

Law Lib.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 26, 1983

The fifty-fifth meeting of the Taxation Committee was called to order at 8:10 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Hager.

DISPOSITION OF HOUSE BILL 58: Cort Harrington, the committee's staff attorney, said the amendments to HB 58 take 13.5 mills for the poor fund and 10 mills for a hospital or nursing home. Both together cannot exceed 18 mills. If there is a hospital district, the 10 mills in section 1 of the bill can't be used.

Senator Towe asked if this would hurt the poor fund in any way. Cort replied it would not. In the last amendment, the attempt to change the number of mills to 10 has been changed back to 3, because you can still go to the voters to get additional mills assessed. Section 2 was deleted from the bill in its entirety.

Senator Turnage asked how many additional mills this would be. Cort replied it would be 4.5 additional mills.

Senator Towe moved that the amendments attached as Exhibit A be adopted. The motion was seconded and passed unanimously.

Senator Towe moved that HB 58 BE CONCURRED IN AS AMENDED. The motion was seconded and passed unanimously. Senator McCallum will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 570: Cort Harrington submitted amendments, attached as Exhibit B. New section 3 in amendment No. 5 (amending 15-6-202, MCA) takes "or lease" out of the business inventory definition. The existing language says goods intended for sale or lease. Amendment No. 5 also inserts new language in class six property (15-6-136, MCA) and brings A-1 Rentals and others into the 4% rate. The limitations are set out.

Senator Towe moved that the amendments attached as Exhibit B be adopted. This provides getting a full tax exemption, keeps in the 4% rate, puts bigger equipment into the 11% class, and takes care of "lease".

Senator Elliott made a substitute motion to amend section 3 (15-6-202, MCA), subsection (5), by inserting "primarily" between "goods" and "intended" in the first line of subsection (5) to accommodate the accounting definition of business inventory. The change was acceptable to Senator Towe.

Senator Turnage wondered about conditional sales contracts where at the option of the buyer, the buyer could lease the equipment and return it at the end of the sale. Senator Severson remarked that any time you lease, the property is for sale.

Senator Turnage suggested subsection (5) should refer to "goods primarily intended for sale and not for lease . . .".

Senator Towe restated his motion to include Senator Elliott's substitute motion and Senator Turnage's suggestion. The motion was seconded and passed, with Senators Crippen, McCallum and Severson voting no.

Senator Towe then moved that HB 570 BE CONCURRED IN AS AMENDED. The motion was seconded and passed unanimously. Senator Towe will carry the bill on the floor.

DISPOSITION OF HOUSE BILL 446: Senator Towe provided the committee with a comparison of gold, silver, copper, and platinum prices when the interim subcommittee studied this and the prices now. It is attached as Exhibit C. The companies never came forward with their expenses and gross and net receipts so projected taxes could be figured. The closest they came up with is the Stillwater PGM Resources figures. (See the figures on Exhibit C.) Senator Towe said he had talked with Mr. Davidoff from the Bureau of Mines, who indicated these figures were amazingly accurate. He asked the committee to look at line 4 at the bottom of the page. Let's figure the base at 110% of the 24-month average price. Then, any time the price goes above 10% of the base, the tax increases by .25%. There is no increase until item (6) on Exhibit C.

Also, Senator Hager had asked Senator Towe to index the base according to wholesale price increase. If the base goes up, you take that first and then include the 10%. See Senator Towe's proposed amendments at Exhibit D.

Senator Severson asked Senator Towe if this would adjust either way. Senator Towe replied it would. If it goes down, 459.54 is the base; if it is lower than the base, the tax never drops below 1.5%. Senator Towe said he talked with Representative Dave Brown, who suggested the committee might want to allow it to go down, but not more than .5%.

Senator Severson remarked that that is where you get into unprofitability, and you are taxing more for less when the price is high. If you are setting it up by value of the base, you should also decrease the tax because of unprofitability.

Senator Halligan, who served on the Hard Rock Mining Impact Board, said the Board wanted to tax profitability and with stability so the tax would be predictable. The existing legis-

lation is good. Amendments may lend confusion to what they are trying to accomplish.

Senator Norman felt going below the base was undesirable.

Senator Towe said the legislature could come back in two years to change this if it doesn't work with the amendments proposed.

Senator Elliott wondered if the legislature could rely on Senator Towe's figures as being legitimate sales prices for mining companies.

Senator Gage recalled that Senator Towe indicated this would go into a hard-rock mining impact trust account.

Senator Towe moved that the tax rate be reduced .25% for each 10% that the average daily price of the metals decreases but in no event shall the tax rate be reduced below 90%. The motion was seconded.

Senator Halligan said the base price was the "break even point" of the industry.

Senator Gage said he could support the amendments if all the additional funds went into the impact trust account but not otherwise.

Senator McCallum wondered how much additional tax this would cost, say, Arco at Troy. Senator Towe said if the price of gold goes above 505.49, there will be an increase.

Ward Shanahan, who represents Stillwater PGM Resources, said they are using palladium. Palladium is what will make them go or not go, not the jewelry-type metals.

Senator McCallum made a substitute motion that the third reading copy of HB 446 BE CONCURRED IN (without any amendments). The motion was seconded.

Senator Halligan said the Board had concluded the mining industry was paying high taxes in comparison to other states; they pay the resource indemnity trust tax, metaliferous mines tax, corporation license tax, etc. They pay their fair share not based on productivity.

Senator Towe urged the committee to defeat Senator McCallum's motion. A roll call vote on Senator McCallum's substitute motion was taken, and it passed 7-6.

CONSIDERATION OF HOUSE BILL 870: Carol Ferguson explained her amendments, attached as Exhibit E. Senator Halligan moved that the amendments attached as Exhibit E be adopted. (There was no second to his motion.) Ms. Ferguson said that

Senator Turnage's concern was that the language in the bill created an increase in taxable valuation of mining property after a permit is issued. There was some question that the bill exempted mining property from taxation by counties. Senator Turnage felt the bill did not clearly enough state that the increase in taxable valuation reallocated to other jurisdictions would be taxable in other jurisdictions. If the counties and school districts don't tax, the other entity may tax the increase in valuation.

Senator Turnage asked if Cort Harrington, the committee's staff attorney, would study the amendments before the committee acted on them, and that was agreeable to the committee.

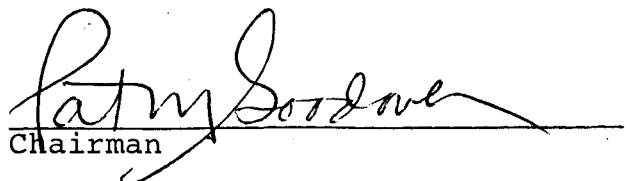
Senator Halligan said that the problem was taken care of in a section inadvertently left out of the bill ("Each affected local government unit shall apply budgeting and mill levy procedures to the portion of the mining property valuation allocated to it pursuant to subsection 4(1)"). Scott Carter, who helped draft HB 870, was present at this meeting and he recommended putting that paragraph back in.

CONSIDERATION OF HOUSE BILL 780: The subcommittee had not met yet concerning amendments to the (gasohol) bill. Senator Turnage pointed out that the protection clause is repealed in this bill. He thought that when refunds reached a certain level (say, \$1,000 a year) for a business getting refunds, it should be shut off for that business. Senator Elliott stated that only the manufacturers of the product would be eligible for refunds. A manufacturer making one million gallons of alcohol would apply to the Department of Revenue for a refund based on 70 cents tax for each gallon, times .9 is 63 cents a gallon refund for each gallon of ethanol produced. The Department of Revenue feels they have a good idea of how much is produced.

Senator Turnage said there are about 446 million gallons of gasoline sold in a year in this state, of which 10 million gallons are sold for gasohol.

Norris Nichols, from the Motor Fuels Tax Division of the Department of Revenue said their won't be much more growth in gasohol manufacturing unless the two present manufacturers expand or more come on board. The only way to get the subsidy is by making gasohol, so if the alcohol manufacturers make any other by-product, they won't get it.

The committee adjourned at 9:45 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

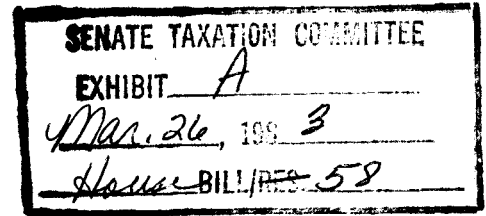
48th LEGISLATIVE SESSION -- 1983

Date 3/26 /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		✓	
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

March 26, 1983

Secretary



Proposed Amendments to HB 58

1. Title, line 6.

Following: "SECTIONS"

Strike: "7-34-2133"

2. Page 1, line 22.

Following: "INFIRMARIES."

Insert: "The combined total number of mills levied under this
section and for the county poor fund, under 53-2-321, may not
exceed 18 mills."

3. Page 1, line 23.

Following: "7-6-2537."

Insert: "If a hospital district is created under Title 7, chapter
34, part 21, the mill levy authorized by this section may not be
imposed on property within that hospital district."

4. Page 1, line 24 through page 2, line 9.

Strike: section 2 in its entirety

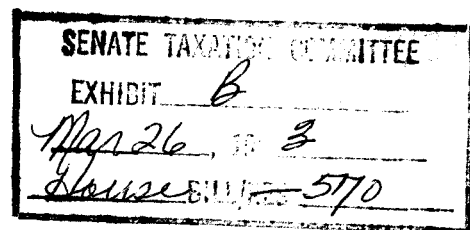
Renumber: subsequent sections

5. Page 2, line 12.

Following: "3"

Strike: "10"

Insert: "3"



Amendment to HB 570, third reading copy

1. Title, line 7.

Following: line 6

Strike: "SECTION"

Insert: "SECTIONS 15-6-136,"

Following: "15-6-138"

Insert: "AND 15-6-202"

2. Page 1, line 13.

Following: "~~class~~"

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (2),"

3. Page 2, line 4.

Following: "included"

Insert: "and taxed"

4. Page 2, lines 8 through 10

Strike: subsection (2) in its entirety

Renumber: subsequent subsections

5. Page 2.

Following: line 12

Insert: "Section 2. Section 15-6-136, MCA, is amended to read:

"15-6-136. Class six property -- description -- taxable percentage. (1) Class six property includes:

(a) livestock and poultry and the unprocessed products of both;

(b) all unprocessed agricultural products on the farm or in storage except all perishable fruits and vegetables in farm storage and owned by the producer.

(c) items of personal property intended for lease in the ordinary course of business provided each item of personal property satisfies all of the following:

(i) the full and true value of the personal property is less than \$5,000;

(ii) the personal property is owned by a business whose primary business income is from rental or lease of personal property to individuals wherein no one customer of the business accounts for more than 10% of the total rentals or leases during a calendar year; and

(iii) the lease of the personal property is generally on an hourly, daily, or weekly basis.

(2) Class six property is taxed at 4% of its market value."

Section 3. Section 15-6-202, MCA, is amended to read:

"15-6-202. Freeport merchandise and business inventories exemption. (1) Freeport merchandise and business inventories are exempt from taxation.

(2) Freeport merchandise means those stocks of merchandise manufactured or produced outside this state which are in transit through this state and consigned to a warehouse or other storage facility, public or private, within this state for storage in transit prior to shipment to a final destination outside the state and which have acquired a taxable situs within the state.

(3) Stocks of merchandise do not lose their status as freeport merchandise because while in the storage facility they are assembled, bound, joined, processed, disassembled, divided, cut, broken in bulk, relabeled, or repackaged.

(4) Any person or other group seeking to qualify its property for inclusion in the freeport merchandise class shall make application to the department of revenue in such manner or form as may be required by the department.

(5) "Business inventories" includes ^{primarily} goods intended for sale ^{and not for lease} in the ordinary course of business and raw materials and work in progress with respect to such goods. Business inventories do not include goods leased or rented or mobile homes held by a dealer or distributor as part of his stock in trade."

Section 4. Effective date. This act is effective on passage and approval."

Mar. 26, 1983Copper 496
the BILL Platinum

	<u>Gold</u>	<u>Silver</u>	<u>Copper</u>	<u>Platinum</u>
Price - June 1982	* 314.98 per oz.	* 5.57 per oz.	* .70 per lb	* 475 per oz.
Price now (22 Mar 83)	<u>421.25</u>	<u>10.57</u>	<u>.78 5/8</u>	<u>405</u>
Increase since June 1982	* 106.27 (33.7%)	* 5 (89.7%)	* .08 5/8 (12.4%)	* -70 (-14.7%)

Golden Sunlight mine - projected tax = \$500,000 in FY 1984
 $\div .01438 = \$34,770,514$ gross receipts
 at 33.7% increase \$46,488,177 or \$11,717,663 increase

Stillwater P.G.M.

- Gross Receipts - 2000 tons per day \times 350 days \times 1/2 oz =
 350,000 ounces \times 85% recovery = 300,000 ounces
 - at \$292.22 per ounce (3.5 parts palladium + 1 part platinum)
 = \$87,666,000 total gross receipts.
- Expenses:
 - employees - 475 \times \$20,000 per year = \$9,500,000
 - 500 at \$28,000,000 = \$14,000,000
 - non-employee expense = 14,000,000
 - Capital cost - interest on \$150 million ~~at~~
 at 16% plus 30 year amortized = \$24,300,000
\$52,300,000
- Net profit = \$35,366,000 per year or \$1 billion in 30 years.
- If price goes up 10% = \$44,133,000 net profit
 - extra tax at 40% = \$21,916.50

	<u>Gold</u>	<u>Silver</u>	<u>Copper</u>	<u>Platinum</u>
Ave. daily price - 24 months (CY '81 + '82)	* 417.77	* 9.185	* .77 1/2	* 475
110% of 24 month daily Ave. - base	459.54	10.10	.85 1/4	522
10% above base price - 1st tax increase	505.49	11.11	.93 3/4	574.20

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fowe

SENATE TAXATION COMMITTEE	
EXHIBIT	D
4 Mar 26 1933	3
Use	BILL RES. 446

PROPOSED AMENDMENTS TO HB 446

4. Page 7, line 6 and 7.

Following: "~~1-438%~~"

Strike: the remainder of line 6 and 7 in their entirety

Insert: "computed in accordance with [section 8]"

"NEW SECTION. Section 8. Tax rate computation when gross value exceeds \$1 million. (1) The tax rate on the increment of the gross value of product over \$1 million is 1.5% plus 0.25% for each 10% that the average daily price of a metal or mineral product recomputed each year exceeds the base price.

(2) The base price of a metal or mineral product used in the computation of the tax rate is 110% of the average daily price of each metal or mineral product during the 24 month period immediately preceding [the effective date of this act]. Each year on the anniversary date of the effective date of this act, the base price shall be adjusted upward or downward to reflect the percent change during the preceding 12 months in the wholesale price index established by the U.S. Department of Commerce.

(3) For the purpose of this section the method for determining the price of the metal or mineral product shall be established by rule adopted by the department ~~of revenue~~ from a quotation readily available to the public, preferably from a New York market."

March 25, 1983

Chairman and members of the Senate Taxation Committee

Proposed amendments to address concerns expressed by Senator Turnage and others during the hearing on HB870.

1. Page 1, lines 9 through 12
Strike: lines 9 through 12 in their entirety
Following: line 8
Insert: "TAXABLE VALUATION OF LARGE-SCALE HARD-ROCK MINERAL DEVELOPMENTS FROM THE USUAL PROPERTY TAXATION BY COUNTIES AND SCHOOL DISTRICTS AND TO REALLOCATE THAT TAXABLE VALUATION FOR TAXATION BY THOSE MUNICIPALITIES, COUNTIES, AND SCHOOL DISTRICTS TO WHICH THE TAXABLE VALUATION IS ALLOCATED; TO SHARE THE PROPERTY TAX BASE OF LARGE-SCALE MINERAL DEVELOPMENTS; AND"
2. Page 4, line 5
Following: "disparity --"
Strike: "tax"
Insert: "conditional"
3. Page 4, line 6
Following: "exemption"
Insert: "and reallocation of certain taxable valuation"
4. Page 4, line 11
Following: "in"
Strike: "subsection (2)"
Insert: "this section"
5. Page 4, line 14
Following: "is"
Strike: "exempt from"
Insert: "not subject to"
6. Page 4, line 15
Following: "of"
Insert: "county and school district"
Following: "."
Insert: "This increase in taxable valuation must be allocated to local government units as provided in [section 4]. The increase in taxable valuation allocated as provided in [section 4] is subject to the application of property tax mill levies in the local government unit to

which it is allocated."

7. Page 4, line 16
Following: "The"
Insert: "total"
Following: "of"
Strike: "all"
Insert: "a"
8. Page 4, line 17
Strike: "developments are"
Insert: "development remains"
9. Page 4, line 20
Following: "(3)"
Strike: the remainder of line 20
Insert: "The provisions of"
10. Page 4, line 21
Following: "(1)"
Strike: "remains"
Insert: "remain"
11. Page 4, line 23
Following: "ceases"
Insert: "as determined by the board"
12. Page 5, line 1
Following: "is"
Strike: "exempted from local property taxation"
13. Page 5, line 2
Strike: "pursuant to"
Insert: "subject to the provisions of"
Following: "the"
Insert: "increase in"
Following: "valuation"
Strike: "so exempted"
14. Page 5, line 4
Following: "total"
Insert: "increase in"
15. Page 5, line 13
Following: "total"
Insert: "increase in"
16. Page 5, line 18
Following: "total"
Insert: "increase in"

NOTE: Make the same change in the amendment to section 4(1) adopted by the committee following the hearing

17. Page 6, line 11
Following: line 11
Insert: "(5) The initial allocation of the increase in taxable valuation

made as provided in [section 3/ and [section 4/ shall be made on the basis of the place of residence of employees and the district of enrollment of students as projected in the approved impact plan for that period of time between the issuance and validation of the permit and the submission of an employee survey as provided for in this section."

STANDING COMMITTEE REPORT

March 26

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **58**

Ryan (McCallum)

Respectfully report as follows: That **House** Bill No. **58**

third reading copy, be amended as follows:

1. Title, line 6.

Following: **"SECTIONS"**

Strike: **"7-34-2133"**

2. Page 1, line 22.

Following: **"INFIRMARIES."**

Insert: **"The combined total number of mills levied under this section and for the county poor fund, under 53-2-321, may not exceed 18 mills."**

3. Page 1, line 23.

Following: **"7-6-2537."**

Insert: **"If a hospital district is created under Title 7, chapter 34, part 21, the mill levy authorized by this section may not be imposed on property within that hospital district."**

~~XXXXXX~~

(Continued on page 2)

J.C.

March 26 19 83

4. Page 1, line 24 through page 2, line 9.
Strike: section 2 in its entirety
Renumber: subsequent sections

5. Page 2, line 12.
Following: "3"
Strike: "10"
Insert: "3"

And, as so amended

BE CONCURRED IN

STANDING COMMITTEE REPORT

March 26

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **570**

Williams (Towe)

Respectfully report as follows: That **House** Bill No. **570**

third reading copy, be amended as follows:

1. Title, line 7.

Following: line 6

Strike: "SECTION"

Insert: "SECTIONS 15-6-136,"

Following: "15-6-138"

Insert: "AND 15-6-202"

2. Page 1, line 13.

Following: "class"

Strike: "EXCEPT AS PROVIDED IN SUBSECTION (2),"

XXXXXX

(Continued on page 2)

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March 26 19 83

3. Page 2, line 4.
Following: "included"
Insert: "and taxed"

4. Page 2, lines 8 through 10
Strike: subsection (2) in its entirety
Renumber: subsequent subsections

5. Page 2.
Following: line 12
Insert: "Section 2. Section 15-6-136, MCA, is amended to read:
"15-6-136. Class six property -- description -- taxable
percentage. (1) Class six property includes:
(a) livestock and poultry and the unprocessed products of
both;
(b) all unprocessed agricultural products on the farm or
in storage except all perishable fruits and vegetables in farm
storage and owned by the producer.
(c) items of personal property intended for lease in the
ordinary course of business provided each item of personal
property satisfies all of the following:
(i) the full and true value of the personal property is
less than \$5,000;
(ii) the personal property is owned by a business whose
primary business income is from rental or lease of personal
property to individuals wherein no one customer of the business
accounts for more than 10% of the total rentals or leases
during a calendar year; and
(iii) the lease of the personal property is generally on
an hourly, daily, or weekly basis.
(2) Class six property is taxed at 4% of its market
value."

Section 3. Section 15-6-202, MCA, is amended to read:
"15-6-202. Freeport merchandise and business
inventories exemption. (1) Freeport merchandise and business
inventories are exempt from taxation.

(2) Freeport merchandise means those stocks of
merchandise manufactured or produced outside this state
which are in transit through this state and consigned to a
warehouse or other storage facility, public or private,
within this state for storage in transit prior to shipment to
a final destination outside the state and which have
acquired a taxable situs within the state.

(3) Stocks of merchandise do not lose their status as
freeport merchandise because while in the storage facility
they are assembled, bound, joined, processed, disassembled,
divided, cut, broken in bulk, relabeled, or repackaged.

(Continued on page 3)

March 26

1983

(4) Any person or other group seeking to qualify its property for inclusion in the freeport merchandise class shall make application to the department of revenue in such manner or form as may be required by the department.

(5) "Business inventories" ~~includes~~ include goods primarily intended for sale ~~or~~ and not for lease in the ordinary course of business and raw materials and work in progress with respect to such goods. Business inventories do not include goods leased or rented or mobile homes held by a dealer or distributor as part of his stock in trade."

Section 4. Effective date. This act is effective on passage and approval."

And, as so amended

BE CONCURRED IN

He

STANDING COMMITTEE REPORT

March 26

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **446**

D. Brown (Halligan)

Respectfully report as follows: That **House** Bill No. **446**

third reading copy

BE CONCURRED IN

XXXXXX

4/c

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date March 26 1983 House Bill No. 446 Time 9:15.

NAME	YES	NO
SENATOR GOODOVER, CHAIRMAN	✓	
SENATOR McCALLUM, VICE CHAIRMAN	✓	
SENATOR BROWN	✓	
SENATOR CRIPPEN		✓
SENATOR ELLIOTT	✓	
SENATOR GAGE	✓	
SENATOR TURNAGE	✓	
SENATOR SEVERSON	✓	
SENATOR HAGER	A	
SENATOR ECK		✓
SENATOR HALLIGAN		✓
SENATOR LYNCH		✓
SENATOR NORMAN		✓
SENATOR TOWE		✓
SENATOR MAZUREK	A	

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

McCallum's substitute motion that
446 Be Concurred In.

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