

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 13, 1979

The twenty-fifth meeting of the committee was called to order on the above date in Room 415 of the State Capitol Building by Chairman Turnage.

ROLL CALL: Roll call found all the members present. The witnesses providing testimony are listed on the attached Register.

CONSIDERATION OF SENATE BILL 285: Senator Watt introduced his bill and said several years ago the bill was passed to encourage new industry in the state but he now thought this was a mistake. He said the only people who had taken advantage of the tax break were large, polluting industries, well-established firms who did not need the tax break. He said the bill returns the property to the same classification as previous.

The Chairman asked for additional proponents of the bill and there being none, permitted testimony from opponents: Mr. Boles read his testimony and it was also presented to the committee, see Exh. #1, a and b. He mentioned a number of small businesses that had applied for the tax break and this list is also attached, showing that other than large companies in the state were availing themselves of the tax break. Other opponents included Mr. Helding who thought the law should be left in order to entice new industries, as it is presently doing. Mr. Nelson also spoke as an opponent as did Mr. Phillips who said all new major industries had to meet the state's pollution standards, therefore he did not see how that argument could affect industries as the sponsor had maintained. Mr. Stewart and Mr. Anderson voiced their opposition, agreeing with Mr. Phillips' testimony.

Mr. Lewis of the Department of Revenue said the Department is not in opposition to the bill but they were having problems with the definition of the term manufacturing. He said the statutes which refer to 'industrial' property needs, in their opinion, clarification. He distributed a copy of a proposed amendment the Department had prepared, see Exh. #3, attached.

The Chairman asked for other witnesses to testify, and there being none, permitted questions from the committee. A number of questions were raised about polluting industries and it was thought that if Colstrip 3 and 4 are completed, these would constitute polluting industries. Mr. Lewis said they had run into problems in Colstrip 1 and 2, mentioning the problem of determining whether the conversion of electrical energy was manufacturing, thus a qualifying industry.

Following the questions Senator Watt made a brief closing statement and said he would be agreeable to Mr. Lewis' amendment. The Chairman then closed the hearing on SB285.

Feb. 13, 1979

CONSIDERATION OF SENATE BILL 392: Senator Norman presented this bill which relates to business inventories, class 16 property. He said the bill did a number of things: amended the conditions under which stock may be considered tax-exempt free merchandise; establishes that business inventories should be assessed on their market value on January 1; and defines the inventories, market value and cost and disallows determination of cost based on a 'last-in, first-out' concept. Following his presentation there was discussion as to what percentage of the inventories is to be taxed.

Mr. Morrison of the Department of Revenue also testified attempts to clarify existing statutes. He said there is a lawsuit pending which could have been avoided had the laws been clearer in this matter.

The Chairman asked for other proponents, or opponents and Mr. Nelson spoke first and said he would defer for the testimony of Mr. Pyfer, who spoke as the next opponent. Mr. Eamon then spoke, reading his testimony, a copy of which is attached, see Exh. #3.

Mr. Bennett also voiced his opposition to the bill, saying it did not follow the prudent man rule concept and further, that it would be an undue hardship for small businessmen. Other opponents were Mr. Allen, speaking also for Mr. Beck who was called from the meeting. Mr. Allen said he too felt the small businessman would be seriously affected by the bill.

Mr. Kirkpatrick spoke next, saying people in the timber and lumber industries follow the lifo system and to eliminate this would be to increase their administrative costs and perhaps added taxes. Mr. Helding stated his agreement with Mr. Kirkpatrick. Mr. Barron voiced his opposition to the bill as did Mr. Eldredge.

Senator Norman then made a brief closing statement and said no one had mentioned little grocery stores in their opposing remarks and he did not feel the bill would have significant impact on firms with small inventories. He felt also, that the small amount of tax resulting from the bill would not drive the larger firms out of business.

There followed a number of questions by the committee. The Chairman asked Mr. Morrison about the issues in a tax suit currently being considered in Cascade County. The Department responded saying there were two main issues: whether a lifo method can be used and 2) whether unprocessed goods have a value (therefore taxable). The side issue is whether goods that are shipped in and then processed, then shipped out, do have a taxable value.

Following this discussion the hearing on SB392 was closed.

CONSIDERATION OF SENATE BILL 354: Senator Thomas presented his bill, saying it was identical to SB318. He introduced Mr. Harrison to further explain the bill, saying it would include 5% of the principal in RID's in the bond issue which then could be used in their 'revolving fund'. Mr. Rehberg also spoke

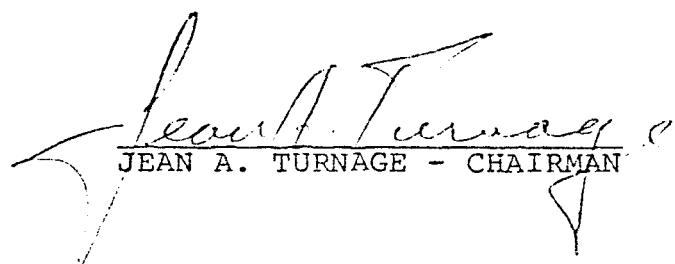
as a proponent of the bill. There were no other witnesses present desiring to give testimony on the bill.

The Chairman announced that since there are a number of RID and SID-related bills before the committee, they would be taking action and consider them all at some work meetings in the coming week. He asked Researcher Terry Cohea to draw up a list of the bills, their intent, and the committee could then consider them in this grouping. The hearing was then closed on SB354.

CONSIDERATION OF SENATE BILL 389: Senator Towe explained the situation which prompted introduction of this bill, and said in a particular section of Billings people whose residences are surrounded by industry are having their properties taxed as commercial property. He had intervened and the assessor had reappraised that property, but he felt property such as he had described should be appraised as residential. He said the bill also featured a roll back clause in the event of resale at a substantial profit.

Since there were no other witnesses to testify on the bill the committee was permitted to ask questions. Several of the committee members expressed the wish to eliminate the 'roll-back' feature of the bill, feeling that the individual had the right to make a profit on his property should he be fortunate to be located in future expansion areas. Senator Towe said he would agree to such an amendment should the committee decide on it. Mr. Tom Ryan, representing Senior Citizens gave a very brief, supportive statement during the discussion of the bill. Senator Hager also volunteered that he had been contacted by the people Senator Towe referred to in his example in presenting the bill.

The Chairman then asked for adjournment of the meeting.



JEAN A. TURNAGE - CHAIRMAN

Date FEB. 13, 1979

ROLL CALL

SENATE TAXATION COMMITTEE

46th LEGISLATIVE SESSION - 1979

Each Day Attach to Minutes.

SEN.

SENATE TAXATION COMMITTEEBILL 285, 354.
389, 392

VISITORS' REGISTER

DATE 2-13-79

Please note bill no.

(check one)

NAME	REPRESENTING	BILL #	SUPPORT	OPPOSE
Lloyd Crupper	The Anaconda Co	285	✓	✓
	not testifying	392		✓
John H Weaver	Anaconda	392		✓
F.H. Roles	NOT TESTIFYING			
Bob Helding	MONT. CHAMBER OF COMM.	285		✓
Ed Nelson	MONT. TAXPAYERS ASSOC.	392 + 285		✓
Marilyn Beck	I.O.M.A.	392		✓
W. J. Phillips	The Anaconda Co (NOT TESTIFYING)	392		✓
Gene Phillips	ASARCO Inc.	285		✓
Don P. Eason	The Anaconda Co (Testifying)	392		✓
Clark Cipper	Gulusha-Egging & Gulusha Corp	392		✓
Marty Hutchinson	Dept of Revenue			
Ken Morrison	" " "	392	✓	
Bill Buff	" " "			
Larry Lewis	" " "	285		✓
Gene Hufford	D.P. Davidson & Co	354	✓	
James J. Connor Jr.	D A Davidson	354	—	
Michael F. Barron	Diamond International Corp.	392		
William L. Beuval	Columbia Paint Co.	392		✓
Pat Stewart	Mt. Coal Council	285		✓
Marilyn Hanbur	Montana Retail Ass.	392		
John Eldredge	Barco, Inc.	392		
Elizabeth Anderson	Montax	285		✓
Tom J. Allen	M.J. Wolf - Assoc.	392		✓

TESTIMONY
by the Montana Chamber of Commerce
In Opposition To
SENATE BILL 285

Exhibit 1
(a)

Mister Chairman, members of the Committee, the Montana Chamber of Commerce has a long history of support for incentives to new industries to come into Montana and for the expansion of existing industries. It might be well to go back to 1974, when the Montana Chamber of Commerce, in cooperation with the Department of Community Affairs, established a task force to "investigate ways to improve the economic climate in Montana." One of the five committees of that task force was a manufacturing committee which developed several recommendations that were adopted by the task force and later by the Montana Chamber of Commerce. Some of those recommendations took the form of legislation which was introduced in the 1975 session. Prior to the introduction of that legislation, the only firms ^{now in effect} that received the tax reduction^{were} those currently described on page three, lines 4 through 8. The 1975 legislature saw fit to adopt the proposals which would include all manufacturing based on the 1972 Standard Industrial Classification Manual. ~~THIS DID NOT INCLUDE UTILITIES.~~ Special attention was given in this legislation to those operations that might have an "adverse impact" on the area.

I do not agree with the argument that the only firms that take advantage of this tax incentive are "large firms" and ~~is THAT~~ ^{IS} ~~therefore~~ somehow not desirable. An example of a supposedly large firm which used the incentive is the Plum Creek Lumber Company in Columbia Falls. When that firm established its Particle Board Plant,

it applied for, and received, the tax treatment that Senator Watt wants to eliminate. I talked with the Comptroller of that firm yesterday and he assured me that the tax treatment that they ^{UNDER CURRENT LAW} could qualify for was an important factor in the final decision to build the plant at all, and provide the 150 jobs that now exist in that ^{PLANT} ~~area~~. It should also be pointed out that Senate Bill 285 is yet another example of an effort to somehow affect a change on "big business" which then has the result of affecting all business regardless of size.

Our neighboring states offer incentives to industry. For example, Idaho offers a tax exemption on manufacturers inventories, a tax exemption on sales and use tax on new equipment, a tax exemption on raw materials and accelerated depreciation of industrial equipment. North Dakota exempts property tax on new industry for a five year period and offers the same exemption to the expansion of existing businesses. South Dakota has no corporate income tax and no inventory tax. These are just a few examples of what our neighboring states are doing to encourage economic growth.

You recently received the reports of the Governor concerning economic growth in Montana, including the development plan for Montana produced by the Office of Commerce and Small Business Development. That report emphasises the importance of expanding Montana's basic industry jobs. You are all aware of

the need for expansion of this base which is responsible for the development of derivative and related jobs for Montanans.

Senate Bill 285 would eliminate a very valuable and useful tool to help build a stable economy and generate the jobs we need in Montana. The Montana Chamber of Commerce sincerely requests that you give this bill a do not pass recommendation.

#

New Industry

24th +
(b)

1978

1. Blanchard & Sons, Machine Shop ~~Billings~~
2. Component Structures, Inc. ~~Billings~~
3. K Bar K Ranch Meats ~~Billings~~

1977

1. Intercontinental Truck Body Inc. St. Falls
2. KMTX Radio Service DENIED
3. Liberty Manufacturing Chester
4. Montana Millwork, Inc. Billings
5. Boone Manufacturing Shelby

1976

1. Martin's Yeat Big Fork
2. J. B. White & Co. Marysville
3. Montana Pacific International Roundup
4. Boise Cascade Corp. Laurel
5. Selway Corp. Hamilton
6. Puget Sound Power & Light Co Colstrip

Ech. #2

STANDING COMMITTEE REPORT

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Journal

MR.

We, your committee on

having had under consideration Senate Bill No. 285

Respectfully report as follows: That..... Senate Bill No. 285.....

SB 285, introduced bill be amended as follows:

1. On page 1, line 4 after the word to strike the word "end" and insert the word "amend".
2. On page 1, line 6 after the figures 15-6-119 strike the words and numbers "15-24-1308,-and-20-1-208,-MCA," ~~repealing Section 20-9-407,-MCA,"~~
3. On page 2, line 5 insert the words, "(d) new industrial property as defined in this section.
4. On page 5, line 4 insert the words, "(c) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, except mobile machinery, which is used by a new industry during the first 3 years of its operation. The property may not have been assessed prior to July 1, 1961, within the state of Montana.

DO PASS

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Journal

MR.

We, your committee on

having had under consideration Bill No.

Respectfully report as follows: That..... Senate Bill No. 285.....

(i) New industrial property is limited to industries that:

(A) mill or mine;

(B) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(ii) New industrial property does not include:

(A) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(B) a plant that will create adverse impact on existing state, county, or municipal services; or

(C) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(d) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant or plants in Montana for the operation of

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Journal

MR.

We, your committee on

having had under consideration Bill No.

Respectfully report as follows: That..... Senate..... Bill No..... 285....

a new industrial endeavor, as defined in this part, as distinguished from a mere expansion, reorganization, or merger of an existing industry or industries.

(3) The department of revenue shall promulgate rules for the determination of what constitutes an adverse impact, taking into consideration the number of people to be employed and the size of the community in which the location is contemplated. Any person, firm, or other group seeking to qualify its property for inclusion in this class shall make application to the department in such a manner and form as the department requires.
Once the department has made an initial determination that the industrial facility qualifies as new industrial property, the department shall then, upon proper notice, hold a hearing to determine if the new industrial classification should be retained by the property. The local taxing authority may appear at the hearing and may waive its objection to retention of the classification if the industry agrees to the prepayment of taxes sufficient to satisfy tax requirements created by the

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Journal

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location and construction of the facility during the construction period. When a prepayment of taxes is required, the maximum amount of prepayment shall be the amount of tax the industry would have paid without the application of the class seven percentage to such property.

(4) If a major new industrial facility qualifies under class eighteen, the reduction of its yearly payment of property taxes for reimbursement of its prepaid taxes as provided for in 15-16-201 does not begin until the class eighteen qualification expires.

5. On page 5, line 21 before the word Industrial insert the words, "Improvements classified as "new industrial property" under 15-6-119 may not qualify for benefits under this section."
6. On page 7, line 18 before the word open insert the words, "construct or locate a major industrial facility, as defined in 20-9-407, or intends to."

STANDING COMMITTEE REPORT

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Journal

MR.

We, your committee on

having had under consideration Bill No.

Respectfully report as follows: That.....Senate.....Bill No.....285.....

7. On page 7, line 24 before the word strip insert the words, "major industrial facility or".
8. On page 8, line 3 before the word strip insert the words, "major industrial facility or".
9. On page 8, lines 13 and 14 delete entire Section 4.
~~Section-4---Repealer---Section-20-9-407,-MCA,-is-repealed-~~
10. On page 8, line 15 after the word Section delete 5 and insert 4.

COMMENTS OF THE ANACONDA COMPANY
BEFORE THE SENATE TAXATION COMMITTEE
February 13, 1979

Exhibit 3

RE: SENATE BILL 392

My name is Donald R. Eamon, Senior Tax Representative for The Anaconda Company, residing in Lakewood, Colorado.

I am speaking in opposition to Senate Bill 392 because it is an attempt by the Department of Revenue to legislate their interpretation of a current tax controversy between The Anaconda Company and the Department of Revenue. It also covers the Department's stance on three "Freeport" applications submitted by Anaconda which have not yet been scheduled for a requested informal hearing.

The portions of the bill relating to inventory valuation, use of the "Life" cost method, are principal issues in a Cascade County tax appeal. The Cascade County Tax Appeal Board has found in favor of Anaconda; the Department of Revenue has appealed that decision. On February 20, 1979, the State Tax Appeal Board will hear this appeal.

I think the motivation behind this bill's introduction merits its early demise.

D. R. Eamon
Senior Tax Representative
The Anaconda Company