

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Brown, on January 4, 1989, at
9:00 a.m.

ROLL CALL

Members Present: Chairman Brown, Vice Chairman Hager,
Senator Bishop, Senator Crippen, Senator Eck, Senator
Gage, Senator Halligan, Senator Harp, Senator Mazurek,
Senator Norman, Senator Severson, Senator Walker.

Members Excused: None

Members Absent: None

Staff Present: Jeff Martin, Legislative Council Researcher,
Jill Rohyans, Committee Secretary

Announcements/Discussion: Senator Brown welcomed everyone
back and introduced the new committee members, Senators
Harp and Walker.

Senator Brown introduced Ken Norddvedt, newly appointed
Director of the Department of Revenue. Mr. Norddvedt
said as a matter of policy, either he or a
representative of the Governor's office would be
testifying on bills before the Taxation Committee.
Other people from the Department would be at meetings
strictly as information sources, not as opponents or
proponents. He said he looked forward to working with
the committee and urged committee members to contact
any member of his staff at any time for any assistance
they might need.

Senator Brown introduced the Legislative Council Staff
Researcher, Jeff Martin and the Committee Secretary,
Jill Royhans. Jeff Martin presented a summary of his
duties to the committee (exhibit 1).

Senator Brown announced the Taxation Committee will
meet six days a week. He asked the Senators to leave a
written note with the Secretary if they must be absent
during a vote. Senator Brown further established a
policy whereby hearings on all bills will be completed
each day before any executive action is taken.

HEARING ON SENATE BILL 30

Presentation and Opening Statement by Sponsor:

Senator Harp, District 4, sponsor, said the bill authorizes the Department of Revenue to enter into the International Fuel Tax Agreement. He noted eight states in the northwest have already passed the International Fuel Tax Agreement. Joining the International Fuel Tax Agreement would alleviate duplications in reporting and auditing and would establish a base state fuel use tax reporting system for interstate motor carriers. He said there are very tough compliances built into the agreements and strong audit procedures. He presented a print audit to the committee about the agreement (Exhibit 2).

List of Testifying Proponents and What Group they Represent:

Ben Havdahl, Montana Motor Carriers Association
Jesse Munro, Acting Director for the Highway Department
Norris Nichols, Administrator of Motor Fuels Tax
Division

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Ben Havdahl presented written testimony in support of the bill (Exhibit 3). He also presented a copy of the model agreement (Exhibit 4) and a proposed amendment (Exhibit 5).

Jesse Munro, Acting Director for the Department of Highways, spoke in support of the bill and the amendment presented by Mr. Havdahl saying the international fuel tax agreement will enable the Department to give better support to truckers in the state.

Norris Nichols, Administrator of Motor Fuels Tax Division, expressed support for the bill.

Questions From Committee Members: Senator Gage asked if this was truly and "international" agreement and also if it was effective on Indian reservations. He also asked for clarification on the rates.

Mr. Nichols replied that the agreement does apply to Canada and Indian reservations. The agreement is binding and all carriers automatically become members when Montana joins. Truckers would only have to file their quarterly report with the base state, not every other state in which they do business. Montana would then disburse the funds to other states.

Senator Harp said it is anticipated the number of reports the state will deal with will drop from approximately 14,000 to 1,400 (based on projections from Idaho) when we go to a base state formula. Mr. Nichols said there are about 900 users who would qualify under the agreement in Montana.

Senator Severson asked if paperwork would decrease.

Mr. Nichols felt the only increase would be in the distribution of funds. There would be no increase in audit duties, in fact, it would eliminate the out-of-state audit process.

Senator Gage inquired about a Statement of Intent.

Senator Brown asked Jeff to get one.

Closing by Sponsor:

Senator Harp closed the hearing on Senate Bill 30.

HEARING ON SENATE BILL 42

Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, sponsor, said the bill was requested by the Department of Revenue to bring Montana's child support laws into conformance with the federal regulations. It has also been reviewed by the Revenue Oversight Committee.

The bill addresses several child support enforcement services. The first is an automatic continuation of child support services upon termination of public assistance. Previously this was done only by request. This provision will increase duties and services provided by the Child Support Enforcement Bureau.

The second provision provides equal status to non-public assistance cases. For the most part, that is happening now in Montana.

Third, the bill decreases the response time for administration procedures and speeds up the system. It cuts the time from a 30 day response to 20 days, 20 days being quite standard.

Fourth, the bill provides for temporary support orders. Senator Eck said the key change in the bill is in Section 3, page 10, subsection 4, which deals with continuing child support assistance after termination of public assistance. The rest of the changes are mostly semantic.

She asked the lawyers on the committee to double check Section 17 to be sure of the wording in the civil liability area.

The Department of Revenue is considering some sort of educational program in the schools and universities which would be aimed at young people and their responsibilities in case of pregnancies.

List of Testifying Proponents and What Group they Represent:

Brenda Nordlund, Montana Women's Lobby
John McRae, Attorney, Child Support Enforcement
Division
Ken Nordtvedt, Director of the Department of Revenue
Christine Deveny, League of Women voters

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Brenda Nordlund, represented the Montana Women's Lobby, and presented testimony in support of the bill (Exhibit 6).

John McRae, Attorney with the Child Support Enforcement Division of the Department of Revenue, said 87% of all AFDC households are headed by women who are on AFDC because the fathers are not supporting the family. Across the United States, that accounts for 88 million women; only 61% of the 88 million get any court ordered support. Of the 61% only 26% received partial payments. The remaining 26% do not receive anything, which means 52% have problems getting any of the support they are supposed to have. In 1956 the total federal AFDC benefits paid out were \$6.17 million. By 1982 it was \$12 million. The welfare problems today are to a great extent a problem of non-support.

Congress, in 1974, enacted Title 40 of the Social Security Act, which establishes child support enforcement programs. In 1983 \$2 billion was collected in support monies. However, \$4 billion was due and owing by court orders so the effort was still floundering. In respect to the growing problem, Congress became more insistent and amended Title 40 and gave the states new mandatory rules to use. Failure to use them could result in 1%-5% sanctions of the federal AFDC funds being allocated to the individual states. As a result, in 1985, the legislature passed several bills, including the income withholding bill. This bill is a further effort to toughen Montana support laws and to conform to federal guidelines that were adopted after the 1985 session.

House Bill 42 is looking at Part 2, Chapter 5 of Title 40. This is the 4D Program framework for Montana. One of the elements is all states must have an expedited process for establishing paternity. This process requires that 90% of the cases must be completed within 90 days of the commencement of the case. In order to accomplish this, which becomes very difficult with crowded court dockets, etc., the response times have been decreased from 30 to 20 days. This will leave the state more time for completion of the case. Twenty days is the usual response time used by district courts in their other legal actions, such as summons or complaints.

Section 40-5-225 is being amended to provide the same assistance to non-welfare people in an effort to keep them from becoming welfare cases. Montana does provide free assistance in this area currently and this cleans up the bill language and makes the definitions generic. It is hoped a 20% savings can be attained. The Legislative Council has done a lot of cleanup work and the bill itself allows Montana to meet well the federal regulations regarding child support.

Ken Nordtvedt, Director of the Department of Revenue said if the committee feels the federal government is putting a gun to their heads; they are probably right. He urged the committee to scrutinize the bill closely for mandated and discretionary duties and to check the fiscal implications.

Christine Deveny, League of Women Voters, presented her testimony in support of the bill (Exhibit 7).

Questions From Committee Members:

Senators Norman and Harp asked what the AFDC budget is and what impacts complying with this bill would have.

Dennis Shober, Child Support Enforcement Bureau, replied that for fiscal year 1988, the AFDC budget was \$38,326,657. 70.62% of that AFDC budget was federal funds, which is \$27,660,00. If the sanctions are imposed by the federal government, non-compliance would cost approximately \$270,000 annually at 1%, but it could go up to 5%.

Estimated case load increase would be approximately 2,900 cases annually, compared to 18,172 cases handled by 51 employees. The average monthly AFDC caseload across Montana is 9200, which breaks down to approximately 1200-1500 cases per case worker.

Senator Mazurek asked about the changes in Section 17, which is the civil liability issue.

Mr. Shober said it is the same as it has always been. The only changes are semantic and make no substantive change at all.

Senator Eck asked how the Montana caseload compares nationally.

Mr. Shober said Montana has one of the highest in the nation. The national average is about 500.

The federal government rewards Montana for being a cost effective program. Last year the total bureau costs were \$1,810,000. The total state cost was a net profit of \$656,000 from this one program because of reimbursement they get per dollar collected on a public assistant dollar, plus how cost effective the program is. The more money returned per dollar spent, the higher the incentive ratio. The net state incentive last year was \$431,000. They returned \$2.17 for every general fund dollar spent.

Senator Gage felt the bill needed a fiscal note.

Senator Norman asked if the AFDC program is cost effective.

Mr. Shober replied they are returning 11% of the AFDC funds to the general fund.

Senator Mazurek asked if page 10, line 16 would mandate the Department to provide enforcement services forever. He wondered if there would be circumstances where it should be discretionary.

Mr. McRae said this follows the federal premise that states will continue their enforcement programs and that people will continue to receive services as long as they need and want them. He said it could be discretionary without a penalty.

Senators Norman, Crippen and Gage felt there should be a Statement of Intent attached to the bill.

Closing by Sponsor: Senator Eck closed.

ADJOURNMENT

Adjournment At: 10:00 a.m.



Senator Bob Brown, Chairman

BB/jdr

min104jr.pb

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1/4/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

EXHIBIT: /
DATE: 1/4/89
BILL NO. 2/11



SENATE MEMBERS
J.D. LYNCH
CHAIRMAN
PAUL F. BOYLAN
JACK E. GALT

HOUSE MEMBERS
RALPH S. EUDAILY
VICE CHAIRMAN
REX MANUEL
ROBERT L. MARKS
JOHN VINCENT

Montana Legislative Council

State Capitol
Helena, Montana 59620
(406) 444-3064

January 3, 1989

TO: Senate Taxation Committee
FROM: Jeff Martin, Staff Researcher
RE: Services available to committee members

I will perform the following functions in support of the Senate Taxation Committee:

- (1) Draft all amendments adopted by the committee with the same bill drafting guidelines applied to the original bill, with the Chairman's authorization to make necessary changes in grammar, punctuation, word choice, and sentence structure, not affecting meaning;
- (2) draft proposed amendments upon request of individual committee members before committee action on a given bill;
- (3) draft proposed amendments to be moved on second reading upon request of any committee member;
- (4) draft statements of legislative intent or obtain drafts from state agencies;
- (5) draft committee bills;
- (6) review proposed legislation and advise the committee as to constitutionality, internal consistency, possibility of conflict with or duplication of existing provisions, and compliance with other bill drafting provisions such as grammar, punctuation, word choice, and statutory sentence structure;
- (7) attend subcommittee meetings to perform the appropriate functions listed above;
- (8) attend conference committee or free conference committee deliberations as invited to perform the appropriate functions listed above; and

SENATE

EXPL. 1

DATE 1/4/89

BILL NO. N/A

(9) assist the committee or individual member in obtaining data or any pertinent information from state or local agencies, the federal government, or other states pertaining to bills under deliberation.

(10) prepare bill summaries as needed.

My office is located on the first floor of the Capitol in Room 141 B (Legislative Council Research Division), and my telephone extension is 3595. My office hours are Monday - Friday, 10:00 a.m. - 5:30 p.m.; Saturday, 9:00 a.m. - 1:00 p.m.

I look forward to working with you this session.

M5025 9002lmga

EXHIBIT

2

DATE

4/4/89

BILL NO.

SB 30

For more information, please contact:

Simplifies States' Administration

Simplifies Motor Carriers' Administration

Reduces States' Administrative Costs

Reduces Motor Carriers' Administrative Costs

Improves Tax Collection and Audit Coverage

Averts Federal Pre-emption of Fuel Tax Administration

Endorsed by:

NGA

AAMVA

ATA

**Tax Administrators
Motor Carrier Interests**

**Ultimate Beneficiary:
The Public**

H. George Ides, President

International Fuel Tax Agreement
(206) 753-4565

Dennis Ehlert, Vice President

International Fuel Tax Agreement
(515) 281-3398

Marilyn Gaiovnik, Secretary

International Fuel Tax Agreement
(612) 296-2138

Peter Burns

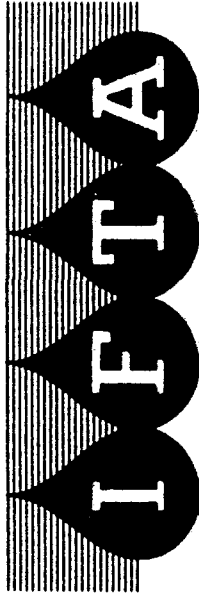
Arizona Department of Transportation
(602) 255-8340

Darwin Young

Idaho State Tax Commission
(208) 334-7500

Dwight Neeley

Oklahoma Tax Commission
(405) 521-2510



INTERNATIONAL FUEL TAX AGREEMENT

**The Base State Solution
to Fuel Use Tax
Administration**

Prepared for
International Fuel Tax Agreement by
Arizona Department of Transportation

January 1988

Interstate motor carriers, based in your state, would report and pay fuel use taxes for their total travel in all member jurisdictions only to you. All the other member states would collect your taxes and, on your behalf, would monitor the activities of those carriers, based in their states, which travel your highways.

Through a "clearing house" process, each member

License and Identification

Each member state will issue annual fuel tax licenses and decals to its home-based interstate carriers. These identification credentials will authorize the carriers to operate in all other member

Reporting

You will receive and process mileage and fuel consumption reports only from those interstate carriers based in your state. This means not only a reduction in handling costs, but you will be able to

Tax Collection and Distribution

You will collect the total taxes due for travel in member states only from those interstate carriers based in your state. Again, the reduced number of accounts will mean a reduction in your

Auditing and Monitoring

You will be expected to audit the fuel tax accounts of 25% of the interstate carriers based in your state every three years. So will all the other member states. With each state guarding the

States' Compliance

Each member state will be required to adhere strictly to the policies and procedures specified in the Agreement. Using a "peer review" process, regular periodic audits will be conducted in each

state would receive payment on all taxes and fees which are due.

You will benefit from a vast reduction in the number of motor carrier accounts you must administer. Interstate carriers will benefit from making a consolidated quarterly report of net taxes due to all member jurisdictions and issuing payment only to the home-base state.

jurisdictions. Assurance of license validity will be strengthened by home state surveillance and supervision.

intensify your review processes. Even better, other states will intensify their review of the reports of fuel consumed by their carriers in your state.

administrative cost. Monthly, each member state will make and receive appropriate payments to and from all of the other members.

interests of all the other members, the effective incidence of auditing of carriers using your highways will be substantially higher than what you might otherwise be able to afford.

member state to assure proper handling of accounts, performance of audits, and appropriate financial controls.

1982

- Congress raised issue of possible pre-emption of fuel tax collection.

1983

- Arizona, Iowa and Washington formed IFTA as pilot of base state fuel tax administration.

1984

- Arizona DOT was commissioned to study effectiveness of IFTA.

1985

- National Governors' Association formed Truck Working Group to study uniformity in motor carrier regulation.

1986

- Arizona DOT reported favorably on IFTA experience.
- Base state fuel tax administration endorsed by NGA, AAMVA and ATA.
- Minnesota and Oklahoma joined IFTA.

1987

- NGA Truck Working Group drafted a "model" base state agreement.
- IFTA adopted the NGA model.
- Idaho joined IFTA.
- An additional 12 states are preparing to join IFTA.

SENATE TAXATION

EXHIBIT NO. 3

DATE 1/4/89

BILL NO. SB 30

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SB 30

STATEMENT ON SENATE BILL 30 BY BEN HAVDAHL,
MONTANA MOTOR CARRIERS ASSOCIATION

Mr. Chairman, Members of the Committee, for the record my name is Ben Havdahl and I'm the Executive Vice President of the Montana Motor Carriers Association.

MMCA has some 350 carrier members and 95% of them operate outside of Montana, some operate in all 48 states. MMCA would like to go on record in support of Senate Bill 30, authorizing the Department of Revenue to enter into the International Fuel Tax Agreement Compact.

SB30 establishes in Montana a base state fuel use tax reporting system that would greatly simplify reporting requirements for interstate motor carriers. SB30 sets up a procedure like the International Registration Plan which now has 35 state members and allows a Montana based motor carrier to file with Montana the payment of registration fees which in turn are reported and paid by Montana to all participating states based on a percentage of miles as filed by the motor carrier. The system also works for carriers based in other states who operate in Montana. That respective base state pays Montana its share of the registration fees.

SB30 would establish a similar system for the collection, reporting and payment of motor fuel taxes i.e., diesel fuel taxes by Montana on behalf of interstate motor carriers.

Interstate motor carriers based in Montana endorse the base state approach to fuel tax registration and reporting and MMCA strongly supports SB30.

Consolidating registration, reporting, collection, verification and audit functions reduces administrative complexities and the costs of complying with

state use tax reporting requirements. A model agreement has been established for use by base states similar to the agreement in the International Registration Plan.

The proposal for establishing a Base State Fuel Use Tax Reporting procedure was one of eight recommendations adopted in 1986 by the National Governor's Association Working Group on State Motor Carrier Procedures, designed to simplify and make uniform motor carrier regulation by states.

Attached to this statement is a brief review, for the benefit of the committee, assessing other states progress and interest in a base-state fuel tax agreement, this listing was prepared in 1987.

On a final point, MMCA would respectfully ask this committee to consider an amendment to SB30 which specifically includes the Department of Highways, GVW Division, in the billing, collection and administration of diesel fuel taxes for those owners who proportionally register their fleets.

The GVW Division of the Department of Highways has the computer hardware and personnel already in the business of collecting GVW fees and are experienced in the distribution of the taxes to other states in the IRP.

Paying the diesel fuel tax to the Department of Highways in the same manner as GVW fees would be a great convenience for Montana based interstate carriers and would truly implement the "one stop shopping" concept outlined in the National Governors Consensus Agenda. Thank you.

An Assessment of State Interest

Interest in a base-state fuel tax agreement is currently very high in a surprising number of states. NGA support of the base-state concept in the fuel tax area can be credited for most of this, along with the states' perception that the industry will press for preemption if progress is not made soon. The fact that IFTA and RFTA have been in successful operation for several years is also important.

3 states do not have fuel use taxes:

- Alaska
- Hawaii
- Oregon

6 states belong to IFTA:

- Arizona
- Idaho (as of 4/1)
- Iowa
- Minnesota
- Oklahoma
- Washington

3 states belong to RFTA:

- Maine
- New Hampshire
- Vermont

6 states are expected to enact legislation in 1987 enabling them to join an agreement, and to join NAFTA (or IFTA) during the next year:

- Indiana
- Kansas
- Montana
- South Dakota
- Wisconsin
- Wyoming

2 states are expected to enact enabling legislation soon, but joining an agreement immediately is problematic:

- Arkansas (1989)
- Florida (1987)

10 states have expressed interest in joining a fuel use tax agreement in the next few years:

- Colorado
- Kentucky
- Louisiana
- Michigan
- Missouri
- Nebraska
- New York
- Tennessee
- Texas
- Utah

I. AGREEMENT PRINCIPLE:

A This multijurisdictional agreement shall be referred to, cited and known as the International Fuel Tax Agreement, referred to hereinafter as the Agreement.

B It is the purpose of this Agreement to promote and encourage the fullest and most efficient possible use of the highway system by making uniform the administration of motor fuels use taxation laws with respect to motor vehicles operated interstate.

C It is the purpose of this Agreement to enable participating jurisdictions to act cooperatively and provide mutual assistance in the administration and collection of motor fuels use taxes.

D It is the purpose of this Agreement to establish and maintain the concept of one license and administering base jurisdiction for each licensee, and to provide that a licensee's base jurisdiction will be the administrator of this Agreement and execute all its provisions with respect to such licensee.

II. DEFINITIONS:

A "Applicant" is a person in whose name the uniform application for licensing is filed with a base jurisdiction for the purpose of motor fuel tax reporting under the provisions of this Agreement.

B "Base Jurisdiction" means the member jurisdiction where qualified motor vehicles are based for vehicle registration purposes and; (1) where the operational control and operational records of the licensee's qualified motor vehicles are maintained or can be made available, and; (2) where some mileage is accrued by qualified motor vehicles within the fleet. The Commissioners of two or more affected jurisdictions may allow a person to consolidate several fleets which would otherwise be based in two or more jurisdictions.

C "Cancellation" means the annulment of a license and its provisions by either the licensing jurisdiction or the licensee.

D "Commissioner" means the official designated by the jurisdiction to be responsible for administration of this Agreement.

E "Fleet" means one or more vehicles.

F "In-Jurisdiction Miles" means the total number of miles operated by a registrant's/licensee's qualified motor vehicles within a jurisdiction. In-jurisdiction miles does not include miles operated on fuel tax trip permit or miles exempted from fuel taxation by a jurisdiction.

G "Jurisdiction" means a State of the United States, the District of Columbia or a Province or Territory of Canada.

H "Licensee" means a person who holds an uncancelled agreement license issued by the base jurisdiction.

I "Motor Fuels" means all fuels used for the generation of power for propulsion of qualified motor vehicles.

J "Person" means an individual, corporation, partnership, association, trust or other entity.

K "Qualified Motor Vehicle" means a motor vehicle or combination of vehicles used, designed or maintained for transportation of persons or property and; (1) having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 lbs. or; (2) having three or more axles regardless of weight; (3) is used in combination when the weight of such combination exceeds 26,000 pounds gross vehicle weight. Qualified motor vehicle does not include recreational vehicles.

L "Recreational Vehicle" means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

M "Registration" means the qualification of motor vehicles normally associated with a prepayment of licensing fees for the privilege of using the highway and the issuance of license plate and a registration card or temporary registration containing owner and vehicle data.

N "Reporting Period" means a period of time consistent with the calendar quarterly periods of Jan. 1 - March 31, April 1 - June 30, July 1 - Sept. 30, and Oct. 1 - Dec. 31.

O "Revocation" means withdrawal of license and privileges by the licensing jurisdiction.

P "Suspension" means temporary removal of privileges granted to the licensee by the licensing jurisdiction.

IV. APPLICATION OF THE AGREEMENT. SB 30

Q "Total Miles" means all miles traveled during the reporting period by every qualified vehicle in the licensee's fleet, regardless of whether the miles are considered taxable or non-taxable by a jurisdiction.

R "Weight" means the maximum weight of the loaded vehicle or combination of vehicles during the registration period.

S "Audit" means a physical examination of the records and source documents supporting the licensee's reports.

III. TAXATION OF MOTOR FUELS:

A For purposes of this Agreement, the taxable event is the consumption of motor fuels used in the propulsion of qualified motor vehicles, except fuel consumed which is exempt from taxation by a jurisdiction. Each member jurisdiction shall notify every other member jurisdiction of a change in tax rate at least sixty days in advance of the due date of the calendar quarterly report for which a change of tax rate is to be effective. Failure to provide such notice will relieve other member jurisdictions from being required to take extraordinary measures to implement the change. Notification shall be by registered return-receipt-requested mail. Jurisdictions not providing notification of tax rate changes as required in this section may collect additional taxes due.

B All motor fuel acquired which is normally subject to consumption tax is taxable unless proof to the contrary is provided by the licensee.

A Any person based in a member jurisdiction operating a qualified motor vehicle(s) in two or more member jurisdictions is required to license under this Agreement, except as indicated in Article IV (B). In lieu of motor fuel tax licensing under this Agreement, persons may elect to satisfy motor fuels use tax obligations on a trip-by-trip basis.

B Fuel use reporting under this Agreement shall be for qualified motor vehicles as defined in this Agreement.

C No member jurisdiction may require fuel use reporting or trip permitting for any vehicles based in any other member jurisdiction, other than qualified vehicles as defined in Article II. K.

V. LICENSING:

A A person shall file an application for licensing with the base jurisdiction. The application shall have the content specified in the Administrative Procedures Manual.

B Operational records shall be maintained or be made available for audit in the base jurisdiction.

C Tax licensing under this Agreement shall be in the name of the licensee.

D A lessor who is regularly engaged in the business of leasing or renting motor vehicles without drivers for compensation to licensee or other lessees may be deemed to be the licensee, and such lessor may be issued a license if an application has been properly filed and approved by the base jurisdiction. For leases of thirty days or more, in the case of a carrier using independent contractors, the lessor and lessee will be given the option of designating which one will report and pay fuel use tax. For motor vehicle leases of less than thirty days, the fuels use/mileage permit holder for the motor vehicle under lease will be liable for fuel use tax. No member jurisdiction shall require the filing of such leases, but such leases shall be made available upon request of any member jurisdiction. (See VIII B.)

E The base jurisdiction shall review the application and issue the license, unless the applicant has been previously licensed under this Agreement and that license is still under revocation by any member jurisdiction or the application contains any misrepresentation, misstatement, or omission of information required in the application.

F A licensee may request that its license be canceled.

G An applicant who has been denied a license or a licensee whose license has been revoked may file an appeal in accordance with Article XII.

H An applicant based in a jurisdiction not a member of this Agreement may make application for licensing to any member jurisdiction of its choosing in which miles have been accrued. The jurisdiction receiving such application may accept or reject it. If accepted, the applicant shall agree to make operational records available for audit in the jurisdiction granting such license, or pay the reasonable per diem travel expenses for auditors to audit the records at a location outside the

base jurisdiction. An applicant making ~~an~~ application in this manner shall immediately make application to the prior base jurisdiction when that jurisdiction enters this Agreement; such application will become effective the following license year.

I The base jurisdiction, for cause, may require a licensee to post a bond. Bonds may be required when a licensee has failed to file timely reports, when tax has not been remitted or when audit indicates problems severe enough that in the commissioners' discretion, a bond is required to protect the interests of the member jurisdictions.

J Failure to comply with all applicable provisions of this Agreement shall be grounds for suspension or revocation of the license issued under this Agreement.

VI. MOTOR VEHICLE IDENTIFICATION:

A The base jurisdiction shall issue a license and a decal. The license and decal shall qualify the licensee to operate in all member jurisdictions without further licensing requirements or identification requirements in regard to motor fuels use taxes.

B The license shall be valid for the current calendar year, ending December 31, and be reproduced by the licensee and placed in the qualified motor vehicles of the licensee's fleet. The decal shall be issued annually, with the licensee's identification code remaining unchanged from year to year, until the license is canceled or revoked. A decal shall not be transferred between motor vehicles without authorization from the base jurisdiction.

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11/1/89
5830

C The form and content of the license and decal shall be specified in the Administrative Procedures Manual - except that the decal shall not be so designed to require vehicle specific data.

D The base jurisdiction may collect its statutorily authorized fees for issuance of the license and decal issued to licensees based in its jurisdiction.

E A renewal license and decals for the following calendar year will be issued upon application if the license has not been revoked or canceled, all reports have been filed and all motor fuels use taxes, penalties and interest due have been paid.

F Improper use of the license or the decal by the licensee may be cause for revocation of the license.

VII. TAX-PAID PURCHASES:

A Jurisdictions may require payment of motor fuels taxes on retail sales of motor fuels delivered into the fuel tank which propels the motor vehicle.

B In order for the licensee to obtain credit for tax-paid retail purchases, a receipt or a credit card receipt must be retained by the licensee showing evidence of such purchases and tax having been paid by the licensee directly to the applicable jurisdiction or at the pump. No member jurisdiction shall require evidence of such purchases beyond what is specified in the Administrative Procedures Manual.

C In order to obtain credit for tax paid retail purchases, the receipts must identify the motor vehicle into which the motor fuel was placed.

D Jurisdictions may require tax payments on fuel delivered into bulk storage or withdrawn from bulk storage. Motor fuels placed into the fuel tank of a qualified motor vehicle from a licensee's own bulk storage and upon which tax has been paid to the jurisdiction where the bulk fuel is located shall be considered as tax-paid purchases. The licensee's records must identify the quantity of fuel taken from the licensee's own bulk storage and placed in its qualified motor vehicles.

E Receipts for tax-paid purchases may be in either the name of the lessee or lessor.

VIII. RECORDS REQUIREMENTS:

A Every licensee shall maintain records to substantiate information reported on the quarterly tax report. Record requirements shall be specified in the Administrative Procedures Manual.

B Every licensee shall preserve the records for a period of four years from the due date of the return or the date filed, whichever is later. Such records shall be made available upon request by any member jurisdiction.

qualified motor vehicles within each member jurisdiction; (4) gallons of taxable motor fuel consumed within each member jurisdiction; (5) total number of gallons of tax paid fuel purchased within each member jurisdiction; and (6) additional information required by the Administrative Procedures Manual; said manual will follow the requirements of the NATA Uniform Form.

D Reports not filed by the due date shall be considered late and any taxes due considered delinquent. The base jurisdiction may assess the licensee a penalty of fifty dollars or ten percent of delinquent taxes, whichever is greater, for failure to file a report, or for filing a late report, or for underpayment of taxes due, which shall be retained by the base jurisdiction. In accordance with the jurisdiction's law, a base jurisdiction may use lien provisions in order to collect on taxes which have been delinquent for a period over 30 days. Such provisions shall include appropriate notice and due process requirements.

E The base jurisdiction shall assess interest on all delinquent taxes due each jurisdiction except as provided in Article III.B. Interest shall accrue at a rate equal to the federal rate published each October to become effective for the following calendar year. Interest shall be calculated from the date tax was due for each month or fraction thereof until paid. All interest collected on late taxes shall be remitted to the appropriate jurisdiction or jurisdictions.

F The commissioner of the base jurisdiction may waive the penalties, but not the interest charges, authorized by this Article if it is determined there was reasonable cause.

G Licensees against whom a penalty has been levied may file an appeal.

IX. REPORTING:

A The licensee shall file a calendar quarterly report with the base jurisdiction and shall pay all taxes due to all member jurisdictions with one check to be made payable to the base jurisdiction and included with the return. Payment by certified check shall be required only from any licensee who is currently required to post bond in guarantee of fuel tax payment. The tax report shall be for the previous calendar quarter. Tax reports are required, even though no operations were conducted during the reporting period. The timely filing of the quarterly report, along with the payment of taxes due, to the base jurisdiction for all member jurisdictions discharges the responsibility of the licensee for the filing of reports and the payment of individual taxes to all member jurisdictions.

B The report filed by the licensee shall be due on the last day of the month immediately following the close of the quarter for which the report is due. Reports postmarked with U.S. or Canadian Postal Service postmark by the due date or otherwise verified as timely delivered, as specified in the Administrative Procedures Manual, shall be considered timely filed.

C The report shall cover the previous calendar quarter and shall include the following information; (1) total miles traveled during the reporting period by qualified motor vehicles in the licensee's fleet, regardless of whether the miles are taxable or nontaxable by a jurisdiction; (2) total number of gallons of motor fuel used by the licensee in operation of qualified motor vehicles; (3) in-jurisdiction miles traveled by

H The licensee may include fuel purchases and miles traveled by qualified motor vehicles operated exclusively intrastate.

I Notwithstanding the quarterly reporting requirements in paragraphs IX.A, IX.B and IX.C, any member jurisdiction may allow annual reporting by licensees based in that jurisdiction whose tax payment liabilities are deemed insufficient to warrant quarterly reporting, as outlined in the Administrative Procedures Manual, provided no objection is received from other member jurisdictions.

X. BASE JURISDICTION ACCOUNTING:

A The base jurisdiction shall maintain the record for licensee based in that jurisdiction. The record shall include a copy of tax reports, applications and other documents as specified. Tax reports shall be maintained for a minimum of four years.

B The base jurisdiction shall maintain a record of miles traveled, gallons of fuel used, taxes due, tax credits, and payments for each licensee for each member jurisdiction. The record shall include the results of audits performed by the base jurisdiction and other jurisdictions.

C Each member jurisdiction shall maintain records of funds received from and transmitted to other jurisdictions. Such records shall identify licensees and remittance from each licensee.

D A uniform account numbering system shall be adopted and used by all member jurisdictions as specified in the Administrative Procedures Manual.

E Each member jurisdiction shall forward all funds received to the appropriate jurisdictions once each month; all funds received by the last day of the month shall be forwarded by the last day of the following month. Reports of no activity are required even if no funds are collected. The fund transmittal shall include a remittance listing for the jurisdiction, containing information specified in the Administrative Procedures Manual.

XI. AUDITING:

A The President shall appoint an audit committee. Members shall be jurisdiction audit supervisors nominated by member jurisdiction commissioners. The Audit Committee shall have the responsibility of developing and maintaining an Audit Procedures Manual which will contain guidelines, forms and audit methods in accordance with accepted audit practices, including criteria for sampling procedures.

B The Audit Procedures manual shall include guidelines on audit file selection criteria. Those guidelines will relate to various attributes that may be indicative of noncompliance. Proof of operation information, such as vehicle observations, enforcement citations, etc., from all member jurisdictions will be used by the base jurisdiction in testing audit attributes. This proof of operation information will also be used in the conduct of motor carrier audits to determine if specific trips associated

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with the proof of operations information are accounted for in carrier records.

C The Audit Procedures Manual, and subsequent changes thereto, will be approved and adopted by the member jurisdictions in accordance with Article XVII. All member jurisdictions must be in compliance with this manual. Any changes in the Audit Procedures Manual shall not be effective with less than one-year notification, unless unanimously approved for an earlier date.

D The base jurisdiction shall audit its licensees on behalf of all member jurisdictions. This shall not preclude another jurisdiction from also auditing a licensee. In that event, that jurisdiction shall pay all audit expenses.

E In the event that the licensee's records are not located in the base jurisdiction and the base jurisdiction must send auditors to the place records are kept, the base jurisdiction may require the licensee to reimburse the base jurisdiction for reasonable per diem and travel expenses of its auditors as authorized by law.

F Upon completion of an audit, the commissioner of the base jurisdiction shall notify the licensee and member jurisdictions in which mileage was accrued of the audit findings, in the format and on forms specified in the Audit Procedures Manual.

G If any licensee fails to make records available upon proper request or if any licensee fails to maintain records from which the licensee's true liability may be determined, a base jurisdiction may, thirty days after requesting in writing that the records be made available or receiving notification of the insufficient records, determine a tax finding for each jurisdiction based upon the commissioner's determination of the tax

liability of such licensee. The commissioner may make a determination from information previously furnished by the licensee, if available, and any other pertinent information that may be available to the commissioner.

H No member jurisdiction may re-audit a licensee unless: (1) within six months after the completion of an audit of such licensee by the base jurisdiction, said member jurisdiction appeals the result of said audit to the base jurisdiction, (2) said member jurisdiction examines the workpapers and findings produced by said audit, and (3) said member jurisdiction finds result of said audit to be in error. Such re-audit by a member jurisdiction must be based exclusively on the audit sample period utilized by the base jurisdiction in conducting such audit, unless reasonable cause can be shown by either party why a different sample period is necessary. In addition, such member jurisdiction shall pay all re-audit expenses.

XII. APPEAL PROCEDURES:

A A licensee or applicant may appeal an action or audit finding issued by the commissioner of any member base jurisdiction by making a written request for a hearing within thirty days after the service of notice of the original action or finding. If the hearing is not requested within thirty days in writing, the original finding or action is final.

B The hearing shall be held expeditiously but may be continued for reasonable cause being shown by either party. The base jurisdiction shall give at least twenty days' written notice of the time and place of the hearing.

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C The base jurisdiction will notify the appellant of the findings of fact and ruling on the appeal. In the case of an audit, if the licensee is still in disagreement with the original finding, the licensee may request any or every jurisdiction to audit the licensee's records. Each jurisdiction to whom a request was made may elect to accept or deny the request. Each jurisdiction electing to audit the licensee's records will audit only for its own portion of the licensee's operations. The licensee shall make records available at the office of the jurisdiction or at a place designated by the jurisdiction or pay reasonable per diem and travel expenses associated with conducting an audit at the licensee's place of business.

D The appellant may appear in person and/or be represented by counsel at the hearing and is entitled to produce witnesses, documents or other pertinent material to substantiate the appeal.

E Further appeal of any jurisdiction's finding will proceed in accordance with that jurisdiction's laws.

XIII. CREDITS AND REFUNDS:

A A licensee shall receive full credit or refund for tax paid on fuel used outside the jurisdiction where the fuel was purchased. Such a credit, when not refunded, shall be carried over to offset liabilities of the licensee in future reporting periods until the credit is fully offset or until eight calendar quarters shall have passed since the end of the calendar quarter in which the credit accrued, whichever occurs sooner. The licensee shall receive on request a cash refund of any accumulated credits. The base jurisdiction shall allow credits and issue

refunds for all of its licensees on behalf of all member jurisdictions.

B Refunds need not be made for an overpayment for which records are no longer required under this Agreement. A request for refund shall extend the records requirement date until the refund is made or denied.

C As a condition to issuance of a motor fuel tax license under this Agreement, an applicant will authorize on the application that refunds may be withheld if the licensee is delinquent on fuel use taxes due to any member jurisdiction.

D Credits may be refunded to the licensee only if all motor fuels taxes, penalty and interest governed by this Agreement due every other member jurisdiction have been paid, unless the unpaid amount is under proper appeal procedures.

E Refunds determined to be properly due shall be paid within ninety days after receipt of a request for payment from a licensee. If not so paid, interest shall accrue at the federal rate published each October to become effective for the following calendar year. Interest shall be calculated from the date refund was due for each month or fraction thereof until paid.

XIV. MEMBERSHIP:

A As a condition for entry into this Agreement, a jurisdiction must employ sufficient auditors to assure that at least 25% of the licensees based in the jurisdiction and licensed under

this Agreement will be audited at least once every three (3) years.

B As a condition for entry into this Agreement, a jurisdiction shall agree to permit an operations review to be performed to determine if the jurisdiction is in compliance with the terms, conditions and requirements of this Agreement. The expense of the operations review shall be paid by the member jurisdictions conducting the review. Such review shall be performed after one year of membership and once every three years thereafter unless more frequent review is requested by vote of three-fourth of the member jurisdictions

C A jurisdiction applying for membership to this Agreement shall submit the prescribed adopting resolution to the repository for balloting by member jurisdictions.

D A jurisdiction applying for membership in this Agreement shall agree to submit an annual report to the repository for distribution to each member jurisdiction. The Administrative Procedures Manual shall specify the contents of this report.

E The adopting resolution and attachments shall include the following: (1) The estimated number of licensees based in the jurisdiction which could be licensed under this Agreement. (2) The number of audit personnel who will be dedicated to auditing under this Agreement. (3) The number of supervisory and clerical personnel who will be dedicated to the receipting, processing and disbursing of funds received under the provisions of this Agreement. (4) A copy of the enabling statute authorizing the jurisdiction to enter into this Agreement and to abide by the obligations of the Agreement. (5) A statement of the taxable fuels and the tax rates for these fuels.

F A jurisdiction shall not enter this Agreement without submitting documentation that it can comply with audit

policies and procedures of the Agreement and shall also be required to maintain compliance with these policies and procedures.

G Membership shall be granted unless the adopting resolution receives more than one negative vote from member jurisdictions. Failure of jurisdictions to submit their votes on the ballot for new membership within 120 days after receipt shall be deemed to constitute approval of the application for membership. Ballots shall be mailed, registered return-receipt-requested, to the commissioner of each member jurisdiction by the repository.

H Membership shall become effective no sooner than two complete calendar quarters after approval of the application unless the new and all current members agree to an earlier effective date which shall be stated in the adopting resolution.

I A member may withdraw from the Agreement by giving at least two full calendar quarters written notification to all member jurisdictions. Each member jurisdiction shall notify each of its licensees of the withdrawal at least one full calendar quarter prior to the withdrawal. However, cancellation by one jurisdiction shall not affect this Agreement between other jurisdictions. All evidence of motor fuels licensing issued under this Agreement by the canceling jurisdiction shall be valid until the effective date of cancellation.

XV. EXPULSION OF A MEMBER:

A Any member jurisdiction may seek expulsion of another member jurisdiction. A jurisdiction initiating the request for expulsion of another member must submit an expulsion resolution in writing for balloting by the member jurisdictions.

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The resolution for expulsion shall contain detailed reasons for seeking expulsion and examples of noncompliance with this Agreement, if applicable.

B The resolution for expulsion shall be sent to the jurisdiction named in the resolution to prepare a response. This response shall be submitted to all members within 60 days and may contain rebuttal, extenuating circumstances, corrective action initiated or planned or any other information pertinent to the matter.

C Failure of a member jurisdiction to submit its vote on the ballot for expulsion within 120 days after receipt shall be deemed to constitute a vote against the resolution for expulsion. The vote of each jurisdiction on the resolution for expulsion shall be in writing. Adoption of the resolution for expulsion shall require ratification by all member jurisdictions except the member jurisdiction at issue.

VI. AMENDMENTS AND INTERPRETATIONS:

A Any member jurisdiction may propose amendments to this Agreement.

B The proposed amendment shall be placed in writing and circulated to the member jurisdictions by the repository. The comment period shall be at least ninety days from the date of distribution and shall include at least one open meeting of the commissioners. At the conclusion of the review period, the proposed amendment may be distributed for balloting. Each ballot shall contain the proposed amendments and comments submitted in writing by member jurisdictions.

C Adoption of an amendment to this Agreement requires ratification by three-fourths of the member jurisdictions. Proposed amendments which have not received sufficient affirmative votes to determine ratifications within six months from the date ballots were distributed shall be void. Any jurisdiction not voting within six months on a proposed amendment shall be considered to have voted affirmatively.

D Amendments shall not be effective for at least one year from the date of notice of adoption. For an amendment to be effective at an earlier date requires concurrence by all member jurisdictions.

E Decisions regarding interpretations of any question at issue relating to this Agreement shall be reached by agreement of three-fourths of the member jurisdictions using the procedures specified for adoption of amendments in this article.

F Votes on amendments or interpretations must be cast by the commissioner or a delegate named in writing by the commissioner.

XVII. ADOPTION OF ADMINISTRATIVE PROCEDURES:

A The President shall appoint an Administrative Procedures Committee who shall be jurisdiction supervisors nominated by member jurisdiction commissioners. The President shall also appoint an industry advisory committee to advise and assist both the Administrative Procedures Committee and the Audit Committee. The Administrative Procedures Committee shall have the responsibility of developing and maintaining an Administrative Procedures Manual, which shall contain procedures and forms. Except as otherwise

provided in this Article, the Administrative Procedures Manual, and subsequent changes to it, shall be approved and adopted using the procedure in Article XVI. All member jurisdictions shall comply with the manual.

B Proposed administrative procedures shall be placed in writing and distributed by the repository to the commissioner of every member jurisdiction for review. The review period shall not exceed sixty (60) days.

C At the conclusion of the review period, the repository shall distribute the proposed procedure for balloting.

D Adopted procedures shall become a part of this Agreement and shall be placed in writing in the Administrative Procedures Manual.

E Unless otherwise specified, the effective date of an adopted procedure shall be sixty days after the final date for voting.

XVIII. REPOSITORY: ✓

A A repository shall be selected by majority vote of the member jurisdictions and shall perform the duties as specified.

B The repository shall keep all jurisdictions apprised of the current status of the Agreement.

C The repository shall perform activities which are attendant to the balloting procedures for Article XIV, XV, XVI and XVII. The repository shall maintain and file the record of all votes under the provisions of the above articles.

D The duties of the repository and the compensation of these services shall be specified by contract.

XIX. ADMINISTRATION:

A The member jurisdictions shall convene an annual IFTA meeting for the purpose of administration of this Agreement. ✓

B The member jurisdictions shall elect by majority vote of those present at the annual IFTA meeting of the member commissioners an Executive Committee to be comprised of a president, vice-president and secretary/treasurer, for the administration of this Agreement. This Executive Committee may be expanded subject to the majority vote of the members.

C The term of the officers shall be one year. ✓

D The duties of the Executive Committee shall include the following: (1) Appointing chairpersons for the Administrative Procedures Committee, Audit Committee and other committees. (2) Appointing the operations review team. (3) Appointing members to standing committees and ad hoc committees. (4) Other duties as specified by the members. ✓

E To help defray some of the expenses associated with administration of the Agreement, a membership fee shall be levied on every jurisdiction. The fee shall be annual and be based upon a budget adopted by majority vote at the annual IFTA meeting. The fee shall be prorated for each member jurisdiction based upon the number of licensees based in the jurisdiction. ✓

F In the event of a vacancy in the office of the president, the vice-president shall assume the office. In the event of a vacancy in the other office, the president shall appoint a member commissioner to fill the term of office.

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NEW SECTION. Section 5. Collection of Fuel Tax. The Department of Revenue and the Department of Highways shall establish procedures under the international fuel tax agreement to provide for the billing, collection, and administration of fuel taxes for those owners who proportionally register their fleet vehicles through the Department of Highways under 61-3-711 through 61-3-733.

(Renumber the following sections.)

MONTANA WOMEN'S LOBBYIST
FUND

P.O. Box 1099

Helena, MT 59624

406/449-7917

SENATE TAXATION # 6
EXHIBIT NO 6
DATE 1/4/89
BILL NO SB 42

Mr. Chairman and committee members,

My name is Brenda Nordlund and I am a lobbyist for the Montana Women's Lobby, formerly Women's Lobbyist Fund..

We support any efforts to make child support enforcement more effective and efficient and less onerous for obligees. Child support and support enforcement ~~are~~ one of our top priorities.

We support Senate Bill 42. The provisions of Section 3 of this bill are particularly important as they enhance child support enforcement service for non-public assistance obligees and automatically extend such services for obligees upon termination of public assistance. Each measure may help to ensure that fewer women and children will be relegated to poverty as a result of non-payment of child support.



SENATE PROPOSITION

EXHIBIT NO. 7

DATE 1/4/89

NO. SB 42

Senate Bill 42
Senate Taxation Committee
January 4, 1989
LWVM Contact: Chris Deveny
442-2617

Mr. Chairman, members of the committee, my name is Christine Deveny, here today representing the League of Women Voters of Montana, and here to support Senate Bill 42.

In keeping with its historic involvement with the issue of child welfare, the National League of Women Voters recently completed an extensive study of the unmet needs of our nation. The study results emphatically illustrate the inability of our nation's current social welfare system to address the problems of inadequate income, food, housing and health care. It draws attention to the sad facts that nearly one in four children in the U.S. live below the poverty line, and that only one-third of all single mothers receive the full amount of their court-awarded child support. Households headed by single mothers make up a large sector of the poor in this country and in Montana, and are the families most dependant on regular child support payments.

While revising Montana's laws regarding child support to conform with new federal welfare regulations, Senate Bill 42 takes a positive step toward ensuring that non-custodial parents meet their financial responsibilities toward the support of their dependant children, regardless of whether those children are or have been recipients of public assistance.

The League strongly supports Section (3) of SB 42, allowing the Department to provide child support enforcement services to persons who are no longer, or have never been, recipients of public assistance. Not only will these provisions ensure that regular child support payments continue, but they will also reduce the need for additional public assistance that could be required if child care support payments ceased or became erratic as a result of no enforcement. Public assistance monies saved would then be available for others in need.

The League supports decreasing the response time for administrative procedures, and the use of temporary support orders. These provisions will help speed the process of obtaining child support payments within a reasonable time frame, without abridging the rights of those who wish to question or protest child support obligations or requirements.

The League recommends passage of Senate Bill 42.

