used off highway.

Special Session  
Special Fuel Legislation  
November 18, 1993

• **SPECIAL FUEL DISTRIBUTORS**

Current Montana law, effective January 1, 1994, requires the special fuel distributor to report and remit Montana tax on all sales of special fuel in this State.

**Exemptions at the distributor level:**

- Special fuel sold in quantities of 200 gallons or more not intended for resale, or
- Special fuel sold to governmental agencies.

**Credits**

- The distributor will claim a credit on the distributor's report for those gallons sold by the distributor and the gallons sold by the distributor's customer.

• **PROPOSED LEGISLATION**

The special fuel distributor will charge the tax on all clear special fuel sold and not charge the Montana tax on dyed special fuel sold (regardless of quantities). The consumer can apply back to the State for refund on those gallons of clear special fuel used off highway.

Special Session  
Special Fuel Legislation  
November 18, 1993

• **GOVERNMENTAL AGENCIES**

The United States government, State of Montana, any other state, and any county, incorporated city, town, or school district of this state are exempt from the tax on special fuel regardless of usage.

• **PROPOSED LEGISLATION**

The governmental agencies will pay the tax and apply to the department for refund on all gallons regardless of usage.

CA:diesel

## Impact of Modifications to Governor's Rebate Proposal

### *Description of Proposal*

- Applies to Class 4 and Class 11 property
- Rebates calculated using a 3.86% taxable valuation rate for Class 11 farmstead property
- Commercial caps: Minimum \$50; Maximum \$200
- Residential and farmstead caps: Minimum \$25; three-fourths of tax in excess of 10% increase
- All relief is provided through income tax credits

### *Biennial Revenue Impact*

|  |                   |
|--|-------------------|
| Rebate amount for Class 4 residential property | \$ 6,227,817      |
| Rebate amount for Class 11 farmsteads          | 635,793           |
| Rebate amount for Class 4 commercial property  | <u>1,824,711</u>  |
| Total Annual Rebate                            | \$ 8,688,321      |
| <br>Impact on Current Biennium:                | <br>\$ 13,032,482 |
| <br>Impact in Fiscal Year 1996:                | <br>\$ 4,344,160  |

0005377

1,833

22 59

TREASURER OF RICHLAND  
COUNTY, MONTANA

| DELINQUENT TAXES  |        | CURRENT TAXES             | 1st HALF     | 2nd HALF     | TOTAL DUE    |
|---|--------|---------------------------|--------------|--------------|--------------|
| YEAR  | AMOUNT |                           |              |              |              |
|   |        | 5RD RURAL DISTRICT #5     | 249.76       | 249.76       | 499.52       |
|   |        | HORS PER CAPITA FEE-HORSE | 1.58         | 1.58         | 3.16         |
|   |        | REF SOLID WASTE           | 35.00        |              | 35.00        |
|   |        | SOIL SOIL CONSERVATION L  | .89          | .88          | 1.77         |
| Penalty and interest on these delinquent taxes figured through: 11/30/92                              |        |                           |              |              |              |
| NO SECOND HALF NOTICE WILL BE SENT. YOUR CHECK IS YOUR RECEIPT. STUBS (BELOW) MUST ACCOMPANY PAYMENT. |        | <b>PAY ▶</b>              | 287.23       | 252.22       | 539.45       |
|   |        |                           | DUE 11/30/92 | DUE 05/31/93 | OR PAY TOTAL |

| BREAKDOWN OF<br>GENERAL TAX | STATE | COUNTY | SCHOOL | CITY | OTHER |
|-----------------------------|-------|--------|--------|------|-------|
|                             | 87.48 | 154.09 | 290.61 |      | 7.27  |

## 2nd HALF

RETURN STUB WITH PAYMENT TO:  
RICHLAND COUNTY TREASURER  
201 WEST MAIN, SIDNEY, MT 59270

RANKLIN, JOHN L  
T 1 BOX 3665

SIDNEY MT. 59270

1992 REAL PROPERTY TAX NOTICE

|          |             |           |
|----------|-------------|-----------|
| 1st HALF | 2nd HALF    | TOTAL DUE |
| 287.53   | MAY 27 1993 | 539.45    |

|          |                 |              |
|----------|-----------------|--------------|
| DUE      | DUE             | TAXPAYER NO. |
| 11/30/97 | ASIRGE OF 12100 | 0005397      |

COUNTY, MONTANA

## 1st HALF

RETURN STUB WITH PAYMENT TO:  
RICHLAND COUNTY TREASURER  
20 WEST MAIN, SIDNEY, MT 59270

FRANKLIN, JOHN L. G.  
RT 1 BOX 3665

SIDNEY MT 59270

1992 REAL PROPERTY TAX NOTICE

|        |        |        |
|--------|--------|--------|
| 267.23 | 252.22 | 539.45 |
|--------|--------|--------|

|                 |                 |                         |
|-----------------|-----------------|-------------------------|
| DUE<br>11/30/92 | DUE<br>05/31/93 | TAXPAYER NO.<br>0005397 |
|-----------------|-----------------|-------------------------|

ENTIDIT  
12-13-93  
HB 29

(406) 482-1707

STATE OF MONTANA — COUNTY OF RICHLAND

201 WEST MAIN

SIDNEY, MT 59270

(ORIGINAL COPY)

DONETTE A. DOPP

TAXPAYER NO.

10/31/93

1993 REAL PROPERTY TAX NOTICE

0005397

VALUE OF A MILL IN THIS COUNTY IS 21,841.60 MILL LEVY: 318.800 TAXABLE VALUE: 2,483

27-3324-02-3-01-01-0000

44.80 AC IN E PT W2SW

2 22 58

FRANKLIN, JOHN L.  
RT 1 BOX 3665

SIDNEY MT 59270

| DELINQUENT TAXES  |        | CURRENT TAXES             |  | 1st HALF     | 2nd HALF     | TOTAL DUE    |
|---|--------|---------------------------|--|--------------|--------------|--------------|
| YEAR  | AMOUNT |                           |  |              |              |              |
|   |        | 5RD RURAL DISTRICT #5     |  | 395.79       | 395.78       | 791.57       |
|   |        | HORS PER CAPITA FEE-HORSE |  | 3.16         | 3.16         | 6.32         |
|   |        | REF SOLID WASTE           |  | 118.30       |              | 118.30       |
|   |        | SOIL SOIL CONSERVATION L  |  | .06          | .05          | .11          |
| Penalty and interest on these delinquent taxes figured through: 11/30/93                              |        |                           |  |              |              |              |
| NO SECOND HALF NOTICE WILL BE SENT. YOUR CHECK IS YOUR RECEIPT. STUBS (BELOW) MUST ACCOMPANY PAYMENT. |        |                           |  | 517.31       | 398.99       | 916.30       |
|   |        |                           |  | DUE 11/30/93 | DUE 05/31/94 | OR PAY TOTAL |

PAY ▶

*a 70% increase from 1992*

| BREAKDOWN OF GENERAL TAX | STATE  | COUNTY | SCHOOL | CITY | OTHER |
|--------------------------|--------|--------|--------|------|-------|
|                          | 120.54 | 277.57 | 508.89 |      | 9.30  |

2nd HALF

FRANKLIN, JOHN L.  
RT 1 BOX 3665

SIDNEY MT 59270

1993 REAL PROPERTY TAX NOTICE

| 1st HALF     | 2nd HALF     | TOTAL DUE            |
|--------------|--------------|----------------------|
| 517.31       | 398.99       | 916.30               |
| DUE 11/30/93 | DUE 05/31/94 | TAXPAYER NO. 0005397 |

RETURN STUB WITH PAYMENT TO  
RICHLAND COUNTY TREASURER  
201 WEST MAIN, SIDNEY, MT 59270

1st HALF

FRANKLIN, JOHN L.  
RT 1 BOX 3665

SIDNEY MT 59270

1993 REAL PROPERTY TAX NOTICE

| 1st HALF     | 2nd HALF     | TOTAL DUE   |
|--------------|--------------|---|
| 517.31       | 398.99       | 916.30  |
| DUE 11/30/93 | DUE 05/31/94 | TREASURER OF RICHLAND COUNTY TAXPAYER NO. 0005397 |

RETURN STUB WITH PAYMENT TO  
RICHLAND COUNTY TREASURER  
201 WEST MAIN, SIDNEY, MT 59270



# HOLLY SUGAR CORPORATION

A SUBSIDIARY OF IMPERIAL HOLLY CORPORATION

SENATE TAXATION

EXHIBIT NO. 6DATE December 13, 1994BILL NO. HB 29

The valuation table demonstrates in a graphic manner that, Holly Sugar Corporation pays, in taxes, two and a half to three times the amount paid at the comparable California facilities and almost twice what is paid at the much newer Texas facility.

The table listing increases demonstrates that between 1988 and 1990 Holly's taxes in Sidney doubled. But the increases have continued and in 1993 Holly paid 2 1/2 (two and one half) more taxes than it was paying merely 5 years earlier.

One final note. Holly Sugar Corporation employees approximately 300 people at the Sidney facility during each campaign. Holly's annual contribution in wages to state of Montana is in excess of, \$5,000,000, five million dollars.



# HOLLY SUGAR CORPORATION

A SUBSIDIARY OF IMPERIAL HOLLY CORPORATION

## HOLLY SUGAR CORPORATION 1993 TAX VALUATION COMPARISONS FACTORY SITE ONLY

| FACTORY<br>LOCATION   | ASSESSED<br>VALUE | TAXABLE<br>VALUE | TAX<br>RATE | TAX<br>LIABILITY  | SLICE<br>RATE<br>(tons/day) |
|-----------------------|-------------------|------------------|-------------|-------------------|-----------------------------|
| SIDNEY<br>MONTANA     | 21,722,751        | 1,516,873        | 31.8800%    | 483579<br>491,095 | 5234 1925                   |
| HEREFORD<br>TEXAS     | 16,010,920        | 16,010,920       | 1.9565%     | 313,254           | 7330 1924                   |
| BRAWLEY<br>CALIFORNIA | 16,536,284        | 16,586,284       | 1.0441%     | 173,230           | 8100                        |
| TRACY<br>CALIFORNIA   | 13,697,059        | 13,697,059       | 1.0034%     | 146,322           | 4818 1916                   |

Note 1: Taxable values include supplies, inventories, land, improvements, and personal property.

Note 2: All information is from 1993 tax bills.



EXHIBIT 6  
12-13-93  
HB 29**HOLLY SUGAR CORPORATION**

A SUBSIDIARY OF IMPERIAL HOLLY CORPORATION

**SIDNEY, MONTANA**

|             | <b>ASSESSED<br/>VALUE</b> | <b>MILL<br/>LEVY</b> | <b>TAXES<br/>PAID</b> |   |
|-------------|---------------------------|----------------------|-----------------------|---|
| <b>1988</b> | <b>15,259,855</b>         | <b>149,620</b>       | <b>191,684.12</b>     |   |
|             |                           |                      |                       | <b>PRESENT<br/>INCREASE<br/>from 1988</b> |
| <b>1990</b> | <b>17,107,632</b>         | <b>303,860</b>       | <b>387,285.82</b>     | <b>102%</b>                               |
| <b>1991</b> | <b>20,321,200</b>         | <b>257,390</b>       | <b>401,829.36</b>     | <b>110%</b>                               |
| <b>1992</b> | <b>20,091,003</b>         | <b>272,510</b>       | <b>415,218.41</b>     | <b>117%</b>                               |
| <b>1993</b> | <b>21,722,751</b>         | <b>318,800</b>       | <b>491,095.21</b>     | <b>156%</b>                               |

SEPARATE TAXATION

EXHIBIT NO. \_\_\_\_\_

DATE \_\_\_\_\_

BILL NO. \_\_\_\_\_

DATE 13 December 1993SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: HB 15, HB 29

&lt; ■ &gt; PLEASE PRINT &lt; ■ &gt;

Check One

| Name             | Representing                | Bill No. | Support | Oppose |
|------------------|-----------------------------|----------|---------|--------|
| Heidi Rogers     | Yeg / <del>Don</del> Billy  | HB 29    | X       |        |
| Kerry Rasmussen  | Holly Sugar                 | HB 29    | X       |        |
| Gene D. Thompson | Holly Sugar                 | HB 29    | X       |        |
| Hugo J. Asbeck   | bee / Graver                | HB 29    | X       |        |
| Tony S. Fuentes  | Holly Sugar                 | HB 29    | X       |        |
| Don Steinbeissen | Sugarbeet Grower            | HB 29    | X       |        |
| DAVID OEHMCKE    | PACIFIC Steel               | HB 29    | X       |        |
| TOM FRANKLIN     | 1 <sup>ST</sup> UNITED BANK | HB 29    | X       |        |
| DENNIS BURR      | MT TAXPAYERS ASSN           | HB 29    | ✓       |        |
| Dolph Davis      | Sidney Mullinck Co          | HB 29    | X       |        |
| Gene Alexander   | MT Petroleum Marketers      | HB 15    | X       |        |
| Tom Hopwood      | MT. ASSOC. REALTORS         | HB 24    |         | ✓      |
| Pick Hill        | Gov. Office                 | HB 29    | X       |        |
| Brad Griffin     |                             | HB 29    | X       |        |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 13 December 1993SENATE COMMITTEE ON TaxationBILLS BEING HEARD TODAY: HB 15, HB 29

&lt; ■ &gt; PLEASE PRINT &lt; ■ &gt;

Check One

| Name          | Representing | Bill No. | Support | Oppose |
|---------------|--------------|----------|---------|--------|
| Nancy Thuesen | Self         | HB 29    | ✓       |        |
| David Owen    | mt Chamber   | HB 29    | ✓       |        |
|               |              |          |         |        |
|               |              |          |         |        |
|               |              |          |         |        |
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|               |              |          |         |        |

## VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY