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MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 22, 1983

The fifty-first 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.

CONSIDERATION OF HOUSE BILL 17: Representative Steve Waldron, House District 97, said this bill came out of the interim committee on highways. They spent time studying special and alternative fuels. HB 17 provides a decal system for diesel fuel. The state is losing money on diesel fuel because the fuel meant for farm vehicles (which is not taxed) is being put into on-road vehicles.

PROPOSERS

John Braunbeck, representing Montana IOMA and Montana LP Gas Association, said HB 17 creates a decal program with fees for vehicles of 10,000 pounds or less gross weight. It amends the diesel fuel and alternate fuel programs. He cautioned that the third reading copy of HB 17 had the support of the industry and of the Joint Subcommittee on Highways, but he didn't know if both would support further amendments that might be made. Mr. Braunbeck introduced Ken Kiko and Dave Saylor from the Montana LP Gas Association, who were present and available to answer questions the committee members might have.

Norris Nichols, from the Motor Fuel Tax Division of the Department of Revenue, said the problem has existed since small cars were introduced into the vehicle system. The 10,000 pounds GVW was used because anything over 10,000 pounds goes over the scales at the scale houses. We are establishing a fee in lieu of tax. We have had a permit system since 1979 for alternate fuels, he said, administered by the GVW people in the Department of Highways. They know of many light vehicles who receive liquid petroleum from dealers. They are willing to cooperate with the Montana Power Company and with the Montana LP Gas Association.

Jerry Raunig, representing the Montana Automobile Dealers Association, felt the fee of \$80 should be cut to \$60. The diesel fuel tax is 11 cents a gallon. If HB 16 passes, the diesel fuel tax will increase another 3 cents a gallon. The average Montana driver drives 9,135 miles a year. If we use a 12,000-mile base and 30 miles a gallon, we have 400 gallons. That times 14 cents a gallon is \$56 a year which is in line with the \$60 fee which was in the bill originally.

Larry Tobiason, representing the Montana Automobile Association, looked at alternate fuels bypassing the fuels tax. He agreed with Mr. Raunig that \$60 would be a more reasonable fee.

Senator J.D. Lynch, Senate District 44, supported HB 17 as a member of the Joint Subcommittee on Highways.

OPPONENTS

There were no opponents to HB 17.

Questions from the committee were called for.

Senator Lynch asked Mr. Tobiason how he came up with the 12,000 mile average in Montana. Mr. Tobiason said 15,000 miles was the national average (because of commuting) arrived at from a survey of their membership of 22 million people in 1979. We use a 12,000 mile average in Montana.

Senator Eck wondered how the special fuels tax was being collected on vehicles weighing over 10,000 pounds. Representative Waldron stated that those vehicles go over the scales.

Mr. Nichols added that those vehicles buy a permit which has to be shown every time the vehicle crosses the scales. They have to file quarterly returns.

Senator Goodover wondered if the joint subcommittee considered having HB 17 apply just to propane and special fuels. Diesel is taxed at the pump now. The option is that it all be taxed on delivery at the pump.

Representative Waldron pointed out that a person can still claim a refund of the tax by saying he is just using the fuel for agricultural use.

Mr. Nichols said the decal indicates a person doesn't have to pay the tax. Several states have looked at dyeing fuels and using the highway patrol to spot check vehicles. A driver is fined if he is using dyed off-roadway fuel in his vehicle.

Senator Towe wondered how it would be handled if a person bought a decal and went to the gas station where the fuel was already taxed. Mr. Nichols responded that they back the tax out of the fuel price. When registering his vehicle at the county treasurer's office, the vehicle owner is asked what type of fuel he uses, and based on his response, he is or is not sold a decal.

Senator Towe asked about the guy from out of state who stops at the weigh station which is closed. Does he go to the next gas station for a decal and pay the tax anyway? Mr. Nichols said the dealers have been bonded and licensed. On page 13

of the bill (amending section 15-71-102, MCA, new subsection (3)), a temporary alternative fuel permit for a vehicle with over 10,000 GVW can be purchased for \$30 for a maximum of 72 hours. Dealers, when they are bonded and licensed, will be like other distributors.

Senator Severson felt this would work on propane because it is not taxed in any form on the highways now. The mileage per gallon is less. The tax should not be on how much you pay for it. He didn't feel the tax would work on diesel.

Mr. Nichols pointed out that the price of propane per gallon is also less. The diesel matter is a problem; nobody does it intentionally, but it does happen. If there is a better method, Mr. Nichols said he would like to work with the subcommittee appointed.

Senator Goodover asked Mr. Nichols why dealers, when they sell a car, couldn't mark it "diesel". Mr. Raunig said they did with 1982 models when they went from 11-digit serial numbers to 17-digit serial numbers.

Senator Towe asked for more information on the bonds. The dealers are bonded so they can be held responsible. Mr. Dave Saylor said the dealers would be reporting the number of exempt gallons. Senator Towe commented that along comes a tourist who picked up his 30-day permit, and the local gas station dealer wonders why he should give the tourist a refund. Mr. Saylor said it would be very rare that that would happen.

Senator Mazurek wondered about the service station operator. Senator Elliott responded that they never have any trouble with stations like that. They might require them by rules to write the number of their decal on the ticket you write when gas is sold. It won't be a problem.

Senator Lynch wondered why the House raised the \$60 fee to \$80. Representative Waldron said they felt Montana drivers drive more than other people around the country. Mr. Raunig stated that he thought 30 miles a gallon on diesel was low. The diesel vehicles under 2,800 pounds put the mileage up.

Senator Towe asked Mr. Raunig how dealer license plates were taken care of. Mr. Raunig replied that they pay the tax at the pump. Alternative fuel vehicles don't come off the line like that so they are no problem.

The hearing on HB 17 was closed.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 750: Senator Mazurek moved the following amendment be adopted:

Page 2, line 20.
Strike: "individual"
Insert: "person"

The motion was seconded and passed unanimously.

Senator Elliott moved that HB 750 BE CONCURRED IN AS AMENDED.
There was no second to his motion.

Senator Towe wondered where the terms defined on page 2 of the bill ("improvements" and "leasehold improvements") were used.

Ellen Feaver, director of the Department of Revenue, said that what the assessors want to do is capture the tax from owners of mobile homes that are not affixed to the ground. Mobile homes are not taxed out of the Blue Book.

Senator Turnage thought the bill needed more study, as it would affect more than just mobile homes.

Senator Elliott clarified that the 1st half taxes on mobile homes were due in June and the second half taxes were due no later than September 30 (15-24-202, MCA).

Senator Turnage thought "leasehold improvements" should be limited to mobile homes and improvements on mobile homes. You can have a lien on the land and on the improvements even though they are owned separately.

Senator Gage moved the following amendment be adopted:

Page 2, line 19.
Strike: "and"
Insert: "to"
Following: "homes"
Insert: "and mobile homes"

The motion was seconded and passed unanimously.

Senator Towe moved the following amendment be adopted:

Page 2, lines 20 and 21.
Strike: "and improvements to a building by a lessee"

The motion was seconded and passed unanimously.

Senator Turnage moved the following amendment be adopted:

Page 2, line 24.
Following: "IMPROVEMENTS"
Insert: "to mobile homes and mobile homes"

The motion was seconded and passed unanimously.

Senator Towe moved the following amendment be adopted:

Page 9, line 14.

Strike: section 5 in its entirety

The motion was seconded and passed unanimously.

Senator Turnage moved that HB 750 BE CONCURRED IN AS AMENDED. The motion was seconded and passed, with Senator Severson voting no.

CONSIDERATION OF HOUSE BILL 779: Senator Severson moved to table HB 779. The motion was seconded and passed unanimously.

CONSIDERATION OF HOUSE BILL 780: Senator Turnage felt they should tax the gas and not tax the alcohol.

Senator Eck stated that Terry Murphy, from the Montana Farm Bureau, wanted to meet with the subcommittee on this bill and explain how it works.

Ellen Feaver, Department of Revenue, said it was working fine with them in collecting the tax.

The committee postponed action on HB 780 until March 23.

CONSIDERATION OF HOUSE BILL 570: Senator Elliott said that merchandise valued under \$5,000 could be taxed at 4%, or perhaps that type of merchandise should be included as inventory of a business and exempt from taxation. Senator Elliott favored the latter; Senator Towe favored the former. Senator Elliott was fearful of taxing property which was not inventory in a strict sense. Senator Towe said that was his concern, too. Production equipment is similar to inventory. He suggested leaving the tax at 4% where they were before.

Senator Gage felt that would put both in the same taxing situation. They are both income-producing entities, so why not tax them the same way.

Senator Severson pointed out that a privately owned rototiller is taxed at 11% and a rental tiller, used 10 times as much, would only be taxed at 4%. Senator Goodover said that the rototiller would be depreciating though.

Senator Towe asked if Cort Harrington could draft appropriate language for the property we are talking about at 4%. Cort asked if the committee wanted "lease" removed from business inventories. To be consistent, he said, you should go back and change that other statute.

Senator Towe suggested saying "intended for sale but not intended for lease". Senator Severson remarked that all goods are intended for sale, and Senator Turnage stated that that was why you don't need "lease" in there.

Senator Towe moved that Cort Harrington draft language as to the 4% rate of taxation for leased equipment under \$5,000 for less than one month and those that don't fit would be at 11%. The motion was seconded.

Cort stated that this would prevent the forming of lease companies to avoid taxes. Senator Elliott said the choices now are 0%, 4%, and 11%. Senator Crippen didn't agree with changing the business inventory tax statute. Senator Elliott thought it should all be taxed at 11%. It should be taxed the same as anyone else holding the property to maintain the tax structure. Senator Gage pointed out that one guy may be producing taxable income with the property, but the individual owner may not be.

A vote on Senator Towe's motion was taken, and the motion passed with Senators Brown, Crippen, Elliott, Mazurek and Severson voting no.

Senator Towe stated that these people were in class four before. Somehow they got into the business inventory category. It is wrong to exempt them from taxation altogether, but it is also wrong to tax them at 11%. He said he was not complaining about the \$5,000 value limitation.

DISPOSITION OF HOUSE BILL 702: Senator Towe moved that "personal" on page 3, line 11, be stricken (the committee had added that in by motion a few days ago) and that where the vocationally handicapped or mentally ill amendment was made, that it be changed to "mentally ill, or vocationally handicapped as defined in 18-5-101". The motion was seconded and passed unanimously.

Senator Towe then moved that HB 702 BE CONCURRED IN AS AMENDED. The motion was seconded and passed unanimously. Senator Mazurek will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 17: Senator Lynch moved to amend the \$80 fee to \$70. The motion was seconded.

Senator Severson made a substitute motion to amend the fee to \$50. The motion was seconded and a vote was taken. Senator Severson's motion failed 1-14.

A vote was taken on Senator Lynch's motion to amend the fee to \$70, and it passed, with Senators Elliott, Goodover, Severson, and Towe voting no.

Senator Severson said this will work with propane but not with diesel. Senator Towe thought the problem was conceptual. The burden is on the dealers. They could refuse to give refunds to people. Senator Severson stated that propane dealers sell permits now. When you are taxing per gallon, propane is a

lesser-priced fuel, but you use 10% to 20% more fuel. You are asking people using fuel oil to heat their home to pay 17% more for fuel plus interest.

Senator Elliott suggested putting HB 17 in a subcommittee.

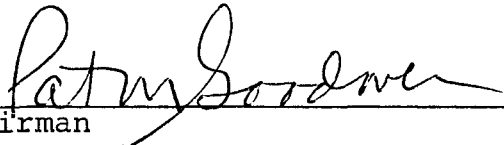
Senator Severson felt this was being brought out of proportion. When you were delivered fuel at your house, it was wholesale fuel. It is not that way anymore. It is anywhere from 5 to 10 cents more than I can buy it for at a cut-rate pump downtown. He said he has considered buying a 1,000 to 2,000 gallon tank to buy propane downtown and store it at home. It is now bulk delivery. It costs them more to have the propane delivered. The idea that they can get it cheaper by bulk delivery is not true.

Senator Hager asked if the bill that came out of the subcommittee (Joint Subcommittee on Highways) included special fuels or alternate fuels.

Senator Lynch said the biggest offenders are the diesel cars that aren't paying their fair share for use of the highways. It has to be addressed here.

Chairman Goodover appointed a subcommittee of Senators Elliott, Goodover, Lynch, and Severson to work with Norris Nichols on HB 17 and bring recommendations back to the committee.

The committee adjourned at 9:55 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/22/83

| 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 | ✓ | | |

DATE March 22, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

| NAME (PLEASE PRINT) | REPRESENTING | BILL # | Check One | |
|------------------------|-------------------------------|-----------|-----------|--------------|
| | | | Support | Oppose |
| <i>John ...</i> | <i>Mont ...</i> | <i>17</i> | <i>X</i> | |
| <i>David Sawyer</i> | <i>Forsyth Mont</i> | <i>17</i> | <i>X</i> | |
| <i>Ken ...</i> | <i>MT LP GAS ASSOCIATION</i> | <i>17</i> | <i>X</i> | |
| <i>Larry Tobiasson</i> | <i>M. A. A.</i> | <i>17</i> | | <i>Amend</i> |
| <i>Judy Ramsey</i> | <i>Net Auto Dealers Assoc</i> | <i>17</i> | | <i>Amend</i> |
| <i>M. ...</i> | <i>Dept. of Revenue</i> | <i>17</i> | <i>X</i> | |
| <i>Ellen ...</i> | <i>Revenue</i> | <i>17</i> | <i>X</i> | |
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(Please leave prepared statement with Secretary)

STANDING COMMITTEE REPORT

March 22 19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **702**

Yardley (Mazurek)

Respectfully report as follows: That **House** Bill No. **702**

third reading copy, be amended as follows:

1. Title, line 7.

Following: "DISABLED"

Insert: ", MENTALLY ILL, AND VOCATIONALLY HANDICAPPED"

2. Title, line 9.

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

3. Page 3, line 15.

Following: "DISABLED,"

Insert: "mentally ill, or vocationally handicapped as defined in 18-5-101,"

4. Page 4.

Following: line 13

Insert: "Section 2. Effective date. This act is effective on passage and approval."

~~XXXXXX~~ And, as so amended

BE CONCURRED IN

4/c

STANDING COMMITTEE REPORT

Page 1 of 2

March 22

19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration **House** Bill No. 750

Dozier (Turnage)

Respectfully report as follows: That **House** Bill No. 750

third reading copy, be amended as follows:

1. Title, lines 8 and 9.

Strike: **"TO PROVIDE FOR INITIAL ASSESSMENT AND TAXATION;"**

2. Page 2, line 18.

Following: **"improvements"**

Strike: **"includes"**

Insert: **"means"**

3. Page 2, line 19.

Following: **"improvements"**

Insert: **"to mobile homes"**

4. Page 2, lines 20 and 21.

Following: **"another"**

Strike: **"individual and improvements to a building by a lessee"**

Insert: **"person"**

~~XXXXXX~~

(Continued on page 2)

J/C

5. Page 2, line 24.

Following: "ON"

Insert: "such"

Following: "IMPROVEMENTS"

Strike: "can be"

Insert: "are"

6. Page 2, line 25.

Following: "on"

Strike: "the"

Insert: "such"

7. Page 9, line 14.

Strike: section 5 in its entirety

And, as so amended

BE CONCURRED IN