

MINUTES OF THE HOUSE TAXATION COMMITTEE MEETING
January 21, 1981

A meeting of the House Taxation Committee was held on Wednesday, January 21, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present. HOUSE BILLS 36, 65 and 221 were heard and EXECUTIVE ACTION was taken on HOUSE BILLS 177, 308, and 109.

The first bill to be heard was HOUSE BILL 65, sponsored by Rep. Harold Briggs. This bill involves a telephone company in his area that falls within three counties, which has experienced a dramatic increase in its property taxes over the past few years.

Jack Law, from Missoula, compared the current law with the proposed law. Currently, if there is a telephone station in excess of every 1 1/4 miles, it is taxed at 8%. The effect of the law is, if the telephone company had two new installations dropped on existing lines, their taxes would go from 8% to 15%. The effect of HB 65 would be that the value of the system would increase gradually as the number of stations are increased.

Beverly Helming, Southern Montana Telephone Company, then rose as a PROPONENT of HB 65. She distributed copies of information which depicted how, over the last four years, her company has had over a 1000% increase in property taxes. She also distributed a graph that showed how the taxes increased in relation to the minimal subscriber count; see Exhibit "A." According to HB 65, they would be taxed at about 9% instead of 15%. She submitted that a small company like hers had a hard time staying in business; inflation they understood but the tax increase they didn't.

Riley Childers, Montana Telephone Association of Independent Companies, rose in support of the bill and added that he had analyzed it and concluded that it would not affect the rural co-ops.

Don Hoffman, Department of Revenue, then spoke, stating that he wasn't really in opposition to the bill, but feels that there would be some administrative problems with it. Companies would have to be analyzed on a yearly basis, and at present the Department does not have sufficient staff for this job.

There were no OPPONENTS to HB 65. Questions were asked by the Committee. Ms. Helming stated that she believed that the Southern Montana Telephone Company was the only company the bill would affect.

When Mr. Hoffman was asked why the Southern Montana Telephone

Company's taxes increased so dramatically, he said that he would have to respond at a later time. Chairman Nordtvedt asked that he do this in writing.

Rep. Dozier asked Ms. Helming if their amount of property increased during the period the taxes increased. She responded that in 1978 a substantial addition was made to the plant, and they had no problem with the tax increase which resulted; however, since that time 32 miles of pole line has been added to about 270 miles of existing line and a grant exchange was purchased and the tax increase has been unreasonable.

It has pointed out that the rural cooperatives were taxed at a rate of 3%.

Rep. Asay questioned Mr. Law about what caused tax increases and in response Mr. Law passed out examples of how it occurred; see Exhibit "B."

It was stated that about \$1,700 of the increase in taxes for Southern Montana Telephone Company was due to an increase in property valuation.

Rep. Nordtvedt asked Mr. Hoffman if he had made any attempt to compare the Department's calculations with the County Assessors'. He replied that this would be hard to do because of the different methodologies that they use. Department calculations are based on previous years' calculations; he admitted that there hadn't been much of a change in value with the Southern Montana Telephone Company.

Rep. Williams wanted to know if the Southern Montana Telephone Company had presented its case to the Tax Appeal Board, and Ms. Helming replied that they had done this at the state level, and part of their taxes for this year were paid under protest.

In response to a question from Rep. Underdal, Ms. Helming stated that the Company had increased their number of phone hookups from 366 to 481. She told Rep. Harp that cable size hadn't been increased when the line was added.

Mr. Hoffman expressed the belief that this bill would affect more than just Ms. Helming's company.

Rep. Williams wanted to know why there was a disparity between the Department of Revenue's assessments and the Counties', since the counties were supposed to be operating under Department of Revenue rules. He responded that he wasn't sure that there was a disparity.

Ms. Helming pointed out that the jump from 8% to 15% depended on the subscribers per mile. She didn't know about the grant exchange's part in the jump; their taxes had remained at \$1,700 for about five years at an 8% tax rate, and the jump occurred when a privately owned Idaho telephone company sold them their one exchange which was located in Montana.

Rep. Briggs then closed, and the hearing on HB 65 was closed.

HOUSE BILL 36, sponsored by Rep. Joe Brand, was then heard. He explained that the bill had been drafted to address the BPA's putting new power lines in the State and the effect this will have on the Counties, which won't be receiving any tax revenue because the BPA is a public agency and therefore tax-exempt. Congress has granted the BPA the authority to go east of the Continental Divide, which they hadn't been able to do until about a year ago. Congress has tried to put legislation similar to HB 36 into law. Rep. Brand is hopeful this bill won't tax the co-op lines. Many of the citizens of his District are concerned because Montana Power applied to put in a line and they were granted it, but had a problem with the Indian reservation and, for whatever reason, they quit trying to put the line in. Then BPA arrived on the scene and this upset the people. If a private utility wants the power lines, they have to pay taxes, and these power lines won't be taxed. The Congressional delegation introduced a bill which would provide for a tax, but that portion of the bill was taken out. Montana was asked to introduce a bill on the state level and thus HB 65 was drafted. Maybe then, this type of legislation would have a better chance on the federal level. BPA is using these lines to go back to the private lines, and this isn't justifiable. All the big corporations are going to use this electricity and Montana should get some tax dollars in return. This is the first of many lines that will traverse the state, and we should get a handle on this situation before we lose the power to do anything.

Steve Doherty, Northern Plains Resource Council, then spoke as a PROPONENT to HB 36. He is very concerned about the BPA transmission lines. He suggested an amendment to clarify the intent of the legislation and hopefully avoid any question of trying to tax other entities which clearly shouldn't be taxable. He suggested that the word "entity" be stricken and replaced by the word, "agency." He submitted that the question of the ability of state and local governments to tax a federal agency is a legitimate one, and this bill has support from the Congressional delegation. He pointed out that at one time, tax revenues were promised as part of the project.

There were no OPPONENTS to HB 36. Questions were then asked.

Rep. Roth asked Rep. Brand why the REA's weren't considered "public entities." He replied that they are not in the business of transmitting energy for the purpose of selling it to someone else than their customers.

Rep. Williams asked Rep. Brand how this issue was handled in other states and he said that no other states had done anything. Enactment of this measure would help all over the country. Rep. Williams pointed out that this bill would be unenforceable unless Congress backed it up.

In response to Rep. Underdal, Rep. Brand stated that most of the power goes out of the state, probably. Rep. Harp interjected that it was hard to say what goes into Montana and what goes out of state because it was on a grid system which was contingent upon demand.

Rep. Asay wanted to know if it might not be easier to tax the power itself rather than the federal government. It was pointed out that Sen. Manley had a bill to tax the energy going through the lines.

Rep. Williams brought up the possibility of payment in lieu of taxes. Rep. Brand stated that all he had talked about with the Congressional delegation was this bill in particular.

Rep. Neuman stated that maybe the corridor should be provided, because the state is already getting the severance tax, which was designed to help out with impacts from the coal industry. Rep. Brand disagreed, pointing out that if the power company going through the same area were private, it would be paying taxes.

Rep. Vinger said that he supposed the tax would be passed on to the consumer. Rep. Brand responded that if the power company were private, this would be the case.

Rep. Brand then closed. He reiterated that this bill was introduced at the request of Montana's Congressional delegation, so they could have some background for introducing a similar measure in Congress. The hearing was then closed.

HOUSE BILL 221, sponsored by Rep. Burnett, was then heard. He explained that present law, which this bill addresses, is the result of Rep. Dassinger's bill, which was passed in 1975.

At that time, the interest rate was stable, and since then, this has changed. He then submitted several amendments to the bill which had been submitted by the Montana Power Company; see Exhibit "C."

Bob Gannon, Montana Power Company representative, then rose as a PROPONENT to HB 221. He said that the original law helps to provide for "up front" money, and Colstrip is the only area it has thus far been applied to. However, there will be substantial impacts in the future if development continues; for example, with the school situation. The law (Sec. 15-16-201, MCA) wasn't used until within the past year. This bill is an attempt to recognize and put into effect an elementary principle of fairness: money that is obtained by one party and given to another party should reflect some type of interest during the period of use. It is very similar to a loan situation, the loan payment being the tax credit. He stated that he didn't know why interest wasn't included in the original bill. He explained that the fourth amendment offered by MPC would allow the counties to exceed their mill levy limitations if it was necessary in order to adjust for the credit that would be allowed during the five-year period.

An example of how this bill would work was given, using Colstrip. MPC was requested to make a prepayment, for the purpose of school construction. MPC had to go to the open market to get \$820,000 and had to pay a flowing prime rate. Contrary to what some people might think, they did not have enough money sitting in reserve to pay this sum. The prepayment started in August, 1980; however, the credit won't be allowed until the facility is completed, which will not be until 1984. Thus, no credit will be allowed until 1984, and the final credit won't be made up until 1989. In the past week, the County commissioners from Rosebud County have asked for another prepayment of \$2.2 million. The net effect of allowing the credit in 1984-89 is going to be that some county money is going to be taken out to credit the company; therefore, the mill levy will probably have to be raised. Colstrip is unique and if the mill levy is raised from 1984-89 to adjust for the credit, then the same people are going to be paying for the credit. Resource 89, which is in the planning stages, should not have to encounter this type of situation. He concluded that the principle of fairness should carry the bill.

Gene Phillips, Pacific Power and Light spokesman, then rose in support of HB 221.

Rep. Tom Asay then rose in OPPOSITION TO HB 221. He said that the reason for the prepayment was because of the building of Colstrip 3 and 4, not because the property, that will not be of use when Colstrip 3 and 4 are done, is being invested on a permanent basis. The impact will be gone when the construction is over.

The money will be for temporary classrooms, and when construction is done, these buildings will be disposed with. As far as prepayment, the money is going to have to be repaid. It is improper to burden the taxpayers with a future obligation that will be of no value to them. Questions were then asked concerning HB 221. Rep. Harp asked Mr. Gannon what percentage of the total county-wide taxes MPC and Western Energy were presently paying. He replied that it was about 56% of the total taxes and 86% in School District 19.

Rep. Oberg submitted to Mr. Gannon that the interest costs would be shifted to the property owners. He replied that under amendment No. 4, the money would be used to build a county service that is needed, such as a road. Also, a lot of people will be living in the area permanently, such as the families of workers at the plants. He argued that the school would be permanent.

Rep. Asay asked if there would be any need for the construction if Colstrip 3 and 4 weren't being built. He responded that there wouldn't.

Mr. Gannon submitted that the point he was trying to make was: In Colstrip there was very little property in relation to the industrial-related property. The disproportion wouldn't be like this with Resource 89, probably; however, he didn't really know how the future would unfold.

Rep. Williams asked if the cost of the interest that would be paid on the loans to make the prepayment would be passed on to the consumer; if it would be used when rates were computed. Mr. Gannon replied that he was sure it was included.

Rep. Devlin asked Rep. Asay if there were any permanent structures being installed in Rosebud County in relation to Colstrip. Rep. Asay said that it was his understanding that they were all temporary. Part of the reason for HB 121 would be to establish a fund where this sort of thing wouldn't be necessary.

Rep. Burnett then closed, and the hearing on HB 221 was closed.

The Committee then went into EXECUTIVE SESSION. HOUSE BILL 177 was considered. Rep. Sivertsen argued that tax relief could be accomplished in better ways. Chairman Nordtvedt added that the tax base needed to be protected. A motion was made that HB 177 DO NOT PASS; the question was called for and the motion carried unanimously.

Rep. Vinger then moved that HOUSE BILL 308 DO PASS. Discussion followed. Rep. Harp pointed out that this bill would be helpful for the small businessman with high inventories. The question was then

called for and the motion of DO PASS carried unanimously.

Rep. Brand then moved that HOUSE BILL 109 DO NOT PASS. Discussion followed. Rep. Sivertsen stated that the town of West Yellowstone definitely had a problem, and he entertained alternatives from the Committee to deal with them. It was pointed out that their tax levies were some of the lowest in Gallatin County, and maybe more effort on their part and the Legislature's leaving more tax dollars in those communities would help offset the problem. Rep. Harp expressed a desire to see West Yellowstone use the avenue of County assistance. Rep. Devlin suggested that they could raise their mill levies and raise prices on goods and services. Rep. Asay suggested that the Special Improvement District avenue was another possibility.

The question was then called for on the motion of DO NOT PASS HB 109. The motion carried with Rep. Oberg opposed. Rep. Vinger was excused, but left a written ballot of DO NOT PASS.

Rep. Asay then spoke up regarding prepayment of taxes, stating that if what HB 121 provided for was in existence already, HB 221 wouldn't even be necessary.

The meeting was adjourned at 9:30 a.m.

Rep. Ken Nordtvedt-Chairman

da

VISITORS' REGISTER

HOUSE TEACHERS COMMITTEE

SPONSOR Loggs

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
<i>[faint handwriting]</i>		<i>Ja.</i>		
<i>[faint handwriting]</i>		<i>[faint handwriting]</i>		
<i>[faint handwriting]</i>	<i>1 South</i>	<i>Montgomery</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

PROPERTY TAXES

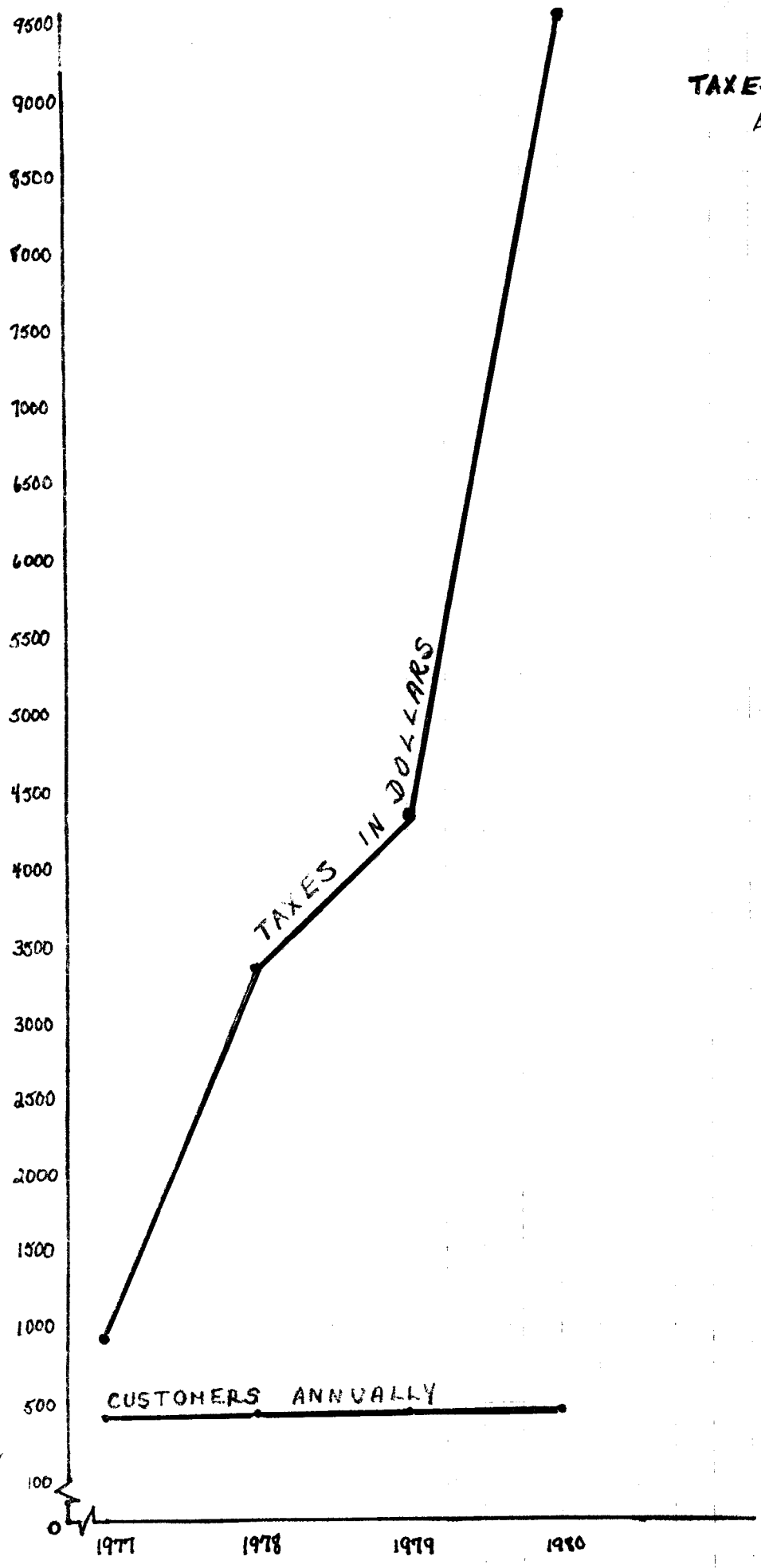
SOUTHERN MONTANA TELEPHONE CO.

	1977	1978	1979	1980
BEAVERHEAD COUNTY	66831	257782	314774	791760
BUTTE-SILVER BOW COUNTY	4944	23116	42828	70884
BLAINE-DEER LODGE COUNTY	8562	46429	71665	116421
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	80637	327327	429267	979065

305% INCREASE 31% INCREASE 128% INCREASE

OVER 1,000% INCREASE FROM 1977 TO 1980!

TAXES V.S. CUSTOMERS
ANNUALLY
1977-1980



HB 65
TAXATION
1/21/81

Title 15 of the Montana Code Annotated (1978) controls Montana property taxation.

Section 15-6-137 pertains to Class 7 Property - paragraph (1)(b) and (2) apply to organizations engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less. To qualify for this classification, the average circuit miles for each station on the telephone communication system described in 1(b) must be more than $1\frac{1}{4}$ miles.

Class 7 Property is taxed at 8% of its market value.

Section 15-6-141 pertains to Class 11 Property - certain centrally assessed utilities. Paragraph (1)(c) applies to all centrally assessed companies with three exceptions, one of which is paragraph (1)(c)(iii)--property owned by organization providing telephone communications to rural areas and classified in Class 7 (above).

Property described in Section 15-6-141(1)(c) is taxed at 15% of market value.

Telephone company utilities can not deny services.

It appears unreasonable that a telephone utilities' tax would raise from 8% to 15%--an $87\frac{1}{2}\%$ increase in taxable base.

An example is presented below:

If a telephone company had:

1. a market value of \$300,000
2. 500 circuit miles of telephone line
3. 399 telephone stations
4. a mill levy of 252.98

This company would qualify for taxation as Class 7 Property as there would be one telephone station for each 1.253 miles. Its property taxes would amount to approximately \$6,071.52.

The same company, having the same circuit miles, but having 401 telephone stations (because two new houses were built) would have one telephone station for each 1.246 circuit miles. The class would change from 7 to 11 and its property would now be taxed at 15%. The tax would be \$11,384.10. This increase of \$5,312.58 would be caused by the increase in telephone stations of $\frac{1}{2}\%$. The increase in market value for the company would be negligible.

The sponsors of this amendment feel such a sharp contrast in results is unrealistic. They feel that a graduation of the increase is in order to measure the increase in taxes in relation to the value of the company and, therefore, submit this amendment.

The State of Idaho, as an example, simply assesses the tax based upon the linear miles with no adjustment for rates of tax.

STATE OF MONTANA

DEPARTMENT OF REVENUE

MITCHELL BUILDING

HELENA, MONTANA 59601



July 25, 1980

John E. Helming
President
Southern Montana Telephone Co.
Wisdom, MT 59701

Dear Mr. Helming:

You received recently copies of your 1980 allocations for property tax purpose. It was discovered after we mailed these notices that there was an error in computing the taxable value. It was computed at 8% and it should have been 15%.

Therefore, I have instructed the counties of Beaverhead, Deer Lodge, and Silver Bow to adjust the taxable values accordingly, to reflect a taxable value at 15%.

If you have any questions please contact the undersigned.

Very truly yours,

Don R. Hoffman, Chief
Inter-County Property Bureau
Property Assessment Division

DRH:mc

cc: Beaverhead Assessor ✓
Deer Lodge Assessor
Silver Bow Assessor

The owner did receive this letter in our office. This copy was given to me by Bud Assessor in November - that was the first we knew of the increase.

Deerby Helming

S. - D. W. C.

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

H.B. 36
 SPONSOR BRAND

Date 1/21/81

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
<i>D. Hoffmann</i>		<i>DoR</i>		
<i>Seve Doherty</i>	<i>Malena</i>	<i>NPRC</i>	<input checked="" type="checkbox"/>	
<i>Yogi Berra</i>	<i>Hobson</i>			
<i>James E. Lehman</i>	<i>Walden</i>	<i>S. Mt. Tech Co.</i>		
<i>Paul A. Fox</i>	<i>Murphy</i>			
<i>Ray Childers</i>	<i>C. F.</i>	<i>MIT A</i>		
<i>James E. Lehman</i>	<i>Walden</i>	<i>S. Mt. Tech Co.</i>		
<i>Paul B. Williams</i>	<i>Hobson</i>	<i>Energy Res.</i>		
<i>Larry Brooks</i>	<i>L. bbu</i>	<i>Int.</i>		
<i>John D. ...</i>	<i>Carroll</i>	<i>Mort. ...</i>		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.
 PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE T. & A. P. 1971

COMMITTEE _____

2-21

1/21/71

SPONSOR Burnett

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOSE
<u>D. Hooper</u>		<u>1</u>		
<u>M. J. ...</u>		<u>Mont ...</u>	<input checked="checked" type="checkbox"/>	
<u>Frank ...</u>	<u>Helena</u>	<u>Mont Chamber</u>	<input checked="checked" type="checkbox"/>	
<u>...</u>	<u>...</u>	<u>...</u>	<input checked="checked" type="checkbox"/>	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE BILL 221, INTRODUCED BILL

1. Amend the title.
Following: "FACILITIES"
Insert: "TO ALLOW THE BOARD OF COUNTY COMMISSIONERS TO LEVY FOR
A BUDGET ADJUSTED FOR THE CREDIT"
2. Amend page 2, line 7.
Following: "THE"
Insert: "sum of the"
3. Amend page 2, line 7.
Following: "PREPAID"
Strike: ", PLUS INTEREST AT THE RATE OF 10% A YEAR"
Insert: "and interest on the unrecovered balance at the rate of
10% per annum"
4. Amend page 2, line 10 through 15.
Following: "FACILITY."
Strike: "IN THE FIRST YEAR THAT THIS CREDIT IS ALLOWED, THE INTEREST
SHALL BE CALCULATED ON THE AMOUNT OF PREPAID TAX FROM THE
DATE OF PREPAYMENT UNTIL THE ALLOWANCE OF THE CREDIT:
THEREAFTER, THE AMOUNT OF THE INTEREST SHALL BE CALCULATED
ON THE REMAINING BALANCE OF THE PREPAID TAX."
Insert: "In each of the five years that the credit is allowed, the
board of county commissioners may adopt and levy for a
budget adjusted for the credit against property taxes,
statutory mill levy limitations notwithstanding."

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TO AIRPORT.

Vinzer

STANDING COMMITTEE REPORT

January 27,

1951

SPEAKER:

MR.

TAXATION

We, your committee on

having had under consideration **House** Bill No. **36**

A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING SECTIONS 15-6-141, 15-6-201, AND 15-23-101, MCA, TO PROVIDE FOR TAXATION AS CLASS ELEVEN PROPERTY OF CERTAIN ELECTRIC TRANSMISSION AND DISTRIBUTION PROPERTY CONSTRUCTED, OWNED, OR OPERATED BY A PUBLIC ENTITY, TO ELIMINATE TAX EXEMPTION OF SUCH PROPERTY, AND TO INCLUDE SUCH PROPERTY AMONG PROPERTIES CENTRALLY ASSESSED."

Respectfully report as follows: That **House** Bill No. **36**, introduced (white), be amended as follows:

1. Title, line 8.
Following: "PUBLIC"
Strike: "ENTITY"
Insert: "AGENCY"
2. Page 1, line 19.
Following: "public"
Strike: "entity"
Insert: "agency"
3. Page 1, line 21.
Following: "facilities"
Insert: "(not including rural electric cooperatives)"
4. Page 4, line 6.
Following: "public"
Strike: "entity"
Insert: "agency"

Rep. Ken Nordtvedt, Chairman.

COMMITTEE ON TAXATION AMENDMENTS TO HOUSE BILL 30

5. Page 4, line 5.
Following: "facilities"
Insert: "(not including rural electric cooperatives)"
6. Page 5, line 13.
Following: "public"
Strike: "entity"
Insert: "agency"
7. Page 5, line 15.
Following: "facilities"
Insert: "(not including rural electric cooperatives)"

AND AS AMENDED
DO PASS

Rep. Ken Nordstvedt, Chairman

STANDING COMMITTEE REPORT

DECEMBER 14 19 61

SPEAKER:
MR.

TAXATION

We, your committee on

having had under consideration **House** Bill No. **65**

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE GRADUATED TAXATION OF CERTAIN TELEPHONE COMMUNICATION PROPERTIES; AMENDING SECTION 15-6-137, MCA."

Respectfully report as follows: That **House** Bill No. **65**

~~DO NOT PASS~~
DO PASS

STANDING COMMITTEE REPORT

February 5, 1981

MR. SPEAKER

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 221

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW CERTAIN INTEREST TO BE INCLUDED IN THE CREDIT AGAINST PROPERTY TAXES FOR TAX PREPAYMENTS ON NEW INDUSTRIAL FACILITIES; AMENDING SECTION 15-16-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That HOUSE Bill No. 221

DO NOT PASS

~~DO PASS~~