

MINUTES

**MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION**

CONFERENCE COMMITTEE ON SB 205

Call to Order: By **CHAIRMAN WALTER MCNUTT**, on April 16, 1999 at 8:03 A.M., in Room 331 Capitol.

ROLL CALL

Members Present:

Sen. Walter McNutt, Chairman (R)
Sen. John Hertel (R)
Sen. Jon Tester (D)
Rep. John Rose, Chairman (R)
Rep. William Rehbein (R)
Rep. Joe Tropila (D)

Members Excused: None.

Members Absent: None.

Staff Present: Jeff Martin, Legislative Services Division
Phoebe Olson, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: None., 4/16/1999
Executive Action: SB 205

EXECUTIVE ACTION ON SB 205

SENATOR MCNUTT opening comments. He said the committee needed to discuss how to address the amendments from the House and the Senate.

REPRESENTATIVE ROSE asked if the status quo, which Senator Doherty amended, was the way it had been operating for years. **SENATOR MCNUTT** replied yes. The amendment took the additional one cent off and it is the way the refinery has operated for 20 years or more.

SENATOR TESTER asked when the bill left the Senate there was a four cent tax with a three cent rebate. **SENATOR MCNUTT** replied yes. **SENATOR TESTER** asked when the House received the bill, they rebated the whole thing. **SENATOR MCNUTT** responded the House tax put the additional cent on it. The House Tax Committee passed an amendment and it went back up. The House Floor stripped the amendment by the House Tax committee plus the original cent off of the bill.

SENATOR TESTER asked for an explanation. He asked after the House got done with the bill, there was a four cent tax and a four cent rebate back for military fuel. **SENATOR MCNUTT** replied it excluded military fuel all together. **SENATOR TESTER** asked as it stood there was a four cent tax on military fuel with no rebate back. **SENATOR MCNUTT** replied no there is no tax on military fuel.

Jeff Martin said the tax goes back in once the fund balance reaches a million dollars.

SENATOR MCNUTT asked if it was for military fuel. **Jeff Martin** replied the way he understood it. He read the temporary section 1. He said effective on the occurrence of the contingency, it doesn't have the exemption when it goes back down to two cents. **SENATOR MCNUTT** asked for further explanation. **Jeff Martin** referred to page 1, line 25 and page 2, line 10. The way he read it is the four cent would not apply but when it goes to two cents it would.

SENATOR MCNUTT asked when it would go to two cents. **Jeff Martin** replied whenever the fund reaches a million dollars.

SENATOR MCNUTT asked for a further explanation. He said what he was explaining was not in the bill. **Jeff Martin** referred to the 1993 session when the aviation fuel tax was first increased. He read section 17 of chapter 642 which provided that this section

was effective July 1, 1993 and terminated on the first day of the month, sixty days after the balance of the air nautical loan account after the deposits unless refunds reaches a million dollars. That is why there are all of the temporary sections in the bill.

SENATOR MCNUTT asked what the statues of the fund was. **Debbie Alke, Air Nautics Division**, said in 1993 when the aviation fuel tax was increased by two pennies. The second penny was to go into a grant account and the money is paid by general aviation. The Montana refinery is exempt from the second and third tax. Scheduled passenger carrying airlines are eligible for a rebate. The third penny creates a loan account and the statute reads when the deposit in the account reach one million dollars, the penny would sunset. The tax would then go down to either two or three depending on what happened in this session but the refinery is exempt from the second and third pennies. They have never paid it and never will pay it.

REPRESENTATIVE TROPILA asked what are they trying to do then.

SENATOR MCNUTT said that is why he wanted to get a consensus from the committee. He asked if they want to look at the bill as the way it left the Senate which would leave the refinery in the position they were and general aviation and air carriers would pay an additional one cent a gallon on fuel. He explained why the bill came about. He recommended the committee to put the bill the way it was when it left the Senate.

SENATOR TESTER asked what does the one cent amount to in actual dollars. **SENATOR MCNUTT** said a year ago, an estimate of \$19,000 dollars.

REPRESENTATIVE REHBEIN asked for a response for the refinery.

Dexter Busby, MT Refining Company, said their records show the money should be about \$19,000 although the Fiscal Note shows \$28,000.

REPRESENTATIVE REHBEIN asked if the one cent would generate \$19,000 more towards the funds by taking the one cent away would it save the company \$19,000 in taxes. **SENATOR MCNUTT** replied "yes" it will. He said the way the bill reads the military would fly for free in the state.

SENATOR TESTER said the question is if the tax on the military really a collectible fee. **SENATOR MCNUTT** said the refinery is paying it.

REPRESENTATIVE ROSE asked for further clarification from the Department of Transportation. **Bob Turner, DOT**, explained how the DOT bills the Federal Government.

REPRESENTATIVE TROPILA asked if they have been billing the Federal government. **Bob Turner** replied they just started to bill the government.

SENATOR MCNUTT asked who pays the tax on fuel which is refined in Montana and sold to the military. **Bob Turner** said the federal contracts say the state and local taxes cannot be included in the contracts but can be included as a line item. He entered a handout, **EXHIBIT(ccs83sb0205a01)**. He referred to page 4 of the handout. He said he did not know how the refinery had been billing the Defense Department. **SENATOR MCNUTT** said the tax cannot be listed on the bill as an included cost of the fuel. It is a separate line item. **Bob Turner** referred to section f, page 4 and page 8.

REPRESENTATIVE TROPILA asked for a response from the Montana Refining Company. **Leland Griffin, MT Refining Company**, said they have had the contracts for many years. He said when the Defense Fuel Supply evaluates a bid they include the tax in their evaluation. They are not against the bill.

SENATOR HERTEL referred to page 8. He asked if the refinery is getting reimbursed. **Leland Griffin** gave an example to explain.

REPRESENTATIVE REHBEIN said he understands when the refinery submits a bid to the Federal Government, they look at the true cost of the fuel, and then they add the tax on. He asked if the Federal Government will accept the bid on the true cost of the fuel and then pay they tax and the state reimburses the tax.

Leland Griffin replied no and explained.

SENATOR MCNUTT asked when was the last time a Wyoming, North Dakota, or Colorado refinery got the bid excluding military fuel which is being moved into the state. **Mr. Griffin** said it was in the 1990's, either 1993-1995.

{Tape : 1; Side : A; Approx. Time Counter : 33}

SENATOR TESTER asked if the tax is collectible on instate companies. He said it is not collectible on out-of-state refineries because they don't have control over them. He asked if the Air Guard in Great Falls bid fuel and the fuel came out of Colorado, does the state collect any tax on the fuel. **Bob Turner** said he does not feel it is correct. He explained. **SENATOR TESTER** said the tax has not been collected. He asked if DOT is

going to collect the tax in the future. **Mr. Turner** said in the past there has been a time when the fuel was hauled over from Washington by the military themselves and the tax was not collected.

SENATOR TESTER asked if there was any way to collect tax on fuel coming out of Canada. **Mr. Turner** said he felt they would be subject under our laws if the fuel came to rest in Montana.

Motion: **Rep. Rose** moved that **SB 205 BE ACCEPTED AS IT CAME OUT OF THE SENATE.**

Discussion:

REPRESENTATIVE REHBEIN said he wished to accept the bill in the form it came out of the House Tax Committee but will support Representative Rose's motion.

SENATOR TESTER said he will support Representative Rose's motion but he thinks it is critical the Department of Revenue collect the tax.

SENATOR HERTEL said it is a proven fact that the small airports need this bill.

REPRESENTATIVE TROPILA said all defense fuel supply centers out-of-state are exempt for the tax.

SENATOR MCNUTT said he agreed there needs to be a serious look at the issue.

SENATOR TESTER asked if the Department of Revenue or the Department of Transportation that gets the money. **SENATOR MCNUTT** replied the Department of Transportation as he understands.

REPRESENTATIVE ROSE asked how long has it been going on that Montana has not been collecting the tax. **Bob Turner** replied he could not answer the question. **Leland Griffin** said the military has had four or five out-of-state contracts in the 1990's.

Vote: Motion **carried 5-1 with Representative Tropila voting no.**

ADJOURNMENT

Adjournment: 8:42 A.M.

SEN. WALTER MCNUTT, Chairman

Phoebe Olson, Secretary

WM/PO

EXHIBIT (ccs83sb0205aad)