

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

January 19, 1983

The seventh meeting of the Taxation Committee was called to order at 9:05 a.m. by Vice Chairman George McCallum in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senators Goodover and Severson. Senator Goodover was attending the Legislative Council's budget meeting.

CONSIDERATION OF SENATE BILL 110: Senator Towe, the principal sponsor of the bill, said it was introduced at the request of the Department of Revenue. It deals with confusion in the present law relating to interest and penalties assessed on mines' net proceeds and gross proceeds taxes. According to the Montana Association of Counties, there could be a problem in the language of the bill. Amendments that have been suggested (copies of which are attached as Exhibit A) would strike sections 1 and 2 of the bill and just add sections 3 and 4. Section 3 provides that the Department of Revenue may collect interest in addition to additional taxes due. The existing law (lines 5-7 and 15-17, page 2, of the introduced SB 110) would be retained because there are still occasions when it is used. Section 3 is for when properties are undervalued.

PROPOSERS

Don Hoffman, Natural Resource Tax Bureau Chief from the Department of Revenue, said the bill was introduced because of inconsistent application of interest due. The Montana Association of Counties also supports this bill with the amendments introduced by Senator Towe.

OPPOSERS

Jim Mockler, representing the Montana Coal Council, argued first that if the value for taxation reveals that a taxpayer has overpaid his taxes, the taxpayer should be paid interest on that money from the state. Secondly, if a taxpayer inadvertently makes an error, additional interest due should be calculated from the date of notice of additional tax. It could be a great length of time between the date a return is filed and the date an audit is performed.

Questions were called for from the committee.

Senator Turnage asked the Department of Revenue representative if the problem of improperly reported taxes was a widespread problem and how many instances of improperly reported taxes there were. Mr. Hoffman stated that the Department has been gathering data for a year and assessing additional taxes on almost a daily basis. This will aid them in the compliance

process. Some filers have not filed their net proceeds returns and no one is receiving the benefit of the tax dollar. Further, additional tax is not delinquent until 30 days after notice is given that the additional tax is due. By cross-referencing reports, they find taxpayers who have completed wells who have never filed returns with them. They also become aware of these situations through the county assessors.

Senator Towe said that when the Department of Revenue finds that an amount has been understated and, as a result of an audit 1 1/2 years later, they make an assessment, it is not delinquent until 30 days after notice of such additional tax due.

Mr. Hoffman said the bill will clear up inconsistencies in what the counties are doing.

Senator Towe thought we should define the word "delinquency."

Senator Crippen said that section 15-16-102, MCA, provides that all taxes levied and assessed in the state, with certain exceptions, shall be payable on or before November 30 (first half) or on or before May 31 (second half) each year and shall become delinquent if not paid on or before the respective dates. The statute does not say anything about 30 days.

Senator Towe stated that the first section of the bill relates to mines net proceeds from the production of metals and minerals other than petroleum and natural gas. The second section of the bill relates to metal mines gross proceeds from the extraction of metals. The third section of the bill deals with values under sections 15-23-602 (oil and gas), 15-23-502 (valuable minerals except coal and metals), 15-23-701 (coal), and 15-23-802 (gold, silver and other metals), MCA. There are no delinquency provisions in those parts of the statutes. The same interest will apply, which is 1% per month. Removal of the penalty adopts the normal procedure of interest being paid at 1% per month and no penalty. The corporation tax interest rate is also 1% per month.

Mr. Hoffman stated there is a penalty in 15-23-104, MCA, of \$25 per month for failure to file a return. They did not want to insert anything into the other property taxes. There is a penalty for failure to file a return, but no penalty is imposed for additional tax due, just the additional tax plus the interest.

Senator Norman thought that if a taxpayer pays too much and the state is investing the overpayment and making money on it, the state should pay the taxpayer back with interest.

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Mr. Hoffman pointed out that these are state administered local taxes. If undervaluation occurs, the Department of Revenue notifies the county government and it is up to them to refund the taxpayer. Counties do have the discretion to give a refund to a taxpayer but not to enact penalties.

Senator Turnage requested more information from the Department. He thought the word "improperly" in line 19 on page 2 of introduced SB 110 was too imprecise. He felt the assessment of additional tax should be based on a finding that a deficiency exists in a return.

Mr. Hoffman said the statistics they prepare will show what interest was foregone, etc. They are proposing a 5-year statute of limitations, too, so the interest won't accumulate indefinitely. They are auditing 5 years back now, he said.

Senator Eck asked Mr. Hoffman what system they had for working with producers so that they would fully understand what they are required to file. Mr. Hoffman said they have nothing other than a walk-in type of service. When a new producer comes in, the Department of Revenue advises them what they need to file. When a well is completed, they notify what filings must be made. The Department also reminds current producers of their filing responsibilities.

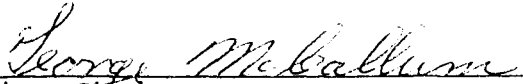
Mr. Hoffman said there is a difference between a filer and a nonfiler. A nonfiler is subject to penalty (15-23-104, MCA) plus one percent of the tax due for each month the report is delinquent. The one percent goes to the counties.

Mr. Mockler stated the Department of Revenue would have the figures in situations where a taxpayer could understate or overstate the value of his proceeds.

The hearing was closed on SB 110. The Department of Revenue will furnish the committee with facts and figures regarding counties and the amounts of tax involved.

CONSIDERATION OF SENATE BILLS 96 and 72: Cort Harrington will retype SB 96 and SB 72, incorporating the amendments into them, for easier reading, and submit them to the committee for consideration.

The meeting adjourned at 9:40 a.m.

  
Vice Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/19/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN			✓
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON		✓	
SENATOR HAGER	✓ left 9:30		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

1983

(Please leave prepared statement with Secretary)

WITNESS STATEMENT

Name W F D. Hey Date 1/19/83  
Address 1802 11th Support ? ☒  
Phone: \_\_\_\_\_ Oppose ? \_\_\_\_\_  
Representing MACo Amend ? ☒  
Which Bill ? SB 110  
Comments: Support with DOR Amendments.

Please leave prepared statement with the committee secretary.

Amend SB 110 as follows:

1. Title, page 1, lines 7 & 8.

Strike: "AMENDING SECTIONS 15-23-507 AND 15-23-804, MCA."

2. Page 1, line 11 through page 2, line 17.

Strike: "Section 1 and 2."

3. Page 2, line 18.

Following: Section

Strike: "3"

Insert: "1"

4. Page 2, line 2<sup>3</sup>~~1~~.

Following: thereto,

Insert: "UNTIL PAID IN FULL"

5. Page 2, line 25

Following: payable.

Insert: "IN NO INSTANCE WILL A TAXPAYER SUBJECT TO IMPOSITION OF INTEREST PURSUANT TO THIS SECTION, BE ALSO SUBJECT TO THE PENALTY AND INTEREST PROVISIONS CONTAINED IN 15-16-102."

6. Page 3, line 1.

Following: Section

Strike: "4"

Insert: "2"

Amendment to SB 110

DELETE SECTION 1

DELETE SECTION 2

Section 3 is amended to read:

NEW SECTION. Section 3. Interest. If the department determines that a taxpayer has improperly reported a value under 15-23-502, 15-23-602, 15-23-701, or 15-23-802, the department shall inform its agents at the county level of such determination, and if any additional tax is due, there must be added thereto, until paid in full, interest at the rate of 1% per month or fraction thereof from the date the original tax was due and payable. In no instance will a taxpayer subject to imposition of interest pursuant to this section, be also subject to the penalty and interest provisions contained in 15-16-102.



Proposed amendment to SB 96

1. Page 1, line 13 through page 2, line 4.

Strike: Section 1 in its entirety.

Renumber: Subsequent sections.

2. Page 2, line 6 through line 7.

Following: "funds"

Strike: "-- disposition of earnings"

3. Page 2.

Following: line 8

Strike: "and"

4. Page 2, line 9.

Following: "subfund"

Insert: ", and the coal severance tax income subfund"

5. Page 2, line 13.

Following: "subfund"

Insert: "except as provided in subsection (2). Income and earnings from all subfunds must be transferred to and retained in the coal severance tax income subfund"

6. Page 2, lines 14 and 15.

Following: "~~legislature~~"

Strike: "state treasurer"

Insert: "legislature"

7. Page 2, line 15.

Following: "appropriate"

Strike: "deposits"

Insert: "appropriate as follows"

8. Page 2, line 16.

Following: "15%"

Strike: "of the income and earnings from all subfunds"

Insert: "to be deposited"

9. Page 2, line 16.

Following: "~~deposited-to~~"

Strike: "in"

Insert: "to"

10. Page 2, line 18.

Following: "~~each-year~~"

Insert: "each year"

Following: ";

Strike: "and"

11. Page 2.

Following: line 18

Insert: "(b) an amount to be determined by the legislature to be deposited to the economic development fund established by [initiative 95]; and"

Renumber: subsequent subsections.

12. Page 2, line 19.

Following: "the balance"

Strike: "of the income and earnings from all subfunds not otherwise specifically appropriated in the state general fund."

Insert: "to be deposited to the general fund and be available each biennium for appropriation by the legislature and such funds must be separately appropriated."

13. Page 2, line 22.

Following: "~~appropriated~~"

Strike: "deposited"

Insert: "appropriated"

14. Page 2, line 24.

Following: "~~further~~"

Insert: "further"

15. Page 3.

Following: line 2

Insert: "NEW SECTION. Section 3. Nonseverability. It is the intent of the legislature that each part of this act is essentially dependent upon every other part. If one part is held unconstitutional or invalid, all other parts are invalid and 17-5-704 is not amended in any manner by this act."

Renumber: Subsequent section.