

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN CHASE HIBBARD, on February 1, 1995,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

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

Committee Business Summary:

Hearing: HB 299
HB 353

Executive Action: HB 188 (Discussion Only)
HB 183 - Tabled
HB 206 - Tabled

{Tape: 1; Side: A.}

HEARING ON HB 299

Opening Statement by Sponsor:

REP. GAY ANN MASOLO, House District 40, Townsend, presented HB 299, a proposal allowing a refund of 20% of the special fuel tax paid by ready-mix concrete trucks. The Montana Constitution states that "revenue from gasoline, fuel, and other energy sources used to propel vehicles on public highways shall be used as authorized by the legislature for payment of obligations incurred for construction, reconstruction and repair, operations and maintenance of public highways, streets, roads and bridges." She called attention specifically to the phrase "used to propel vehicles" and pointed out that the tax is not paid on fuel used which does not propel vehicles. Approximately 20% of the fuel used by the concrete trucks is used to mix the ingredients in the cement mixer and should be refundable.

Proponents' Testimony:

William Leslie, Quality Concrete Company, Billings, used a model of a concrete mixer truck to demonstrate how the unit is operated. The power from the engine drives the truck and also turns a drum which mixes the concrete. From 20% to 40% of the diesel fuel is used in the manufacturing process, ordinarily at the job site.

Bill Ogle, Kenyon-Noble Readimix, Bozeman, said his company operates three plants, with 20 concrete mixer trucks, in the Bozeman area and serves a market within 100 miles of Bozeman. He would support this bill. According to his records, it takes between a gallon and a gallon and a half of fuel to manufacture each yard of concrete. At one time the mixers on the trucks were separately powered and a credit was allowed for off-highway fuel consumption and they paid the tax on the truck unit which was used to transport the mixer to and from the job site. Today, the trucks have a single power unit and they pay the tax on all the fuel used. Historically, and from information that is available, the 20% figure is appropriate.

Carl Schweitzer, Montana Contractors Association, testified that he had worked with Senator Masolo in drafting this legislation. Other states have similar provisions to exempt fuel that is used in a non-highway, manufacturing capacity. Since there is only one tank on the truck, it is impossible for the operators to purchase dyed fuel, which is not taxed, for use in the manufacturing process. Mr. Schweitzer said the Montana Contractors support this legislation because it is a fair and equitable answer to the problem of paying tax on fuel that is not used on the highways.

Keith Olson, Montana Loggers Association, said the logging industry has similar problems because it uses self-loading trucks having one fuel tank to run auxiliary equipment. Mr. Olson said the logging industry has proposed an amendment that the sponsor and the Montana Contractor's Association have agreed to. The Department of Transportation has now assured the loggers that the problem can be handled administratively. He apologized for confusing the issue.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. HANSON asked if the operators of all logging trucks would be coming in to ask for this exemption or if it would be only the self-loading trucks. **Mr. Olson** said there are provisions for conventional logging trucks to request a refund for off-highway miles. This particular legislation would address only trucks with auxiliary equipment such as a self-loader. **Mr. Olson** again confirmed that the Department of Transportation had said this could be handled administratively and the amendment would not be necessary.

REP. REAM asked if it would be possible to handle the cement trucks administratively, the same as the logging trucks. **Susie Anders, Department of Transportation**, said it would be possible. Presently, under administrative rule, a refund is allowed only if the vehicle has an auxiliary tank; however, DOT is working with the Logging Association and will also work with the Cement Association to amend the administrative rules to add a percentage rate for trucks without an auxiliary tank. **REP. REAM** asked if that meant there was no need for this bill. **Ms. Anders** said that was correct. She then answered general questions on the use, tax rates, and administration of the special fuels tax provisions now in the statutes.

{Tape: 1; Side: B.}

REP. SOMERVILLE asked if the new administrative rules would put an added burden on the cement companies in relation to recordkeeping. **Dennis Sheehy, Director of Compliance Review, Department of Transportation**, said there were many businesses, including well-drillers, miners, the lumber industry, concrete manufactures, who are concerned about this problem and what the Department is proposing in the administrative rule is to establish a percentage, based on a standard, that would be refunded without any paperwork. However, if an operator wanted to claim more than the standard amount, they would have to keep records and file a claim. **Mr. Sheehy** said it was the Department's intent to meet with representatives of each industry individually to establish standards.

REP. SWANSON asked for the industry's perspective on the administrative rulemaking process. **Mr. Schweitzer** said he was encouraged by what the Department of Transportation had said and his Association would be happy to work with them.

CHAIRMAN HIBBARD said the Committee had heard testimony that indicated that the matter could be handled administratively. He asked the sponsor to respond.

REP. MASOLO said she was pleased to hear that the Department of Transportation could handle the matter administratively.

REP. BOHLINGER asked how quickly the Department of Transportation could have the administrative rule effective. **Ms. Anders** said they are looking at an effective date retroactive to January 1, 1995.

Closing by Sponsor:

REP. MASOLO thanked the Committee for the hearing. She said the hearing had brought the matter to the attention of the Department of Transportation and it will be taken care of.

HEARING ON HB 353

Opening Statement by Sponsor:

REP. WILLIAM WISEMAN, House District 41, Great Falls, said HB 353 is an economic development bill. Great Falls has a refinery that employs a number of people and pays a lot of taxes. For some time they have received the bid for delivery of jet fuel to Malmstrom Air Force Base. HB 353 would remove the state's one cent per gallon tax on the government defense fuel and make the refinery more competitive in the bidding process.

Proponents' Testimony:

Alan Hobbs, Marketing Manager, Montana Refining Co., Great Falls, presented testimony from Robert B. McIntyre, President of Montana Refining Co., who was unable to attend the hearing because of a prior commitment. EXHIBIT 1. He also presented a comparison of aviation fuel taxes paid in other states and a record of actual JP-4 deliveries to the Defense Fuel Supply Center. EXHIBIT 2. A summary of the upcoming military jet fuel contract is attached as EXHIBIT 3. **Mr. Hobbs** stated that the Montana Refining Company has 70 full-time employees and 20 part-time employees and is the only small refinery operating in Montana. The refinery has supplied most of the jet fuel to Malmstrom and the Montana National Guard. There is a one penny tax on every gallon sold to the Defense Fuel Supply Center which goes to the Department of Transportation to fund a large portion of the Montana Aeronautics Division's budget. However, the military does not use the services of the Aeronautics Division and should not be expected

to fund its budget. **Mr. Hobbs** then explained the bidding process which for the first time this year contains a 10% bidding advantage for minority suppliers. Exemption from the one-cent tax would put the refinery in a more competitive bidding position. Retaining the contract would ensure that the refinery would remain in operation, providing jobs and tax base in Cascade County. If the refinery should lose the bid to an out-of-state minority supplier, there would be no funds to support the Aeronautics Division. He encouraged the Committee's positive support of HB 353.

Mark Macek, Great Falls Chamber of Commerce, said the Chamber believes the appropriate role of government is to protect and nurture free enterprise and it is concerned with economic development, particularly the development of existing businesses. During the past five years, Montana Refining Company has added 15 high salaried jobs, contributing \$4.2 million dollars, and an additional \$2.2 was spent on local purchases of supplies and services. It is good for the State of Montana when local businesses can supply the needs of Malmstrom Air Base. He encouraged favorable consideration of this legislation which would enable a Montana company to continue to compete with a quality product. The Great Falls Chamber of Commerce strongly supports SB 353.

Steve Bergquist, Dixon Brothers, Inc., Billings, rose in support of HB 353. He said his company is the major transporter of aviation products for Montana Refining to Malmstrom Air Force Base and they have made a large commitment by dedicating two transport units to this project. If Montana Refining were to lose its contract, the state would not receive either the fuel tax or the payroll taxes from the Dixon Brothers employees. They must be able to remain competitive in the marketplace. He urged support for HB 353.

Opponents' Testimony:

Bob Gilbert, Montana Pilots' Association, testified in opposition to HB 353. He called attention to the title of the bill which says that the entire license tax for support of airport loan programs is to be refunded on jet fuel sold to the defense fuel supply center. He said that while serving in the Legislature in 1993, he carried a bill to raise the Montana fuel tax from one cent to three cents. The one-cent tax dates back to the 1930's and is used for administrative and function costs of the Aeronautics Division -- and not for the airport loan program. The bill which was passed in 1993 provided that one cent would go to the loan program and one cent to the grant program. Therefore, the bill and the title are in direct competition with each other and the bill is improperly titled. If the title were to be changed to strike "airport loan program," the intent of the bill would be changed and the bill would be invalid. He said that Montana Refining has inferred that it is a small, Montana corporation. He said that is not true because it is a limited

partnership based in Dallas, Texas, has a large number of principals and officers who all reside out of state, and total receipts for this corporation as of April 1, 1993 were \$567 million. He said it was important for the Committee to know that the crude oil which supplies this refinery comes from Canada, not from Montana where it would have been subject to severance and other Montana taxes. **Mr. Gilbert** said that under federal law, the Air Force is required to conduct search and rescue operations for downed aircraft. However, they have delegated this authority to the State of Montana Aeronautics Division using volunteer private pilots from across the state. Therefore, the testimony from the proponent that a tax should be related to those who use the services is appropriate because the \$147,000 they pay each year could be considered a token payment for the free search and rescue efforts they receive. It could also be considered a user fee for the military operation air space they use in Montana as training grounds. Passage of this bill would result in a major cost shift to the counties. He asked the Committee to remember how the fuel tax is distributed and strongly recommended that the bill do not pass.

Michael D. Ferguson, Administrator, Montana Aeronautics Division of the Department of Transportation, testified in opposition to HB 353 because of the long range effects it would have on the Aeronautics Division.

{Tape: 2; Side: B.}

Mr. Ferguson's remarks are attached to these minutes as EXHIBIT 4.

Howard Gipe, Flathead County Commissioner, representing MACO, rose in opposition to the bill. He said the Aeronautics Division is already underfunded, and he hoped the Committee would not do anything to create a hazard for Montana pilots by taking more funding away.

John Rabenberg, Chairman of the Governors Task Force on Essential Air Service, said he would oppose this bill because there are many things the Aeronautics Division does to provide air service in Eastern Montana. It is vitally important that they have the funding for the radio equipment the Division provides. Air service brings more economic development to the small towns than anything else. He also emphasized the importance of the beacons to pilots of small aircraft and urged the Committee to give this bill a do not pass recommendation.

JoAnn Eisenzimer, newly elected member of the Montana Aeronautics Board, said that, as an educator, she rose in opposition to HB 353. The Aeronautics Division has supported aero-space workshops which have touched hundreds of teachers and thousands of students, offering them an awareness and a resource that often leads to career opportunities. It is one of the most exciting and motivating programs that the schools have and it is not

included in the core curriculum of the schools. She emphasized that the program is an investment in the future and should not be taken from the schools because of a lack of funding.

Tom Ebzery, attorney, representing the Montana Airport Management Association, testified in opposition to the bill. His comments are attached as EXHIBIT 5.

Mike Biggerstaff, Association of Montana Aerial Applicators, said the members of his association have imposed the 2% tax on themselves because they feel the services provided by the Aeronautics Division are very important. He urged the committee to vote no on this bill.

Marilyn Lewis, Montana Flying Farmers, said the aviation organizations in Montana promote aviation in Montana and support and organize the state aviation conference. They would not be able to hold the conference were it not for the help received from the Aeronautics Division. For this reason she asked for the Committee's opposition to HB 353.

Loren Smith, Vice President of the Montana Pilots Association, advised that, contrary to the proponents testimony, Malmstrom Air Force Base, and its contractors, do use the small airports in Montana extensively when servicing missile sites. He said the tax is fair and everyone using the services of the Aeronautics Division should be willing to pay the tax.

Bob Lipscomb, Montana Pilots Association, spoke in opposition to the bill. The pilots of Montana have asked for the two-cent tax to fund the Aeronautics Division and everyone should pay it.

Questions From Committee Members and Responses:

REP. BOHLINGER said he understood that if the one-cent tax on fuel delivered to the Defense Fuel Supply Center was exempt, the Aeronautics Division would be deprived of approximately \$147,000. He asked Mr. Hobbs if he had any suggestions for adding the revenue back. **Mr. Hobbs** said he could not deny that the services provided by the Division were needed, but Montana should fund the program as other states do. Any attempts to fund it in previous sessions have been killed by the airlines. Private pilots and the airlines pay much higher taxes in other states. He suggested an amendment to add a one-half cent tax to the present tax which would still be the lowest air fuel tax on airlines and commercial aviation in this part of the country.

{Tape: 3; Side: A.}

REP. MURDOCK asked if the Montana Refining Company was the only refinery in the state affected by this bill. **Mr. Hobbs** said they were because the other refinery which makes jet fuel ships the fuel they manufacture out of state by pipeline.

REP. RYAN asked what percentage of the Aeronautics Division's budget was paid by the Montana Refining Company. **Loren Smith** replied that presently it is about 36% of the total budget of just under \$400,000. One cent of the total tax is used for support of the Aeronautics Division. The other two cents is dedicated to grants and loans for small airports, given at the discretion of the Aeronautics Board.

REP. RYAN asked how many times in the last ten years the Montana Refining Company did not receive the contract to supply fuel to the Defense Supply Fuel Center. **Mr. Hobbs** said it had happened on two occasions, once the bid went to Conoco and once to a Wyoming company; however, the fuel was produced in Montana so the tax was paid.

REP. WELLS asked how much the Division contributed to the aviation conference. **Mr. Ferguson** replied that the costs were minimal. They put the program together but it is paid for by exhibitor and registration fees. **REP. WELLS** then asked how much it costs to maintain the visual beam system and how much is spent on flight instructor training. **Mr. Ferguson** said they spend approximately \$550 a year for each beacon. The Division underwrites the training program and then charges a \$75 fee and some years the Division makes money on the program.

REP. WELLS said he had heard testimony that Montana Refining Company buys oil from Canada. He asked why. **Mr. Hobbs** said they buy all they can, approximately half, in Montana and half from Canada. As production declines in Montana, every refinery in Montana is getting more dependent on out-of-state oil.

REP. REAM asked if other agencies, such as the U.S. Forest Service, using aviation fuel receive exemptions. **Mr. Ferguson** said that all transient military pay the entire three cent tax unless they land at Malmstrom.

REP. STORY said the concern with the bill seemed to be how to fund the Aeronautics Division if Montana Refining were exempt from paying the one-cent tax. He asked what programs would have to be discontinued. **Mr. Ferguson** said this issue was addressed in EXHIBIT 4 and would include cutting two full time employees as well as the programs listed in the exhibit.

Closing by Sponsor:

REP. WISEMAN said he felt there had been an attempt to "muddy" the issue which is to allow a refinery in Great Falls to remain competitive. He commented that the Legislature has killed the oil and gas industry in the state so the refinery has no choice other than to buy out-of-state oil.

{Tape: 3; Side: B.}

REP. WISEMAN said the bill would provide a level playing field for a Montana corporation that has done \$25 million worth of construction in the past, proposes \$25 million in the future, and pays a half million dollars in taxes to Cascade County -- if it gets the bid. He asked for the Committee's favorable consideration.

EXECUTIVE ACTION ON HB 183

Motion:

REP. ELLIOTT MOVED THAT HB 183 DO NOT PASS.

Discussion:

REP. ELLIOTT explained the reason for his motion. He said that if the tax rate is lowered, areas with an increase in valuation would see a decrease in property tax, but the counties and local governments would get less money. In areas that have seen shrinking residential values, the tax rate will go down and there would be a big hit on local governments. If all values were going up, and going up at the same rate, everyone would be treated equally, but this bill does not do that.

Motion/Vote:

AS A SUBSTITUTE MOTION, REP. HANSON MOVED TO TABLE HB 183. On a voice vote, the motion passed 16-4.

EXECUTIVE ACTION ON HB 188

Motion:

REP. SOMERVILLE MOVED THAT HB 188 DO NOT PASS.

Discussion:

REP. SWANSON said she would like to amend out everything in the bill and simply make the present distribution of the tax permanent.

Mr. Heiman said the correct place to do that would be in Section 11, which would eliminate the sunset provision and keep the local option tax intact.

CHAIRMAN HIBBARD said his understanding of the bill was that when one cent of the five cents currently allowed was applied statewide, that would create the increase in the bill. Rep. Swanson's suggestion would be to leave the tax distribution the same as it is now and remove the sunset provision.

REP. SWANSON said that leaving some of the money for towns and local governments was her only concern. This is the portion that is due to sunset and she would like to see the sunset repealed.

REP. SOMERVILLE suggested that the Committee kill the bill and come up with a Committee bill that would repeal the sunset.

Mr. Heiman said there is plenty of time to do a Committee bill but he could also write amendments to this bill to do the same thing.

REP. RANEY said the purpose of the bill, as introduced, was to provide district court funding. It is obvious that the courts are under-funded and the citizens of Montana do not want a court system that they are unable to access. This bill has been recommended by the Judicial Finance Commission. **REP. RANEY** said he had prepared amendments that would provide for funding without increasing the fees or changing the local option. The amendments provide for funding from the general fund.

REP. MURDOCK said this was an optional tax and not all counties use it.

REP. SOMERVILLE referred to a fact sheet from MACO which indicates that counties are not using the local option tax to fund district courts, which was the original intent of the legislation. His opinion was that this was a bad bill.

REP. NELSON said this legislation was passed in 1989 for the courts in Great Falls and the local option had a hard time passing. They have now chosen to spend it for a lot of other things and only a small portion is spent on the courts. Now they are asking for funds from other counties to equalize spending.

REP. RANEY said he did not recall that it was put on just for courts. It was put on because the local governments were desperate for money to do many things. **REP. NELSON** clarified that it was specifically for the courts.

Without objection, **CHAIRMAN HIBBARD** called on Gordon Morris to explain the original intent of the legislation.

Mr. Morris pointed out that the new language in Section 1 proposes to create a "state cost sharing program." What is proposed in HB 188 is to take the .1% and make it a mandatory statewide assessment for a civil defense fund. He emphasized that the bill creates a new program. The other issue, from a county perspective, is that it is critical to realize that sections 5 and 11 of the bill sunset the temporary provision that was put into the law in 1991. In 1987 the local option taxing authority was enacted and in 1991 the allocation was changed so that more of the money went to local governments for district courts. **Mr. Morris** emphasized that the tax itself will not

sunset; however, the method of distribution will sunset and less money would go to the counties.

CHAIRMAN HIBBARD asked what would happen if the bill were killed. **Mr. Morris** said the .1% statewide would be gone, the 2% would remain and the .5% would remain but it would revert back to the method of distribution prior to 1991. From the counties' perspective, they would prefer to have the sunset repealed. **Mr. Morris** also referred to the language stricken from the bill which required a public hearing on the proposed resolution to impose, revise or revoke the local option tax. In the interest of good government, he recommended leaving the language in the bill.

{Tape: 4; Side: A.}

REP. REAM said the Montana judicial system is a state responsibility but the Legislature has determined that the counties must fund it. The bill addresses this situation by imposing a .1% fee on licenses to fund the statewide judicial system.

CHAIRMAN HIBBARD agreed with Rep. Ream. He then conducted a straw poll to determine the Committee's interest in continuing discussion on the bill. The poll indicated that the bill, in its present form, would probably die in Committee. **CHAIRMAN HIBBARD** commented that it had become obvious to him that fundamental changes must be made to the present tax structure. The judicial system is a state responsibility and should not be funded with a tax on vehicles.

REP. FUCHS informed the Committee that he had prepared a resolution addressing this problem. The resolution would provide for a committee to develop a long-term tax policy for introduction to the next session of the Legislature.

REP. ELLIOTT said that Mr. Fasbender had expressed a concern about the bill. Without objection, **Mr. Fasbender** said he could appreciate that there should be another way to fund the courts -- unfortunately, at the present, there is no other way. If the bill is killed, the distribution will go back to the old system and the county would not choose to invoke the .5% option because most of the money would go to schools as non-levied revenue. If the .5% is not there, there is no way to get any money to the courts. Cascade County does use its 50% of the formula for its courts, and the other 50% goes to the city for other programs. If the sunset is not removed, the counties will be back in the same situation they were two years ago, with no funding for district courts.

REP. HARPER suggested that more time was needed to come up with amendments to the bill.

REP. RANEY said he was prepared to amend the bill to provide funding for the district courts from the 2% license tax that goes

directly to the state general fund. There would be no tax increase but the general fund portion of the tax would decrease. He agreed that it was the state's responsibility to fund the district courts.

REP. SOMERVILLE said he had discussed this matter with the District Judge in his district. Flathead County does not use the local option tax and the courts are funded with fees and general fund.

REP. RANEY commented that in a county that doesn't generate much tax, one large court case could bankrupt a county.

REP. MURDOCK said she thought this was a "slush fund" instead of a district court fund because only a few counties were using it to fund the district court.

REP. SWANSON suggested that this bill be referred to a sub-committee for further study.

CHAIRMAN HIBBARD postponed further executive action on HB 188 and named Rep. Ryan, Rep. Swanson, Rep. Somerville, Rep. Murdock and Rep. Arnott to serve on the sub-committee. Rep. Arnott was named chairperson.

EXECUTIVE ACTION ON HB 206

CHAIRMAN HIBBARD stated that this bill dealt with areas of human services which were outside the purview of taxation; however, he felt it was necessary for the Taxation Committee to rule on the bill based upon the tax implications of a two mill permissive levy.

Motion:

REP. STORY MOVED THAT HB 206 DO NOT PASS.

Substitute Motion:

REP. HARPER MOVED THAT HB 206 DO PASS. REP. HARPER THEN MOVED AMENDMENTS TO THE BILL.

Discussion:

REP. HARPER explained that the amendments were technical and necessary to make sure that the school districts that now fund this program through other mechanisms, would not use this mechanism if they have other revenue. **REP. HARPER** said the problem he saw with the bill was that all programs would have to be funded by the two-mill permissive levy and the amendments provide some flexibility to the trustees. EXHIBIT 6.

Vote:

On a voice vote, the motion to amend the bill passed, 18 - 2.

Motion:

REP. HARPER MOVED THAT HB 206 DO PASS AS AMENDED.

Discussion:

CHAIRMAN HIBBARD said that if the Committee tables this bill, it is possible it could be dealt with in some other way from the human services perspective.

REP. HANSON said her concern was that it was a "wide open" permissive levy with no cap.

REP. STORY said the Managing Resources Montana (MRM) program was set up to deal with this situation even though it might not be sufficient to meet all needs. The schools are only required to finance the educational costs and the professional costs are to be funded by other departments of state government. If the bill should pass, it should be amended to remove some of the professional services that are included in the bill that are not the responsibility of the schools.

REP. SWANSON agreed with Rep. Story but MRM is also at risk in this legislation and the other programs that should be contributing to the care of these children are not adequately funded. The trustees need an option to enable them to provide mandated services. If the Appropriations Committee does not provide funding, and the Taxation Committee does not provide this option, there are no other options.

REP. ARNOTT said the problem she sees is that the federal government has handed the state a mandate to educate children who do not belong in public schools. The state is now handing the same mandate to the public schools.

REP. BOHLINGER reviewed the testimony from Mr. Martin relative to costs of caring for these children at home versus sending them out-of-state. However, he questioned whether education dollars should be used because children with special needs should be cared for in the appropriate setting. He said he would support the amendment making the levy optional.

REP. WELLS also thought the public schools should not be responsible for severely emotionally disturbed children. He said there are special schools and treatment programs in Montana who deal with these children and he did not think it was necessary to send them out-of-state at a cost of \$70,000 per child.

REP. SOMERVILLE said he would not support the bill unless the word "permissive" was removed. This situation which exists could

destroy the public school system because parents will be forced to send their children to private schools to avoid situations such as those described in proponents' testimony. The public school system will be made up only of children whose parents cannot afford to send them to private schools and children with emotional problems. It is important that the voters have the opportunity to approve any levy for this purpose.

{Tape: 4; Side: B.}

REP. HARPER said that teachers say this is the biggest and most rapidly growing problem in the public schools. The Legislature cut \$10 million that had been spent on this problem and replaced it with \$2 million. What was done, in order to balance the budget, was place the burden back on the local school districts. This bill does not make it fair, but would establish a mechanism for funding.

Vote:

On a roll call vote, the motion failed, 8 - 12.

Motion/Vote:

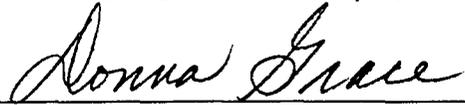
REP. REAM MOVED TO TABLE HB 206. The motion passed unanimously.

ADJOURNMENT

Adjournment: 11:55 a.m.



CHASE HIBBARD, Chairman



DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE Feb. 1, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 2/1/95 BILL NO. 206 NUMBER _____

MOTION: Do Pass as Amended

NAME	YES	NO
Vice Chairman Marian Hanson		✓
Vice Chairman Bob Ream	✓	
Rep. Peggy Arnott		✓
Rep. John Bohlinger	✓	
Rep. Jim Elliott	✓	
Rep. Daniel Fuchs		✓
Rep. Hal Harper	✓	
Rep. Rick Jore		✓
Rep. Judy Rice Murdock		✓
Rep. Tom Nelson		✓
Rep. Scott Orr		✓
Rep. Bob Raney	✓	
Rep. Sam Rose		✓
Rep. Bill Ryan	✓	
Rep. Roger Somerville		✓
Rep. Robert Story		✓
Rep. Emily Swanson	✓	
Rep. Jack Wells		✓
Rep. Ken Wennemar	✓	
Chairman Chase Hibbard		✓

8

12

January 31, 1995

EXHIBIT 1
DATE 2/1/95
HB 358

HOUSE TAXATION COMMITTEE - TESTIMONY H.B. 353

For your record, my name is Robert B. McIntyre. I am president and co-owner of United Materials of Great Falls, Inc. Both myself and my business partner Milan Foster of Billings are private pilots. Our company performs highway and airport construction along with concrete and asphalt material supply in the Great Falls area.

We strongly support passage of H.B. 353 removing the one cent tax on government defense fuel supply.

If the tax remains as under the current law, the money generated goes to the State Aeronautical Commission. If the tax is eliminated, the money will either stay in the private sector (Montana Refining Company or some other fuel supplier) or go to Malmstrom Air Force Base in the form of a reduced price for fuel.

In my opinion either of the two latter alternatives are far more beneficial to the Montana economy in general than is the first choice of leaving the tax as is. If the money stays in the private sector, it creates or helps maintain jobs, it supports other local businesses, such as ours, through expansion and maintenance work at the refinery, and it helps pay other taxes that support local, state and federal programs.

If the savings is all or partially passed through to the Air Force in the form of lower prices, it is one more positive factor for keeping both Malmstrom and the Montana Air National Guard in Great Falls (Montana is the only State in the region currently taxing defense jet fuel). We all benefit from having Malmstrom remain an active and producing part of the Montana economy. This is a small investment to pay to help keep them here.

The Aeronautical Commission should in my opinion be financed by those of us who use and benefit from it's services - a user tax, not a tax on big business or the federal government, neither of whom use it's services or put any demand on its resources.

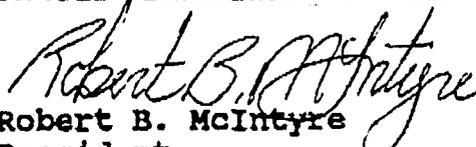
Montana Refining has been a solid private enterprise citizen of Great Falls and over the years has put much back into our local economy. Showing support to help them remain competitive and maintain their profitability by passing this bill is very similar to the spirit of support shown to encourage other businesses such as Micron to come into Montana.

I urge you to show your support for Great Falls by passing this bill.

Thank you for your consideration.

Yours very truly,

UNITED MATERIALS OF GREAT FALLS, INC.


Robert B. McIntyre
President

RBM:ft

EXHIBIT 2
DATE 2/1/95
HB 353

AVIATION FUEL TAXES
COMPARISON BY STATE

COLORADO Aviation Fuel Tax Dept. 303-534-1805

Aviation Gasoline: 6¢ per gallon
Commercial Jet A: 4¢ per gallon
Federal Government: Exempt from tax

UTAH Aviation Fuel Tax Auditing 801-297-6300

Aviation Gasoline: 4¢ per gallon
Commercial Jet A: 4¢ per gallon
Defense Fuel Supply Center: Exempt from tax

WASHINGTON Department of Licensing
Fuel Tax Section 206-753-3256

Aviation Gasoline: 6¢ per gallon
Commercial Jet A: 6¢ per gallon
Defense Fuel Supply Center: Exempt from tax

IDAHO Department of Revenue 208-334-7660

Aviation Gasoline: 5.5¢ per gallon
Commercial Jet A: 4.5¢ per gallon
Defense Fuel Supply Center: Exempt from tax

WYOMING Department of Revenue 307-777-4828

Aviation Gasoline: 5¢ per gallon
Commercial Jet A: 5¢ per gallon

NORTH DAKOTA Department of Revenue 701-328-3126

Aviation Gasoline: 8¢ per gallon
Commercial Jet A: 8¢ per gallon
Federal Government: Exempt from tax

SOUTH DAKOTA Department of Fuel Taxes 605-773-3311

Aviation Gasoline: 6¢ per gallon
Commercial Jet A: 4¢ per gallon
Federal Government: Exempt from tax

MINNESOTA

Department of Revenue 612-296-7268

Aviation Gasoline:	5¢ per gallon
Commercial Jet A:	5¢ per gallon
Bulk Military Sales:	Exempt from tax

Minnesota offers a volume discount to large purchasers:

First 50,000 gallons	at 5¢
Next 100,000 gallons	at 2¢
Next 50,000 gallons	at 1¢
All additional gallons	at 1/2¢

ILLINOIS

Department of Revenue 217-782-3336

Aviation Gasoline:	19¢ per gallon
Commercial Jet A:	19¢ per gallon
Federal Government:	Exempt from tax
Airports in cities over one million people with more than 300,000 transactions	are exempt.

GEORGIA

Motor Fuel Tax Department 404-651-5106

Aviation Gasoline:	7.5¢ per gallon
Commercial Jet A:	7.5¢ per gallon
Defense Fuel Supply Center:	Exempt from tax

CALIFORNIA

Department of Revenue 916-322-9669

Aviation Gasoline:	18¢ per gallon
Commercial Jet A:	2¢ per gallon
Defense Fuel Supply Center:	Exempt from tax

ACTUAL JP-4 DELIVERIES (GALLONS) TO DEFENSE FUEL SUPPLY CENTER

	<u>1993</u>	<u>1994</u>	<u>1995</u>
JANUARY	970,583	1,729,751	659,001
FEBRUARY	825,855	974,900	
MARCH	1,100,437	1,400,545	
APRIL	1,122,646	1,121,500	
MAY	810,060	1,028,000	
JUNE	1,575,528	888,026	
JULY	1,314,397	990,509	
AUGUST	1,211,331	1,075,521	
SEPTEMBER	673,084	1,097,020	
OCTOBER	1,009,974	518,104	
NOVEMBER	1,496,686	809,096	
DECEMBER	<u>1,353,883</u>	<u>675,010</u>	
TOTAL	13,464,464	12,307,982	

Demand is dropping as planes are moved from Malmstrom to another base or for temporary assignments such as Bosnia

EXHIBIT 3
DATE 2/1/95
HB 353

MILITARY JET FUEL CONTRACT

The full volume of the contract represents 15% of Montana Refining Company's total production.

Montana Refining Company has supplied almost all of the jet fuel used at Malmstrom Air Force Base since the demand has grown.

Montana Refining Company has invested heavily in Montana, both in equipment and jobs. This investment is due largely to our ability to sell all of our production, much of which is the military jet fuel contract.

If we lose the military jet fuel contract, our growth will not continue. We intend to invest another \$20 Million at our Great Falls Refinery if our production and sales stay high.

Montana taxes aviation fuels at much lower rates than other states. But, Montana taxes military jet fuel sales to the Defense Fuel Supply Center, unlike other states.

Montana Refining Company asks that sales to the Defense Fuel Supply Center no longer be taxed so we can offer a lower price on the bid.

The current bid and contract have changed from previous bids.

1. Product is now JP-8, not JP-4
2. Minority suppliers will have a 10% advantage.

The current 1¢ tax on jet fuel sales to the Defense Fuel Supply Center makes us less competitive when bidding. If we do not get the contract, Montana will not receive the tax revenue from out of state suppliers.

Please support HB#353 and work for its timely passage so we can offer the lowest prices for the February bid opening.

EXHIBIT 4
DATE 2/1/95
HB 353

Testimony Before House Taxation Committee on HB353

Submitted by: Michael D. Ferguson, Administrator, Montana Aeronautics Division of the Department of Transportation

The proposed legislation in House Bill 353 would have the following long range effects on the Aeronautics Division.

The Montana Aeronautics Commission (now Division) was created in 1945 through a successful lobby of the Montana Pilots Association and in so doing they also provided the funding through a 1 cent per gallon tax on ALL aviation fuel. In 1993 the Montana aviation organizations had successful legislation introduced to increase their taxes by 2 cents per gallon to be placed into two separate accounts - one for airport loans and one for airport grants. The passenger air carriers were to be exempt through a 2 cent per gallon rebate. The Great Falls refining company was successful in being added to the exemption for military JP-4 & JP-8 jet fuel. The airlines apply and receive a 2 cent per gallon rebate -- one cent from each of the two accounts described above. The Great Falls refining company actually does not pay anything into these two new accounts -- they are given a credit instead as authorized by the new law. General Aviation only pays into these two new accounts which generate approximately \$83,000 each per year after the airline rebate. All users pay the original 1 cent per gallon which goes into the Aeronautics Earmarked Revenue account and used for all of the Aeronautics operations.

If HB353 passes the results will be devastating for the Aeronautics Division as about 35%+ (\$147,000) of our total fuel tax revenue of about \$400,000 would be lost. Additional revenue could be lost from the 10% fees we receive for aircraft registration (the respective counties receive 90%) plus the \$10 fee for each pilot registration. This totals approximately \$44,000. We would anticipate turning these registration mandates over to the counties, however, this would require legislation.

Other program cuts anticipated are:

1. **SEARCH AND RESCUE** - The U.S. Air Force has the overall responsibility for inland air search for the United States and acts as the Air Rescue Coordination Center, delegating air search responsibilities to each state. The Aeronautics Division fulfills this responsibility through an organized network of volunteer pilots and aircraft. The Division provides and funds organizational, pilot and observer training, reimburses pilots for fuel and oil

expenses and pays workers compensation insurance for these volunteers. Strong emphasis is placed on flight safety as most air searches occur in bad weather and in mountainous terrain. The Division provides training for volunteer pilots, observers and sheriff departments in emergency locator (ELT) homer and survival techniques.

The Division utilizes the Civil Air Patrol (CAP) volunteers on many air searches. There are only a few established CAP units in Montana and response time can be greater than that of the state's volunteer network. Forty-one states delegate air search and rescue partially/exclusively to the CAP. These costs are state funded and totalled \$2.9 million in CY1990. Another consideration could possibly be to place this responsibility with the Department of Military Affairs, Disaster and Emergency Services Division.

2. STATE AIRPORTS - The operation and maintenance of the state owned/leased/permitted airports would cease or be transferred or sold to the counties. The affected airports would be:

1. Dell Airport located in Beaverhead County
2. Babb Airport located Glacier County
3. Browning Airport located in Glacier County
4. E. Poplar located on the U.S.-Canada border (Daniels County)
5. Lincoln Airport located in Lewis and Clark County
6. Lavina located in Golden Valley County
7. Ryegate located in Golden Valley County
8. Rock Creek located in Missoula County
9. Sweetgrass Airport located on the U.S.-Canada border (Toole County)
10. Tiber Dam located in Liberty County
11. Del Bonita Airport located on the U.S.-Canada border (Glacier County)
12. Canyon Ferry Airport located Broadwater County

3. NON-DIRECTIONAL RADIO BEACONS - Non-Directional Radio Beacons has been an active program supported many years by the Division and communities with airports throughout the state. Twenty-five Aeronautics owned and operated NDB's would either be shutdown or transferred to the counties.

The following 7 airports are Aeronautics owned and operated NDB's which serve as the only radio facility for Instrument Approaches. Instrument approaches allow general aviation aircraft, emergency services aircraft (medivac),

and airline passenger transportation aircraft to fly in and out of the airports during inclement weather.

1. Choteau Airport located in Teton County
2. Conrad Airport located in Pondera County
3. Forsyth Airport located in Rosebud County
- ** 4. Glendive Airport located in Dawson County
5. Shelby Airport located in Toole County
- ** 6. Sidney Airport located in Richland County
- ** 7. Wolf Point located in Roosevelt County

The remaining 18 NDB's are at airports throughout the state having an NDB used as either a Visual Flight Rules (VFR) navigational aid or as an Instrument Flight Rules (IFR) navigational aid. These NDB's are:

- | | |
|----------------------|---------------------|
| 1. Baker Airport | 12. Libby Airport |
| 2. Broadus Airport | 13. Malta Airport |
| 3. Chester Airport | 14. Plentywood A/P |
| 4. Circle Airport | 15. Polson Airport |
| 5. Ennis Airport | 16. Red Lodge A/P |
| 6. Eureka Airport | 17. Roundup Airport |
| **7. Glasgow Airport | 18. Scobey Airport |
| 8. Hamilton Airport | |
| 9. Harlowton Airport | |
| **10. Havre Airport | |
| 11. Jordan Airport | |

Airports identified by double asterisks (**) are Essential Air Service Airports. Providing for the continuance of these navigational facilities would be critical in providing scheduled airline service to these airports.

4. VISUAL AIRWAY BEACONS - The Visual Airway Beacon program is a system of 17 airway beacons throughout western Montana along well known, night VFR routes. They are intended to denote terrain clearance, or highest area terrain and are to be used in conjunction with other fundamental VFR instruments. They are used by pilots during night operations and are considered by the pilots who use them as critical to aviation safety by not only providing a navigation aid but providing a sense of reassurance during marginal weather conditions. This reassurance contributes to an extra margin of safety enjoyed by Montana pilots. Several years ago a contractor estimated the cost to dismantle the beacon towers at approximately \$7,000/each.

5. FTE - As a result of discontinuing the above programs and to meet the \$147,000 income reduction 2.0 FTE would be eliminated.

JP4 FUEL ALLOCATIONS BY FISCAL YEAR AS INDICATED BELOW:

	<u>FY 92</u>	<u>FY 93</u>	<u>FY 94</u>	<u>FY 95</u>
JULY	670,663	989,317	2,400,604	874,873
AUG	887,484	1,064,213	1,314,397	973,168
SEPTEMBER	1,061,648	-0-	1,260,164	1,048,528
OCTOBER	915,318	2,521,725	682,044	1,084,175
NOVEMBER	-0-	-0-	-0-	512,959
DECEMBER	221,734	2,468,971	2,036,925	809,096
JANUARY	801,861	1,107,136	915,318	
FEBRUARY	-0-	-0-	1,501,121	
MARCH	1,961,090	1,806,789	994,145	
APRIL	-0-	1,109,555	1,415,250	
MAY	1,088,558	1,122,646	1,129,594	
JUNE	2,465,736	-0-	1,029,616	
	<u>10,074,092</u>	<u>12,190,352</u>	<u>14,679,178</u>	<u>5,302,799</u>
	X .01¢	X .01¢	X .01¢	X .01¢
	\$100,740.92	\$121,903.52	\$146,791.78	\$53,027.99

1990

STATE SUPPORT

Forty-one states and the commonwealth of Puerto Rico appropriated funds to provide material and financial assistance in the operations of their respective CAP wings during FY90 in the amounts shown below. These figures represent the value of the funds and property appropriated but do not necessarily reflect the amount ultimately received by the respective CAP wings. A total of \$2,900,469 was appropriated. This support is greatly appreciated and will be used by Civil Air Patrol to continue and expand its public service capability.

Tennessee	73,770
✓ Utah	50,000
Vermont	12,000
Virginia	120,132
West Virginia	82,500
Wisconsin	19,000
✓ Wyoming	7,597

WING	AMOUNT
Alabama	\$ 50,000
Alaska	420,000
Arizona	78,900
Arkansas	66,100
California	115,000
✓ Colorado	95,169
Connecticut	40,000
Delaware	15,000
Georgia	42,000
Hawaii	190,600
Illinois	176,000
Kansas	19,971
✓ Kentucky	15,000
Louisiana	75,000
Maine	25,000
✓ Maryland	45,000
Massachusetts	16,675
Minnesota	65,000
Mississippi	20,000
Missouri	7,310
Nebraska	27,650
Nevada	85,000
New Hampshire	76,215
New Mexico	82,000
New York	45,000
North Carolina	159,970
✓ North Dakota	42,452
Ohio	624
Oklahoma	18,500
✓ Oregon	15,000
Pennsylvania	200,000
Puerto Rico	45,000
Rhode Island	42,200
South Carolina	89,425
✓ South Dakota	28,709

TEN YEARS IN REVIEW

Year	No. Wings	Amount
1981	42	\$2,537,027
1982	42	2,622,223
1983	39	2,461,246
1984	44	2,768,215
1985	44	2,793,155
1986	44	2,871,788
1987	44	3,083,473
1988	43	4,205,358
1989	42	3,027,331
1990	42	2,900,469

CAP SUPPLY DEPOT

The Civil Air Patrol supply depot in Amarillo, Texas, is used to obtain, store, and ship aircraft parts to individual wings. The users of this service pay all handling and transportation charges. Spare parts are provided for the 531 CAP corporate-owned aircraft, consisting of 42 different makes and models. Parts used for the DOD excess aircraft are usually unavailable to CAP members for use on privately-owned aircraft; however, the depot does sell vendor-acquired spares to individual CAP members for use on their own aircraft.

DOD EXCESS PROPERTY

Civil Air Patrol is authorized by Public Law 557 to acquire equipment and supplies that are excess to the needs of DOD. Property acquired during CY90 included vehicles, communications equipment, office equipment, and other property with an original cost to DOD of \$2.1 million.

EXHIBIT 5
DATE 2/1/95
HB 353

TESTIMONY OF THE MONTANA AIRPORT MANAGEMENT ASSOCIATION

IN OPPOSITION TO HB 353 (Wiseman)

Mr. Chairman and members of the House Taxation Committee, for the record my name is Tom Ebzery, an attorney from Billings representing the Montana Airport Management Association, a group of airport managers large and small in Montana.

Although the objectives behind the bill are to keep the Montana Refinery in JP-4 contracts to fuel Malmstrom Air Base, the loss of the additional 1 cent will be felt throughout the aviation industry and we feel it is inappropriate to take money from established needs in order to in essence subsidize Montana Refining Company's annual bid with the Defense Fuel Supply Center.

With the overriding sentiment of this legislature to make projects for state funding to stand on their own merits to justify appropriations of state funds including the recently unveiled "contingent voidness" clause, this bill seems like an anomaly, and certainly out of place. If the current recipients of the revenues under the current program had an abundance of revenues or were not properly utilizing those funds, perhaps such an approach as outlined in this bill would be appropriate. There is no evidence of this and the bill is the wrong idea at this time.

Montana Airport Management Association maintains that the current program is working and urges you to give the bill a DO NOT PASS.

EXHIBIT 6
DATE 2/1/95
HB 206

Amendments to House Bill No. 206
First Reading Copy

Requested by Rep. Harper
For the Committee on Taxation

Prepared by Lee Heiman
January 26, 1995

1. Page 2, line 23.

Strike: "shall"

Insert: "may"

2. Page 2, line 27.

Strike: "an amount of revenue is required"

Insert: "it is necessary"

3. Page 2, line 29.

Strike: "revenue"

Insert: "amount"

Technical amendments from fiscal note:

4. Page 3, line 22.

Strike: "or reappropriated"

5. Page 3, line 26.

Strike: "or reappropriated"

Strike: "property"

Insert: "other available"

Strike: "imposed"

Insert: ", including those"

Following: "under"

Insert: "15-31-702,"

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Joyation COMMITTEE _____ BILL NO. HB 299
 DATE 2/1/95 SPONSOR(S) Rep Masolo

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPOSE	SUPPORT
Bill OGLE	KEWON-WORLE READING	299		✓
[Signature]				
KEITH Olson	MT. Logging Assn	HB 299		AMEND
Carl Schweitzer	MT Contractors Assn	299		✓
Bill Leslie	Quality Concrete Co	299		✓

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

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Location _____ COMMITTEE _____ BILL NO. HB 353
 DATE 2/1/95 SPONSOR(S) Wiseman

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Alan Hobbs Great Falls	Montana Refining Co	353		X
Bob Gilbert	MT. Pilots Assn	353	X	
Bob Lipscomb	MONTANA PILOTS ASSOC.	353	X	
Peg Lipscomb	MDA	353	X	
Mike Biggerstaff	Assoc of MT Aerial App	353	X	
John Semple	Assoc of MT Aerial App	353	X	
Tom Ebzevy	Montana Airport Managers Ass	353	X	
Marilyn Lewis	Montana Flying Farmers	353	X	
Jo Ann Eisenhimer	Montana Aeronautics Board	353	X	
MIKE FERGUSON	DOT MT Aeronautics Div	353	X	
John Rabenberg	Fort Peck	353	X	
Gordon Harris	MACo	353	X	
MARK MACZEK	GREAT FALLS CHAMBER OF COMMERCE	353		X

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Page 2

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAX

COMMITTEE

BILL NO.

HB 353

DATE 2-1-95

SPONSOR(S)

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Loen Smith	MPA	353	X	
HOWARD W GIPF	MACO	353	X	
Steve Bergquist	Dixon Bros. Inc	353		X
JEFF MORRISON	MORRISON TRADING CO	353	X	
Gloria Paladichuk	Richland Development	353	X	

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