

From: Danny Varat <DannyVarat@scstatehouse.gov>
To: Catherine McNicollCatherineMcNicoll@scstatehouse.gov
Date: 3/28/2017 1:35:38 PM
Subject: Re: Gas Tax

Feb. 26, 2014

[S. 940 \(Word version\)](#) -- Senators Young, Massey, Setzler and Peeler: A BILL TO AMEND SECTION 4-10-470, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE EDUCATION CAPITAL IMPROVEMENTS SALES AND USE TAX, SO AS TO ALLOW A COUNTY THAT DOES NOT COLLECT A CERTAIN AMOUNT IN ACCOMMODATIONS TAX TO IMPOSE THE SALES TAX SO LONG AS NO PORTION OF THE COUNTY AREA IS SUBJECT TO MORE THAN TWO PERCENT TOTAL SALES TAX.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator BRYANT proposed the following amendment (BH\940C007.BH.DG14):

Amend the bill, as and if amended, SECTION 1, Section 4-10-470, by adding an appropriately lettered subsection at the end to read:

/ () If the Education Capital Improvements Sales and Use Tax is imposed pursuant to subsection (B), then beginning with the property tax year in which the tax is first imposed, the applicable county auditor must grant each taxpayer a nonrefundable business personal property tax credit which, in the aggregate, equals the estimated annual revenue from the tax imposed pursuant to subsection (B), as evidenced by the estimated costs of the education capital improvements listed in the referendum. The amount of the credit must be granted on a pro-rata basis based on the amount the taxpayer otherwise owes for business personal property taxes imposed by the school district when compared to the total amount owed for business personal property taxes by the school district. After the granting of the business personal property tax credit, if any amounts remain, the county auditor must grant each taxpayer paying school debt millage a nonrefundable school debt tax credit, which in the aggregate, equals the remaining excess amount. The amount of the credit must be granted on a pro rata basis in the same manner as the business personal property tax credit. /

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the amendment.

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Point of Order

Senator YOUNG raised a Point of Order under Rule 24A that the amendment was out of order inasmuch as it was not germane to the Bill.

Senators BRYANT and SETZLER spoke on the Point of Order.

The PRESIDENT overruled the Point of Order.

Senator HAYES objected to further consideration of the Bill.

From: Catherine McNicoll
Sent: Tuesday, March 28, 2017 11:04 AM
To: Danny Varat
Subject: RE: Gas Tax

[Regarding the First instance that you sent, Senator Malloy- Amendment 48 to S. 424](#)

First of all this was amending a concurrent resolution which does not have the force and effect of law, therefore I suspect would be held to a lower standard for one subject germaneness.

Second, shortly before the ruling on Amendment 48 there was a ruling on Amendment 20. Amendment 20 which changed the conversation from the 10th Amendment of the Bill of Rights to the 1st Amendment of the Bill of Rights was found to not be germane to the resolution by McConnell. While Amendment 48 which deals with the 10th and 14th Amendments to the Bill of Rights was found to be germane. I suspect that Amendment 48 was found to be germane based on two things, one - it maintained the connection to the tenth amendment which was the original subject of the resolution, and two - the 10th and 14th amendments to the Bill of Rights are inherently connected by the Doctrine of Incorporation, which was the process through which the courts used the 14th amendment to apply the bill of rights to states which erode some of the force of the 10th Amendment.

Essentially McConnell and Malloy were showing off their knowledge of the constitution.

Conclusion: This is not a situation that can be analogized going forward.

Best Regards,
Catherine McNicoll
Director of Legal & Legislative Affairs
Lieutenant Governor's Office
CatherineMcNicoll@SCStatehouse.gov
803-734-5292 (phone)

From: Danny Varat
Sent: Tuesday, March 28, 2017 10:25 AM
To: Catherine McNicoll
Subject: Re: Gas Tax

I'm sending those journal entries from his account by mistake. Please reply to here.

From: Catherine McNicoll
Sent: Tuesday, March 28, 2017 8:39:51 AM
To: Danny Varat
Subject: Re: Gas Tax

I'm assuming you want a hard copy!?

Catherine McNicoll
Sent from iPhone

On Tue, Mar 28, 2017 at 8:12 AM -0400, "Danny Varat" <DannyVarat@scstatehouse.gov> wrote:

Please get us a couple of copies of Jeffersons Manual

From: Catherine McNicoll
Sent: Monday, March 27, 2017 11:37 PM
To: Danny Varat
Subject: Re: Gas Tax

I would say maybe, oversight and governance are not necessarily the same thing.

Catherine McNicoll
Sent from iPhone

From: Danny Varat <dannyvarat@scstatehouse.gov>

Sent: Monday, March 27, 2017 5:27 PM

Subject: Gas Tax

To: Catherine McNicoll <catherinemcnicoll@scstatehouse.gov>

This is in the Finance Committee amendment. Doesn't it make a governance amendment automatically germane?

SECTION 13. The General Assembly finds that all the provisions contained in this act relate to one subject as required by Section 17, Article III of the South Carolina Constitution in that each provision relates directly to or in conjunction with other sections to the subject of infrastructure financing and **oversight**.