

HOUSE TAXATION COMMITTEE
46th Legislature

Rep. Herb Huennekens, Chairman, called the meeting to order in room 434, Capitol Building, Helena, at 8:30 a.m., February 21, 1979. All members were present except Rep. Fagg who was absent. Randy McDonald, Staff attorney, was present.

Bills to be heard were HJR 33, HB 702, HB 727.

Rep. Gene F. Frates, District #60, Billings, chief sponsor among many said House Joint Resolution 33 indicates the support of the legislature and the people of Montana for the coal severance tax.

Steve Doherty, Northern Plains Resource Council, Helena, are concerned with the effects on agriculture and agricultural people in Montana. He rose in support of this resolution. Have to have a resolution of intent and purpose - don't have to pass punitive legislation to pursue their rights through the courts. The coal tax is not a regressive tax. Coal production has continued to expand, and this resolution lets the people of Montana know our resoluteness to determine our future and not have that future controlled in outside board rooms. Have to support HJR 33.

Jim Murry, Executive Secretary of the AFL-CIO has actively supported the 30% coal severance tax which was considered by the 1975 legislature. Coal companies are fighting it with all kinds of remarks and acts.

Don Judge, AFSCME, AFL-CIO, said development of coal increases causes a number of schools, roads and bridges, and in the cities sewer systems and other essential public services, to be overburdened. Asks that Montana not be wrecked over the coal. Supports the resolution.

Ronald Pogue, Alternative Energy Resources Organization, Helena, strongly supports HJR 33 which reaffirms the legislature's support of the coal severance tax. He feels the use of part of the coal tax to lessen the impact on areas affected is very much appreciated. It is highly respected at the grass roots and at the state level because of most innovative regulations and uses of the money at the state level. See testimony accompanying.

OPPONENTS

Jim Mockler, Montana Coal Council, Helena, opposes HJR 33. Does not approve of a tax on anything until it is processed. If it had been allowed to be processed, it would have given more jobs. The coal tax suit is saying that the tax regulates interstate commerce. He thinks that you are making a mistake in regulating interstate commerce with this tax.

Rep. Frates closed saying we need to reaffirm that the legislature approves of this tax. It takes the tax on 26,000 tons per person to provide necessary services. The State of Montana isn't stopping interstate commerce. The rate is much less than 3.7% per ton put on at the mine mouth, so the cost is minimal. There were no remarks about the cost of transportation which is 60-77% of the cost of coal, so the State of Montana isn't making it that much more costly and is not stopping interstate commerce.

Questions from the committee -

Rep. Fabrega supports the 30% tax, but has developed some concern in the light of the lawsuit. Regarding the first Whereas, doesn't want the people who are bringing the suit against the 30% any rationale for helping them, perhaps the word "controlled" should not be used,

Rep. Frates said if that could be used for a reason for the 30% tax to be advantageous to those bringing the suit, it should not be in there. The tax was put on because it was a reasonable tax rate and this clause actually is in just to be able to tax,

Rep. Williams said the tax was not levied to control. It should control strip mining by law and not by tax,

Rep. Bertelsen asked if it would be agreeable with the sponsor to remove the first whereas. Rep. Frates said if there is something in that paragraph that isn't acceptable, delete it - don't wipe it all out,

Rep. Dassinger said 35¢ a ton is paid to Montana for reclaiming spoils. If you feel that the resolution affects coal mining in Montana, do you object to that. Mr. Mockler said he doesn't think they are mining poorly,

Rep. Reichert said \$1.25 per ton is added because of the tax.

Rep. Mike Cooney, District #83, Butte, Silver Bow County, sponsor said HB 727 would revise the special fuel user's permit provisions, providing for quarterly instead of monthly filing of special fuel tax returns,

HOUSE BILL Larry Huss, Montana Motor Carriers Association, Helena, said
727 HB 727 changes reporting requirements for special fuel diesel
 users from twice monthly to twice quarterly. Each vehicle
 won't be required to have its own special license, 150,000
of which are sent out per year. This will reduce the cost to the State of
Montana and makes no difference in the revenues to the state. Amends drafting
errors. Intent is to make it only applicable to the user.

There were no opponents.

Rep. Cooney said the amendments made the bill clear.

Rep. Lien asked if there is any problem with the bill. Will the quarterly deal be often enough? Mr. Norris Nichols, DoR, Motor Vehicle Division, showed a sample card that will be issued instead of a license and explained it. This is clearance to enter the state. If you have more than one truck, have to get the license card duplicated. This is carried with the truck at all times.

Rep. Dassinger took over as chairman.

Rep. Fabrega, District #44, Great Falls, chief sponsor of HB 702, explained this bill would make the state liable when the state assessment process results in a suit at the local level to pay all costs of the suit,

HOUSE BILL Dean Zinnecker, Montana Association of Counties, Helena
702 supports HB 702, The Department of Revenue has the responsibility

and authority for the assessment. The problem is that they do not have accountability. This bill only deals with assessment and suits.

Rep. Lien, District #49, thinks this is very important. He was involved in McCone County with a tax assessment suit. The quarrel is directly with the department of revenue and through its agents as county assessor to find who is responsible for overassessment.

Bill Groff, Special Legislative Adviser for the Department of Revenue, said there is a bill in the senate which requires serving both department of revenue and the county. Some things might not work.

Bruce McGinnis, chief counsel for the DoR, said section 1 says the department is to defend tax appeals before any county tax appeal boards, the state tax appeal board, or a court of law which would include actions which are brought for the refund of taxes. Taxes under protest are paid into the county protest fund. Would have the DoR paying judgments out of wherever they could get the money to pay the taxpayer back. Concerning agricultural land case involving a situation where the county did not appear in the lawsuit and defaulted. The DoR appeared and found no wrong but found the county commissioners in levying the tax on this had not appeared and therefore ordered taxes back to taxpayers. The money is in Gallatin County. If they are to be made against the DoR, you will have to make another amendment to give the DoR some means of getting the money out of the protest funds.

15-8-101 deals solely with the assessment function. You would not be involved in protest except with regard to the assessment. Mr. McGinnis said the problem that arises involved cases of where they have taxes paid under protest. Assessment is the first step in the line and if the DoR makes assessment and taxpayer is upset with the assessment, then that is a court case and taxes are paid under protest. Follows from that section that you refer to that assessments are defended. He thinks this involves where taxes are paid under protest is in the taxpayer's favor, they have to get that money out of the protest fund somehow.

Rep. Lien suggested to strike "or judgments"

Rep. Sivertsen asked if it would be possible for Mr. McGinnis to suggest a possible amendment and then go ahead and discuss them.

EXECUTIVE SESSION

HOUSE BILL 106 - Rep. Sivertsen moved TO TABLE HB 106. Rep. Dassinger voted No. Motion carries with all other members present voting Yes. Reps. Reichert, Fagg, Nordtvedt absent.

HOUSE BILL 257 - Rep. Gilligan moved HB 257 BE TABLED. Rep. Robbins voted No. All other members voted Yes - motion carried. Reps. Reichert, Fagg, Nordtvedt were absent.

Staff attorney will get a bill ready to change diesel tax on diesel fuel to 10% penalty of the monies owed instead of the 25% at the present time. Want to make diesel fuel the same as the tax penalty on other fuel which is 10%. Each dealer and user must have a surety or a cash bond which covers at least two months of the normal tax paid. The draft as proposed is to be given to Rep. Vinger so Rep. Vinger can submit it to the legislative council.

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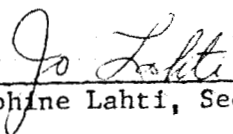
2/21/79

Page 4

Meeting adjourned at 11:00 a.m.



REP, HERB HUENNEKENS, Chairman



Josephine Lahti, Secretary