

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

April 1, 1983

The fifty-eighth 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 Senators Lynch and Norman.

CONSIDERATION OF HOUSE BILL 858: Representative Bill Hand, House District 82, sponsored the bill and submitted written testimony, which is attached as Exhibit A.

PROPOSERS

Dan Carpita, from Beaverhead Bar Supply, Inc., in Dillon, said the number of cigarette wholesalers in Montana has gone from 50 to 29 today. HB 858 corrects an injustice to the wholesalers who are required to prepay the tax on cigarettes. HB 858 does not provide a rebate to anyone, and the benefit to each wholesaler is less than \$2,000 a year.

Mike Parker, representing Pennington's, Inc., echoed Representative Hand's statements that the cigarette wholesalers are providing a service to the state by affixing the insignia to the packs and are not being compensated for doing so. This law was enacted when the tax meter machine from Pitney Bowes cost \$5,000 and other costs were low. The factors that existed when the law was enacted no longer apply. Mr. Parker submitted an analysis of state cigarette tax defrayments earned and associated costs of stamping (Exhibit B). He took exception to the fiscal note also. The cost of this bill to the state is \$40,495. The surrounding states of Idaho, South Dakota and Wyoming, where conditions are similar, all make higher defrayment allowances than does Montana.

OPPOSERS

There were no opposers to the bill.

TECHNICAL INFORMATION

Dan Bucks, representing the Department of Revenue, said the fiscal note applied to the bill as it was introduced. The industry's figure is correct.

Questions from the committee were called for.

Senator Eck wondered how many of the wholesalers would be dealt with under the 6% discount. Mr. Parker said 100% of the wholesalers are dealt with on that first tier; 75% would also stamp the next tier.

Representative Hand closed, saying that most of the tax goes into the long-range building fund and not the general fund (17-5-408(2)).

The hearing was closed on HB 858.

Senator Towe moved that HB 858 BE CONCURRED IN. The motion was seconded and passed unanimously. Senator Eck will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 550: Senator Crippen moved that HB 550 BE NOT CONCURRED IN. The motion was seconded.

Senator Eck made a substitute motion to table HB 550. The motion was seconded.

Senator Towe reminded the committee that the fiscal impact without the bill would be close to \$4 million. He said the Ruby Brothers banks had previously been authorized to file consolidated returns. They got a grandfather provision and when their next request to file consolidated returns came, the Department of Revenue refused it. No one else is allowed to file consolidated returns.

The (IRC section) 243 deduction had not been authorized to any corporation up until the Baker Bank case (Baker Bancorporation, Inc., et al., v. Department of Revenue of the State of Montana, 39 St. Rep. 2350, 657 P.2d 89 (Dec. 1982)). When that is authorized, they will be able to take deductions totalling \$4 million. State revenues will be reduced by \$3.6 million.

Senator Crippen said that HB 550 goes beyond that issue, though, and attempts to completely disassociate the state revenue code with the federal revenue code. If we pass HB 550, we disassociate ourselves with the court case. Senator Towe agreed with Senator Crippen. They are trying to amend the gross income section instead of the deduction section, and the Department of Revenue swears up and down that this is the way to do it. I would like to see the deduction disallowed for unitary out-of-state corporations.

Senator Eck thought we should hold onto this bill because we might need it. It could be worked over and moved into another section but wouldn't alter the intent of the bill. Some banks suggest that if HB 550 is killed, they might be willing to do something different with tax credits.

Senator Towe said he didn't like to vary from the federal taxes on this major item. We may want to make up the revenue in HB 739.

Roll call votes were taken on Senator Eck's substitute motion to table, which failed 5-8, and Senator Crippen's motion that HB 550 BE NOT CONCURRED IN, which passed 11-2. The roll call vote sheets are attached to the standing committee report and are marked Exhibits E and F, respectively. Senator Elliott will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 739: Dan Bucks, from the Department of Revenue, said the preferred interpretation is that the investment credit reverts back to 20%, but it is ambiguous. Senator Towe said one of the attorneys in the Department of Revenue had interpreted "act" to mean the whole section of law rather than just the bill that was introduced last session which simply amended the existing statute from a 20% credit to a 30% credit. An act is a bill that passes the legislature that amends a section of the code.

Dan Bucks recalled that the bill in the last session also changed who was eligible for the credit. Cort Harrington stated that all those problems that were raised were addressed by the code commissioner bill which the Department of Revenue opposed.

Senator Towe submitted amendments drafted by the Department of Revenue which are attached as Exhibit C. Senator Towe moved that the amendments be adopted. The motion was seconded.

Senator Elliott felt the House would kill SB 252 with no qualms at all. He suggested trying to amend HB 739 and working through a conference committee. It would be more responsive to investment credit.

Senator Turnage thought we should just make this bill 252.

A roll call vote was taken on Senator Towe's motion to amend, and it failed 5-7 (Exhibit D).

Senator Eck felt this would just go to property taxes; Senator Elliott said the fiscal note was not proper.

Senator Towe said his figures show an impact of about \$11 million a year. If we kill HB 739 and the other bill is killed in the House, the investment credit will go to 20%, or \$11 million, and that is not in the revenue projections. If we kill HB 739, there no doubt will be a tax increase.

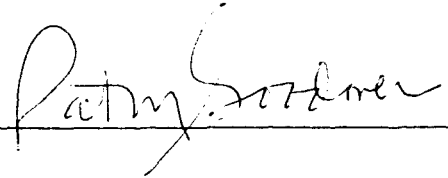
Senator Eck said the only way you can wipe out the \$20 million is by enacting HB 739 and the ACRS bill (HB 740). They will wash, and then there will be no deficit.

Senator Goodover asked about the purchasing of equipment outside of Montana. Senator Towe said that if "purchased in Montana" is stricken, the credit goes back up to \$11 million a year.

Senator Turnage suggested putting this aside until we hear HB 740 on April 5. The committee agreed to withhold action on HB 739 until then.

The meeting adjourned at 9:55 a.m.

Chairman

A handwritten signature in cursive script, appearing to read "Patmy S. Soderman", written over a horizontal line.

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 4/1 /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 April 1, 1983

COMMITTEE ON TAXATION

## VISITORS' REGISTER

[illegible]

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858

SENATE TAXATION COMMITTEE  
EXHIBIT A  
APRIL 1, 1983  
HB 858

TESTIMONY SUPPORTING HOUSE BILL 858

by Representative Bill Hand, sponsor

Presented to the Senate Taxation Committee, the Honorable Pat Goodover, Chairman, Friday, April 1, 1983, Room 415.

The main thrust of this bill would authorize the state to allow more substantial defrayment to the few licensed wholesalers on whom we depend to collect the state cigarette tax.

HB 858 would amend the state's 3 percent allowance to a sliding scale beginning at 6 percent, and declining to 3 percent. The idea being to save the small businessman.

At the present, collection of the state tax of 12 cents a pack of cigarettes costs about .4 of a cent. Should HB 511 be enacted and the tax increased to 15 cents, the collection cost would be less than .5 of a cent per pack.

Over the years the legislature has increased the state cigarette tax from 5 cents per pack, to 8 cents, to 12 cents. Since the early 1970's, the rate of inflation and interest has risen sharply. The cost to the wholesaler has more than doubled, yet the state's percentage allowance has remained the same. The same 3 percent allowance applied to the 15 cent tax would not substantially offset the wholesalers administrative losses.

Many of us are not aware that the state imposes a unique burden of responsibility and expense upon a small segment of our business community, the cigarette wholesalers. The state requires that only this one segment of industry prepay a tax

before the product can be offered for sale. This ties up capital for weeks before getting it back into the business. Imprinting the state tax insignia, and special security requirements are unique burdens above and beyond the normal costs of doing business by other enterprises.

The smaller the cigarette wholesale distributor, the greater his unit costs. This legislature should acknowledge the state's special burden imposed on these wholesalers. The cost has more than doubled since the 3 percent was first allowed.

The House committee amended in a cost differential for less volume. This has been recognized by several states with a graduated scale of percentage allowances.

I am concerned for this important segment of our business community. They have asked for help. They need help in the form of a little more fair treatment from the state in their unique service to the state.

HB 858 also has the housekeeping correction, arising from an oversight of the 1981 Legislature in not making a second reference to the allowance. See page 2, line 13.



ANALYSIS OF STATE CIGARETTE TAX DEFRAUDMENTS EARNED AND ASSOCIATED COSTS OF STAMPING 1982

	COT FALL	HAURE SHELBY	TOTAL
CROSS DOLLAR VALUE OF TAX UNITS PURCHASED	\$ 653044	\$ 84263	\$ 737307
NET AMOUNT PAID	633153	81735	715188
DEFRAUDMENT ALLOWANCE	19591	2528	22119
DIRECT COSTS OF STAMPING			
MONEY COST OF TAX IN INVENTORY			
GTF/HV 25,800 UNITS @ \$1.164 @ 100	3003		3003
SHELBY 4,800 " " " "		559	559
STATE TAX BOND	800	300	1100
MACHINE DEPRECIATION	2000	500	2500
METER RENTAL	468	468	936
MAINTENANCE	800	400	1200
INK			
GTF/HV 31 PINTS @ \$15.75	488		488
SHELBY 4 PINTS @ 15.75		63	63
STAMPING TIME			
GTF/HV 832 HRS @ \$12.50	10400		10400
SHELBY 156 HRS @ \$10.00		1560	1560
REPORTING TIME			
GTF/HV 96 HRS @ 8.00	768		768
SHELBY 48 HRS @ 6.00		288	288
DEDICATED FLOOR SPACE RENTAL			
GTF/HV 24x24 = 576 SQ FT @ \$1.80	1037		1037
SHELBY 15x20 = 300 SQ FT @ \$1.80		540	540
TOTAL DIRECT COSTS	19764	4678	24442
LOSS ON STAMPING	\$ (173)	\$ (2150)	\$ (2323)

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739 §41

739

Amend HB 739, third reading copy, as follows:

On page 2, line 13,

After: "amended;"  
Insert: ",for those items of property, and only those  
items, that qualify for the credit pursuant to  
subsection (1) above"

On page 5, line 17,

After: "amended;"  
Insert: ",for those items of property, and only those  
items, that qualify for the credit pursuant to  
subsection (3) above"

ROLL CALL VOTE

SENATE TAXATION COMMITTEE  
EXHIBIT D  
APRIL 1, 1983  
HB 739

SENATE COMMITTEE TAXATION

Date April 1, 1983 House Bill No. 739 Time 8:45

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

Secretary: Barbara J. Effing  
Motion:

Chairman: Pat M. Goodover

Towe's amendments moved

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

# STANDING COMMITTEE REPORT

April 1

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration ..... **House** Bill No. **550**

**Yardley (Elliott)**

Respectfully report as follows: That ..... **House** Bill No. **550**

**third reading copy**

**BE NOT CONCURRED IN**

~~DO NOT CONCURRE~~

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ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date Apr 1, 1983 House Bill No. 550 Time 8:30

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	✓	
SENATOR LYNCH	A	
SENATOR NORMAN	A	
SENATOR TOWE	✓	
SENATOR MAZUREK	✓	

Secretary: Barbara J. Effing  
Motion:

Chairman: Pat M. Goodover

Eck's sub mot to table 550

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

ROLL CALL VOTE

FILE F  
APR 1, 1983  
550

SENATE COMMITTEE TAXATION

Date Apr 1, 1983 House Bill No. 550 Time 8:32

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		✓
SENATOR LYNCH	A	
SENATOR NORMAN	A	
SENATOR TOWE	✓	
SENATOR MAZUREK	✓	

Secretary: Barbara J. Effing  
Motion:

Chairman: Pat M. Goodover

Crippens motion that 550 Be Not Concurred.

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

STANDING COMMITTEE REPORT

April 1 19 83

MR. PRESIDENT

We, your committee on taxation

having had under consideration House Bill No. 858

Hand (Eck)

Respectfully report as follows: That House Bill No. 858

third reading copy

BE CONCURRED IN

~~EXTRA~~

4/6