

HOUSE TAXATION COMMITTEE

46th Legislature

The meeting was called to order in Room 434, at 8:30 a.m. February 8, 1979, by the chairman, Representative Herb Huennekens. All members were present as was Randy McDonald, staff attorney.

House Bills 465, 466, and 471 were to be heard.

Representative Dennis G. Nathe, District #1, Sheridan County, explained HB 465 of which he is sponsor. See copy of his explanation attached. He thinks "Fair is fair!"

HOUSE BILL

465                    W. Boyce Clarke, Independent Insurance Agents of Montana,  
                      Helena, reiterated Rep. Nathe's comments, and supports HB 465.

Terry Meagher, representing the State Auditor's Office, said his office takes no position on this bill and are present to answer questions.

John Cadby, Montana Bankers Association, Helena, said many trade associations have private insurance plans and it is difficult to pay taxes when Blue Cross doesn't have to. They are in direct competition with Blue Cross and Blue Shield who do not have to pay any premium tax. In order to compete effectively, they try to operate more efficiently and at less cost and still provide the same amount of benefits that are provided.

There were no opponents.

Rep. Nathe closed saying some of the private carriers have been functioning in a position where the competition has had an undue advantage over them.

Questions from the committee:

Rep. Underdal asked if this would be reflected on the premiums - where will the advantage go? Rep. Nathe thinks they would be reflected in decreased premiums.

Mr. Cadby said non-profit trust accounts are administered in their office and after paying costs and insurance companies and taxes and whatever is left over is paid back to employees as a dividend.

Rep. Huennekens wanted to know why the Blues get a tax break. Mr. Clarke advised they are organized under different sections of the law and because of their so-called non-profit structure, are not required to pay tax and this has been a thorn in the side of private companies. They provide insurance but do not recognize they are truly in the insurance business. They pay no tax now and never have. They did offer to pay a fee in lieu of taxes to offset the expense of their activities through the complaints department of the state.

Rep. Huennekens asked why they do not come under the same circumstances. Why the fee in lieu of taxes? Mr. Cadby explained those companies simply send a check to the state for this tax.

Rep. Johnson asked where the premium tax is received. Mr. Clarke said the tax is collected and paid by the company and it is included in the premium and remitted to the insurance department. All receipts go into the general fund - \$12,656,000 was paid to the general fund, insurance department and fire marshals. This includes all forms of life insurance. Mr. Clarke further stated that large amounts of this premium tax paid to the state go back to cities for payment of firemen's pensions.

Rep. Bertelsen asked Mr. Clarke if it is his feeling that this workmen's compensation fund is in direct competition with your type of insurance. Yes.

Rep. Huennekens explained you cope with an inequity whereby private insurance firms in the private sector pay a very definite tax on premiums whereas such firms as the Blues do not pay a tax on the premium but voluntarily submit payment in lieu and the other competition is in workmen's comp with the state not levying a tax on the premiums.

Rep. Fabrega asked where health companies invest their assets. Mr. Clarke explained health service corporations are regulated in a very limited degree and have no restrictions on their investments or how they diversify. He thinks primarily they invest in Montana-type securities.

Rep. Bertelsen asked if Mr. Clarke felt that private industry could satisfy that need better and more equitably than is being done. Mr. Clarke said both workmen's compensation division of Montana and private sector operate under the same laws. All their claims are approved by workmen's compensation and so if there are agreements with them, there must be some connection.

Rep. Les Hirsch, District #52, Miles City, sponsored House Bill 466 at the Request of the Department of Revenue. He explained this bill deals with license taxes for four different companies.

HOUSE BILL            James Madison, Administrator of Miscellaneous Tax Division  
466                    of the Department of Revenue, said there are 25 different  
types of taxes in his division. They are trying to project  
standardized penalties at 10%; provide uniform collection  
procedures and granting of extensions; and waiving penalty if good cause can  
be shown. All reference to payment of tax to state treasurer has been deleted.  
Repealed sections are included under "new sections".

There were no opponents.

Hirsch did not feel it necessary to close. No questions from the committee.

Representative Jay Fabrega, House District #44, sponsored House Bill 471 at the request of the Department of Revenue.

HOUSE BILL            James Madison, Administrator of Miscellaneous Tax Division  
471                    of the Department of Revenue explained the language in HB 471  
is copied almost verbatim from the sections of oil producers  
tax and natural gas tax. They have had problems with the  
McAllister Fuel Company because of "new" oil and "old" oil; and McAllister  
got caught in the middle of the price differential.

They then approached the State of Montana for a refund which can be given for oil and natural gas tax, but there is no authority for indemnity trust tax refund. Some statutory provision for refund and refunding authority is necessary.

#### OPPONENTS:

Jim Mockler, Executive Director of Montana Coal Miners Association and Rocky Mountain Gas Association, said this bill would allow employees to examine confidential information. Purchasers are required to keep those same records and be liable for them. Coal is valued and assessed at the point of severance. The smelter has no idea of what the value of the ore is at the point of severance. 15-30-109 restricts the access to records and makes it confidential and applies only to producers - no access to buyers' records. Under Section 1 he has already submitted the tax. Cannot get any refund for money paid in. This bill is considerably more complex than it was described to be and hope you do not give it a do pass.

#### QUESTIONS:

Rep. Fabrega explained the gross value at the point of extraction is not known by the purchaser of the minerals. The purchaser pays for crushing, transportation, etc., and the value then is not the same as it is at the mine mouth.

Mr. Madison said they can go in and examine records at any time and could extend to the purchaser and get their figures. They are maintaining a purchase record for minerals in the state in order to keep track of who is mining and selling minerals in the state. Purchaser could be anywhere in the country.

In answer to the suggestion that an intermediate handler be appointed, Mr. Mockler feels the indemnity trust tax is a sham - information can be obtained from other records. They have almost the same type of records in other fields such as the wellhead tax for oil and natural gas is the same on several records and can be found. Confidentiality is a sham.

Rep. Fabrega suggested removal of "gross value". Mr. Mockler said if we remove gross value, all data relative to shipment would have to be furnished.

Mr. Huennekens said this would verify the amount of the shipment, and this is a very confidential matter to the miner who wants the production of his mine kept strictly confidential. Perhaps the total volume could be stated in ounces per ton. The ore might have been upgraded after mining, but the tax is based on the ore itself and he may mine 10,000 tons of ore and ship only three.

Mr. Madison wants individuals to use this information in preparing metal mines tax or indemnity trust tax. The statement the smelter gives the miner shows the number of ounces of mineral and the amount they are paid.

Mr. Mockler feels this information must retain confidentiality. He doesn't know what the purpose of the bill is if they already have this information.

Mr. Madison said they can go and look at that information at ASARCO or Anaconda. Section 2 is requiring when they request it that this information would be furnished to them in Helena. He wants those smelting Montana ores and minerals out of state to furnish this information. Producers pay the tax.

Rep. Vinger suggested that one man could be eliminated if it weren't necessary to go out in the field. Mr. Madison said they don't know how much indemnity trust tax is being underreported. It would save travel expenses, but can't see one man being eliminated.

EXECUTIVE SESSION: -

HOUSE BILL 63: After discussion on the State of Intent required for this bill, Rep. Lien moved that the "Statement of Intent" be accepted as written. Rep. Fabrega voted "No". Motion carried. Reps. Burnett, Reichert, Gilligan were absent.

HOUSE BILL 94: Rep. Nordtvedt moved HB 94 DO PASS AS AMENDED. Rep. Robert Sivertsen moved to adopt amendments (see standing committee report). Amendments were adopted by a 9-6 roll call vote. Reps. Burnett, Gilligan, Reichert, Harrington were absent. HB 94 motion to adopt as a Do Pass as Amended was adopted by a roll call vote of 9-6. Members absent were Reps. Burnett, Gilligan, Reichert and Underdal.

The question arose after further discussion of just which corporations were to be allowed this increased investment credit allowance. The staff attorney is to review the 1977 act.

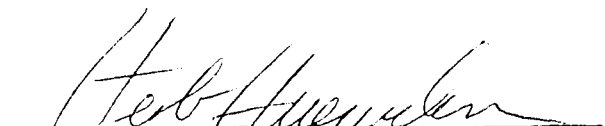
HOUSE BILL 466: Rep. Robbins moved HB 466 DO PASS. Unanimously approved. Reps. Reichert, Burnett, Fagg, Gilligan were absent.

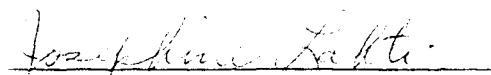
HOUSE BILL 457: Rep. Sivertsen moved that there be a Statement of Intent which Randy will write stating that any additional costs shall be borne by the Department of Revenue. Motion carried with Rep. Hirsch voting No. Reps. Burnett, Reichert, Gilligan, Fagg were absent.

Rep. Bertelsen moved to amend HB 457 on page 1, line 12, following "legislature", insert: "upon request". Amendment was approved unanimously, with the same four members absent.

A general discussion of House Bills 479 and 546 was had.

Meeting adjourned at 11:00 a.m.

  
REP. HERB HUENNEKENS, Chairman

  
Secretary