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HOUSE TAXATION COMMITTEE
46th Legislature

The meeting was called to order by Representative Herb Huennekens, Chairman, at 8:30 a.m., January 12, 1979, in room 434, Capitol Building, Helena, MT. All members were present.

House bills 63 and 64 were to be heard. House Bill 80 was to be heard also.

Representative E.N. Dassinger, Forsyth, sponsored House Bill 63 at the request of the Department of Highways. HB 63 would raise revenue for matching funds with a \$1.4 billion federal fund with which the interstate highway was to be built, but which, so far, other states had not applied for.

HOUSE BILL How much can be accomplished in completing the interstate
63 highway system within the 4 years for which the federal
 fund was established depends upon matching funds. The high-
 way department feels this can be accomplished in the required
time, or shortly thereafter, if they have enough matching fund money and can
complete already started engineering, planning, and rights-of-way purchases.
However, without a discretionary fund they feel they will never be able to
get this highway finished as hoped. Total cost to the state is going to be
quite different if we have to match at the ratio of approximately 9% state
funds and the feds put in 91% at this time. Need \$2.5 million per year if
we just match allocation, but would need it indefinitely if we don't get
into this discretionary source. Present funds just manage to keep up the
roads already built. The interstate system reduces accidents, property
damage and deaths.

Jim Murry, AFL-CIO representative, supports HB 63. See testimony.

Jim Manion, Montana AAA, supports maintaining a healthy highway trust account so that the state can take care of the federal matching funds as they become available. Support HB 63 provided that the funds are earmarked for completion of the interstate system and operation and maintenance for that system. They are proposing an amendment to that effect. The highway department would be in favor of the 1¢ going solely for the completion of the interstate system.

Ed Nelson, Montana Taxpayers Association, Helena, supports HB 63. If you check your budget document there is in the governor's budget a transfer of funds from the highway department to other general obligation funds. Support HB 63 as long as they know that highway funds are not being transferred from the highway account to other funds.

Representative Dassinger closed. Questions from the committee:-

Rep. Fagg questioned why transfer of funds is being made. Mr. Beck, attorney for the highway department, said this was suggested by the budget department and not the highway department. There is a highway trust fund and they pick up 50% of highway trust funds. OBPP said about \$60 million is involved. The 1¢ gas tax would raise about \$5 million per year. Randy McDonald, staff attorney is to get more information on transfer of funds.

Representative Williams asked Norris Nichols, Motor Vehicle Fuel Tax Division about the 46⁰ figure on page 6, lines 6 and 7, who explained anything lower than that comes under a separate account - above is treated as a gasoline and below that is diesel fuels special fuels such as propane. LPT is exempt from the account. Rep. Williams suggested the researcher should check on this as he believes the statement is not technically correct.

Representative Nordtvedt asked if \$5 million of state funds would get about \$45 million from federal funds, what would be done with more monies than were needed to match were raised. Mr. Beck said the extra money would go to the general fund at the present time.

Representative Sivertsen mentioned there were no funds in the highway account at the present time for this. Mr. Beck said if they had to find money in existing funds other programs would have to be penalized for that. Transferring of \$6 million to support the highway patrol and then asking for \$5 million to be raised for matching funds was questioned.

Mr. Beck said the State of Montana Highway Department has the opportunity in a short period of time to dip into discretionary funds and need the money to do this. If the committee wishes this particular request for 1¢ increase for this purpose, certainly those in the department have no problem with that.

Rep. Fagg said it looks like we are putting 1¢ gas tax on to support the highway patrol.

Representative Reichert asked how many states have to complete the interstate. There are ten finished and the rest still have to go. The Great Falls Tribune had a picture showing Montana with 100 miles to go and other states with none. Would construct 174½ miles more in Montana - half between Helena and Great Falls and another completely unstarted project.

Representative Fabrega said, using a 10% inflation rate, it would take 3 years on \$104,000 basis or 4 years on an \$80,000 basis. Actual construction costs indexing is going higher and faster than 10% factor over a 3-year period. Montana would need about 1/5 of the \$1.4 billion federal fund. Is it a first come, first served situation? Mr. Beck said Montana would have to have the projects ready and the state funds to match in order to qualify. The pot came from funds other states have been unable to use and they don't have the ability to get into the pot. There will be relatively few states that can get into the pot. Montana has received \$16.5 million from this pot already this year. Rep. Fabrega asked if the highway department is ready to go on the engineering of proposed highways. Mr. Beck advised they don't have any engineering problem - money is their problem. They need \$8,000,000 this year and \$8 million next year - money is their problem.

Rep. Hunnekens asked if time were a vital element in all this process. Mr. Beckert said time is an element for getting into the pot. The department does have some state funds that could carry us through for a few months.

Representative Sivertsen asked if it is important that we have the necessary matching funds, or could it be shown that the money will be available in good faith? The funds have to be actually available when requested, Mr. Beck advised. He didn't see any problem with having matching funds available if

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they can get this 1¢ increase in gasoline tax.

Rep. Sivertsen asked if some of that \$1.4 billion fund would be available down the road in two or three years. Mr. Beck said he had been told that in their opinion, and they are aware of the status of all programs, there would be funds available in 1983, but availability of funds can't be guaranteed.

Rep. Fabrega mentioned the switching of highway patrol funding amounts to about \$6 million for the biennium. If that money were used for matching, would that put us in a better position to secure funds out of this pot? Mr. Don Richards, Director of the Highway Department, answered that if the 1¢ per gallon tax were put on, that would generate approximately \$5 million each year that would be designated for the interstate system. We put up \$1 million and Uncle Sam puts up \$9 million. It would take an additional 1¢ tax for the highway patrol. Any additional costs would have to be financed by some other means.

Rep. Huennekens asked what would happen if the 1¢ tax were used for funding the highway patrol and using the present funds for interstate funds. John Prebil said that at present the department funds the highway patrol salaries which were \$368,000 last year. There is another bill coming to fund all of the highway patrol that requests an additional 1¢.

Rep. Fabrega asked if the slush fund were sufficient to pay all of the matching funds. Mr. Prebil said they would have to have approximately \$7 million for the biennium, and \$3 million won't go very far in the program they are talking about. The governor's budget is adequately funding the highway patrol.

Mr. Richards said this proposal has nothing to do with the highway patrol when Rep. Fagg said there is a shifting of \$6 million to support the highway patrol and this bill will raise \$5 million. Mr. Richards said the proposal they are making today will be used only for highway construction. The funding for the highway patrol will be a separate tax to be brought before the legislature later.

All rights-of-way have been acquired, engineering drawings are essentially complete, and the highway department could let \$80 million worth of contracts next year.

Rep. Hirsch remarked that time is of the essence and since the price of gas appears to increase about 6¢ per gallon per year, would you consider a 4¢ per gallon tax for one year - why 1¢ for four years? Mr. Beck said it might take as long as four years to complete the projects, and they wouldn't want to take any more money from the taxpayer in any one year than they needed. If the necessary money were raised all in one year or two, could invest it and get it all matched in one year? No, it does not work that way.

Rep. Fabrega explained that the state would have to advertise the job and contract to get the matching funds, and could not put the job to let until matching money is in the bank. Once you have a contract, money from the federal fund is available to pay contractor when payments are due.

Mr. Beckert said each bid package that is put out would have to be committed by itself.

Rep. Dassinger asked Mr. Beck if he could prepare an amendment for HB 63 for the committee which would earmark 1¢ for interstate system only.

Rep. Vinger said North Dakota would qualify for matching funds on #102. The government allows every state to obtain $\frac{1}{2}$ of 1% of federal funds plus regardless of what their needs are. Even if they have completed their system, they all qualify for approximately \$15 million which they are putting into #102. They are putting funds diverted from highway fund which is just a primary program there. Rep. Nordtvedt said North Dakota will be competing for some of this money.

Randy McDonald, staff attorney, raised the thought of a tax on diesel fuel and special fuels. Mr. Beck said raising the tax on both gas and diesel is feasible. The way diesel tax is written refers to use.

Rep. Fabrega said if this tax is needed to accomplish completion of the interstate, he wants a guarantee that there will be no raiding of funds. Wants an amendment not only earmarking only this 1¢, but providing that there is no diversion of other trust funds.

A subcommittee was appointed to study this proposed 1¢ tax further - Rep. Dassinger was to be chairman, and Reps. Jay Fabrega and Vicki Johnson were to be on the committee also, to study both HB 63 and HB 64. Mr. Richards said they have been trying to complete this for 22 years and the program was to have taken 10 years.

Rep. Vinger remarked that if this tax is not put on and the money is not raised, the primary and secondary roads would suffer. If this money becomes available would there be more money for primary and secondary roads? Mr. Richards said should primary and secondary funds be raided, won't continue the way we are so that when the cut off comes some interstate road would not be completed.

Rep. Dassinger, sponsor of House Bill 64, explained this bill is for the purpose of raising gasoline taxes in proportion to the loss of revenue which could become evident if the rate of usage of gasoline declines in Montana.

HOUSE BILL This bill is based on revenue income rather than on gallonage used for the prior 3-month period.

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Mr. Beck advised the department wanted to maintain a consistent source of revenue. This applies only to gasoline and not to diesel. Tax would increase 1/10¢ per gallon if gallonage goes down, but should use of gas increase, the tax cannot go below 8¢ or 9¢ base. It is, in effect, a surtax which is dependent solely on consumption. The department looks at January to July and July to January figures and compare that figure with previous year's figures. If gallonage in that particular period was down,

they would increase the gas tax by 1¢; if gallonage increased, tax would go down but in no case would be less than at present. This is based strictly on the gas consumption in Montana.

There were no opponents.

Rep. Fabrega asked what the base gallonage at this time is - 514,405,623 gallons. He would like to have an amendment that establishes a base gallonage and also include an amendment that no funds will be transferred or diverted.

In answer to a question from Rep. Underdal, this tax would be in addition to the 1¢ proposed in HB 63.

Rep. Nordtvedt wondered why diesel fuel isn't included, and why there isn't a base. He was told diesel fuel was not included because of the diesel fuel reports - couldn't make a comparison for previous time periods. This bill is a stopgap measure in case of an oil embargo that would cause a drastic decrease in gas consumption. Should the gas tax rise rapidly, they would ask for a tax on diesel fuel. This is an emergency bill.

Rep. Dozier asked if any more people would be required in the revenue department to handle the increased tax. Mr. Nichols said more freight is being handled by truck, but he can't answer the question of what usage of gas will be.

Rep. Huennekens said determining usage of diesel fuel exists. If you are going to collect tax for highway maintenance, etc., inasmuch as the diesel users use the highway, there seems to be a question that the diesel people ought to have to help pay the cost. Mr. Beck said they could provide an amendment to increase the diesel fuel tax.

Rep. Nordtvedt asked Mr. Richards if the highway department could get by with less highway patrol and maintenance because of less driving. No. Because of less gasoline consumption, highway trust funds dropped \$1.5 million which translates into about \$14 million of construction. Studies show that the introduction of cars with increased mileage per gallon reduced gallonage used although increased miles driven. There would be no less need for highway patrol and maintenance.

Rep. Vinger advised farmers are exempt from diesel fuel tax altogether - they don't even have to pay it at first.

Rep. Underdal asked where LP gas comes in since some cars are using it. Mr. Nichols answered that permits are based on a sliding scale based on the vehicle weight.

Committee took a brief break.

Rep. Dassinger, sponsor of House Bill 80, requested by the department of revenue, would provide for the taxation of unrelated business income exempt

under the tax exempt provisions of the corporate license tax.

HOUSE BILL Jerry Foster, Administrator of the Corporate Tax Division,
80 advised that all income from all exempt corporations for
 is an exemption from Montana Corporate License Tax. This
 act would provide that it would pick up unrelated business
income that is not being currently taxed by the IRS. 1501 closely parallels
1501c and this is an attempt to collect it in the same manner.

The Chamber of Commerce is to put in an amendment.

Ed Nelson, Montana Taxpayers Association, was standing in for the Montana Society for Montana Executives composed of about 50 trade-type associations in the state, propose that they be exempt from additional reporting requirement that would be required for small businesses.

Rep. Dassinger feels the amendment is a good amendment which was cleared with the Department of Revenue so everybody is in agreement with this.

Mr. Foster advised under present Montana law, they cannot collect tax on a non-related business income if the business is exempt, and the department wants to be able to collect this tax legally.

Rep. Huennekens asked if the IRS would give any tips on such income. Mr. Foster advised that a form 990 has to be filed. There is no way of interacting with the IRS - pretty much voluntarily paid.

Rep. Nordtvedt asked whether the income from funds in an interest-bearing account be taxable to a non-profit corporation. If a form is filed for the IRS, they would have to file one for Montana.

Rep. Sivertsen asked if it is necessary to set up a mechanism to get this information and how much manpower extra would it take to get this income should someone want it to be collected. Mr. Foster advised it is difficult to know where to draw the line in connection with compliance. He would hope accountants when they file for federal purposes would file with the state.

Rep. Sivertsen raised the question of whether it would be justifiable if the law were to be passed. Rep. Fabrega hoped that sometime the state would be able to match with federal tips on this tax. Have more tax compliance at state level than at federal level.

Rep. Vicki Johnson asked Mr. Foster to define 'unrelated business income'. It is a profitable income derived from a source not related to the business in which a non-profit corporation is engaged. She questioned how much revenue would be derived. Mr. Foster said they are more interested in equity than the amount of revenue that might be received. Not much revenue was anticipated - perhaps several thousand dollars only. There are a lot of abuses under the present law. Should costs of securing the income exceed revenue income, the tax would be avoided.

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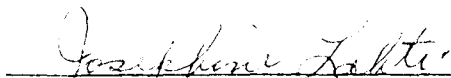
Rep. Dassinger asked if profits were funnelled back to a non-profit organization, would they be exempt? Mrs. Mary Craig, future Director of the Department of Revenue, said if funnelled back into their original purpose, they would be exempt. It takes a great deal of research - too long and involved through the courts.

Mr. Nelson said 1501c form is a useless pile of information. A copy of 990 would accomplish this and serve to show if there is any unrelated business income.

Meeting adjourned at 11:00 a.m.



REPRESENTATIVE HERB HUENNEKENS, Chm.


Secretary