

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 19, 1977

The forty-seventh meeting of the Taxation Committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Mathers at 8:05 a.m.

ROLL CALL: Roll call found Sens. Towe, Brown, Roskie absent, excused.

The following witnesses were present:

Gerald F. Raunig	Mont. Auto Dealers Assoc.
Norris Nichols	Dept. of Rev.
Rep. Ed Lien	
Larry Huss	Mont. Truck-Stop Operators
Ray Havig	Bairs Truck Stops
Charles Cornett	BPC Service Corp.
Walter Bazzanella	Walt's Travel Center, Inc.
Harry H. Allen	Husky Truck Stop, Helena

CONSIDERATION OF HOUSE BILL 108: Rep. Severson presented the bill which he said was at the request of the Department of Revenue. He said the bill lengthens the time from 10 to 20 days for appeals on tax assessments, decisions would be sent to the D.R. rather than the STAB, and lengthens from 5 to 15 days the time in which to give notice of the appeal.

The Chairman asked for other proponents or opponents and there being none, permitted questions from the committee.

DISPOSITION: Sen. Goodover Moved HB108 Be Concurred In. Motion carried unanimously.

CONSIDERATION OF HOUSE BILL 169: Rep. Harrington, Dist. 88, said this bill deals with state approved drivers' ed programs and the autos used. He said some county assessors are asking school districts to change the title of the cars used in the programs and the car then becomes a used car, subject to property tax for the dealer. The dealers provide these cars free to the school districts and when the car is returned they are sold as demonstrators. He introduced Mr. Ronig who gave his support to the bill. He said there have been problems in some districts the last couple of years. The cars are returned with perhaps 2 to 5 or 6 thousand miles on them and they are sold as demonstrators, however some counties are insisting they be labeled as used cars and the car dealers then are taxed for them as used cars. He said he believed the bill would take care of the problems.

Chairman Mathers asked for other proponents or opponents and there were none, so the committee asked questions of the witnesses and it was pointed out that if HB193 were to pass, this bill would not be necessary, therefore the committee will hold the bill until they learn the disposition of HB193.

CONSIDERATION OF HOUSE BILL 637: Rep. Lien introduced this bill in the absence of Rep. Seifert and said it gives the fuel dealers tax credits for evaporation, spillage, shrinkage, etc. He said the bill had been amended in the House down to 1% from 2% of the first 6¢ in tax. First witness as proponent was Mr. Huss who called on some of the fuel dealers present. Mr. Cornett stated he operated a truck stop and detailed the shrinkage he sustains in a year's time. He said over 1% of total volume was lost in shrinkage and this amounted to a total of 34,243 gallons from June of '75 to December of '76, approximately 1,800 gallons per month and \$175 tax loss, average.

Exhibit #1 was distributed showing the actual figures being referred to by the witnesses who were special fuel dealers.

Mr. Allen spoke next saying fuel dealers had many records to keep as every sale had to be reported to the state, the records being retained for 5 to 7 years. The costs of keeping those records are about \$130 per month he stated. Mr. Bazzanella was the next witness and gave figures showing his actual losses due to shrinkage. He said he had been in business for many years and kept accurate records and often the state would inspect these records if they found a discrepancy in some of the user's reports they received. So, he stated, they are keeping records for the state and feel they should be compensation in some manner. Mr. Havig said he operates 7 truck stops across the state and although he did not wish to repeat previous testimony, he compared special fuel dealers with gasoline dealers and said the tax is placed on that fuel at the time of purchase, nor are they required to keep records as are the diesel fuel dealers are. He said their losses due to the conditions mentioned previously are approximately \$2,000 per month.

Mr. Huss then distributed Exh. #2. He added that he hoped the committee understood the amount of record-keeping that is required of special fuel dealers and the money this costs the dealers. Mr. Nichols also gave input into the discussion, saying the problem had been brought to their attention last April. He agreed that the state does rely on the dealers' records to verify users' records.

A number of questions were asked of the witnesses concerning the terms used in the bill and it was established by the witnesses, including Don Allen, that the diesel fuel is pumped through the lines at 60° and most often stored in underground tanks at a 40° temperature. The change in temperature is the chief reason for the shrinkage and all the witnesses' shrinkage figures seemed to be similar, in proportion.

Following their discussion the members agreed to vote on the bill.

DISPOSITION: Sen. Watt Moved HB637 Be Concurred In. The motion carried unanimously.

The committee then briefly discussed HB324 which had gone out of committee March 18. Sen. Turnage Moved the Committee Reconsider their Action of March 18, on HB324. His motion was carried by a 5-1 vote, Sen. Goodover voting "no". Reasoning for the reconsideration being that a number of the committee who had expressed an in-

terest in the bill, were absent at the time of the voting.

Mr. Tippy then distributed a copy of the proposed bill, to be SB446, Exh. #3, which the committee requested he draft, to remove the penalty provision on early repayment of loans which Sen. Murphy had proposed to be included in HB73.

Sen. Turnage Moved the bill, SB446, be introduced as a Committee Bill. Sen. Goodover seconded the motion and it carried unanimously.

Chairman Mathers then asked the committee their feelings on SB211 in regard to the amendments previously made. The bill had problems, he said, and doubted its constitutionality in its present form. It is hoped the bill may be brought up in committee again on Monday, as well as HB722 which also deals with the loss of mineral rights. There may be testimony in regard to the two bills, he stated, and wished the committee's approval before he opened the meeting to this discussion.

Following this discussion, meeting adjourned.

W.Mathers
WILLIAM MATHERS CHAIRMAN

ROLL CALL

SENATE TAXATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/19/77

SENATE *TAXATION* COMMITTEE

BILL 108,169,637

VISITORS' REGISTER

DATE

#2

TRUCK STOP OPERATORS FUEL TAX OPERATING LOSSES

1.	Charles Cornet	East and West Husky Parkway	Billings
A.	Accounting costs	\$324.00/mo	
B.	Taxes Pd. on Shrinkage	\$175.72/mo	\$499.72
C.	Loss on Retail Sales	<u>\$876.57/mo</u>	
D.	Savings from ^{1%} of ^{OC} 2% Deduction	<u>\$1376.29/mo</u>	<u>120.00</u> \$364.41/mo
2.	Harry Allen	Husky Truck Stop	Helena
A.		\$131.00/mo	
B.		\$ 24.24/mo	\$155.24/mo
C.		<u>\$110.73/mo</u>	
D.		<u>\$265.97/mo</u>	<u>32.00</u> \$96.98/mo
3.	Walt Bazanella	Walts Husky Truck Stop	Butte
A.		\$104.00/mo	
B.		\$155.00/mo	\$259.00/mo
C.		<u>\$727.35/mo</u>	
D.		<u>\$986.35/mo</u>	<u>120.00</u> \$364.73/mo
4.	Les Stevenson	2-37 Texaco Truck Stop	Havre
A.		\$120.00/mo	
B.		\$ 18.75/mo	\$138.75/mo
C.		<u>\$ 86.65/mo</u>	
D.		<u>\$225.40/mo</u>	<u>45.60</u> \$136.82/mo
5.	Ray Havic	Bair's Truck Stops	10 locations
A.		\$1005.00/mo	
B.		\$253.11/mo	\$1258.11/mo
C.		<u>\$953.42/mo</u>	
D.		<u>\$2211.53/mo</u>	<u>407.50</u> \$1223.43/mo

#3

BILL NO.

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT TO DECLARE PREPAYMENT PENALTIES UNENFORCEABLE IN CERTAIN REAL ESTATE MORTGAGES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. There is a new section in Title 52, chapter 2, R.C.M. 1947, that reads as follows:

Prepayment penalties not enforceable in certain mortgages. (1) Any mortgage held by an institutional lender executed after July 1, 1977, may be satisfied prior to the date on which satisfaction is required by the mortgage agreement without liability for any prepayment penalty. A prepayment penalty is against public policy and unenforceable in the case of mortgages executed after July 1, 1977.

(2) As used in this section, "institutional lender" means a bank, savings and loan association, credit union chartered by an agency of a state, provincial, or national government, or an insurance company.

Section 2. Findings as to classification. The legislature finds grounds for classifying institutional lenders and other lenders into separate categories for purposes of defining the powers of a mortgagee in that the

1 Mortgage terms offered by an institutional lender are more
2 frequently a contract of adhesion in which the mortgagor has
3 less bargaining power.

-End-

STANDING COMMITTEE REPORT

March 19 19 77

MR. **PRESIDENT**

We, your committee on **TAXATION**

having had under consideration **HOUSE** Bill No. **108**

Respectfully report as follows: That **HOUSE** Bill No. **108**

BE CONCURRED IN

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STANDING COMMITTEE REPORT

March 19 19 77

MR. PRESIDENT.....

We, your committee on TAXATION.....

having had under consideration HOUSE... Bill No. 637...

Respectfully report as follows: That..... HOUSE... Bill No. 637...

BE CONCURRED IN

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