

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1419

2007 HOUSE FINANCE AND TAXATION

HB 1419

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1419A

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 29, 2007

Recorder Job Number: 2139

Committee Clerk Signature

Micki Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1419.

Representative Owens: I need to talk to you a little about Railroad's today. **(See Attachment**

#1) The fact being a classic symbol of American Industrialism, Railroads in rural areas provide a critical means of transporting freight, particularly Agricultural commodities to larger Cities.

With the passage of the Stagger Act in 1980 and it's implementation, many regulatory restraints on the RR industry for removing has provided the industries with increased flexibility to adjust their rights and teller their services. As a result of more than 20 years after the deregulation the RR industry has been in a much healthier financial state, however the deregulation as a result of the Stagger Act paved a way for them to more easily close spurs in rail lines across the Country. The result; are longer travel times from producer to the deportation point for the produce with these heavier trucks increasing a greater stress on the roads across our State. So essentially what has been happening over this period of time is the taxpayers of North Dakota have been subsidizing the RR industry in the transporter of goods to get to the RR. This shows you 1980, the Rail system in ND, (refers to his graph), and what's most interesting is since 1980 till now, all of this red is gone, it doesn't exist. So for all of those producers in that area, they have to travel further to reach the rail lines. They do that with

motor carriers and their trucks and what not. That's putting a greater stress on the infrastructure of the State on the highway system. But the RR's were allowed to get rid of these non profitable lines without having to support the new transportation mechanism, these road ways. So all this Bill does is ask for a little assistance from the Railway Industry in maintaining this infrastructure that not only helps get the products from the producers to the rail to the market, but provides the Rail lines with income as well. This Bill would actually seek a franchise tax for the right of doing business in this State. It's no different than tax currently being used in Maine. However Stagger and 4-R's did greatly restrict the State's rights in taxing RR's. But it was mainly at the point of ad valorem tax. As such, a number of States have created personal property tax against Rail cars, franchise, the right to do business where there is so much per tonnage along a mile, the number of miles in this State or it's just based on the number of miles of track in the State, or they charge you annually based on the number of highway and rail crossings. So this Bill seeks to create a partnership between North Dakota taxpayers who've been maintaining these roads and the RR's who benefit from these roads being used and has the RR's contribute a little to that along with a portion of that tax is to maintain some of the spurs in the State and to help us from losing anymore.

Representative Froelich: I agree with you wholeheartedly, we lost 2 spurs. The point being, I looked at the fiscal note and I think I know what's going to happen. You're just going to turn around and then put the burden back on people that are using the this, the farmers, the shippers, do you think that will be a fair assumption?

Representative Owens: Yes, more than likely that's what will happen. We did get some good news however, on Friday, STP did rule against the percentage of fuel surcharges. They have to be done based on mileage and you can't double dip anymore. So that's going to be a major

improvement in the fuel surcharge that our producers have to pay, and that was just released Friday the 26th.

Representative Headland: On the fiscal note it talks about an inconsistency with section 1, subsection B; have you figured out how that problem can be addressed and fixed?

Representative Owens: Yes, what happened was when I first got the Bill drafted back from Legislative Counsel, it was written as 1-B is written now. I took it back to them to write it as 1-A, 1-C, and 1-D and they skipped 1-B in changing it back, so yes, 1-B does need to be amended to read as C & D does.

Representative Vig: Does this affect Amtrak up north or not?

Representative Owens: I'm not sure.

Rep. Robin Weisz: I'm just here to lend my support to 1419. I really do believe that we have an issue where we have a business that is critical to our State but this has affected fiscal cause that have affected the public policy of our State of North Dakota. And that policy is the fact that they have abandoned, as you can see by the charts, it's a tremendous amount of line because it was more cost affective to them to consolidate the mainline because there are captive players in the game that's going to come to them anyway but , it's not like they had to provide service out there, we're going to get us ??? Well, who picked up the tab? The State of North Dakota obviously picked up the tab for that and has caused a dramatic increase in the use of our highways, County & Township roads, where the commodities move 5-10 miles 30 years ago, now they're traveling 30-100 miles. So the State has picked up a tremendous amount of the cost. And what this Bill is doing is saying, Ok, we're going to set some tax on you to help pay for the road but also to help trying to keep the what little bit we have left.

Representative Brandenburg: I'd like to stand in support of this Bill. These are important issues that we need to talk about. The Service Transportation Board ruled that fuel surcharges

have to be based on mileage and BNSF which did change because I think that a lot of the work that we did last session and there were lots of people involved with that made those changes that also affects all of the other RR's.

Terry Traynor, Assistant Director of NDAC: We want to stand up and support this Bill.

(See Attachment #2)

Russ Hanson, Associated General Contractors of ND: We would just like to echo the comments of Mr. Traynor and particularly his comment in paragraph 4 of his testimony about the purchasing power and the 25% he refers to. That true statement of the construction industry and it's reflected in the number of projects that the DOT is delaying this year and future years that are becoming increasingly high dollar amounts for the reasons that have been explained previously, I will echo those.

Chairman Belter: Any other testimony in support of 1419? Is there any opposition?

John Olson, representing BNSF Railway: (See Attachment #3) testified in opposition.

Representative Schmidt: How many acres of land do RR's own today compared to what they owned 50 years ago in ND?

John Olson: I can't answer that question. All I can tell you is that we have, the RR's, about 3,500 miles of track in this State at the current time.

Tom Kelsh, on behalf of the Canadian Pacific Railroad: We of course oppose this Bill and for the reasons I think that John stated. As far the one question that Rep. Schmidt had; Northern Pacific had the southern route and that was a land grant by the Great Northern. What they've done with it I can't tell you.

Representative Froelich: We used to have the RR's way down in the southwestern part of the State. From my recollection, I don't have a RR map, but they were in Milwaukee, NP. Is that still managed by them?

Tom Kelsh: Milwaukee went bankrupt, and part of that property was taken over by BN. I'm not that familiar with BN, I represent the CP RR.

Representative Froelich: When they pulled those RR's out from down there, they then turned around and sold the land back, which they had gotten basically for free and sold it back to the farmers around them.

Vice Chairman Drovdal: We've heard testimony that this is against the putting tax on would be in violation of federal law and yet we've got some testimony that others takes and puts a tax on the RR's specifically, is it the because of the type of tax that's against federal law or these other States in violation of federal law?

Tom Kelsh: I can try to find out for you.

John Risch, represents the UTU: testimony in opposition. First of all I would like to say that RR's in general don't pay enough taxes just like other large corporations. This Bill is an incredibly bad idea because they're not only on taxes, the RR's uniquely and not like the competitors that actually take the money and puts it in the Highway Trust Fund then in fact subsidizes there competition. We at the RR Industry being of worker involved in my job, depending on the RR's success, it's just not equitable at all to take money from the RR's and subsidize their competition. I just want to comment briefly about how taxes between the two modes of pay. Trucker's of course pay a great deal to fuel taxes and then they pay property taxes on their buildings and terminals and such. RR's on the other hand pay property taxes on their buildings and such but, is then required to build their own infrastructure. They build their own tracks and then don't pay a fuel tax because certainly they're not operating on the highways. The great discouragement between these two weigh their taxes are is that RR's have to pay property taxes on their rail lines whereas no one pays property taxes on roads and highways. So the RR's just by virtue of the current tax policy are a competitive disadvantage

against the Trucking Industry. And this Bill would make things much, much worse. In addition to that when the interstate highway system was built in the 60's and 70's, much of the money used for the highways system was not fuel tax dollars, it was general tax dollars and that had a tremendous impact on the RR Industry and caused many RR's across the country including the Rock Island Mine and Milwaukee RR to go out of business, they just couldn't compete with Truckers and this new publicly financed interstate highway system.

Chairman Belter: Any questions? Any more testimony in opposition? Any neutral testimony?

Marcy Dickerson, State Supervisor of Assessments for the Tax Dept. (See Attachment #4) I won't read the first part of my testimony because it refers to the problem that's item B, which has already been addressed and explained.

Chairman Belter: Any questions? If not we'll close the hearing on 1419.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1419 *B*

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2369

Committee Clerk Signature *Mickie Schmidt*

Minutes:

Chairman Belter opened the hearing on HB 1419. He asked Rep. Owens if he was ready with this Bill. Rep. Owens stated that he is working on an amendment right now. Chairman Belter closed the hearing on HB1419.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 1419 C

House Finance and Taxation Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2466

Committee Clerk Signature

Mickie Schmidt

Minutes:

Chairman Belter opened the hearing on HB 1419 asking Rep. Owens if he was ready with his HB 1419?

Representative Owens: This is the hog house Bill. After a discussion with the General Counsel and the Tax Commissioner's office, he is convinced no matter what we do there will be a challenge. He's been dealing with the Railroads for a very long time and has a lot of corporate knowledge. (Read the amendment) **(See attachment #1)**

Representative Weiler: Did you run this by the RR folks?

Representative Owens: No, I did not.

Representative Weiler: I understand some Hog House amendments are ok. I have a problem because this particular amendment is not going to have a hearing, and I'm very uncomfortable with that.

Representative Owens: The way the bill is currently written, it actually would stand the test of four R's and everything if we had, it's just ironic because here in this State we don't have personal property tax. If we did have it, they wouldn't be able to challenge it. Since we don't have it, it's an easy push.

Representative Froseth: A dollar a ton would be a dollar for every 33 bushels of wheat that goes down the track.

Chairman Belter: I think they're 100 ton.

Representative Froseth: So, \$33.00 per ton times 100 would be \$3300.00 per car?

Representative Weiler: Yes.

Representative Owens: I apologize, one thing I did want to do is get up to the PFC for the committee because I know that part is concerned particularly, yours and everyone else's, we have now heard from the committees, is the cost associated the belief that will raise some rates. But there is some information with PFC, quite frankly me and several others believe that the way they do their rates is totally different as we've seen in the past. It has nothing to do with that. They don't believe this will affect their rates per say. Are we right or wrong? I'm not going to sit here and tell you I know that for a fact, but that's what we believe.

Vice Chairman Drovdal: What's the effective date on this?

Representative Owens: Yes, that was the part that I left off. It would December 31, 2006.

Representative Headland: The way I figure it, if a RR car holds 3500 bushels and it takes 33 bushels to make a ton, then you'll only have \$106.00 of tax on every car.

Representative Owens: An estimate that came from our Tax Dept. during the 2005 session, the dollar tax for all RR's is \$31 million per biennium.

Representative Pinkerton: I'm not sure what the RR revitalization fund is?

Representative Owens: It is designed to establish grants to maintain matching fund grants to help the RR's maintain the Railways so that we quit losing some of these spurs, so they'll be getting some of it back in reality.

Chairman Belter: Is there currently a revitalization fund or are you creating that?

Representative Owens: I believe it says to the creation of, yes.

Chairman Belter: What are your wishes on the amendments?

Representative Schmidt: Did you talk to the RR's on these amendments?

Representative Owens: No.

Representative Schmidt: We had them in our committee in Transportation and they said if you pass this Bill, we are immediately going to go out and raise all fees for our receipts, all grain elevators in ND.

Chairman Belter: If there's no motion on the amendments, I would entertain a motion on the Bill.

Vice Chairman Drovdal: I move a Do Not Pass.

Representative Vig: Second it.

Chairman Belter: Any discussion? If not will the clerk read the roll; 12-y; 1-n; 1-absent;

Representative Vig will carry the Bill.

FISCAL NOTE
 Requested by Legislative Council
 01/16/2007

Bill/Resolution No.: HB 1419

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1419 imposes a railroad excise tax, the revenue from which is distributed to the highway fund and the railroad improvement fund.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

There appears to be an inconsistency in Section 1, item 1b, which makes it impossible to calculate the fiscal impact of the bill. The two railroads that can be discussed both fall into the item 1b calculation. We cannot provide any information on any other railroad that operates in the state due to confidentiality provisions.

If item 1b is amended to correspond to items 1a,c, and d, the annual tax - based on 2005 statistics - would be approx. \$9.61 million for BNSF and \$1.18 million for Soo Line.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/26/2007

HB 1419

#1

1-31-07 pm

1419

Section 1. A new chapter to title 57 of the North Dakota Century Code is created and enacted as follows:

Safety inspection fee. Railroad corporations transporting commodities by rail originating, terminating or transported through the state are subject to a railroad and market road safety inspection fee to provide for the repair of farm to market roadways transporting to and from railway loading and unloading points, the establishment of a railroad revitalization fund, and to establish an effective date.

1. The Tax Commissioner shall levy an annual assessment on railroads in the amount of \$1.00 per ton of cargo transported by the railroad originating, terminating or transported through the state during the immediately preceding calendar year.
2. Payment is due each April 15 for the pervious year. Payments will be provided to the Tax Commissioner's office for distribution. The Tax Commissioner will distribute the proceeds from this Safety Inspection Fee at a rate equal to 50 percent into a railroad revitalization fund and 50 percent into the Highway Distribution Fund.

Date: 1-31-07 pm
Roll Call Vote #: 1419

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House _____ Finance & Tax _____ Committee

Check here for Conference Committee

Legislative Council Amendment
Number _____

Action Taken Do Not Pass

Motion Made By Rep. Drovdal Seconded By Rep. Vig

Representatives	Yes	No	Representatives	Yes	No
Chairman Belter	✓		Rep. Froelich	✓	
Vice Chairman Drovdal	✓		Rep. Kelsh	✓	
Rep. Brandenburg	✓		Rep. Pinkerton	✓	
Rep. Froseth	✓		Rep. Schmidt	✓	
Rep. Grande			Rep. Vig	✓	
Rep. Headland	✓				
Rep. Owens		✓			
Rep. Weiler	✓				
Rep. Wrangham	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment Rep. Vig

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 31, 2007 5:23 p.m.

Module No: HR-21-1721
Carrier: Vig
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1419: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1419 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1419

57-40.7 Railroad Excise Tax:

To enact 57-40.7 to provide for an excise tax for commodities transported by railway in, out and through the state, and to establish an effect date.

57-40.7-01 Railroad Excise Tax. Railroad corporations with operation in the state or subject to an excise tax.

1. The excise tax on railroads is computed by comparing the amount of the gross receipts for commodities within, out or through North Dakota for the prior year with the net railway operating income for that year.

2. Rates: Are determined by comparing the amount of the gross transportation receipts for the prior calendar year with the net railway operating income for that year:

-When the net railway operating income does not exceed 10% of the gross transportation receipts, the tax is 1.00% of the gross transportation receipts.

-When the net railway operating income exceeds 10% of the gross transportation receipts but does not exceed 15%, the tax is 1.25% of the gross transportation receipts.

-When the net railway operating income exceeds 15% of the gross transportation receipts but does not exceed 20%, the tax is 1.75% of the gross transportation receipts.

-When the net railway operating income exceeds 20% of the gross transportation receipts but does not exceed 25%, the tax is 2.50% of the gross transportation receipts.

-When the net railway operating income exceeds 25% of the gross transportation receipts, the tax is 3.00% of the gross transportation receipts.

3. When a railroad lies partly within and partly outside the state, or is operated as a part of a line or system extending beyond the state, the tax is equal to the same proportion of the gross transportation receipts in the state. Railroad companies must file a return with the State Tax Commissioners Office each year on or before April 15. The tax must be paid in equal installments on the next June 15, September 15 and December 15.

57-40.7-02. Allocation of Revenue. All moneys collected and received under this chapter must be transmitted quarterly by State Tax Commissioners Office to the General Highway Fund.

Establish a Railway Improvement fund

Funds to be divided equally between Railway Improvement Fund and Transportation Highway Fund

Excise Tax – Railroads – This one is under the 57 section.

To enact and amend an excise tax for commodities transported by railway in, out and through the state, and to establish an effect date.

The excise tax is levied at the rate of 5.5 cents for each train mile operated in the state and \$100 for each public grade crossing on the line in the state. Reports for the preceding calendar year are due to the Tax Commissioner Office each April 15. Taxes are due on the date of reporting and are delinquent if paid on a quarterly basis.

The fiscal note provided for this tax is questionable. The two major rail lines in the state consist of only 2450 miles @ 5.5 cents this generates only 134.75 per year plus 4186 public crossings @ \$100 each equaling \$418,600 annually.

This represents a total of \$418,734.75 annually.

I believe that the tax department figured 5.5 percent tax, which we could do would have to rewrite the suggested language providing their total minus public crossings (Tax office didn't have this information available at the time) equal to \$35,069,201.

Supervision Fee – Railroads – PSC again.

To enact and establish a supervision fee for commodities transported by railway in, out and through the state, and to establish an effect date.

Railroads doing business in North Dakota and subject to the control and jurisdiction of the Department of Transportation must, on or before July 1, pay an inspection or supervision fee equal to 2 cent per 1000 ton miles operated in North Dakota with a minimum fee of \$100.

Only 4 railroads provide this information, so the tax department could not provide an estimate. It was suggested by the PSC this information was available from the Upper Great Plains Transportation Institute.

49-13-01 Railroad and Market Road Safety Inspection Fee.

To enact a new section of 49-13 and establish a Railroad and Market Road Safety Inspection Fee for commodities transported by railway in, out and through the state, to provide for the repair of farm to market roadways transporting commodities to and from railway loading and unloading points, the establishment of a railroad revitalization fund, and to establish an effect date.

The Public Service Commission may levy an annual assessment on railroads in the amount of not more than ____ cent per ton of cargo transported by the railroad into, out of, or through the state during the immediately preceding calendar year.

Payment is due each April 15 for the previous year. Payments will be provided to the Tax Commissioner Office for distribution. The Tax Commissioner will distribute the proceeds from this Safety Inspection Fee at a rate equal to 25 percent into a railroad revitalization fund and 75 percent into the Highway Distribution Fund.

For every .01 equals \$315,912.47

.05 = \$1,579,562.35

.10 = \$3,159,194.70

.20 = \$6,318,249.40

1.00 = \$31,591,247.00

Franchise Tax – Railroads PSC section 49 again.

To enact and establish a Railroad Franchise Tax for commodities transported by railway in, out and through the state, and to establish an effect date.

A franchise tax is levied on railroads operating in North Dakota at the rate of 5% of the net railway operating income of the preceding year. Net railway operating income is the total railway operating revenues from all sources, less cost of maintenance, operation, depreciation and amortization, tax accruals, uncollectible revenues and rentals for equipment and joint facility rents. Amounts paid by the state or any subdivision, pursuant to contract for passenger service, are not included as operating revenue. To determine the measure of the tax, net railway operating income shall be allocated to North Dakota in the proportion that the number of miles of track in North Dakota bears to the total miles of track.

Every railroad company is required, on or before April 15 of each year, to file a statement with the State Tax Commissioner's Office showing its operating revenues and its net operating income for the preceding year. Franchise tax is due on June 15 of each year to the State Tax Commissioner's Office.

The Tax Commissioner's office fiscal note suggests this will generate \$6,917,899 annually.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11203 of the Revenue and Taxation Code is amended to read:

11203. (a) "Private **railroad** car" includes any **railroad** rolling stock intended for the transportation of any persons, commodity, or material, operated on the railroads of this state, which car is owned by a person other than a **railroad** or the National **Railroad** Passenger Corporation. The car's Association of American **Railroad**'s, or successor organization's, reporting mark shall be rebuttably presumed to be the mark of the car owner.

(b) "Private **railroad** car" does not include:

(1) Freight train or passenger train cars owned by **railroad** companies which are used or subject to use under the ordinary per diem agreement common to all railroads.

(2) Freight train or passenger cars handled under mileage or through line contract arrangements between **railroad** companies.

(3) Cars owned by or leased to any **railroad** company operating in this state, or by any **railroad** company operated as a part of the same **railroad** system as the company operating in this state, and used by the **railroad** company in the operation, maintenance, construction, or reconstruction of its property and assessed and taxed in this state as a part of the property of a **railroad** company operating in this state.

(4) Passenger train cars that are privately owned and for which the owner pays the **railroad** a fee, regardless of how calculated, for transporting the cars.

(5) Any **railroad** rolling stock for which a **railroad** or the National **Railroad** Passenger Corporation is the lessee. For a leased car, the car's Association of American **Railroad**'s, or successor organization's reporting mark is rebuttably presumed to be the mark of the lessee.

SEC. 2. Section 11206 is added to the Revenue and Taxation Code, to read:

11206. "Class of private **railroad** cars" means the Association of American **Railroad**'s, or successor organization's, one letter alpha component of its car type codes as contained in that organization's Exhibit D of the UMLER specification manual or successor exhibit.

SEC. 3. Section 11251 of the Revenue and Taxation Code is amended to read:

11251. Private **railroad** cars operated upon railroads into, out of, or through this state shall be assessed and taxed by the board as prescribed in this part.

SEC. 4. Section 11252 of the Revenue and Taxation Code is amended to read:

11252. The tax imposed in this part is in lieu of all other state, county, municipal, or district taxes, according to value, upon private **railroad** cars and their appurtenances.

SEC. 5. Section 11291 of the Revenue and Taxation Code is amended to read:

11291. The value of private **railroad** cars shall not include the car owner's tools, shop equipment, materials, supplies, or other like items of personal property customarily kept or maintained at fixed locations for use in repairing, improving, servicing, or operating

the cars.

SEC. 6. Section 11292 is added to the Revenue and Taxation Code, to read:

11292. In making the assessment, the board shall value the cars by class based on the owner's acquisition cost, less depreciation. The depreciation shall be computed for these enumerated Association of American **Railroad's**, or successor organization's, car type groups on a straight-line basis with the indicated depreciable life schedules with a maximum of 80 percent depreciation allowed.

(a) Stack cars (alpha S): 22 years minus the age at acquisition.

(b) Lightweight, low profile intermodal cars (alpha Q): 22 years minus the age at acquisition.

(c) Flat cars (alpha F): 22 years minus the age at acquisition.

(d) Conventional intermodal cars (alpha P): 22 years minus the age at acquisition.

(e) Vehicular flat cars (alpha V): 22 years minus the age at acquisition.

(f) All other cars (all other alphas): 25 years minus the age at acquisition.

(g) Betterments: the remaining depreciable life of the car to which the betterment is applied.

Acquisition cost is defined as the expenditures required to be capitalized by generally accepted accounting principles.

SEC. 7. Section 11293 of the Revenue and Taxation Code is amended to read:

11293. In making an assessment, the board shall determine the average number of each class of private **railroad** cars physically present in the state in the calendar year immediately preceding the fiscal year in which the tax is imposed upon the basis of car days. The board shall multiply the average number so determined by the value of a car of that class as determined under Section 11292 and use the product for the assessment of the cars.

SEC. 8. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

New York

§ 183. Franchise tax on transportation and transmission corporations and associations.--1. (a) The term "corporation" as used in this section shall include an association, within the meaning of paragraph three of subsection (a) of section seventy-seven hundred one of the internal revenue code (including a limited liability company), a publicly traded partnership treated as a corporation for purposes of the internal revenue code pursuant to section seventy-seven hundred four thereof and any business conducted by a trustee or trustees wherein interest or ownership is evidenced by certificates or other written instruments.

(b) For the privilege of exercising its corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in this state in a corporate or organized capacity, or of maintaining an office in this state, every domestic corporation, joint-stock company or association formed for or principally engaged in the conduct of canal, steamboat, ferry (except a ferry company operating between any of the boroughs of

