

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-

3-3/19

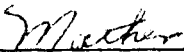
terest in the bill, were absent at the time of the voting.

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.

  
\_\_\_\_\_  
WILLIAM MATHERS CHAIRMAN



COMMITTEE

DATE \_\_\_\_\_

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

#1  
 DATE OPENING PURCHASES CLOSING TOTAL AVAILABLE NET GAIN OR LOSS TOTAL TAX OBLIGATION FUEL COST ON SHIPWAGE  
 INVENTORY GALLONS INVENTORY GALLONS FOR SALE GALLONS 3 GAL  
 GALLONS GALLONS GALLONS

7/5 June	18616	180935	34499	165052	165133	.23+	381+	\$37.15*	\$15.24+	\$185.31+
July	34499	140220	15510	168509	169647	.67+	1138+	110.96+	45.52+	553.49+
Aug	15510	176752	24257	168005	170233	1.32+	2228+	217.23+	89.12+	1083.63+
Sept	24257	188457	22804	189910	189986	.04-	76-	7.41-	3.04-	36.96-
Oct	22804	229012	27995	223821	213267	2.48-	5554-	541.52-	222.16-	2701.30-
Nov	27995	202757	19622	211130	206686	2.44-	4444-	433.29-	177.76-	2161.43-
Dec	19622	207841	25776	201687	196775	2.43-	4912-	478.92-	196.48-	2389.05-
776 Jan	25776	187664	27376	186064	183226	1.52-	2838-	276.71-	113.52-	1380.32-
Feb	27376	177290	17785	186881	180571	3.37-	6310-	615.23-	252.40-	3068.99-
Mar	17785	207182	14090	210877	200947	4.70-	9930-	968.19-	397.20-	4829.65-
Apr	14090	191790	17894	187986	190811	1.45+	2828+	275.44+	113.00+	1374.00+
May	17894	187973	18884	186983	186236	.39-	747-	72.83-	29.88-	363.32-
June	18884	186543	13671	191756	191533	.11+	223+	21.74+	8.92+	108.46+
July	13671	191820	24478	181013	182242	.67+	1229+	119.83+	49.16+	597.75+
Aug	24478	160720	22553	162645	165365	1.67+	2720+	265.20+	108.80+	1322.93+
Sept	22553	162284	17500	167337	165619	1.02-	1718-	167.51-	68.72-	835.58-
Oct	17500	193579	21362	194217	191804	1.24-	2413-	235.27-	96.52-	1173.61-
Nov	21362	189235	20486	190611	190529	.04-	82-	8.00-	3.28-	39.88-
Dec	20486	185136	29700	176222	170259	3.38-	5963-	581.39-	238.52-	2900.22-
				3350706	3516169	.96-	34243-	3338.71-	1369.72-	16654.74-

Monthly Averages  
 186879 gal 183061 gal 1802 gal 175.72 72.09 \$876.57

ADDITIONAL COSTS  
 10 Hours accounting time monthly to compile diesel report ---- 10hr. X \$3.00/hr. = \$30.00  
 3Hours per day (cashier) accounting for non tax diesel sales 90hr. X \$3.00/hr. = \$270.00  
 checking meters and compiling daily diesel reports.  
 8 Hours per month miscellaneous accounting such as checking meters to purchases, \$ 24.00  
 separating and posting non taxable diesel, etc. --- 3hr. X \$3.00/hr = \$ 9.00  
 \$3324.00

186879 gal X \$.0975 = \$18220.70 Avg Monthly State Tax  
 \$18220.70 X purposed 2% = \$ 364.41 Tax on Tax

#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	\$876.57/mo	
	<u>\$1376.29/mo</u>	
D. Savings from <sup>1 1/2% of .06</sup> 2% Deduction		<del>\$364.41/mo</del> <sup>120.00</sup>
  
2. Harry Allen      Husky Truck Stop      Helena
 

A.	\$131.00/mo	
B.	\$ 24.24/mo	\$155.24/mo
C.	\$110.73/mo	
	<u>\$265.97/mo</u>	
D.		<del>\$96.98/mo</del> <sup>32.00</sup>
  
3. Walt Bazanella      Walts Husky Truck Stop      Butte
 

A.	\$104.00/mo	
B.	\$155.00/mo	\$259.00/mo
C.	\$727.35/mo	
	<u>\$986.35/mo</u>	
D.		<del>\$364.73/mo</del> <sup>120.00</sup>
  
4. Les Stevenson      2-37 Texaco Truck Stop      Havre
 

A.	\$120.00/mo	
B.	\$ 18.75/mo	\$138.75/mo
C.	\$ 86.65/mo	
	<u>\$225.40/mo</u>	
D.		<del>\$136.82/mo</del> <sup>45.50</sup>
  
5. Ray Havic      Bair's Truck Stops      10 locations
 

A.	\$1005.00/mo	
B.	\$253.11/mo	\$1258.11/mo
C.	\$953.42/mo	
	<u>\$2211.53/mo</u>	
D.		<del>\$1223.43/mo</del> <sup>407.50</sup>

#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

~~DO PASS~~

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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

~~DO PASS~~