

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

January 20, 1987

The eighth meeting of the Senate Taxation Committee was called to order at 8:05 A.M. on January 20, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present with Senators Brown and Hager arriving late.

CONSIDERATION OF HB 12: Representative Nathe, House District 19, presented this bill to the committee. He stated this is a housekeeping bill. On page 2, lines 10-12, we are inserting, "and remaining after allocation of such tax under 15-35-108(1) and (2)". This cleans up the language in relation to the Highway Construction Trust that was created by the legislature in 1983. Then on page 3, lines 17-18, it just refers to the 50% trust and this bill inserts 15-35-108(1) and (2) into the language.

PROPOSERS: None.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Eck asked Representative Nathe if 15-35-108 dealt with the Highway Construction Fund.

Representative Nathe said that statute deals with the flow of the money that is derived from the 30% severance tax that goes into the permanent trust. Subsection (2) is where we take the next 12% of the money and insert that into the Highway Construction Trust. Below that subsection is the distribution for the remaining 38%.

Representative Nathe closed.

DISPOSITION OF HB 12: Senator Halligan moved that HB 12 BE CONCURRED IN. The motion carried with committee members present. Senators Brown and Hager had not arrived at the hearing as yet.

DISPOSITION OF SB 64: Jim Lear furnished the committee with amendments that he had drafted for this bill at the request of Senator Halligan. Amendments are attached as Exhibit 1. He explained the amendments to the committee

and advised that they were in line with the recommendations by the Department. A major portion of the amendments was to insert class 5 and take class 4 out of the bill. Changing classes would not do anything to the new industrial property. The property would be included in and taxed at 3% of market value. The main reason it was transferred is because class 4 does not have personal property in it. This special tax treatment is not just intended for the land and improvements but the personal property of the corporation. All of that would be included in class 5 and taxed at 3%.

Senator Halligan made a motion to move the amendments. The motion carried with committee members present. Senator Hager had not arrived at the hearing as yet.

Senator Halligan made a MOTION THAT SB 64 DO PASS AS AMENDED.

Senator Neuman said how many firms in the first year or two of operation in research and development pay property tax anyway. The problem he sees is this bill will be taking from the counties potential income. Also, how will you determine in some firms what is research and what is production. There could be an endless argument for expenses and it looks like administratively the thing will be hard to deal with.

Senator Halligan said he had spoken with a representative from Ribi Manufacturing and he said they would be able to separate the research and the production fairly easily. Senator Halligan said this would not help them as much as he had originally thought because they are now in the phase of production and are manufacturing cancer preventative things.

Senator Crippen referred to the Joint Hearing of the House and Senate Taxation Committees of the previous evening and said if you listened to the discussion it was mentioned that tax incentives don't really help. Everybody on both sides said tax incentives really don't help and what is needed is an overall sound tax program.

Senator Halligan said he had lunch with a gentleman known to be a tax expert and in discussing this bill with him he said he thought this made a lot of sense.

Senator Eck said she does not think anyone will get a big amount of relief from this. This could be a good incentive around universities. There have been major research institutions that start with research and development activities.

Senator Mazurek referred to the rate on the personal property and asked Senator Halligan why he would want to do that permanently.

Senator Halligan said he has tried this before and if we do this it has to be a permanent focus on this kind of industry.

Senator Halligan's motion that SB 64 DO PASS AS AMENDED carried with Senator Neuman opposed.

CONSIDERATION OF HB 48: Representative Harrington, House District 68, presented this bill to the committee. He said this bill would reduce the holding period of unclaimed property from 7 to 5 years and would require all holders of unclaimed property to report annually. Currently organizations report every three years. The seven year holding period is too long. The holder's records are often outdated and it is difficult to find the rightful owner.

PROPOSERS: Ken Morrison, Department of Revenue, gave testimony in support of this bill. He said we need to reduce the holding period. They were auditing books for a financial institution and could not find adequate records to conduct the audit. They looked at other states to see what they were doing and they are looking at a shorter holding period. This was brought to the Revenue Oversight Committee and at that time we had suggested a four year holding period. The Uniform Act suggested a term of holding period and at that time we agreed that the bill should go from 7 to 5.

OPPOSERS: None.

QUESTIONS FROM THE COMMITTEE: Senator Hager referred to capital credit checks from the Coop in his area, and said that several of those people that have capital credit checks cannot be found. He asked Mr. Morrison if this bill would affect them in any way.

Ken Morrison said he is not familiar with that particular situation but he suspects they would because this would cover any property unclaimed for a period of time.

Senator Hager asked if he knew if they sent in those payments to the state.

Ken Morrison said we do send out applications or forms for the Coops to complete and provide us with a list of that property. He is not sure if the Coops are responding but they are required to by law.

Senator Lybeck asked if there were many unclaimed items that were returned to their rightful owner.

Ken Morrison said we are required to publish information on unclaimed items and many do get back to the rightful owners.

Senator Eck asked what happens after the 5 or 7 year period. Can the property be claimed by the owner.

Ken Morrison said any time after 5 years they can come to the state and claim their property. The state does not spend the principal, just the interest.

Senator Eck asked if they continue to advertise.

Ken Morrison said they will continue to advertise.

Representative Harrington closed by stating these changes that are being made are being made in other states and the federal government is also moving in this direction.

DISPOSITION OF HB 48: Senator Hirsch made a motion that HB 48 BE CONCURRED IN. The motion carried with the committee.

DISPOSITION OF SB 3: Jim Lear reviewed the amendments he prepared for Senator Keating for this bill. See attached Exhibit 2. He stated the wording in this bill is inconsistent and misleading as to what in actual fact the bill is doing. The original wording would lead a voter to think that by his vote, if passed by the majority, that in fact the money would stop flowing into the coal severance tax collections in the coal severance tax trust fund. His vote would not stop that flow of money. There is a law presently in place that provides that funds proceed into the coal tax trust fund. The amendments were prepared to deal with this misleading language.

Senator Halligan asked if the amendment on page 2, line 6, is necessary, "to delete the requirement that at least fifty percent of coal severance tax collections be dedicated to the coal severance tax trust fund."

Jim Lear said he took that language from the constitution.

Senator Mazurek said we would be changing the requirement for money that flows into the coal tax collections whereby instead of requiring a 3/4 vote to divert the money, it would take a majority vote.

Jim Lear agreed.

Senator Mazurek has some concerns in relation to the bond holders and the bond account. If this referendum is passed by the voters, then to divert money out of the bond fund would only require a majority vote instead of a 3/4 vote.

Senator Mazurek made a motion to move the amendments to get them on the table.

Senator Crippen asked Jim Lear if he had seen the resolutions by the Department of Natural Resources to the bond holders.

Jim Lear said he had not seen the resolutions. He said he did talk to bond counsel personally and Mr. Johnstone said that the opinion that was presented to the committee covered the issues that the committee had addressed in SB 3. Mr. Johnstone agreed with his position as explained to the committee at a prior hearing.

Senator Mazurek said he did not find in the opinion where it even addresses this question with regard to the bond holders and funds going to the trust fund with a change from a 3/4 vote to a majority vote. He said the opinion does not speak to that.

Senator Hirsch asked if the actual Article is put on the ballot on a issue such as this.

Jim Lear said he did not believe that it is printed on the ballot but that it is made available in pamphlet form.

Senator Eck said she thinks the bond issue is important enough to have someone here to question about this. The opinion says it would be a lot more difficult to sell bonds in the future, would cause a downgrading in bonds presently and the rate of interest would be increased. Those are all negatives.

Senator Mazurek questions whether the change from a 3/4 vote requirement to a majority vote requirement has any impact.

Jim Lear said he did not ask Mr. Johnstone that question.

Senator McCallum said his understanding of SB 3 is that it is a constitutional amendment that has to pass through this committee and proceed to the Senate floor and then proceed to the House. He thinks that the amendments were

Senate Taxation Committee  
January 20, 1987  
Page Six

brought in to make the proposal a better proposal. Any concerns over the bond question should not be addressed with this bill. We can keep the statute by our vote on the floor of future legislatures and he would think they would be responsible enough people for the integrity of the state to remain intact.

Senator Mazurek's motion to adopt the amendments carried with Senator Eck and Senator Mazurek opposed.

Senator Eck made a motion that SB 3 DO NOT PASS AS AMENDED. The motion carried 8-4. See attached Roll Call Vote.

DISPOSITION OF SB 71: Senator Mazurek made a motion that SB 71 DO PASS. The motion carried 8-4. See attached Roll Call Vote.

ADJOURNMENT: There being no further business the meeting adjourned at 9:30 A.M.

  
SENATOR GEORGE McCALLUM, Chairman

ah

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-20-87

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NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE January 20, 1987

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppos
Ken Morrison	EOR	HB48	✓	
Rick Meis	MEIC	HB12		



AMENDMENT TO SENATE BILL NO. 64

Introduced Copy

1. Title, line 7.  
Strike: "FOUR"  
Insert: "FIVE"
2. Title, line 8.  
Strike: "15-6-134, 15-6-142"  
Insert: "15-6-135"
3. Page 1, line 16.  
Following: "Montana"  
Insert: "for the first time"
4. Page 1, line 17.  
Following: "chapter"  
Insert: "on net income earned from research and development activities"  
Following: "5"  
Insert: "taxable"  
Following: "activity"  
Insert: "in Montana"  
Following: "."  
Insert: "For purposes of [this act], "taxable year" means a research and development firm's taxable year for federal income tax purposes."
5. Page 3, line 12.  
Following: "5"  
Insert: "taxable"  
Following: "activity"  
Insert: "in Montana"
6. Page 3, line 14.  
Following: "during"  
Insert: "then"  
Following: "exist"  
Strike: "that period"  
Insert: "those taxable years"
7. Page 3, lines 18 through 22.  
Strike: subsection (7) in its entirety
8. Page 8, line 8 through line 23, page 13.  
Strike: sections 3 and 4 in their entirety  
Insert: "Section 3. Section 15-6-135, MCA, is amended to read: "15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:  
(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana,

SENATE TAXATION

EXHIBIT NO. 1

DATE 1-20-87

BILL NO. S.B. 14

except property owned by cooperative organizations described in subsection (1)(c) of 15-6-137;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation;

(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) 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.

(5) 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.

(6) Class five property is taxed at 3% of its market value."

Renumber: subsequent sections

9. Page 15, line 21.  
Following: "5"  
Insert: "taxable"  
Following: "activity"  
Insert: "in Montana"
10. Page 15, line 21.  
Following: ", "  
Insert: "the net income earned from research and development activities by"

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SENATE TAXATION

EXHIBIT NO. 1

DATE 1-20-87

BILL NO. S.B. 64

Amend Senate Bill 3  
Introduced Copy

1. Title, line 6.  
Following: "TO"  
Strike: "DISCONTINUE"  
Insert: "DELETE"
  
2. Title, line 7.  
Following: line 6  
Strike: "DEPOSIT"  
Insert: "REQUIREMENT THAT AT LEAST FIFTY PERCENT"  
Following: "COLLECTIONS"  
Strike: "IN"  
Insert: "BE DEDICATED TO"
  
3. Page 2, line 3.  
Following: "to"  
Strike: "discontinue"  
Insert: "delete"
  
4. Page 2, line 4.  
Following: line 3  
Strike: "deposit"  
Insert: "requirement that at least fifty percent"  
Following: "collections"  
Strike: "in"  
Insert: "be dedicated to"
  
5. Page 2, line 6.  
Following: "to"  
Strike: "discontinue"  
Insert: "delete"
  
6. Page 2, line 7.  
Following: line 6  
Strike: "deposit"  
Insert: "requirement that at least fifty percent"  
Following: "collections"  
Strike: "in"  
Insert: "be dedicated to"

Note: as amended, lines 5 & 6 of the title and the operative language in the ballot statements would read:  
". . . to delete the requirement that at least fifty percent of coal severance tax collections be dedicated to the coal severance tax trust fund."

**SENATE TAXATION**

EXHIBIT NO. 2

DATE 1-20-87

BILL NO. SB-3

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date January 20, 1987 Bill No. SB 71 Time 9:25 A.M.

NAME	YES	NO
SENATOR CRIPPEN	✓	
SENATOR NEUMAN		✓
SENATOR SEVERSON	✓	
SENATOR LYBECK		✓
SENATOR HAGER	✓	
SENATOR MAZUREK	✓	
SENATOR ECK		✓
SENATOR BROWN		✓
SENATOR HIRSCH	✓	
SENATOR BISHOP	✓	
SENATOR HALLIGAN, VICE CHAIRMAN	✓	
SENATOR McCALLUM, CHAIRMAN	✓	

Aggie Hamilton  
Secretary

Senator George McCallum  
Chairman

Motion: Senator Mazurek's motion that SB 71 DO PASS.  
The motion carried 8-4.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date January 20, 1987 Bill No. SB 3 Time 9:20 A.M.

<u>NAME</u>	<u>YES</u>	<u>NO</u>
SENATOR CRIPPEN		✓
SENATOR NEUMAN	✓	
SENATOR SEVERSON	✓	
SENATOR LYBECK	✓	
SENATOR HAGER		✓
SENATOR MAZUREK	✓	
SENATOR ECK	✓	
SENATOR BROWN	✓	
SENATOR HIRSCH	✓	
SENATOR BISHOP		✓
SENATOR HALLIGAN, VICE CHAIRMAN	✓	
SENATOR McCALLUM, CHAIRMAN		✓

Aggie Hamilton  
Secretary

Senator George McCallum  
Chairman

Motion: Senator Eck's motion that SB 3 DO NOT PASS AS AMENDED.

The motion carried 8-4.

# STANDING COMMITTEE REPORT

January 29, 1937

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE BILL No. 12

third reading copy ( blue )  
color

**CORRECTING REFERENCES TO COAL SEVERANCE TAX ALLOCATIONS**

**NATHE (NEUMAN)**

Respectfully report as follows: That HOUSE BILL No. 12

BE CONCURRED IN

DO PASS

DO NOT PASS

SENATOR GEORGE McCALLUM, Chairman.

# STANDING COMMITTEE REPORT

January 20,

19 97

MR. PRESIDENT

We, your committee on **TAXATION**

having had under consideration **SENATE BILL**

No. **71**

first reading copy ( white )  
color

**IMPOSING A FREEZE ON PROPERTY TAXES FOR PROPERTY  
NOT COVERED BY I-195**

Respectfully report as follows: That **SENATE BILL**

No. **71**

DO PASS

DO NOT PASS

**SENATOR GEORGE McCALLUM, Chairman.**



# STANDING COMMITTEE REPORT

January 20,

19 37

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration HOUSE BILL No. 43

third reading copy ( blue )  
color

REDUCE HOLDING PERIOD OF UNCLAIMED PROPERTY FROM 7 TO  
5 YEARS

HARRINGTON (MAZUREK)

Respectfully report as follows: That HOUSE BILL No. 43

BE CONCURRED IN

DO PASS

DO NOT PASS

SENATOR GEORGE McCALLUM

Chairman.

# STANDING COMMITTEE REPORT

January 20,

19. 37

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration SENATE BILL No. 64

first reading copy ( white )  
color

## SPECIAL TAX BENEFITS FOR RESEARCH AND DEVELOPMENT FIRMS

Respectfully report as follows: That SENATE BILL No. 64

BE AMENDED AS FOLLOWS:

1. Title, line 7.  
Strike: "FOUR"  
Insert: "FIVE"
2. Title, line 8.  
Strike: "15-6-134, 15-6-143"  
Insert: "15-6-135"
3. Page 1, line 16.  
Following: "Montana"  
Insert: "for the first time"
4. Page 1, line 17.  
Following: "chapter"  
Insert: "on net income earned from research and development activities"  
Following: "5"  
Insert: "taxable"  
Following: "activity"  
Insert: "in Montana"  
Following: "."  
Insert: "For purposes of (this act), "taxable year" means a research and development firm's taxable year for federal income tax purposes."

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CONTINUED

Chairman.

January 29

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5. Page 3, line 13.  
Following: "5"  
Insert: "taxable"  
Following: "activity"  
Insert: "in Montana"
6. Page 3, line 14.  
Following: "during"  
Strike: "that period"  
Insert: "those taxable years"
7. Page 3, lines 18 through 22.  
Strike: subsection (7) in its entirety
8. Page 6, line 3 through line 23, page 13.  
Strike: sections 3 and 4 in their entirety  
Insert: "Section 3. Section 15-6-135, MCA, is amended to read: "15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:  
(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property owned by cooperative organizations described in subsection (1)(c) of 15-6-137;  
(b) air and water pollution control equipment as defined in this section;  
(c) new industrial property as defined in this section;  
(d) any personal or real property used primarily in the production of gasoline during construction and for the first 3 years of its operation.;  
(e) all land and improvements and all personal property owned by a research and development firm, provided that the property is actively devoted to research and development.  
(1) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.  
(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

CONTINUED

January 10

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(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) 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.

(5) 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.

(6) Class five property is taxed at 1% of its market value."

ReNUMBER: subsequent sections

2. Page 15, line 11.

Following: " 2 "

Insert: "taxable"

Following: "activity"

Insert: "in Montana"

Following: " 2 "

Insert: "the net income earned from research and development activities by"

AND AS AMENDED  
DO PASS

January 20,

19.87

MR. PRESIDENT

We, your committee on TAXATION

having had under consideration senate bill

No. 3

first reading copy ( white )  
color

**CONSTITUTIONAL AMENDMENT TO DISCONTINUE DEPOSITS TO  
COAL TAX TRUST FUND**

Respectfully report as follows: That SENATE BILL

No. 3

BE AMENDED AS FOLLOWS;

1. Title, line 6.

Following: "TO"

Strike: "DISCONTINDE"

Insert: "DELETE"

2. Title, line 7.

Strike: "DEPOSIT"

Insert: "REQUIREMENT THAT AT LEAST FIFTY PERCENT"

Following: "COLLECTIONS"

Strike: "IN"

Insert: "BE DEDICATED TO"

3. Page 2, line 3.

Following: "to"

Strike: "discontinue"

Insert: "delete"

4. Page 2, line 4.

Strike: "deposit"

Insert: "requirement that at least fifty percent"

Following: "collections"

Strike: "in"

Insert: "be dedicated to"

5. Page 2, line 6.

Following: "to"

Strike: "discontinue"

Insert: "delete"

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CONTINUED

.....  
Chairman.

January 20,

19 57

6. Page 2, line 7.

Strike: "deposit"

Insert: "requirement that at least fifty percent"

Following: "collections"

Strike: "in"

Insert: "be dedicated to"

Amend/SB3H.SCR

AND AS AMENDED  
DO NOT PASS