

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
59th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN ROSALIE (ROSIE) BUZZAS**, on March 29,
2005 at 8:00 A.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Rosalie (Rosie) Buzzas, Chairman (D)
Rep. Carol C. Juneau, Vice Chairman (D)
Rep. John E. Witt, Vice Chairman (R)
Rep. Tim Callahan (D)
Rep. Eve Franklin (D)
Rep. Bill E. Glaser (R)
Rep. Ray Hawk (R)
Rep. Cynthia Hiner (D)
Rep. Verdell Jackson (R)
Rep. Joey Jayne (D)
Rep. Christine Kaufmann (D)
Rep. Ralph L. Lenhart (D)
Rep. Walter McNutt (R)
Rep. Penny Morgan (R)
Rep. John L. Musgrove (D)
Rep. Rick Ripley (R)
Rep. Jon C. Sesso (D)
Rep. John Sinrud (R)
Rep. Janna Taylor (R)
Rep. Jack Wells (R)

Members Excused: None.

Members Absent: None.

Staff Present: Marcy McLean, Committee Secretary
Jon Moe, Legislative Branch

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

Committee Business Summary:

Hearing & Date Posted: HB 584, 3/23/2005; HB 716,
3/23/2005; HB 769, 3/23/2005
Executive Action: HB 584, HB 716, HB 769

HEARING ON HB 716**Opening Statement by Sponsor:**

REP. GARY MACLAREN, HD 89, Victor, opened the hearing on **HB 716**, a bill to increase the level of exemption for Class 8 property from \$5,000 to \$50,000. He said the bill is primarily intended to bring tax relief to the State's smallest businesses. The Department of Revenue (DOR) estimates that there are 20,762 businesses that fit into this category, and the fiscal impact would be a decrease to the General Fund of \$1.6 million over the biennium.

Proponents' Testimony:

Rep. Jon Sonju said that HB 716 will help businesses to grow, resulting in economic development.

Barb Ranf, Montana Chamber of Commerce, Montana Taxpayers Association, said they support this bill because the tax money saved stays in the economy and continues to grow.

Carl Schweitzer, Bozeman and Kalispell Chambers of Commerce, said that these two growing communities support HB 716 because they like to see businesses have every opportunity to grow.
{Tape: 1; Side: A; Approx. Time Counter: 0 - 5.6}

Opponents' Testimony:

David Ewer, Governor's Budget Director, reviewed the schedules from Governor Martz's budget Volume 2, Page 6, to show the increased shift in taxes from commercial to residential properties. From 1998 to 2004, residential Class 4 shares of the tax base increased from 49% to 60%. He said that if HB 716 passes with a \$50,000 exemption level, it will also be a huge tax hit, about \$4.57 million, on local governments. The Governor's Office supports SB 48 that has the exemption level at \$20,000, and removes the trigger in the law that phases out the business equipment tax. He said at the \$50,000 exemption level, it is too big a hit to the State's General Fund and to local governments.

He said that fiscal responsibility not only includes holding the line on expenses, but also on retaining revenue sources.

[EXHIBIT \(aph66a01\)](#)

[EXHIBIT \(aph66a02\)](#)

Harold Blattie, Montana Association of Counties, referred to Item 2 on Page 3 of the Fiscal Note, which states that local governments could float a mill levy to offset this property tax revenue loss. He said that if they are forced to do that, then the mill levies will have to make up for the lost value in business equipment. This would result in a significant shift of property taxation to other classes of property, such as agricultural land and residential properties. He said that counties that have a large number of businesses that would benefit from HB 716, are the counties that will have the sharpest increases in overall mill levies.

Informational Testimony:

Delores Cooney, Department of Revenue, said that she was available to answer questions.

Questions from Committee Members and Responses:

REP. SESSO asked if it was the intent of HB 716 to shift the tax burden to local property owners. He also asked the sponsor if he could support the exemption level at \$20,000 rather than \$50,000.

REP. MACLAREN said that was not the intent, but it is an unintended consequence. HB 716 would shift the tax burden out over a larger tax base, as opposed to concentrating it on business equipment owned by small businesses. He said that he was not adverse to the exemption level being set at \$20,000, but would like to eventually eliminate the business equipment. He said he is requesting the \$50,000 level because it helps a significant number of small businesses.

REP. SESSO said that eliminating the business equipment tax would exacerbate problems for local governments. He said he wondered if HB 716 intends to trigger the elimination of the business equipment tax. **REP. MACLAREN** said that HB 716 is an interim measure until such time as the trigger is reached and the tax can be eliminated. He reminded the Committee that the trigger is only reached when Montana is experiencing tremendous economic growth, which would result in increased income tax revenue.

REP. SESSO asked what the impact to local governments would be if the trigger was reached and the tax was eliminated. **David Ewer** referred to his handout, which showed the impact to local governments and schools to be \$46 million.

{Tape: 1; Side: A; Approx. Time Counter: 5.6 - 18.7}

REP. WITT asked how the counties feel about the proposed \$20,000 exemption level. **Harold Blattie** said that they have not reviewed the effect of a \$20,000 exemption level. He guessed that there would be some reluctance, but perhaps some acceptance if the trigger that eliminates the tax was removed.

REP. TAYLOR said that states surrounding Montan have set their business equipment tax at zero. **Delores Cooney** said she was only certain that North Dakota had done so.

REP. TAYLOR asked **REP. SONJU** if he, his father or his brother had ever considered moving their businesses to one of these other states. **REP. SONJU** responded, "Yes."

REP. JACKSON asked what the effect was on tax revenue when the business equipment tax was previously exempted. He said that he was aware that the tax exemption stimulated businesses to upgrade their equipment. **Delores Cooney** said that there were 40,000 parcels that were exempted when the \$5,000 limit was put in place, resulting in an insignificant increase in Class 8 valuations.

REP. JUNEAU, in referring to Page 3 #1.d of the Fiscal Note, questioned the impact on schools if HB 716 passed. She said that the since the State and local communities would be losing taxable valuations, the schools would have an additional loss over what is projected in the Fiscal Note. **Delores Cooney** said that is correct. **REP. JUNEAU** said that the schools would also be impacted by their ability to raise money through mill levies. **Delores Cooney** said, "Yes, it could."

REP. RIPLEY asked if there had been any projections done on the loss of tax revenue to local governments if HB 716 does not pass. **Harold Blattie** said that they did not have that kind of data.

REP. MCNUTT expressed that when the equipment tax dropped from 6% to 3%, there were two large companies in Sidney that added new equipment and larger facilities, resulting in more property taxes. He said it is incorrect to say that HB 716 would lower local tax revenues, because it is unknown what the tax credit will create in expanded business. The business equipment tax break could result in sizable investments, including more employees, resulting in greater tax income.

REP. JACKSON asked if there was information from the DOR regarding how the equipment tax results in businesses having to lay off employees. **Gene Walborn, DOR**, said that they did not have that kind of information.

Closing by Sponsor:

REP. MACLAREN said that the purpose of HB 716 is to let businesses grow their business and provide more jobs. It is intended to give a tax break to Montana's smallest businesses. *{Tape: 1; Side: A; Approx. Time Counter: 18.7 - 32.6}*

HEARING ON HB 584

Opening Statement by Sponsor:

REP. CHRISTOPHER HARRIS, HD 66, Bozeman, opened the hearing on **HB 584**, a bill to provide tax incentives to promote growth of film and other media in Montana. He said that HB 584 is an opportunity to provide jobs to Montanans and bring money into the State by an industry that does not create any pollution. There are a lot of films about Montana that are filmed in other locations, such as Canada. Other states that have offered this type of tax incentive have seen a dramatic rise in the amount of film work done in their states.

Proponents' Testimony:

Evan Barrett, Governor's Economic Development Director, said that HB 584 is one part of the broader economic development package that Governor Schweitzer is advancing through the legislature. When it comes to the film industry, Montana has a comparative advantage with its beautiful scenery, but lacks the competitive advantage without these tax incentives. The passage of this bill would result in increased economic activity and great marketing of the State of Montana. The projection is that this bill would increase the level of film activity in Montana from \$3 million to \$25 million per year. He said that the amount of outgoing tax credits, when using a conservative analysis, will be equaled by the incoming tax benefits.

Sheila Stearns, Commissioner of Higher Education, said that there are many University students who are studying the film trade. She said that they are interested in the bill because it will help to create jobs for these graduates.

Stan Iverson, Montana Film Office, said that Canada offers both local and federal incentives to the film industry. He said that other states have had major success with these tax incentives,

and handed out several letters of testimony from these states. He said that many films are currently considering filming in Montana, but are awaiting the outcome of this bill.

EXHIBIT (aph66a03)

Sean Becker said that he worked with the sponsor to prepare the fiscal note, where they conservatively assumed that future production expenditures would double from \$12.5 million in FY06 to \$25 million in FY07. He said other states that have enacted tax credits have seen their production expenditures increase from \$12.5 million to anywhere from \$75 million to \$250 million. They estimate that the tax credit in FY06 would decrease the General Fund by \$697,500, but the offsetting additional revenue would result in a net increase to the General Fund of \$445,000. This net amount would double for FY07.

Brian Murphy, 2003 MSU graduate in film, said that 90% of his graduating class left Montana to find jobs in the film industry. He said that he wanted to clear up some of the inaccuracies said about HB 584. He said Montanans working on these films are generally independent contractors and when the job is done, they are not eligible for unemployment benefits. He said that local Montana businesses will benefit from the increased film industry activity.

EXHIBIT (aph66a04)

Robert Kollar, Bozeman film producer, said that he is currently working on a film production in the Lewistown and Bozeman areas. In this communities, he has set up residence and established lines of credit with local businesses. He said that his project has Montana investors and he will be hiring 18-36 MSU film students for his production. He also is providing an internship for a MSU student. He said that film producers will get paid wherever they work, but the tax incentive would bring their work to Montana.

Steve Golnar, City of Livingston, said that the film industry has been good for Livingston in the past, and they think HB 584 would again increase that activity.

Marti Bara, Montana Innkeepers Association, said that they support HB 584 because it will help Montana businesses generate new jobs and provide a positive tourism image.

Carl Kochman, Montana Chamber of Commerce, Montana Ambassadors, said that HB 584 is an excellent economic development tool. He pointed out that a lot of the money spent by the production companies occurs in Montana's smaller communities.

Betty Ann Conard, film industry, said that many Montana towns benefit from film production. She said that she is aware of several films that are currently trying to decide if they will film in Montana, New Mexico or Canada.

Aimee Grmoljez, Montana Tourism Coalition, handed out written testimony of support from one of their members.

[EXHIBIT \(aph66a05\)](#)

Rhonda Carpenter Wiggers, Helena and Great Falls Chambers of Commerce, said that both Chambers support HB 584.

Carl Schweitzer, Bozeman and Kalispell Chambers of Commerce, said that both Chambers support HB 584.

Dick King, Montana Economic Developers Association, said that his group supports HB 584.

[EXHIBIT \(aph66a06\)](#)

{Tape: 1; Side: B; Approx. Time Counter: 0 - 32.6; Comments: End of Tape 1}

Jeff Tiberi, Montana Heritage Commission, said that his group supports HB 584.

Opponents' Testimony: None

Informational Testimony:

Gene Walborn, DOR, said that he was available to answer questions.

Questions from Committee Members and Responses:

REP. MUSGROVE asked about other tax incentives offered by the State and how do they work to the State's advantage. **Gene Walborn** said that there are lots of different tax incentives, such as oil and gas, and all of them provide incentives for businesses to do business in Montana.

REP. KAUFMANN said that she was surprised to see the Fiscal Note shows a negative impact, when it is a bill that the Governor supports. **Evan Barrett** said that they thought their Fiscal Note was more accurate than the sponsor's, and that the tax incentives will be equally offset by increased tax revenue.

REP. RIPLEY asked about the certification process for qualifying film industry companies. **Evan Barrett** said that the Film Office

of the Department of Commerce will determine what portion of the film budget qualifies for the tax credit. **Stan Iverson** said that the Film Office will do the certifying. Once filming is completed, the expense receipts will be submitted to the Department of Revenue to determine which ones qualify for the tax credit.

REP. RIPLEY asked why the Governor's Office would support HB 584, but is not supporting HB 716. **Evan Barrett** said that their office has been in strong support of SB 48, which increases the exemption level on the equipment tax to \$20,000 and removes the trigger.

{Tape: 2; Side: A; Approx. Time Counter: 0 - 13.7}

REP. SINRUD asked if HB 584 would create new jobs and if these film people will stay in Montana. He asked if the tax credit will result in these businesses having more money, which they can use to create more jobs. **REP. HARRIS** said that the tax incentive brings more film production to Montana, where local people are hired for the jobs. Oftentimes, these people fall in love with Montana and decide to stay here. Instead of going to other production locations, they will be spending their money in Montana. **Robert Kollar** said the film production is going to create the same number of jobs no matter where it is filmed. But if it is done in Montana, then he would be hiring local Montana people for many of these jobs. He concurred with **REP. SINRUD** that the money saved by this tax credit would be used to create new jobs and expand existing businesses in Montana.

REP. SINRUD asked how much business equipment is used in the film industry and what it is worth. **Gene Walborn** said he did not have that information readily available. **Robert Kollar** said most of the equipment used in the film industry is rented. If the film production takes place in Montana, many of these rental equipment businesses will open an office in Montana. He said that about half of the shooting equipment they are using on his production is owned and half is rented, each with a value of \$300,000.

REP. TAYLOR asked if most of our tax incentives are for Montana companies, not out-of-state companies. She asked if the Governor's Office is intending to find tax credits for out-of-state businesses. **Gene Walborn** said that they are for Montana companies, but they also are for bringing companies to Montana. **Evan Barrett** said that the purpose of this legislation is to get the economic activity to occur. In some cases it may generate increased business activity in Montana, but in other cases it may just be the importation of the economic activity during the filming.

REP. TAYLOR said that if surrounding states' business equipment tax is zero, then wouldn't these film equipment rental businesses want to be located. **Evan Barrett** said that he is unsure of what their decision would be based on. He emphasized that Montana's 3% business equipment tax is really an effective tax rate of 1.5%, and puts Montana in a competitive position with these other states.

REP. TAYLOR said that she is concerned about the companies that would come to Montana looking for the best deal, but when someone else, such as Canada, offers them a better deal, they are gone. **Evan Barrett** reminded her that the tax credit would give Montana a competitive advantage, but our scenery already gives us the comparative advantage.

{Tape: 2; Side: A; Approx. Time Counter: 13.7 - 26.2}

Closing by Sponsor:

REP. HARRIS said that HB 584 is an excellent jobs and economic development bill.

HEARING ON HB 769

Opening Statement by Sponsor:

REP. GEORGE GOLIE, HD 20, Great Falls, opened the hearing on **HB 769**, a bill to create the Rail Service Competition Council. He said that an amendment will be introduced to reduce the funding cost from \$50,000 to \$30,000 of federal funds.

Proponents' Testimony:

Evan Barrett, Governor's Economic Development Director, said that HB 769 is an important follow-up to the recent significant study of rail issues. He said that the issue of rail competition involves "hundreds of millions of dollars" in shipping costs to shippers all over Montana, and getting them the best rail competition. Creation of the commission would bring the results of the study to the next step of implementation.

Richard Owen, Montana Grain Growers, said that grain shippers have been greatly overcharged for rail shipping. He said that creation of the council will bring the rail issues to a higher level and bring all players to the table to work out a solution.

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. SINRUD questioned why there was no legislative representation on the council. **REP. GOLIE** said that it is the intention for the council to work through the Governor's Office of Economic Development. **REP. SINRUD** asked if they could add two to four legislative appointees to the council. **REP. GOLIE** said that he did not want to increase the amount of money needed to operate this council, but said he would agree to whatever will work. **REP. SINRUD** then suggested that the council should at least report to a legislative interim committee, so that there is some type of legislative participation. **REP. GOLIE** said that legislative oversight would be good because the council's suggestions would need to be approved by the legislature.

{Tape: 2; Side: A; Approx. Time Counter: 26.2 - 32.6; Comments: End of Side A, Tape 2}

Closing by Sponsor:

REP. GOLIE thanked **REP. WITT** for finding a funding source for the rail competition council, and reiterated that they have cut the expense from \$50,000 to \$30,000.

EXECUTIVE ACTION ON HB 716

Motion: **REP. SINRUD** moved that HB 716 DO PASS.

Discussion:

REP. WELLS said that tax incentives are needed to support existing Montana businesses.

REP. KAUFMANN said that she opposes this bill because she is concerned about the impact on local governments. She said that she thinks SB 48, that increases the exemption level to \$20,000, is more a more appropriate level.

REP. SINRUD said that businesses have increased expenses and they need to be given a tax credit as they upgrade their businesses.

Vote: Motion failed 10-10 by roll call vote with **REP. GLASER, REP. HAWK, REP. JACKSON, REP. MCNUTT, REP. MORGAN, REP. RIPLEY, REP. SINRUD, REP. TAYLOR, REP. WELLS, and REP. WITT** voting aye.

EXECUTIVE ACTION ON HB 769

Motion: REP. WITT moved that HB 769 DO PASS.

Motion: REP. WITT moved that amendment HB076901.ate BE ADOPTED.

Discussion:

REP. WITT said the sponsor has agreed to the amendment to decrease the funding from \$50,000 to \$30,000, since five of the council members live in Helena.

REP. SESSO asked if the \$30,000 is per year. REP. WITT said, "Yes."

Vote: Motion carried unanimously by voice vote.

Discussion:

REP. HAWK said the bill still lacks legislative representation on the council.

REP. WITT said that he, too, would like to see legislative representation, but it is not his bill.

CHAIRMAN BUZZAS reminded the Committee that additional members would increase the costs, and they just passed an amendment decreasing the funding by \$20,000.

Motion: REP. SINRUD moved that a CONCEPTUAL AMENDMENT to HB 769 BE ADOPTED.

REP. SINRUD offered that the conceptual amendment would require that two members of the Legislative Interim Economic Affairs Committee, one from each house of the legislature and one from each political party, be appointed as members of the rail council.

Discussion:

REP. MUSGROVE suggested that they just require the rail council to report to the Legislature. He said that it would accomplish the same thing, but cost less money.

REP. FRANKLIN suggested that REPS. SINRUD, WITT and GOLIE get together and propose an amendment on the House floor.

REP. WITT said he thought the Committee should get the conceptual amendment done now.

REP. SINRUD said that his conceptual amendment gives the legislature a voice on the council.

Vote: Motion carried unanimously by voice vote.

**Motion/Vote: REP. WITT moved that HB 769 DO PASS AS AMENDED.
Motion carried unanimously by voice vote.**

EXECUTIVE ACTION ON HB 584

Motion: REP. MORGAN moved that HB 584 DO PASS.

Discussion:

REP. MORGAN said that even though she voted against this bill on the House floor, she has since done a lot of investigating and now supports the bill. She said that corporations do not pay taxes, people do, and so the more money that gets into the hands of the people will result in more tax revenue. She said that if the Committee supports HB 584, then they should reconsider their vote on HB 716, which tied.

REP. TAYLOR said that she agreed that if HB 584 passes, then HB 716 should also pass. Because Montana has no sales tax, this results in a tax incentive to these businesses and HB 584 would just give them an additional tax incentive. She said that if the State doesn't support existing Montana businesses by passing HB 716, then she could not support HB 584.

REP. MORGAN said that her research found that Louisiana also gives the film companies an exemption from their state sales tax.

Vote: Motion carried 14-6 by roll call vote with REP. GLASER, REP. HAWK, REP. MCNUTT, REP. RIPLEY, REP. TAYLOR, and REP. WELLS voting no.

EXECUTIVE ACTION ON HB 716

Motion: REP. MORGAN moved that HB 716 DO PASS.

Discussion:

REP. MORGAN said that since they just passed HB 584 to give tax incentives to out-of-state companies, they need to pass HB 716 to benefit existing Montana businesses.

REP. FRANKLIN said that she sees differences between these two bills. The impact on local governments has not been addressed, only assumptions of the impact if the exemption level is less than \$50,000. She said the targeted specific tax incentive offered in HB 584 has nothing to be lost, but potential significant gains to be made. She said that is not the case with HB 716.

REP. RIPLEY said that HB 716 helps to keep people in business and also creates jobs. He said that the Committee needed to support both bills.

REP. SESSO said that he did not think there was a direct correlation between HB 584 and HB 716. He said that it is known that there will be a negative tax impact as a result of HB 716. A business with \$50,000 in business equipment would be given a \$750 tax break; that is not enough money to make a sizeable investment in their business. He said that he would support the exemption level being lifted to \$20,000, but not to \$50,000. If the tax credit to the film industry works, the State will get the revenue back; if it doesn't work, there is nothing lost.

REP. WITT said that when the business equipment tax rate was dropped from 6% to 3% there was a definite benefit. HB 716 will result in increased activities, increased money and increased cash flows throughout the local communities.

CHAIRMAN BUZZAS said that she will support SB 48 with the \$20,000 exemption level, but the \$50,000 level has too great of an impact on local communities.

REP. MCNUTT said that it is terrible state tax policy when a tax break is given to an out-of-state company, but deny a tax break on business equipment.

REP. MORGAN said that Montana's growth in personal income has occurred because of the tax breaks given to people.

Vote: Motion failed 10-10 by roll call vote with **REP. GLASER, REP. HAWK, REP. JACKSON, REP. MCNUTT, REP. MORGAN, REP. RIPLEY, REP. SINRUD, REP. TAYLOR, REP. WELLS,** and **REP. WITT** voting aye.

HB 716

Under Adopted House Rule H30-50, Procedures, Subsection 5, HB 716 was placed on the Committee of the Whole Agenda for second reading on March 29, 2005.

ADJOURNMENT

Adjournment: 10:05 A.M.

REP. ROSALIE (ROSIE) BUZZAS, Chairman

MARCY MCLEAN, Secretary

RB/mm

Additional Exhibits:

EXHIBIT ([aph66aad0.PDF](#))