

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 7, 1983

The fortieth meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Towe, who was excused.

CONSIDERATION OF HOUSE BILL 466: Representative Ralph Eudaily, House District 100, sponsored the bill, and to explain what type of problem this bill will correct, he read a letter addressed to a Mrs. John E. Wilson in Missoula from the Montana Attorney General. A copy of the letter is attached as Exhibit A. Representative Eudaily had contacted Gregg Groepper, administrator of the property assessment division of the Department of Revenue, who suggested the new language that is in the bill. The two changes relate to the size of the trailer and whether the trailer is used as a residence. The 8' by 32' dimensions come from the old federal definition. The new definition in the HUD regulations is 400 square feet in floor space and whether the trailer is used as a residence.

PROPOSERS

Ed Sheehy, representing the Montana Manufactured Housing Association, said that the national mobile home construction standards distinguish between mobile homes and travel trailers. There are travel trailers being constructed that are more than 8' wide and more than 32' in length. They support the bill.

OPPOSERS

There were no opposers to HB 466.

Questions from the committee were called for.

Senator Norman questioned the width regulations. Mr. Sheehy responded that there are regulations on how wide a vehicle can be that travels on the highways without having to obtain a permit. Senator Turnage thought there should be a width limitation. Mr. Sheehy stated that most travel trailers are not over 8' wide.

Mr. Groepper said the reason for not addressing the width of trailers is that some trailers expand once they are parked.

Senator Norman asked if we were going to have travel trailers that were wider than the statutes permit them to be. Mr. Sheehy responded that one could now have a fifth wheeler that exceeded

32' in length, and on the highway it won't be more than 8' wide. Senator Severson asked if they were talking about outside measurements, and Mr. Groepper replied that they were. Senator Severson said this would cover anything up to 50' in length.

Senator Turnage asked how long a unit could be hauled without a permit. Mr. Sheehy thought 50' was the limit.

Senator Crippen thought the committee should go back to 50' by 8'. Then you have the outside parameters.

Senator Eck asked what this did to motor homes. Mr. Sheehy replied that this bill didn't apply to motor homes.

In closing, Representative Eudaily said that trailers between 32' and 50' in length have not been covered by the fee in lieu of tax. With a 32' fifth wheeler, you have 29 1/2 feet on the road and pay \$119 in taxes; a 32' trailer that you pull behind your car or pickup pays only a \$15 fee.

The hearing was closed on HB 466.

CONSIDERATION OF HOUSE BILL 570: Representative Mel Williams, House District 70, said this deals with the repeal of the business inventory tax. Representative Williams's written testimony is attached as Exhibit B.

PROPOSERS

Charles Graveley, representing the Montana County Assessors Association, said that when HB 570 was introduced in the House, representatives from the rental industry appeared to oppose the bill. Their equipment was held for lease or rent prior to January 1, 1983. The bill as originally drafted appeared to tax the property that they had. That was not the intent of the bill so we added lines 8-10 on page 2 of the bill.

Don Larson, Jefferson County Assessor, said they would lose a tremendous amount of their business inventory tax base. He said Bonneville Power Administration is going through there and half of their equipment was leased and is not exempt. It is a major loss to the county. People will form lease companies, sell their equipment to the companies, and then lease the equipment back to avoid paying taxes on the property.

OPPOSERS

There were no opposers to HB 570.

Questions from the committee were called for.

Senator Turnage wondered where business inventory came into the class six; he thought it dealt with livestock, poultry and unprocessed agricultural products on the farm or in

storage. (See 15-6-136, MCA, temporary and effective January 1, 1983.)

Mr. Groepper from the Department of Revenue, said that this last taxing year (1982), people tried to get their equipment leased as class six property so they would be exempt when the business inventory tax expired. He referred to rental companies such as A-1 Rentals. He said if he set himself up in a wholly-owned subsidiary, he would come under this definition. Some people set themselves up that way in 1982 to do that. He asked if that was the legislature's intent or should they go to the State Tax Appeal Board to get it settled.

Senator Turnage thought the term "personal property" should be used instead of "goods and equipment."

Senator Elliott commented that the definition of business inventory was messed up in the 1981 session. Leased property should not be included in business inventories. He thought that should be fixed.

Senator Elliott questioned lines 8-10 on page 2. Mr. Groepper said they were not going to resurrect the business inventory tax on the taxpayer if the taxpayer did not have that tax before.

Senator McCallum said all new equipment that is for sale is excluded from the business inventory tax. Senator Turnage said business inventory should include anything for sale, but once you put an item for rent or lease, you lose the privilege of not paying the business inventory tax after January 1, 1983. If you enter into a lease with an option to buy, it is hard luck. Senator Elliott said there would be questions as to whether or not a transaction was a true lease.

Senator Turnage questioned the language on lines 4-5 on page 2, "except goods and equipment specifically included in another class". He thought that should be deleted. Leaving it in would open the floodgate for thousands of dollars of taxable property to be exempt. Senator Severson agreed with Senator Turnage and wondered whether the lessor or lessee would pay the taxes.

In closing, Representative Williams said they would appreciate it if we would change the wording in the bill to express their intent. They had considered exempting property up to a certain value but it failed.

The hearing was closed on HB 570.

CONSIDERATION OF HOUSE BILL 492: Representative Mel Williams, House District 70, presented HB 492 for Representative Dozier who was unable to attend the meeting. This is another bill from the Montana County Assessors Association attempting to properly classify property. Stock trailers are deleted from

class nine because, with the amendments, they will be included in either class eight or class ten property, depending on whether they are over or under 18,000 lbs.

PROPOSERS

Charles Graveley, representing the Montana County Assessors Association, said there are now three different classes of property that trailers can fall into. If this bill passes, it will prevent people from trying to get their trailers into lower classes of property.

Don Larson, Jefferson County Assessor, stated that they do have problems in taxing light trailers at 11%, commercial trailers at 16%, and stock trailers at 13%. He felt they should be taxed the same.

OPPOSERS

There were no opposers to HB 492.

Questions from the committee were called for. There were no questions, and the hearing was closed on HB 492.

CONSIDERATION OF HOUSE BILL 750: Representative Mel Williams, House District 70, presented the bill for Representative Dozier who was unable to attend. He said he is reluctant to add another class of property but he said it is necessary to classify trailers and mobile homes for taxation purposes. The definition on page 2 clarifies what leasehold improvements are.

PROPOSERS

Charles Graveley, representing the county assessors, said the need for the definition for legislative intent is clear when you look at what exists now. He referred to Rule 3 of the Department of Revenue (Administrative Rules of Montana). If a mobile home moves onto a lot, it needs to be adequately described.

Don Larson, Jefferson County Assessor, also supported the bill. He said mobile homes are hard to locate and assess properly.

OPPOSERS

There were no opposers to HB 750.

Questions from the committee were called for.

In regard to lines 16-17 on page 2, Senator Lynch asked what the taxes would be if the wheels were left on a trailer and what they would be if the wheels were taken off.

Mr. Graveley said they would be the same.

Gregg Groepper, property assessment division administrator with the Department of Revenue, said the administrative rules say that regardless of how the trailer is set up, assessment will be done the same way. The definitions of improvements and leasehold improvements are the problem. This bill will simply make a difference in when the taxes on a mobile home have to be paid, not in how it is valued. He wondered if the last section of the bill was necessary since it is covered under another statute (15-8-204, MCA).

Senator Severson wondered why this couldn't be taxed the same as real property, without creating a new class of property.

Representative Williams said it depends on whether the mobile home is classified as real or personal property. The county assessors feel that they could follow this through much easier.

Mr. Groepper said the reason for having another class of property was to clarify when taxes were to be paid. The county treasurer can't sell the property for taxes unless it is three years delinquent on its taxes. If the mobile home doesn't meet the department's definitions, it will be taxed as a mobile home.

Senator McCallum mentioned to Mr. Groepper that there is a statute that provides that a mobile home may not be moved unless the taxes on it are current (15-24-202, MCA). Mr. Groepper added that there was also a penalty for not displaying the declaration of destination, sticker or receipt on the mobile home. Mr. Graveley indicated that most people were aware of the need for a moving declaration and the taxes having to be paid, but those statutes were not being complied with. The Highway Patrol won't pull over a mobile home on the highway to see if they have a permit.

In his last year as Lewis and Clark County attorney, Mr. Graveley said he prosecuted seven people, including one bank officer, for moving mobile homes without decals and without taxes paid in full.

Senator Mazurek asked Representative Williams if the House had the benefit of the fiscal note.

Representative Williams said there was one conflict with Representative Eudaily's bill (HB 466) on the trailer length. This was brought to his attention by the Montana County Assessors and County Treasurers Associations. He said he would work with Mr. Groepper and Mr. Graveley to amend the language to put the bill in proper perspective if the committee felt it was necessary.

The hearing was closed on HB 750.

RECONSIDERATION OF HOUSE BILL 264: Cort Harrington, the committee's staff attorney, said SB 283, which the committee passed on February 28, would repeal the provisions of HB 264. Representative Kathleen McBride, the sponsor of HB 264, was not aware of indications of repealers in SB 283. She thought those provisions would be removed. She did not think it was Senator Fuller's intention to repeal the affected statutes completely. If a taxpayer takes advantage of the credit offered under SB 283, he does not also get the credit offered under HB 264.

Cort suggested including coordination instructions in the amendments to HB 264 so SB 283 would not repeal HB 264.

Representative McBride said that the differences in the bills were that SB 283 provided for a 20% credit for solar and wind-driven systems and HB 264 includes 10%/first \$1,000, 5%/next \$3,000, for recognized non-fossil forms of energy generation (passive solar, wind, solid wastes, decomposition of organic wastes and hydro power; see 15-32-102(5), MCA).

Senator Turnage asked if it was her (McBride's) intent that taxpayers be able to take credit under both HB 264 and SB 283. Representative McBride replied negatively; that if a credit was taken under SB 283, it could not also be taken under HB 264, and vice versa.

Senator Turnage suggested reenacting in HB 264 the provisions that Senator Fuller is repealing under SB 283.

Senator Turnage moved that Cort prepare amendments to HB 264 to the effect that if a taxpayer takes the credit under one bill, he can't take the credit under the other bill; that Cort include in the amendments the necessary coordination instructions concerning the sections in HB 264 which would be repealed by SB 283. The motion was seconded and passed unanimously.

Representative McBride asked that Cort furnish her and Leo Berry with copies of the amendments for their review prior to executive action being taken.

DISPOSITION OF HOUSE BILL 33: Senator Severson moved that HB 33 BE NOT CONCURRED IN. Senator Eck made a substitute motion that on page 2, line 19, a category of "over 8 years" be added and tax all three sizes at \$10. The committee noted that Representative Kitselman had suggested substituting \$65 for \$45 in line 14; \$45 for \$35 in line 17; and \$15 for \$25 in line 18 on page 2.

Senator Turnage thought we should build in an antique plate provision. Senator Eck noted that those plates were for motor vehicles over 30 years old.

Senator Mazurek moved that HB 33 BE NOT CONCURRED IN and that his motion supersede all other motions. The motion was seconded, and a roll call vote was taken. The motion passed 8-5. Senator Severson will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 466: Senators Lynch and Eck questioned taking "principal" out of lines 7 and 17 on page 1. Senator Turnage asked if the committee wanted to expand the fee schedule. Senator McCallum recalled that Representative Eudaily said if a travel trailer was 3 years old or more, the fee in lieu of tax would be \$15; if less than 3 years, the fee is \$40. (61-3-523, MCA) And that fee is in addition to the registration.

Senator Eck moved to amend the bill by striking "with 400 square" and inserting "22" (feet) for the length of the trailer. Senator Severson thought the committee should not tinker with what was in the bill. Senator Eck withdrew her motion.

Senator Turnage quoted definition of "mobile home" from 15-1-101, MCA. Senator Severson remarked that the personal property tax system was a "liars basis" or "honors basis" and said we need enforcement of the system. Fifty percent of the motor homes in Helena have out-of-state plates. It's cheaper to license elsewhere.

Senator Norman asked if there was a width limit on travel trailers at the present time. Senator Turnage said the limit is 8' wide now. Senator Severson noted that the length of a trailer runs from the trailer hitch to the other end.

Senator Turnage moved that the existing law relative to 61-1-131 be amended to change 32' to 45' wherever it appears in the bill and to strike the other amendments. (We would continue to speak in terms of "principal" residence in three places in the bill and delete the language relating to 400 square feet.) The motion was seconded. A copy of HB 466 amendments is attached as Exhibit C.

Don Larson, Jefferson County Assessor, said some people in Jefferson County have been living in trailers as residences. They will have trailers not being taxed.

Mr. Groepper said this bill will make a difference in places like Colstrip where there is a housing shortage and people set up housekeeping this way. The Rosebud County Assessor has a problem with this. He said a residence lived in more than 50% of the year constitutes a "principal residence." It is difficult to administer the rules if they use less than that because they would be running through trailer courts trying to keep track of the trailers on the move.

A vote was taken on Senator Turnage's motion, and it passed unanimously. Senator Turnage then moved that HB 466 BE CONCURRED IN AS AMENDED. The motion was seconded and passed, with Senators Gage and Severson voting no. Senator Halligan will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 570: Senator Turnage thought "goods and equipment" should be referred to as "personal property" and that all personal property held for rent or lease or actually leased or rented, except personal property specifically included in another class, should be taxed under this section.

Don Larson, Jefferson County Assessor, said that would include cars, trucks, and trailers. Hertz, Avis, and other car rental agencies are all being taxed.

Gregg Groepper, administrator of the property assessment division of the Department of Revenue, asked if it was the legislature's intent, then, that if the personal property is set up for lease or rent, taxes still have to be paid on it. The committee stated that that was their intent.

Senator Turnage will work with Cort to finalize the amendments.

Senator Elliott moved that lines 13-14 on page 1 be amended by striking "Except as provided in subsection (2), Class" and inserting "Class", and that page 2 be amended by striking lines 8-10 in their entirety. Senator Turnage said that if the House knows what they are doing, they won't listen to the witnesses they heard. We are talking about big ticket items here.

J.C. Weingartner, representing the Montana Rental Association, said that in the House, they asked for an amendment for small mom-pop rental businesses. He said 20%-25% of these stores will close their doors if that amendment comes out. The items they put out are simply inventory. Ninety-five percent of business is limited to hourly or daily rental. Some of these stores will pay an extra \$70,000 a year in taxes.

Senator Turnage was afraid that if the amendment came out, it would sweep in everyone.

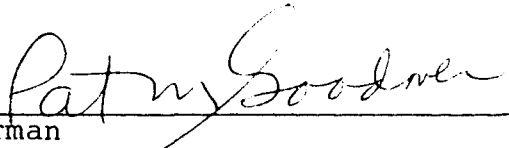
Mr. Weingartner said these corporations are set up for the specific purpose of leasing equipment to the public.

Senator Turnage said the legislature didn't want to do a great injustice to anyone. Most of the property leased is less than \$5,000 in value. Senator Severson said that seldom has a tax ever put a person out of business. The price of the product has, but not the tax. If the low ticket items are eliminated now, then it will be the big ticket items next. He didn't think any of it should be eliminated.

Mr. Weingartner wondered why his clients should treat the equipment they rent or lease as their inventory. Senator Elliott remarked that title is not transferred when equipment is leased. Senator Turnage asked if Mr. Weingartner's clients had been exempt under the old law.

The committee asked Mr. Weingartner to get together with Gregg Groepper to get a list of the taxes paid by the businesses, and the committee would continue discussion of this bill at a later date.

The meeting adjourned at 10 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/7 /83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE			✓
SENATOR MAZUREK	✓		

(All visitors sign this sheet even if not testifying.)
DATE March 7, 1983

COMMITTEE ON TAXATION (SENATE)

VISITORS' REGISTER

[illegible]

*Amend 61-1-131
Travel Trailer
36 ft or less*

STATE OF MONTANA
ATTORNEY GENERAL
MIKE GREELY

STATE CAPITOL, HELENA, MONTANA 59620 TELEPHONE (406) 449-2026

8 June 1982

Rep. Lory & I got identical letters. HB 466

Mrs. John E. Wilson
602 North Avenue West
Missoula, Montana 59801

Dear Mrs. Wilson:

Thank you for your letter requesting information on the license fee imposed on your 35 foot, fifth wheel trailer. Your trailer does not meet the definition of travel trailer in section 61-1-131, Montana Code Annotated (MCA), and thus does not qualify for the \$15 travel trailer license fee imposed by section 61-3-523, MCA. Section 61-1-131, MCA, defines travel trailer as "a trailer 32 feet or less in length and 8 feet or less in width originally designed or permanently altered to provide temporary facilities for recreational, travel, or camping use." Any trailer which does not meet this definition is taxed under the ad valorem property tax system and must also pay G.V.W. fees. Your \$15 license fee for 1981 was an error. I realize that your trailer for all intents and purposes is a travel trailer. Unfortunately, it does not meet the statutory definition and cannot be taxed as a travel trailer. I suggest you contact your local legislators and point out the statutory problem to them. They may be able to introduce corrective legislation in the next session.

Less than 8 yrs old is 40% and other 15%

I hope this adequately answers your question. If not feel free to contact me.

Very truly yours,

Sarah M. Power

SARAH M. POWER
Assistant Attorney General

The problem is a 35 ft-5th wheel is not included in your tax laws. It only has 29' 2" on the road - yet we had to pay 119 - a 32 trailer has the trailer and hitch so it is more on the road. We know people w/ motor homes who paid 15 - not even enough to license the truck & its mounted on. We pay for our truck license and then get taxed extra for our 5th wheel.

*1982 try
1/19/82*

*per
addr*

In 1977 they charged us \$550 in 1978 - nearly
that much more I believe than most mobile
homes - that people live in all year.

HOUSE BILL NUMBER 570

This Bill is being

~~I am introducing this bill~~ on behalf of the County Assessors in the State of Montana. This bill is necessary to clarify the intent of the legislature regarding property held for rent or lease, *and as the result of repeal of the inventory tax 1st session - effective Jan 1, 1983*

Read statute 15-6-136
Under the old statute, properties intended solely for sale or lease ^{*in the ordinary course of business*} were included in class 6 property. Since January 1, 1983, this portion of the statute has been eliminated. Now people who lease occasionally are stating that the property they occasionally lease should be exempt also. Taxpayers who own properties historically taxed in other classes are also coming forth and stating that their properties are now exempt because it is for lease to anyone who wants to lease it. Clarification of legislative intent is necessary to correct this.

Under the current statute or lack of statute, the situation has arisen where certain owners of property have established wholly owned leasing subsidiaries and lease to themselves to avoid property taxation, *in other words it opens Pandora's box for trying to get properties exempt that are presently being taxed in other classes.* ^{*It proposes*} With ~~the~~ legislation ~~it is proposed~~, that property which was previously taxed under Class 6 as inventory would remain tax exempt. Property which was not previously taxed under Class 6 as business inventory, and is now or in the future leased or rented would be taxed under Class 8 unless it is in another class.

Rep Williams

Amend HB 466, Third Reading Copy, as follows:

1. Title, lines 6 and 7.
Following: "TRAILERS"
Strike: "WITH NOT MORE THAN 400 SQUARE FEET OF FLOOR SPACE"
Insert: "45 FEET OR LESS IN LENGTH AND 8 FEET OR LESS IN WIDTH"
2. Title, line 7.
Following: "~~PRINCIPAL~~"
Insert: "PRINCIPAL"
3. Page 1, line 13.
Following: "32"
Strike: "with 400 square"
Insert: "45"
4. Page 1, line 14.
Following: "8-feet"
Insert: "or less in length and 8 feet"
Following: "~~width~~"
Strike: "floor space"
Insert: "width"
5. Page 1, line 17.
Following: "~~principal~~"
Insert: "principal"
6. Page 2, line 21.
Following: "32-feet"
Strike: "400 square feet"
Insert: "8 feet in width or 45 feet"
7. Page 2, line 22.
Following: "~~length~~"
Strike: "floor space"
Insert: "length"
8. Page 2, lines 24 and 25.
Following: "up to"
Strike: "400 square feet in floor space"
Insert: "8 feet in width or 32 feet in length"
45
9. Page 2, line 25.
Following: "used as a"
Insert: "principal"

STANDING COMMITTEE REPORT

March 7

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration

House

Bill No. **33**

Kitselman (Severson)

Respectfully report as follows: That

House

Bill No. **33**

third reading copy

BE NOT CONCURRED IN

XXXXXX

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date Mar 7, 1983 House Bill No. 33 Time 9:23

NAME	YES	NO
SENATOR GOODOVER, CHAIRMAN	✓	
SENATOR McCALLUM, VICE CHAIRMAN	✓	
SENATOR BROWN	✓	
SENATOR CRIPPEN		✓
SENATOR ELLIOTT	✓	
SENATOR GAGE	✓	
SENATOR TURNAGE	✓	
SENATOR SEVERSON	✓	
SENATOR HAGER		✓
SENATOR ECK		✓
SENATOR HALLIGAN	A	
SENATOR LYNCH		✓
SENATOR NORMAN		✓
SENATOR TOWE	A	
SENATOR MAZUREK	✓	

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

mazurek's motion that HB 33 be not concurred in

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

STANDING COMMITTEE REPORT

March 7 19 83

PRESIDENT

MR.

TAXATION

We, your committee on

HOUSE

466

having had under consideration Bill No.

Eudaily (Halligan)

HOUSE

466

Respectfully report as follows: That..... Bill No.

Third Reading Copy (blue) be amended as follows:

1. Title, lines 6 and 7.

Following: "TRAILERS"

Strike: "WITH NOT MORE THAN 400 SQUARE FEET OF FLOOR SPACE"

Insert: "45 FEET OR LESS IN LENGTH AND 8 FEET OR LESS IN WIDTH"

2. Title, line 7.

Following: "PRINCIPAL"

Insert: "PRINCIPAL"

3. Page 1, line 13.

Following: "32"

Strike: "with 400 square"

Insert: "45"

XXXXXX
DO PASS

(Continued on page 2)

dlc.

March 7

19.83

4. Page 1, line 14.

Following: "8-feet"

Insert: "or less in length and 8 feet"

Following: "width"Strike: "floor space"Insert: "width"

5. Page 1, line 17.

Following: "principal"Insert: "principal"

6. Page 2, line 21.

Following: "32-feet"Strike: "400 square feet"Insert: "8 feet in width or 45 feet"

7. Page 2, line 22.

Following: "length"Strike: "floor space"Insert: "length"

8. Page 2, lines 24 and 25.

Following: "up to"Strike: "400 square feet in floor space"Insert: "8 feet in width or (32) feet in length"

9. Page 2, line 25.

Following: "used as a"Insert: "principal"

3-11-83
 Conf Cliff Crismon, and mtb,
 they will correct this
 clerical error so it is
45 feet when next
 printed. - lje.

AND AS AMENDEDBE CONCURRED IN