

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

MAY 23 '77

March 14, 1977

The forty-first meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:05 a.m.

ROLL CALL: Roll call found all members present except Sen. Norman who was excused.

The following witnesses were present:

Jim Steffeck	Mont. Tax Appeals Board
Helen M. Peterson	"
James Madison	Dept. of Rev., Misc. Tax Div.
Tom Maddox	Mont. Assoc. Tobacco-Candy Dist.

CONSIDERATION OF HOUSE BILL 518: Rep. Waldron said his bill deals with sale of cigarettes to non-dealers. He said at present Indians are importing cigarettes from out of state dealers and this legislation would permit Montana wholesalers to sell to on-reservation dealers and would also give the Department of Revenue information on cigarette sales going to the Indians. Mr. Maddox spoke also as a proponent and his testimony is contained in Exh. #1, attached. Mr. Groff of the D.R. said he thought Montana wholesalers should be able to compete with the out of state dealers. Mr. Madison said he neither supported nor opposed the bill, but said he saw no problems with the proposed legislation.

Chairman Mathers asked for other proponents or opponents and there being none, permitted questions from the committee. Mr. Madison stated that from May of 1972 through September, '76, they figured an approximate loss of revenue at just over \$1/2 million. It was brought out that this legislation would assist the D.R. in tracing the cigarettes after they have come into the state. Following this discussion, the committee moved the bill.

DISPOSITION: Sen. Watt Moved HB518 Be Concurred In. Motion carried unanimously. Note absence of Sen. Norman.

CONSIDERATION OF HOUSE BILL 97: In the absence of Rep. Hirsch, Mr. Madison was present to present the bill and said both HB97 and 99 were requested by the industry and merely change the tax rate from per barrell to per ton in order to standardize the tax. At present it is necessary to convert the tons back to barrells and he said the rate per barrell would be close to that on the ton.

CONSIDERATION OF HOUSE BILL 99: Mr. Madison presented this bill at the same time and said this bill standardizes the penalty, allows for extensions, and provides for lien filing procedures.

The Chairman permitted questions from the committee as there

DISPOSITION: Sen. Turnage Moved HB97 Be Concurred In. The motion carried unanimously.

Sen. Watt Moved HB99 Be Concurred in. This motion also carried unanimously.

CONSIDERATION OF HOUSE BILL 19: This bill had previously been heard and passed out of committee, but the STAB wished to speak briefly on the bill and Mrs. Peterson was present to talk with the committee. They discussed method of appeals following right of discovery and felt the amendment passed out by the committee should perhaps be rescinded. There was input from Mr. Groff as well. Following their discussion, the committee agreed to reconsider their previous decision.

DISPOSITION: Sen. Turnage Moved to Reconsider the Action of the Committee on March 5 on HB19; motion carried unanimously.

Sen. Turnage then moved to Rescind the amendments as they appear on the committee report of March 5, for HB19. This motion also carried unanimously.

Sen. Turnage then Moved HB19 Be Concurred In. This motion carried unanimously.

The Chairman then directed the committee's attention to the Senate bills remaining in committee. SB438 was discussed again and amendments that were proposed by Sen. Fasbender were look over.

Sen. Goodover Moved to amend the title and on page 10, lines 18 and 20, changing the 3-mill levy to 6 mills. His motion passed unanimously.

Sen. Turnage then Moved the Amendments as on Exh. #2, attached. His motion was passed unanimously.

DISPOSITION: Sen. Turnage then Moved SB438 Do Not Pass. A voice vote was taken which resulted in a 6-4 vote.

Sen. Goodover then Moved SB438 As Amended Do Pass. Sen. Norman was absent for the meeting but it was agreed he should have a chance to cast his vote, as he had requested, before the bill went out of committee. A roll call vote was then taken which resulted in a 5-5 tie, meaning the committee sent the bill out WITHOUT RECOMMENDATION.

Sen. Towe then distributed copies of his SB211, with amendments which he wished the committee to read and discuss. His bill attempts to clear up mineral rights and one of the amendments discussed was the preservation of the right of the surface owner to have first opportunity to buy the rights when they reverted to the county for non-payment of these taxes.

Following a brief discussion, meeting adjourned.


WILLIAM MATHERS

CHAIRMAN

HOUSE

VISITORS' REGISTER

DATE 3/14

[illegible]

SENATE COMMITTEE TAXATION

Date 3/14 Sen. Bill No. 438 Time 9:10

NAME	YES	NO
SEN. WATT	✓	
SEN. BROWN		✓
SEN. GOODOVER	✓	
SEN. HEALY	✓	
SEN. MANNING		✓
SEN. NORMAN	✓	
SEN. ROSKIE (pass)		✓
SEN. TOWE	✓	
SEN. TURNAGE		✓
CHAIRMAN MATHERS		✓

Nita Fjeseth
Secretary

(3) 5 5
William L. Mathers
Chairman

Motion: Do Pass
As Amended
Without Recommendation

(include enough information on motion—put with yellow copy of committee report.)

My name is Tom Maddox, for 14 years executive director for the Montana Tobacco and Candy Distributors, with offices in Helena.

Members of the Senate committee on taxation: HB518 PROPONENT

I concur with the proponent position of Representative Waldron.

The Montana tobacco wholesalers went along with the state of Montana department of revenue in seeking an interstate series of bills to require Indians to pay the cigarette taxes in the various states of the northwest. We agreed to the passage of the first bill in Montana in 1974. Then we corresponded with, and went to confer with wholesalers and officials of Washington state, Oregon and Idaho. All favored this approach, but none succeeded in passing the Montana proposal to tax Indians. Then the United States Supreme Court held that the states do not have jurisdiction to tax Indians. Chief Justice Willian Rehnquist wrote the opinion. It was reported at length April 28, 1976 in the New York Times. This case is Moe versus the Salish and Kootenai tribes of Montana (No. 74- 1656). This was the most meaningful of a series of victories won by Indians against states' jurisdictions.

beginning in 1972—

In these years/ Montana Indians purchased cigarettes and are continuing to buy cigarettes without tax from other states. The Montana law has penalized Montanans — the businessmen, and with a resulting loss in state revenues from income taxes. The overall costs has run into millions.

If House Bill 518 is approved, the intent is to provide the Montana revenue department with information on all cigarette sales volume going to the Indians. This will provide a base for continuing study. Hopefully, congress will resolve the issue which is far broader than cigarettes, involving tax on income earned on reservations, and potentially tax on liquor, gasoline and any other such sales.

E. J. H. #1

Business did not create this problem. Government did.

There were no opponents to this bill in the House taxation hearing on Feb. 2nd.

If enacted, we do not expect immediate conversion of all sales to Montana.

However, as the educational process spreads, we do hope to restore most of this business for Montanans.

Members of the committee, we ask that you give HB 518 a do pass recommendation.

Thank you.

SUGGESTED AMENDMENTS

E44 #2

1. Amend title, line 11.

Following: "~~16-3802,~~"

Insert: "71-106,"

2. Amend title, line 13.

Following: "~~SECTIONS~~"

Strike: "~~71-106,~~"

3. Amend page 3.

Following: line 24

Insert: "Section 3. Section 71-106, R.C.M. 1947, is amended to read as follows:

~~"71-106 Support-of-poor-and-indigent-persens~~ County hospitals and nursing homes -- tax levy. The board of county commissioners ~~has-jurisdiction-and-power,~~ under such limitations and restrictions as are prescribed by law, ~~may~~

~~To-provide-for-the-care-and-maintenance-of-the-indigent-sick, except-as-otherwise-provided-in-other-parts-of-this-act,-or-the otherwise-dependent-poor-of-the-county,~~ erect and maintain a hospital or nursing home for the care and maintenance of the indigent sick ~~hospitals-therefor,-or-otherwise-provide-for-the-same,~~ and for said purposes ~~to~~ may either:

(1) levy and collect annually a tax on property not exceeding thirteen-and-one-half-~~(13-1/2)~~ 6 mills, which levy shall be made at the time other tax levies are made on property, as provided by law; or

(2) form a public hospital district as provided in Title 16, Chapter 43."

Renumber: all subsequent sections

4. Amend page 22, section 18, line 23.

Following: "~~Sections~~"

Strike: "~~71-106,~~"

STANDING COMMITTEE REPORT

March 14 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration SENATE Bill No. 438

Respectfully report as follows: That SENATE Bill No. 438,

introduced bill, be amended as follows:

1. Amend the title, line 9.

Following: "PROPERTY OF"

Strike: "3"

Insert: "6"

2. Amend the title, line 11.

Following: "16-3802,"

Insert: "71-106,"

3. Amend the title, line 13.

Following: "SECTIONS"

Strike: "71 106,"

4. Amend page 3, section 2, line 24.

Following: line 24

Insert: "Section 3. Section 71-106, R.C.M. 1947, is amended to read as follows:

XXXXXX
DO PASS "71-106 ~~Support of poor and indigent persons~~ County hospitals and nursing homes -- tax levy. The board of county commissioners has ~~jurisdiction and power,~~ under such limitations and restrictions as are prescribed by law, may

CONTINUED

~~To provide for the care and maintenance of the indigent sick, except as otherwise provided in other parts of this act, or the otherwise dependent poor of the county, erect and maintain a hospital or nursing home for the care and maintenance of the indigent sick hospitals therefor, or otherwise provide for the same, and for said purposes to may either:~~

(1) levy and collect annually a tax on property not exceeding thirteen and one-half ($13\frac{1}{2}$) 6 mills, which levy shall be made at the time other tax levies are made on property, as provided by law; or

(2) form a public hospital district as provided in Title 16, Chapter 43. " "

Renumber: all subsequent sections

5. Amend page 10, section 8, line 18.

Following: "tax of"

Strike: "3"

Insert: "6"

6. Amend page 10, section 8, line 20.

Following: "from the"

Strike: "3"

Insert: "6"

7. Amend page 22, section 18, line 23.

Following: "Sections"

Strike: "71-106,"

AND AS SO AMENDED,

WITHOUT RECOMMENDATION

WILLIAM MATHERS

CHAIRMAN

STANDING COMMITTEE REPORT

March 14 19 77

MR. **PRESIDENT**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **19**

Respectfully report as follows: That **HOUSE** Bill No. **19**

BE CONCURRED IN

~~DO PASS~~

STANDING COMMITTEE REPORT

March 14 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 97

Respectfully report as follows: That HOUSE Bill No. 97

BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

March 14 19 77

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 99

Respectfully report as follows: That HOUSE Bill No. 99

BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

March 14

19 77

MR. **PRESIDENT**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **518**

Respectfully report as follows: That **HOUSE** Bill No. **518**

BE CONCURRED IN

~~DOUBT~~

