

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 31, 1977

The fifty-ninth meeting of the committee was held on the above date in Room 415 of the Capitol Building, called to order by Chairman Mathers.

ROLL CALL: Roll call found all the members present.

The following witnesses were present:

Gregg L. McCurdy	Mont. Assoc. of Counties
Ted J. Doney	DNR & C
James Madison	Dept. of Rev.
Bob Gannon	Montana Power
Richard Munger	DNR & C
Don McIntyre	"

CONSIDERATION OF HB151: Rep. Vincent said the bill was submitted at the request of the Depart. of Rev. and he introduced Mr. Madison to explain the bill in detail. Rep. Vincent said the bill gives the committee the opportunity to raise some revenue, and merely changes the method of computing energy producers' license tax. He said under the present law 1.688% of the gross value of electrical energy produced in the state is taxed. Under this bill all electrical energy produced in Montana will be taxed at the rate of \$.0002 per KWH at point of production. His statement is contained in Exh. #1.

Mr. Madison made an illustration on the board to show the increase in revenue that would be realized from this bill. His chart indicated an additional \$420,338.71 revenue, or 43% increase for the state. He said out of state consumers would be required to pay the same tax as our own consumers and the sole reason for the increase is to tax electricity shipped out of state. Mr. McIntyre said his interest in the bill is one of clarifying the major facility siting act. He introduced Exh. #2, which he said would clarify the act. Mr. Gannon said his main concern with the bill was to have the tax applied to the net production rather than gross production. Mr. Dore was also in support of the amendment that was added in the House, allowing credit for consumption. He said also that this would be a very easy tax to administer. Mr. Madison said there had been a court case with the Washington Water Power and the decision stated the State of Montana cannot look to the final point of sale to determine the tax base. That would be undue interference with interstate commerce.

There were no opponents to the bill and the committee then questioned the witnesses. In response to a question from Sen. Goodover, Mr. Madison said Idaho has a similar law and does not apply to steam-generating power. Sen. Towe asked about the net proceeds tax, rather than the gross proceeds. Mr. Gannon said

said plant-use does not generate any revenue and is used for other than financial gain. Mr. Dore said the difference between net and gross in this instance would be the internal use. Sen. Turnage then asked about taxing the gross and giving a credit for the energy used for production. He said he thought a better definition should be amended into the law. He therefore proposed an amendment to insert "except for generating plant use" on page 2, line 3, also reinserting "gross" amount and deleting "net" also, line 3.

Sen. Turnage Moved Adoption of Amend #1 to HB151; his motion carried unanimously. Sen. Towe then Moved Adoption of Amend #2, to strike lines 16 through 19, page 5; motion unanimous. Sen. Turnage then Moved to Add a Repealer to the title and in the body of the bill, repealing 70-805. Motion carried unanimously. Sen. Turnage then Moved to strike section 7 of the bill.

Sen. Turnage then Made a Motion that the committee delegate Mr. Tippy to write a letter to the Finance and Claims Committee informing them that the funds that now go into the general fund from the otherwise earmarked revenue funds must be appropriated to the department of natural resources and conservation. He is to specify the figures used in the Fiscal Note of the bill.

The committee voted unanimously on Sen. Turnage's motion as the amend #4 on attached committee report deletes that portion of the bill which states the funds go into 'the earmarked revenue fund.' The committee then moved the bill.

DISPOSITION: Sen. Turnage Moved HB151 As Amended Be Concurred In. The motion was carried unanimously.

CONSIDERATION OF HB156: Mr. Doney said the bill revises the renewable resource development loan criteria in order to allow private borrowers to be either owners or operators. The bill also provides new lien and repayment criteria for public-sector loans. He went through the bill explaining the amendments that had been made to the present law. Mr. Munger also contributed to the testimony. The committee asked questions of the witnesses.

Following the discussion the committee went over the proposed amendments and the amendments were then moved.

Sen. Towe Moved to Adopt Amends #1 and #2, page 6. His motion was carried unanimously.

Following adoption of these amendments the hearing on HB156 was closed.

The Chairman then permitted two representatives of the Anaconda Co. to present additional testimony in regard to HB198, heard by the committee on March 26th. Mr. Sternhagen presented Exh. #4, and explained some of the charts therein. He said Silver Bow County officials are satisfied with the same tax they had received over the previous 15 years, but their aim through this legislation would be to receive the tax on a yearly basis, rather than when the company

pays the net proceeds tax. In this way the county and school districts can better budget for the coming year. He admitted the legislation would be advantageous to both the county and to the company, however, he said some years the company pays no net proceeds tax and these are the years the county and school districts have their difficulties. Mr. Crippin also appeared representing the firm.

The committee questioned at some length in regard to the figures presented in Exh. #4. They also asked if the bill was in proper form and Mr. Tippy said it must be amended to conform with HB70. The committee reiterated their position they would like several of the terms used in the bill better defined by Mr. Tippy. This closed the hearing on HB198.

CONSIDERATION OF HB737: Rep. Huennekins presented his bill and said this problem has been an increasing one in recent years, as he said there are many retired people who find it more difficult to pay taxes on their mobile homes or trailers used partly for their living quarters. He felt these people needed some help from the state. The Chairman reminded Rep. Huennekins that if SB193 is passed it would do away with the need for this bill. The committee then decided to hold the bill until action had been taken on SB193. The hearing on HB737 was then closed.

A number of amendments had been proposed for SJR44 and Sen. Towe went through them again, further explaining them. Sen. Towe then Moved to Adopt Amends #1, 2 and 3. Motion was carried. Note for record absence here of Sen. Turnage. Sen. Goodover reserved his vote. Sen. Goodover then Moved to add "or business" to title and to be also included in the body of the bill. Motion carried.

DISPOSITION: Sen. Towe then Moved SJR 44 As Amended, Do Pass. A roll call vote was taken which resulted in an 8-1 vote.

The meeting was then adjourned.

W.M.
WILLIAM MATHERS

CHAIRMAN

ROLL CALL

SENATE TAXATION COMMITTEE

45th LEGISLATIVE SESSION - - 1977

Date 3/31/77

House

SENATE *TAXATION* COMMITTEE

VISITORS' REGISTER

DATE 3/31/77

SENATE COMMITTEE TAXATIONDate 3/5/67Bill No. 44Time

NAME	YES	NO
SEN. WATT	X	
SEN. BROWN	X	
SEN. GOODOVER	X	
SEN. HEALY	X	
SEN. MANNING	X	
SEN. NORMAN	X	
SEN. ROSKIE	X	
SEN. TOWE	X	
SEN. TURNAGE	<i>absent</i>	
CHAIRMAN MATHERS		X

8 1

Nita Fjeseth
SecretaryWilliam L. Mathers
Chairman

Motion:

As Amended
#1, 2, 3, 4 Carried

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

Am. 434

HOUSE BILL NO. 151
ELECTRICAL ENERGY

Eff. #1

Fiscal
note

151

House Bill No. 151 is to change the method of taxing electrical energy produced in Montana. Under the present law, Section 84-1601, R.C.M., 1947, the electrical energy is taxed at 1.688% on the gross value of the electrical energy produced in Montana.

An audit program was begun in October, 1975 on the electrical companies. The companies were assessed on total KWH produced in Montana, using an average price per KWH to determine total gross value of energy produced in Montana.

This was litigated in Lewis & Clark District Court and determined that the method of determining gross value was interference with interstate commerce and only Montana sales on Montana electrical production could be taxed.

Under the proposed bill all electrical energy produced in Montana will be taxed at the rate of \$.0002 (2/100 of a cent) per KWH at the point of production. The tax would increase the revenue to the State of Montana but would reduce the Montana residents share of the tax. See attached schedules.

A call was made to all the major electrical energy producers in Montana and in all cases the tax would be less on a 1000 KWH of residential useage at the proposed tax rate versus the rate now in existence.

The attempt of the new bill is to obtain the same amount of revenue as the Department of Revenue interpreted under the present law.

#2

AMENDMENT TO H. B. 151

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Amend the title on page 1, line 10, of the House Third Reading copy by deleting the phrase "AND 84-1605" and inserting in lieu thereof ",84-1605 and 70-805"

and further amend on page 6, after line 1, by inserting the following:

"Section 9. Section 70-805, R.C.M. 1947, is amended to read as follows:

"70-805. Surcharge on electric energy producer's license tax--administrative expenses--tax on gasification, liquefaction, uranium enrichment facilities. (1) Every--"producer"--as--defined in chapter 16 of Title 84--shall--in--addition--to--the--sum--required to be paid by that chapter, pay an additional twenty-five hundredths per cent {0.25%} of the gross amount as shown on the statement which is required by that chapter, in the same manner and within the time provided by that chapter. The license tax money deposited in the earmarked revenue fund, to the credit of the major facility siting earned revenue account, under section 84-1612 shall be used by the department in administering this chapter. The department of revenue shall report to the state treasurer separately the amount transmitted to the state treasurer which is added to the electrical energy producers' license tax by this section."

(2) The legislature shall appropriate sufficient funds to finance the department's activities in carrying out its duties under this chapter. The legislature shall provide a tax on gasification, liquefaction, coal conversion, and uranium enrichment facilities sufficient to produce an amount of revenue equal to that derived from electrical energy producers under this section. ""

~~H-62~~ 3

SENATE

March 31, 1977

SENATE COMMITTEE ON TAXATION AMENDMENTS TO HOUSE BILL 198

That House Bill 198, Third Reading, be amended as follows:

1. Amend page 18, section 7, line 23.

Following: "period."

Strike: "If the extracted ores are milled, smelted, or reduced within the state of Montana, the metals are considered salable after this processing."

HOUSE BILL 192 GROSS PROCEEDS TAX

~~#604~~

USING YOUR PROPOSED TAX RATES (2% - 2.5% - 3% - 6%), THE FOLLOWING IS A COMPUTATION
OF ANACONDA COMPANY TAX FOR THE PRODUCTION YEAR 1976:

28

1976

2.5%

x	40%	x	6.25% (proposed)	x	.252	$= \$986,984.00$
$= \$62,655,774.$		$= \$3,916,605.$		$= \$986,984.00$		(TAX)

1. Note: PRICE (of copper) in price column of .695 cents per lb. is the actual average price for 1976. This is arrived at by taking the actual total sales and dividing by the total pounds sold in 1976.
2. Except for price of copper, all figures are rounded off to nearest dollar.
3. Note: Gold, silver, selenium & tellurium are weighed differently -- and are grouped here for simplicity -- See Exhibit A.
4. Exhibit B shows production for past 6 years in tons and pounds; also shows average annual price for those years.
5. To compute for 6 day work week estimate by subtracting 1/7th.

1976

GROSS MARKET VALUE

OF SILVER, GOLD, SELENIUM AND TELLURIUM

	WEIGHT	X	PRICE	=	VALUE
SILVER	2,731.754 ounces		\$ 4.3795		\$11,963,716.64
GOLD	21,756.3 ounces		\$125.555		\$ 2,730,741.99
SELENIUM	23,179 pounds		\$ 17.5656		\$ 407,153.72
TELLURIUM	19,169 pounds		\$ 10.2452		\$ 196,387.37
				TOTAL:	<u>\$15,298,001.72</u>
				(rounded off)	<u>\$15,298,002.00</u>
<u>EXHIBIT "A"</u>					

1971 - 1976 = 6 YEARS PRODUCTION

2	3	4	5	6	7
PRODUCTION YEAR	POUNDS	TONS		AVERAGE COPPER PRICE	
1976	203,367,171	16,864,785.00		.69512	
1975	188,287,626	19,285,386.23		.65352	
1974	264,648,291	24,192,097.83		.77345265	
1973	255,498,872	19,741,060.27		.5930587	
1972	251,214,409	17,897,463.96		.508743	
1971	177,197,731	14,006,182.18		.512505	
EXHIBIT "B"					

Net Proceeds Tax Paid - 1962 to 1976, INCLUSIVE
15 YEAR PERIOD

No. OF YEARS	TAX YEAR	CUMULATIVE NET PROCEEDS TAX PAID		YEARLY AVE. NET PROCEEDS TAX PAID
		NET PROCEEDS TAX PAID	TAX PAID	
1	1976	\$ -	\$ -	\$ -
2	1975	\$ 3,437,587.00	\$ 3,437,587.00	÷ 2 = \$ 1,718,794.00
3	1974	\$ 1,949,789.00	\$ 5,387,376.00	÷ 3 = \$ 1,795,792.00
4	1973	\$ 1,175,733.00	\$ 6,563,109.00	÷ 4 = \$ 1,640,777.00
5	1972	-	\$ 6,563,109.00	÷ 5 = \$ 1,312,622.00
6	1971	\$ 2,304,824.00	\$ 8,867,933.00	÷ 6 = \$ 1,477,989.00
7	1970	\$ 2,708,461.00	\$ 11,576,394.00	÷ 7 = \$ 1,653,771.00
8	1969	-	\$ 11,576,394.00	÷ 8 = \$ 1,447,049.00
9	1968	-	\$ 11,576,394.00	÷ 9 = \$ 1,286,266.00
10	1967	\$ 966,487.00	\$ 12,542,881.00	÷ 10 = \$ 1,254,288.00
11	1966	\$ 1,810,776.00	\$ 14,353,657.00	÷ 11 = \$ 1,304,878.00
12	1965	\$ 163,454.00	\$ 14,517,111.00	÷ 12 = \$ 1,209,759.00
13	1964	-	\$ 14,517,111.00	÷ 13 = \$ 1,116,701.00
14	1963	-	\$ 14,517,111.00	÷ 14 = \$ 1,036,937.00
15	1962	\$ 209,565.00	\$ 14,726,676.00	÷ 15 = \$ 981,778.00

STANDING COMMITTEE REPORT

March 31 1977

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration SENATE JOINT RESOLUTION Bill No. 44

Respectfully report as follows: That SENATE JOINT RESOLUTION Bill No. 44, introduced bill, be amended as follows:

1. Amend the title, line 8.

Following: "FEASIBILITY OF"

Strike: "AN AGRICULTURAL LAND BANK"

Insert: "using such funds, through loans or otherwise, to help people get a start in agriculture or business"

2. Amend page 1, lines 18 through 24.

Following: line 17

Strike: "WHEREAS, the province of Saskatchewan deals with this problem with a program whereby the province purchases agricultural land and leases it for lifetime periods with an option to buy in optimally sized units for a family operation to qualified citizens desiring to engage in farming or ranching but unable to raise the initial capital required; and"

3. Amend page 2, line 17.

Following: line 16

Strike: "establishing an agricultural land bank in Montana, on the Saskatchewan model or"

Insert: "making funds available, through bank loans or otherwise or through"

CONTINUED

Page 2
SENATE JOINT RESOLUTION

March 31, 1977
TAXATION COMMITTEE

4. Amend page 2, line 19.
Following: "agriculture"
Strike: ", and"

5. Amend page 2, line 20.
Following: "governments"
Insert: "and that will enable other young people to get a start in
business"

AND AS SO AMENDED,

DO PASS

WILLIAM MATHERS

CHAIRMAN

STANDING COMMITTEE REPORT

March 31

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MR. PRESIDENT

We, your committee on

having had under consideration

HOUSE Bill No. 151

Respectfully report as follows: That.....

HOUSE Bill No. 151,

third reading bill, be amended as follows:

1. Amend the title, line 11.

Following: "REPEALING"

Strike: "SECTION"

Insert: "sections"

Following: "84-1606"

Insert: "and 70-805"

2. Amend page 2, section 1, line 4.

Following: "showing the"

Strike: "NET"

Insert: "gross"

Following: "amount"

Insert: "except for actual and necessary plant use required to produce the energy"

3. Amend page 2, section 1, lines 16 through 19.

Following: "thereafter."

Strike: "THE AMOUNT OF ELECTRICITY AND ELECTRICAL ENERGY GENERATED,
MANUFACTURED, OR PRODUCED SHALL BE THE TOTAL ENERGY
PRODUCED EXCLUSIVE OF GENERATING PLANT USE."

CONTINUED

Page 2

March 31, 1977

HOUSE BILL 151

TAXATION COMMITTEE

4. Amend page 5, section 7, lines 15 through 24.

Following: line 14

Strike: Section 7 in its entirety

Renumber: following section

5. Amend page 5, section 8, line 25.

Following: "Repealer."

Strike: "Section"

Insert: "Sections"

Following: "84-1606"

Insert: "and 70-805"

Following: "1947,"

Strike: "is"

Insert: "are"

AND AS SO AMENDED,

BE CONCURRED IN

WILLIAM MATHERS

CHAIRMAN

April 1, 1977

Senator C. R. Thiessen
Chairman, Committee on Finance and Claims
Montana Senate

Dear Senator Thiessen,

The Taxation Committee has voted to amend House Bill 151, the electrical energy producers' tax bill, to strike the provision allocating 15% of the revenues to an energy planning/siting earmarked account in the general fund. This means the appropriation to the Department of Natural Resources and Conservation from this earmarked revenue account would be voided, that general fund receipts would increase a commensurate account, and that the appropriation to the department for this program should therefore be drawn from the general fund. The Taxation Committee has agreed to request your committee to amend the appropriations bill accordingly.

It has been the policy of the Taxation Committee this session to avoid allocating any new tax revenues to earmarked accounts wherever feasible, in order to improve the budgeting and appropriations process.

Sincerely,

William L. Mathers
Senate Taxation Committee

WLM/sjh

cc: Representative Francis Bardanouye
John LaFaver
Ted Doney