

MINUTES OF THE MEETING
BUSINESS AND INDUSTRY COMMITTEE
MONTANA STATE SENATE

March 16, 1981

The regular meeting of the Business and Industry Committee was called to order by Chairman Hazelbaker at 10 a.m. in room 404 of the Capitol Building on Monday, March 16. All members were present.

HOUSE BILL NO. 106: Representative Switzer, District #54 presented the bill. We had a lot of problems trying to define this, and it was provided by the attorney for Associated utilities. HB 106 amends the definition of "rural area" as it pertains to rural co-ops by providing that the definition includes areas in cities or towns of less than 1500 population that later grew to more than 1500 population. The definition also includes an area not within a city or town, having a population in excess of 3500 which is not already being served by a system or facilities, as it applies to rural electric and telephones, and television cable systems.

NO OTHER PROPONENTS:

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

Some general discussion about who was covered and Mr. Switzer made the comment that when the ones in the smaller areas don't feel threatened then it seems to be ok with other areas.

The hearing closed on House Bill No. 106.

HOUSE BILL NO. 625: Representative Fabrega, District #44 presented the bill. The bill allows a retailer of goods to impose a charge of 1 1/2% of the overdue balance on all accounts 30 days past due where the creditor agreed to pay for the goods upon presentation of the bill. A statement would have to be supplied to the purchaser at the end of each month. The bill applies only if the retailer did not intend to extend credit beyond 30 days. This would be if you do not offer revolving credit but you allow a charge account. It gets complex in terms of interest because you have not agreed to provide credit. There has always been a cloud on how you collect payment. We need this bill to clarify something that is already being done. A periodic statement must be furnished, and the late charge may be provided for only if he promptly supplies the buyer with a statement as of the end of each regular period agreed upon. This is a copy of the North Dakota approach. We allow a charge account with the understanding that payment is due on the 10th of the month usually.

NO OTHER PROPONENTS:

NO OPPONENTS:

CURTIS HANSEN came in late and asked if he could speak in support of the bill. This was agreed to.

I am the Executive Vice-president of the Montana Retail Association. Most retailers are of the opinion that they can charge interest on their customer charge accounts of 1 1/2% per month, and most retailers do make that charge to their customers. Most of you, at one time or another, have been charged interest of this type and have more than likely paid it without protest. However, some jurisdictions have held that a merchant that charges such an interest on accounts, is doing so in violation of the law, without a previously signed agreement, and that by doing so he not only must forfeit any interest, but must forfeit the principal as well.

Most merchants have been led to believe it is legal and it appears to be the least obtrusive of the available alternatives. Suppose you have a good friend and customer who overlooks a bill. What do you do, send him another monthly billing, or you can send a friendly, polite note asking for payment. (Have you ever tried to devise a friendly, polite note asking for money due to you?) Most retailers have come to the conclusion that, another billing ---- indicating a monthly interest charge ---- if not paid within 30 days, works best. This is what they do, this is what is being done. In most cases it is working well, but it is illegal. It is a common practice and will continue to be a common practice with or without this bill. This bill is merely designed to legalize a common, acceptable and unobjectionable business practice. HB 625 would allow the retail seller to properly impose such a "late payment" charge if the purchaser did not pay for the merchandise after being properly billed at the end of the first billing period. This bill was very carefully drafted, with safeguards against abuse, through requirements of disclosure in section 2. This would be applicable to obligations incurred after July 1, 1981.

QUESTIONS FROM THE COMMITTEE:

SENATOR REGAN: Is another bill going through to take care of a CPA or an attorney.

MR. FABREGA: If there is another bill I have not been aware of it. If your committee feels it would be within the scope of the title, I would have no objection to it. I feel people have to be able to collect for services rendered.

There was general discussion about interest charges, rate charges, and the difference between them. Some heated discussion followed, concerning page 2, lines 1 through 6, dealing with intangible services, or regulated by the Public Service Commission, or health care services, or installment sales contracts. These are regulated under Title 31.

There was no further discussion and the hearing closed on House Bill No. 625.

HOUSE BILL NO. 550: Representative Kemmis, District #94 presented the bill, stating this bill is a bill to clear up some inadequacies in the homestead exemption of Montana. We are not talking about Governor Judge's tax bill. The Montana Constitution says that we are to provide for a liberal homestead exemption. It revises the homestead exemption law by allowing all persons to claim the exemption. The law revises the homestead claimed for areas in municipalities and areas outside municipalities. Mobile homes would be able to be included in the homestead. The exemption for automobiles is raised from \$300 to \$1000. The definition of family is revised to replace "head of family" in section 70-32-102 which is repealed. Also, this provides so that your home is protected from judgment creditors. In section 1, page 1, line 16 we have added a reference for mobile homes. There is no way they can protect that home if they don't own the land it is on. They will now have the same protection as everyone else.

On line 24, we delete language. If you don't qualify as a head of a family you don't get an exemption. We have struck out the reference to "head of family". If you use your land for a living, you can claim 350 acres. On page 2, line 19, is the most major change in the bill as it was introduced. I still think this is necessary. By limiting people to \$20,000 we are not allowing a homestead exemption. We are not meeting the constitution with that exemption. I would suggest raising that to \$40,000.

There is one other large change on Page 3, lines 22 and 23. You now have to file with the clerk and recorder before a judgment could come against you. This has to be filed before a judgment situation in order to claim the exemption. Anything else would still be subject to the judgment. On page 4 and 5, section 7, the only reason that that is in there is this, it has nothing to do with the homestead exemption. It refers to the head of family, so we had to put in this other language. The same is true of section 8 on pages 5 and 6, raising the amount that could be used in a car or truck situation.

PROPOSERS:

PHYLLIS BOCK representing the Montana Legal Services. As the Legal Developer for legal services for senior citizens across the State of Montana in 1980, one of the most frequent concerns of senior citizens was that they would become ill, end up in the hospital, incur large hospital and doctor bills not covered by Medicare. After they were unable to pay for their bills in a lump sum and the bills were turned over to collection agencies, they would be sued and would be forced to sell their homes to pay for the bills. They

may have paid \$20,000, the current exemption, when they purchased their homes thirty years ago, but its current value has risen, like inflation, so their homes are no longer safe under the current exemption rules in Montana. We support the \$40,000 for the homestead exemption.

LINDA McKELAN: We support the homestead exemption. This is the equity in the home and not the value.

JIM JENSEN: LISCA. We support this bill with the \$40,000 exemption. Most senior citizens have paid off their homes and they cannot protect their homes at the \$20,000 level. We also support the mobile homes and the outlying area. We understand that a "fresh start" concept does not apply to senior citizens.

WES CROFFSTECK: Missoula. We would like to ask for your support for HB 550. We believe that the inclusion of mobile homes is a good part of the bill, since there are now so many people living in mobile homes and it has become an important part of our society. We would also like to have the amount \$20,000 raised to \$40,000.

MR. JENSEN read a statement from TOM RYAN in support of the bill, representing MSCA.

A list of exemptions was presented to the committee:

1. one-half of these exemptions not exempt for debts incurred for necessities of life.
2. The exemption that applies to household furnishings, goods, clothes, appliances, books, animals, crops, or musical instruments primarily for personal use.
3. The exemption applicable only if annual premiums less than \$500 per year.
4. The unused portion of the federal homestead exemption may be added to the base of \$400.
5. Alimony and pension plans are restricted. Both are limited to the amount reasonably necessary for support, and the type of pension plan qualifying is strictly limited by statute.

Reference should be made to 11 USC 522(d)(10)(E) for all pension questions.

Comparisons of state and federal exemptions are attached. EXHIBIT "A".

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR BLAYLOCK: Why would they put it back down to \$20,000.

MR. KEMMIS: The equity that is being protected had something to do with it.

SENATOR KOLSTAD: Will these sections you address change the bankruptcy exemption.

MR. KEMMIS: This will change that.

SENATOR LEE: We would be allowing an individual to now get \$40,000.

MR. KEMMIS: You don't get \$40,000 in cash, this is a credit.

Discussion followed for several minutes.

SENATOR GOODOVER: What if someone is in a subdivision and they can only keep one acre out of a five, what do they do with the other four acres.

MR. KEMMIS: I believe that is covered, where you can only protect your allowable acre.

Discussion followed, and the questions was raised whether you might have to seek a variance.

The hearing closed on House Bill No. 550.

HOUSE BILL NO. 492: Representative Meyer, District #42 presented the bill. The bill allows the holder of a supplementary license under the Consumer Loan Act to make open-end loans. Interest would be at 2% per month as per HB 321. The unpaid balance on which interest is charged would be allowed to include insurance and filing and recording fees. It would allow a person to set up a line of credit at a finance company, such as if you are building a home but you would not need all of the money at one time, but would withdraw as you go along.

JERRY LOENDORF representing the Montana Consumer Finance Association, spoke in favor of the bill. This is allowed by Consumer Loan Companies across the United States. There is no prohibition against this, it was just never provided for. This would be an open-end loan, where people might take more than a year to do this. He went on to discuss how the provisions would help both lender and buyer. It is much cheaper to get a loan from a Consumer Loan Company. This would allow open-end loans to be made in the same manner as closed-end loans.

The bill provides three different methods of computing billing cycles. There is a provision for payment. Section 4 deals with insurance, such as credit life, property, etc. Page 5 simply provides for security for the lender.

NO OTHER PROPONENTS:

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

SENATOR KOLSTAD: Who makes the determination that this insurance is adequate.

MR. LOENDORF explained the insurance procedures. There would be credit life insurance in the amount of the loan. This is commonly done now. They would have to take into account the declining amount.

There was no other discussion and the hearing closed on HB 550.

HOUSE BILL NO. 702: Representative Winslow, District #65 presented the bill. He said the bill establishes a ceiling of \$10 on the charge the department of administration may impose for receiving and processing a condition report for each elevator in any building. At the present time the reports are sent on to the Department of Administration. On page 1, line 16, it says a reasonable and uniform fee for the inspection, we would like to change this to \$10 per elevator instead of \$25, where it states the amount on line 8 on page 2.

CHAD SMITH: Montana Hospital Association. This is a follow-up to the bill in the 1979 session dealing with the same matter. He went on to discuss who has the responsibility of an elevator rather than the state. The fee used to be \$50. After the responsibility, for the most part, was turned over to the insurance people it was changed to \$25. We are asking that a determination be made of what a reasonable fee is. We feel that without this we cannot control the limitations. He mentioned other people in favor of the bill, Representative Fagg and some others.

W. JAMES KEMBLE: Department of Administration. We can live with the bill as it was amended by the House. I am here to answer your questions.

FOREST BOLES: Montana Chamber of Commerce spoke in support of the bill. Since this is an improvement of the 1979 bill we can support it.

NO OPPONENTS:

QUESTIONS FROM THE COMMITTEE:

REPRESENTATIVE KOLSTAD: Is this fee the same for an elevator that serves three floors as for one that serves twenty-four floors.

CHAD SMITH: It is the same.

SENATOR REGAN asked of Mr. Kemble, how much is this going to cost.

MR. KEMBLE: The department can live with it. We can charge a reasonable fee for the inspections that may not exceed the expense of providing the inspection. If we are required to do a follow-up then we would have to charge our regular fee.

SENATOR BLAYLOCK: If we change this fee would you lose money.

MR. KEMBLE: Most of the elevators require some form of follow-up.

SENATOR REGAN asked about self-insurance for the state, and Mr. Kemble said that the staff attorney felt that with the current wording they could live with it.

SENATOR DOVER: You will be liable and you will still take someone else's word that the elevators are ok.

MR. KEMBLE: Yes.

In response to a question from SENATOR BOYLAN about how many elevators were not covered there was a great deal of discussion.

SENATOR BLAYLOCK commented that is the state is losing money then he, Mr. Kemble, should come back and tell the committee if they are losing money.

Discussion followed.

MR. KOLSTAD asked what categories are included.

MR. KEMBLE: We are covering about 530 elevators and about 30 are being covered by the other method.

SENATOR GOODOVER: What do the insurance companies charge for the inspection.

MR. KEMBLE: When an insurance company does it, it is probably a part of the premium.

With no further discussion the hearing closed on House Bill 702.

Following the regular meeting the committee took action on the following bills, at 11 a.m.

HOUSE BILL NO. 702:

GREG PETESCH, the staff attorney presented the proposed amendment as follows:

1. Page 2, lines 10 and 11
Following: "therefor;"
Strike: remainder of line 10 through "THAT" on line 11.
Insert: "if"

SENATOR DOVER moved the amendment. The motion carried with the vote unanimous.

SENATOR DOVER moved that as amended, HB 702 be concurred in. The motion carried with the vote unanimous. Senator Dover will carry.

HOUSE BILL NO. 625:

SENATOR BOYLAN moved that House Bill 625 be not concurred in. The motion failed on a roll call vote of 5 to 3.

In answer to a question Mr. Curtiss Hansen mentioned that most of the retailers are now using contracts. I think it is a good bill. It is not penalizing the consumers any.

MR. BOLES: Many stores use a system where they will charge something for 90 days but after that there should be some charge involved. This is a convenient way for them to do business.

Then followed discussion about the rate of interest.

SENATOR DOVER moved be concurred in. The motion carried on a roll call vote of 5 to 3. Senator Goodover will carry.

HOUSE BILL NO. 550:

There was discussion about the proposed amendments, as follows:

1. Title, line 5
Following: "~~\$40,000~~;"
Insert: "INCREASING THE EXEMPTION TO \$40,000;"

2. Page 2, line 19.
Following: "~~\$40,000~~"
Strike: "~~\$20,000~~"
Insert: "\$40,000"

SENATOR DOVER moved the amendments. The motion carried on a vote of 6 to 2.

SENATOR DOVER moved as amended, be concurred in. The motion carried with the vote unanimous. Senator Van Valkenburg will carry since he is a co-sponsor.

HOUSE BILL NO. 492:

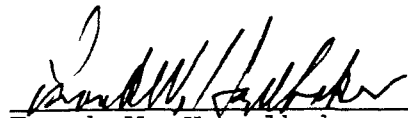
SENATOR LEE moved be concurred in. Then followed discussion about the interest rate and what this bill will let them do. It was stated that many open-end loans would be 2% per month but that the closed-end loans would vary.

The motion carried with Senators Regan and Blaylock voting no with a vote of 6 to 2. Senator Lee will carry.

HOUSE BILL NO. 106:

SENATOR KOLSTAD moved be concurred in. The motion carried with the vote unanimous. Senator Kolstad will carry.

The meeting adjourned at 11:55 a.m.



Frank W. Hazelbaker, Chairman

Mary Ellen Connelly, Secretary

ROLL CALL

BUSINESS and INDUSTRY

COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date

Monday
3/16/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	✓		
Hazelbaker, Frank - Chairman	✓		
Blaylock, Chet	✓		
Boylan, Paul	✓		
Dover, Harold	✓		
Kolstad, Allen	✓		
Lee, Gary	✓		
Regan, Pat	✓		

Each day attach to minutes.

not covered in

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date _____ Bill No. 625 Time _____

NAME	YES	NO
Hazelbaker		✓
Goodover		✓
Dover	✓	
Kolstad		✓
Lee		✓
Blaylock		✓
Boylan	✓	
Regan	✓	

Secretary _____

Chairman _____

Motion: _____

(include enough information on motion—put with yellow copy of committee report.)

HB 550

STATE

FEDERAL

- | | | |
|---|----------------------------|--|
| 1. Homestead <i>(ex. entitlement)</i> | \$20,000 | \$7,500 |
| 2. Car ¹ <i>(ex. entitle.)</i> | \$300
\$1000 | \$1,200 |
| 3. Necessary Furniture | No Limit | \$ 200
(Per Item) ² |
| 4. Life Insurance | No Limit ³ | Unmatured
No Limit
Cash Value
\$4,000 |
| 5. 45 Days Earnings ¹
<i>(ex. entitlement)</i> | No Limit | See 12 Below |
| 6. Clothes | No Limit | See 3 Above |
| 7. 1 Horse, 2 Cows,
4 Hogs, 50 Fowl,
3 Months Feed | See 3 Above | See 3 Above |
| 8. Clock & Family Pictures | | See 3 Above |
| 9. One Gun | No Limit | ----- |
| 10. Tools of Trade | No Limit | \$ 750 |
| 11. Jewelry | | \$ 500 |
| 12. Omnibus | | \$400 to \$7,900 ⁴ |
| 13. Professionally Pre-
scribed Health Aids | | No Limit |
| 14. Social Security,
Welfare, Disability
Benefits, Pension
Plans, Alimony | | No Limit ⁵ |
| 15. Crime Victim Reparations,
Wrongful Death Awards,
Life Insurance Proceeds,
Personal Injury Awards | | Reasonably
Necessary
For Support |

NAME: Phyllis A. Bock

DATE: 3/16/81

ADDRESS: Helena, Montana

PHONE: 442-9830

REPRESENTING WHOM? Montana Legal Services Assn.

APPEARING ON WHICH PROPOSAL: HB 550

DO YOU: SUPPORT? X AMEND? X OPPOSE?

COMMENTS: As the Legal Developer for legal services for senior citizens
across the state of Montana in 1980, one of the most frequent concerns
of senior citizens was that they would become ill, end up in the hospital
incur large hospital and doctor bills not covered by Medicare. After
they were unable to pay for their bills in a lump sum and the bills were
turned over to collection agencies, they would be sued and would be forced
to sell their homes to pay for the bills. They may have paid \$20,000
(the current exemption) when they purchased their homes thirty years ago
but its current value has risen like inflation so their homes are no longer
safe under the current exemption rules in Montana. We support
the \$40,000 homestead exemption.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

DATE March 16, 1981

COMMITTEE ON B&I House BILL NO. 492

Representative Meyer

VISITOR'S REGISTER

[illegible]

(Please leave prepared statement with Secretary)

NAME: W. James Kembel DATE: 3/16/81

ADDRESS: 1100 Knight

PHONE: 449-3933 Office ; 442-8684 Home

REPRESENTING WHOM? Dept. of Admin. ; Bldg Codes Div

APPEARING ON WHICH PROPOSAL: HB 702

DO YOU: SUPPORT? — AMEND? — OPPOSE? —

COMMENTS: We can live with the bill as amended
by the house. Appearing to answer questions

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: CHAD SMITH

DATE: 3-16-87

ADDRESS: Box 609 Helena

PHONE: 442-2780

REPRESENTING WHOM? Anti-Comm. Assn.

APPEARING ON WHICH PROPOSAL: NR 702

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: F.H. BOLES DATE: 3-16-81

ADDRESS: HELENA Box 1730

PHONE: 442-2405

REPRESENTING WHOM? MONT. CHAMBER OF COMMERCE

APPEARING ON WHICH PROPOSAL: HB 702

DO YOU: SUPPORT? AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

STANDING COMMITTEE REPORT

..... March 16, 19 81

MR. **PRESIDENT:**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOSSE** Bill No. **106**

Switzer (Senator Kolstad)

Respectfully report as follows: That **HOUSE** Bill No. **106**

BE CONCURRED IN

~~XXXXXXX~~

STANDING COMMITTEE REPORT

..... March 16, 19 81

MR. **PRESIDENT:**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOSSE** Bill No. **106**

Switzer (Senator Kolstad)

Respectfully report as follows: That **HOUSE** Bill No. **106**

BE CONCURRED IN

~~XXXXXXX~~

STANDING COMMITTEE REPORT

March 16, 1981

MR. **PRESIDENT:**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **550**

Kennis (Senator Van Valkenburg)

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Respectfully report as follows: That **HOUSE** Bill No. **550,**

third reading copy, be amended as follows:

1. Title, line 5

Following: **"\$40,000,"**

Insert: **"INCREASING THE EXEMPTION TO \$40,000;"**

2. Page 2, line 19

Following: **"\$40,000"**

Strike: **"\$20,000"**

Insert: **"\$40,000"**

And, as so amended,

BE CONCURRED IN

~~XXXXXX~~

STANDING COMMITTEE REPORT

..... March 16, 19 81

MR. PRESIDENT:

We, your committee on BUSINESS AND INDUSTRY

having had under consideration HOUSE Bill No. 492

Meyer (Senator Lee)

Respectfully report as follows: That HOUSE Bill No. 492

BE CONCURRED IN

XXXXX
DO PASS


.....
Frank W. Hazelbaker,


.....
Chairman.

STANDING COMMITTEE REPORT

March 16, 19 81

MR. **PRESIDENT:**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **625**

Fabrega (Senator Goodover)

Respectfully report as follows: That **HOUSE** Bill No. **625**

BE CONCURRED IN

~~XXXXXX~~
DO PASS

STANDING COMMITTEE REPORT

March 16,

19 81

MR. **PRESIDENT:**

We, your committee on **BUSINESS AND INDUSTRY**

having had under consideration **HOUSE** Bill No. **702**

Winslow (Senator Dover)

Respectfully report as follows: That **HOUSE** Bill No. **702**,

third reading copy, be amended as follows:

1. Page 2, lines 10 and 11

Following: **"therefore;"**

Strike: remainder of line 10 through **"THAT"** on line 11.

Insert: **"IF"**

And, as so amended,

BE CONCURRED IN

~~XXXXXX~~
DO PASS

B.A.