

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on March 6, 1995, at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing:	SB 255
	HB 569
	HB 570
Executive Action:	HB 565 - Do Pass as Amended
	SB 152 - Tabled
	SB 255 - Be Concurred In
	HB 570 - Do Pass as Amended

{Tape: 1; Side: A.}

HEARING ON SB 255

Opening Statement by Sponsor:

SEN. EVE FRANKLIN, Senate District 21, Great Falls, said she was appearing before the Committee on behalf of the Department of Revenue (DOR) and the Montana National Guard. She explained that there was an "oddity" in the Montana tax code that puts National Guard members in a special class where they cannot have state income taxes withheld. SB 255 would give them the ability to have their wages treated the same as everyone else in Montana.

Proponents' Testimony:

Roger Hagan, representing the 4,000 members of the Officer and Enlisted Associations of the Montana National Guard, provided testimony in support of SB 255. A copy of his remarks are attached. EXHIBIT 1.

Char Maharg, DOR, said SB 255 would correct something that had happened in the early 1980's when a federal law was changed. She said the National Guard is the only branch of service that does not have automatic withholding for state income tax. She said she would appreciate the Committee's help in putting the language back into the statute that would allow for withholding for these individuals.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

CHAIRMAN HIBBARD asked if the wages were subject to the old fund liability tax. Ms. Maharg said they were. However, the DOR is in litigation with the federal government over payment of the old fund liability tax for some federal employees, so the tax has not been paid. CHAIRMAN HIBBARD asked if changing the language as suggested in SB 255 would help facilitate the collection of the old fund liability tax if it applies. Ms. Maharg said the statute being amended applies only to state withholding tax.

Closing by Sponsor:

REP. FRANKLIN closed.

HEARING ON HB 569Opening Statement by Sponsor:

REP. SCOTT ORR, House District 82, Libby, said HB 569 would correct an oversight from the last session in relation to the Resource Indemnity Trust, specifically, the metalliferous mines tax.

Proponents' Testimony:

Mark Simonich, Director, Department of Natural Resources and Conservation (DNRC), spoke in support of HB 569. An error was created two years ago when HB 608 was passed. Mr. Simonich explained that HB 608 failed to change the allocation of the metal mines tax. Under HB 569, 1.5% of the metal mines tax will be deposited into the renewable resource special revenue account and 4.6% will be deposited into the reclamation and development special revenue account. The bill also corrects the funding for MSU - Northern's water quality program. The intent was to appropriate \$240,000 annually for this program and, unfortunately, due to a drafting error, a \$240,000 biennial appropriation was established. The bill also contains technical changes to create proper cross references. Mr. Simonich said that changing the metal mines tax allocation would result in a loss of \$678,000 to the RIT Trust and extend the time until the trust reaches \$100 million by approximately one year. HB 569 will make additional revenue available to offset the RIT deficit in the DNRC budget; however, the bill is not an attempt to divert any more proceeds from the RIT than originally intended with HB 608. Mr. Simonich advised that it may be necessary to offer some amendments to the bill so that it would conform to SB 46 which corrects a similar problem with the groundwater assessment program.

Bill Daehling, Chancellor, MSU - Northern, spoke in favor of the bill. He said it was the intent of the Legislature to provide an annual appropriation for the water quality environmental science program at Northern. With the proper appropriation, they will be able to double enrollment in the program to continue to provide water treatment and wastewater treatment operators for the State of Montana.

Mike Malone, MSU - Bozeman, testified in support of the bill.

REP. BILL WISEMAN, House District 41, Great Falls, said he would propose an amendment to the bill. EXHIBIT 2. REP. WISEMAN said that members of the Appropriations Sub-Committee were concerned that this bill would add \$3.7 million in new funds to the DNRC budget. The Committee considered making cuts in the budget, and then decided it would be more appropriate to look at total RIT allocations.

{Tape: A; Side: 2.}

REP. WISEMAN said that if the amendments are not adopted, \$5 million in general fund money which is siphoned off before it gets to the RIT, will be used to fund renewable resource grants for projects such as the Park Conservation District soil survey of rangelands and forest lands in Park County for \$100,000, campground improvements for \$27,000, Kitt Lake Water District for \$35,000, City of Kalispell water well for \$50,000, contained in HB 6. He said that HB 7 would also fund projects with general fund money that are inappropriate. It is time to look at what is happening and the amendments would cut renewable resources grants from \$2 million to \$500,000 and would cut the reclamation grants from \$3 million to \$1 million. He said it was time to stop using the RIT trust money as backfill for general fund.

Mike Vilesky, Montana Association of Conservation Districts, spoke in support of the bill and against the amendment because the bill provides long-term funding for renewable resource and reclamation development grant program and also provides necessary funding for agencies the conservation districts work closely with. In response to Rep. Wiseman's comments, **Mr. Vilesky** said it was the Legislature that had decided that the money could appropriately be used for renewable resource grants and loans and reclamation grants.

Allan Cox, Director of the Natural Resources Information System, MSU Library, explained that RIT trust provides a third of their funding and allows them to operate the clearing house functions, mandated in the statutes, allowing access to natural resources information by all Montana citizens.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. ROSE asked how this bill would affect the grant funds now available to rural communities and conservation districts. **Mr. Simonich** said the bill would not have any impact one way or the other. He explained that HB 608 had appropriated \$2 million for renewable resources grants and \$3 million for reclamation grants higher on the list for funding and is allocated through HB 6 and HB 7. This would continue if HB 569 is passed as it was presented by Rep. Orr. Under Rep. Wiseman's amendments, the amounts would be reduced which would mean that most of the communities that had applied for grants would not be funded. He said there were 40 programs that had requested funding through a grant or loan and the Committee agreed to fund 34 programs. With the amendment, only the first five projects on the list would be funded. **Mr. Simonich** said the DOR has had amendments prepared to correct figures to conform with SB 46 which had already been passed. **John Tubbs, DNRC Bureau Chief**, distributed copies of a

list of projects recommended for funding under the renewable resource grant and loan program and the reclamation and development grant program. EXHIBIT 3.

REP. ELLIOTT said, if he understood correctly, that Rep. Wiseman's amendment would undo what the Governor's budget does. **Mr. Tubbs** said the way he understood the amendment was that the Appropriations Sub-Committee did not want to see that large an increase in general funds Rep. Wiseman proposes using RIT funds and the Governor has proposed using general funds. **Mr. Tubbs** said the \$2 million for renewable resources projects and \$3 million for reclamation project are statutorily allocated for those purposes. The idea behind HB 608 was that the grant funds were to continually decline as the agency budget grew. When HB 608 was passed, it guaranteed a minimum amount to those programs. When the Governor reviewed the shortfall in RIT, he looked at that option and decided against it. Instead, he cut \$1 million out of the DNRC budget for projects and increased the general fund allocation.

REP. ELLIOTT said he would presume that the Sub-Committee had tried to amend the money out of the DNRC budget. **Rep. Wiseman** said the Sub-Committee was convinced that they should not take all of this out of the DNRC budget but should, instead, look at the total allocation of RIT funds.

REP. HARPER asked if the Committee were to change the allocation to 7.2%, what the projected date the RIT would reach \$100 million would be. **Mr. Tubbs** said it would be delayed by one year to 2000. **REP. HARPER** asked the sponsor if he agreed that the \$240,000 expenditure for MSU - Northern should be made permanent in view of the original purposes of the RIT. **REP. ORR** said that personally he did not agree, but the Montana Supreme Court had decided that it was an appropriate use of the money.

REP. HARPER said the Committee had heard a bill which would repeal the tax when the RIT reached \$100 million and the concerns expressed during the hearing were that the money had been used inappropriately and the original intent had been to repeal the tax when the trust reached \$100 million. He said that Rep. Bardonouve, sponsor of the Act, does not remember any such promise being made. Governor Schwinden, whose idea the trust was, also does not remember any promise to repeal the tax. He said the Committee is being told, on one hand, the money is being misspent and the proposed amendment says the money should be used to replace general fund money. **REP. WISEMAN** said what he was saying was that it is time for the Legislature to decide permanently whether or not the fund is being used for the original intent and whether the Legislature should continue to fund projects having a very low priority. **REP. HARPER** asked Rep. Wiseman if his position was that the money should be earmarked to be used for whatever the Legislature thinks is the most appropriate. **REP. WISEMAN** replied that if he thought this was a one-time problem, he wouldn't be here. He said that oil and gas

drilling has been effectively killed because of the taxation situation. Interest rates will continue to decline and the return from the trust will go down. It is time to decide whether the Legislature is on the right road or not.

REP. SWANSON asked for an explanation of the 7.2% suggested by the DOR. **Mr. Tubbs** explained that HB 406 reduced the allocation into the trust to 13.3%. This bill would reduce it further by 4.6% to the reclamation and development account and an additional 1.5% would go to renewable resources, leaving 7.2%. **Mr. Tubbs** then provided an in-depth explanation of the income to and expenditures from the RIT.

{Tape: 2; Side: A.}

REP. NELSON asked what the interest rates had been used in the assumptions for the next biennium. **Mr. Tubbs** replied that he thought it was "in the mid-7's." In response to **REP. NELSON'S** comment that the projection might be optimistic, **Mr. Tubbs** responded that the Board of Investments has done a good job. **REP. NELSON** commented that the allocation error in HB 608 had almost caused a special session. The Finance Committee, Environmental Quality Council and the Revenue Oversight Committee all became involved and the groundwater assessment program was up and running when they realized there was a "glitch" in the law. The problem was solved by financing the program from the environmental quality protection fund.

REP. SWANSON asked if the Committee passed the Wiseman amendment whether the DNRC would have the discretion to take general fund money and put it into the renewable resource or reclamation grant programs. **Mr. Simonich** said they would not. **REP. SWANSON** then asked what the affect would be if the general fund were appropriated to the DNRC, and the Wiseman amendment passed. **Mr. Simonich** said that if the Legislature appropriates the general fund money in HB 2 as suggested by the Governor, and the Wiseman amendments were adopted, it would mean that at the end of the biennium there would be a \$3.5 million larger ending fund balance. That money could potentially be available during the biennium for grants. Rep. Wiseman is amending the statutory language that says "there will be \$2 million for grants" to "there will be \$500,000 for grants" and, if the general fund were still in the budget, it would still be available.

REP. SWANSON asked if the money were available, what authority the DNRC would have to use it for that purpose. **Mr. Simonich** said the authority would be contained in HB 6 and HB 7 which list the specific grants and, if passed, would fund the projects as the money became available.

REP. ROSE asked how many students per year were enrolled in the program at MSU - Northern at a cost of \$240,000 per year. **Mr. Daehling** said that because of the restrictions on the size of the program and the laboratories available, they were able to take 15

students a year. With the additional appropriation, they can double that number. He commented that 90% of the graduates stay in Montana.

Closing by Sponsor:

REP. ORR closed by commenting that the discussion had increased everyone's knowledge of the RIT.

HEARING ON HB 570

Opening Statement by Sponsor:

REP. BILL WISEMAN, House District 41, Great Falls, said HB 570 deals with regulated investment funds which is another name for a mutual fund. HB 570 would correct a problem that exists in Montana. He explained that large and highly populated states have mutual in-state funds that are invested in tax-free bonds by the residents of that state. Montana has no state fund because of the tax structure. There is nothing in the tax code to keep a corporation that forms a mutual fund from having to pay Montana corporate tax. This bill would relieve that situation so that an in-state fund can be organized for small investors who would like to invest in Montana tax free bonds through a mutual fund.

Proponents' Testimony:

Bruce A. MacKenzie, D. A. Davidson & Co., testified in support of the bill. A written copy of his testimony is attached. EXHIBIT 4. He offered an amendment to the bill which would clarify that only Montana bonds would be tax free. EXHIBIT 5.

Tom Harrison, C.P.A., Montana Association of Certified Public Accountants, said HB 570 is a pro-Montana bill and would be beneficial to the people of Montana.

Opponents' Testimony:

None.

{Tape: 2; Side: B.}

Questions From Committee Members and Responses:

REP. NELSON asked if passage of the bill would result in an increase of mutual funds enabling more investment by endowment funds. Mr. MacKenzie said it would provide the opportunity for greater diversity within Montana.

Closing by Sponsor:

REP. WISEMAN said he wanted to make it clear that he had no conflict of interest in the bill. He supports the bill because

it would allow small Montana investors to be offered shares in a Montana fund.

EXECUTIVE ACTION ON HB 565

CHAIRMAN HIBBARD explained that, for the purposes of livestock taxation, the entire livestock inventory is reported as of February 1. There are two kinds of taxation -- the per capita head tax which funds the activities of the Department of Livestock (DOL) and the ad valorem tax which is the property tax on livestock. Animals under 24 months of age are exempt from the ad valorem tax but all animals are subject to the per capita tax. HB 565 would provide the option to elect to use an average inventory for payment of the ad valorem tax. The change would allow for payment of taxes in more than one county for the period of time the cattle reside in each county.

Motion:

REP. BOHLINGER MOVED THAT HB 565 DO PASS.

Discussion:

Mr. Heiman advised he had prepared amendments for Rep. Ellis and the DOL had given him two additional sets of amendments. EXHIBITS 6, 7 and 8.

Motion/Vote:

REP. REAM MOVED THAT THE AMENDMENT PROPOSED BY REP. ELLIS TO DELETE SECTION 4 OF THE BILL BE ADOPTED. The motion passed unanimously.

Vote:

REP. ROSE MOVED THE SECOND SET OF AMENDMENTS DO PASS.

Discussion:

CHAIRMAN HIBBARD said this amendment would allow those who wish to select the average inventory basis to do so. The proposed amendment would allow the per capita for under 24-month cattle to be assessed on a date certain basis and on the average inventory for those over 24 months.

REP. ARNOTT asked if this would complicate recordkeeping.

CHAIRMAN HIBBARD said the reason the law was changed from average inventory in the first place was because "it was a nightmare." February 1 works for the majority of producers but there are situations when the average inventory would be preferable. This would allow those producers to use the average inventory in a more equitable fashion. The amendment will make recordkeeping easier for the DOR and DOL.

CHAIRMAN HIBBARD asked if yearling producers would ever be on a yearly average. **CHAIRMAN HIBBARD** said all cattle under 24 months of age will be subject to the per capita tax as of February 1.

REP. HARPER asked if the reason for the bill was the location of the cattle or the number of cattle. **CHAIRMAN HIBBARD** said the way the bill started out, number and location were both problems but as the bill progressed, it was determined that there would be a substantial shortfall for the DOL by changing the per capita under 24 months to the average basis so it was stricken from the bill. At this point the bill deals with location. The level of tax should remain but it will be apportioned to different counties.

Without objection, **REP. ELLIS** said the amendment would not affect the per capita tax but would affect the counties who collect it for the DOL. The ad valorem tax could be different because the mill levies might be slightly different in the counties where the cattle reside.

Vote:

On a voice vote, the motion to adopt the amendments passed unanimously.

Motion :

REP. REAM MOVED THE THIRD AMENDMENT DO PASS.

Discussion:

Mike Noble, Tax Manager, DOR, advised that taxpayers who move their livestock in and out of the state are allowed to report based on what they think they will have in the current year and are allowed a refund if they over-estimate. The DOR proposed this amendment to disallow a refund if the taxpayer chooses to use the average inventory because it is based on the previous year.

Vote:

On a voice vote, the motion passed unanimously.

{Tape: 3; Side: A.}

Motion:

REP. ROSE MOVED THAT HB 565 DO PASS AS AMENDED.

Discussion:

CHAIRMAN HIBBARD said he would "reluctantly" support the bill because it allows the taxpayer to switch back and forth from one system to another.

REP. ELLIS explained that what had been so onerous in the bill for the county assessors was Section 4 which has been struck from the bill.

REP. ELLIOTT said that federal law contains a restriction on the adoption of a fiscal year or a calendar year. He said he thought it was important to add this to the bill.

CHAIRMAN HIBBARD agreed that it would be a reasonable thing to do.

Motion/Vote:

REP. ELLIOTT MOVED TO AMEND THE BILL TO PROVIDE THAT A PERSON WOULD BE BOUND BY THE AVERAGE INVENTORY ELECTION FOR A PERIOD OF SIX YEARS. The motion passed unanimously.

Discussion:

REP. ELLIOTT said he would oppose the bill because he did not think the present law created that much of a problem and the fiscal note indicates it would cost \$21,500 to make the change. He also assumed that some counties could lose money.

REP. HARPER said his concerns were related to the ability to enforce and audit under this bill.

REP. NELSON said he would reluctantly support the bill because the industry had worked on it and there was obviously a need for it.

REP. WELLS asked if anyone had any idea how many people would elect to use the average inventory option. CHAIRMAN HIBBARD said his personal opinion was that it would be less than 5% because most producers would stay with the present system because of its simplicity.

REP. BOHLINGER said he would support the bill because taxes should be paid on a proportionate basis.

REP. STORY said the fiscal note would probably not apply since the bill had been amended. Mary Whittinghill said the Department would still need operating expenses for programming changes.

REP. HARPER asked if the Department had any concerns about assessing or auditing capabilities that would be changed by the bill. Ms. Whittinghill said producers rely on reporting forms from the Livestock Commission. It will be more difficult but can be accomplished.

Vote:

On a roll call vote, the do pass as amended motion carried, 19 - 1.

EXECUTIVE ACTION ON SB 152

Motion:

REP. WENNEMAR MOVED THAT SB 152 BE NOT CONCURRED IN.

Substitute Motion:

REP. JORE MOVED THAT SB 152 BE CONCURRED IN.

Discussion:

REP. JORE said he was in favor of the bill because his interpretation of the statutes was that once the fund reached \$100 million, the tax would be terminated.

REP. ELLIOTT spoke with respect to the constitutionality of the distribution of the money. He referred to the testimony of the proponents which indicated that the funds were not being used for reclamation. He said that Butte-Silverbow sued the State of Montana in 1988 to make certain the RIT money was being used appropriately. REP. ELLIOTT read a portion of the Supreme Court decision that determined that the money was being used in accordance with the constitution. He said it is not true that the money will no longer be needed because the extraction industry in the state must now provide reclamation bonds. He pointed out that the amount of the bond does not necessarily cover the cost of reclamation. For these reasons, he opposed the motion.

CHAIRMAN HIBBARD said there were two sets of amendments to the bill. Mr. Heiman said the first set of amendments would complete and correct the coordination instruction with SB 412, the general revision of oil and gas taxation, and clarifies the effective dates. EXHIBIT 9.

Motion:

REP. HANSON MOVED THAT THE AMENDMENTS BE ADOPTED.

Discussion:

REP. REAM asked what the relationship was between SB 152 and SB 412. Without objection, John Tubbs, DNRC, replied that SB 412 would generally revise all the taxes on oil and gas. It eliminates a multitude of taxes and rolls them all into one. In relation to SB 152, it exempts oil and gas production from paying RIGWAT tax and allocates an equal amount of money to be collected for the RIT.

{Tape: 3; Side: B.}

REP. REAM asked if that meant that new money would go directly to the Trust. **Mr. Tubbs** said that oil and gas producers would not pay any RIGWAT, but an allocation would be made to RIGWAT from the new over-all tax. **REP. REAM** said he understood that the oil and gas industry pays 2/3 of the RIGWAT but some is split off before it goes to the renewable resource program and reclamation grant program. He asked if all of it would now go to the Trust. **Don Hoffman, DOR**, said that SB 412 would simplify all taxes on oil and gas by creating one tax, the "Montana oil and gas production tax" and would not affect the funding or allocation of funds. The amendment coordinates whatever is intended in SB 152 with SB 412. The amendment says that if SB 152 passes, all the rates in SB 412 would go down by a half of one percent.

REP. REAM said he would support SB 412 because oil and gas taxation should be simplified. He said he would not support SB 152 but he could understand the necessity for the coordinating language because, without it, the oil and gas industry that pays 2/3 of the RIT, would have to continue to pay the .5% tax although it wouldn't be for the RIT. In all fairness, they should not have to pay that amount if the other industries are exempt.

Vote:

On a unanimous voice vote, the amendments were adopted.

Discussion:

Mr. Heiman said the second set of amendments, requested by Sen. Keating, would reduce the Metalliferous Mine Tax (MMT) by the amount that now goes to the RIT. EXHIBIT 10.

Motion:

REP. ORR MOVED THE ADOPTION OF THE AMENDMENTS.

Discussion:

REP. STORY said the amendment would bring fairness to the concept of the bill.

Mr. Heiman explained that the amendment would reduce the MMT by the amount that is now allocated to the RIT and amends the distribution formula.

Vote:

On a voice vote, the motion passed, 17 - 3.

Motion:

REP. ORR MOVED THAT SB 152 AS AMENDED BE CONCURRED IN.

Discussion:

REP. STORY cautioned the Committee to think carefully about passing this bill because if the trust is capped, the buying power will constantly decrease.

REP. HARPER said there was bi-partisan support of the RIT legislation and the purpose was to give the state the ability to mitigate impacts caused by the extraction industries. He said the money has been spread out and used for agricultural and other purposes, but every use of the money has been to improve in some aspect the ability to deal with the environment or environmental degradation. The act is codified in the statutes that address environmental degradation. **REP. HARPER** said that in his conversations with former Rep. Bardanouve and former Governor Schwinden, they discussed the rumor that a promise had been made when the original bill was passed that as soon as the fund reached \$100 million, the tax would be terminated. He said it was important for the Committee to understand that it would not be acting on a promise that was made, because the promise was never made. **REP. HARPER** said his intention was to try to get the money spent for the original purpose -- to improve and reclaim the total environment of the State of Montana. If this bill is passed, incredible damage will be done to the grant and loan programs that are benefiting every area of the state.

REP. ORR spoke in support of the bill. He said that, whether a promise was made or not, the general agreement was that when the fund reached \$100 million, the tax would end. The question is whether the money has been used correctly. It has been diverted before it got to the trust and the interest has been used for various projects, but the original thinking was to cap the tax. The Supreme Court has ruled that the use of the money has been proper. That argument is not appropriate in connection with the bill. The question is whether or not it is fair to stop taxing the industry at this point. The interest money will still be available and will have to be prioritized to fund projects.

REP. RANEY said the bill was "misdirected frustration" over the way the Legislature had used the tax money; however, he did not think there had ever been any implication that the tax would end. He read the language in the law which he said supports that contention.

REP. BOHLINGER opposed placing a cap on the RIT. Because of inflation, today's dollars will not buy what is needed tomorrow. If there is a cap on the money collected, it will not be possible to complete the reclamation projects the future will uncover.

REP. STORY said it should be clear that the \$100 million cap is in the Constitution and the question is what to do with the money after the cap is reached. He said he thought it would be

difficult to not cap the trust without a change in the Constitution. He said the question is what to do with tax collections after the fund reaches \$100 million -- terminate the tax or put it into a different program.

{Tape: 4; Side: A.}

REP. REAM agreed with Rep. Story in that the trust and the tax are two separate things. Less than half of the money collected goes into the trust. The notion that the tax should end and the trust capped is pure fantasy. If that was the intent, it would have been put into the law. During the testimony, former Rep. Dennis Iverson made one of the best arguments for retaining the tax when he advised that there were 211 superfund sites in Montana, almost all directly resulting from resource extraction, and the surface isn't being scratched in taking care of those sites. He said he would argue strongly against the bill because the tax is needed.

REP. SWANSON concurred that it was important to separate the issue of how the money was spent from whether the tax should be repealed. The Committee's attention should be focused on the repealer in the bill. **REP. SWANSON** disagreed with Rep. Orr's statement on the constitutional intent. She read from the Constitution and the statutes and concluded that the Constitution does not provide a cap and the statutes say, "thereafter all net earnings and all receipts shall be appropriated ..." **REP. SWANSON** said she interpreted that to mean that after the trust reached \$100 million, all net earnings would mean additional tax revenue and the \$100 million was the inviolate principle. The law was passed in 1973 and, if it was unconstitutional, it would have been tested and declared unconstitutional. The fact that it hasn't been means that it is constitutionally viable and there is no reason to assume the fund should be capped.

REP. ELLIOTT said Rep. Swanson was correct regarding the constitutionality of capping the trust and concluded that it had been tested in *Butte-Silverbow Local Government vs. the State of Montana*. He read a portion of the Supreme Court decision relative to the issue. **REP. ELLIOTT** then spoke to the bill, stating that in every session of the Legislature the oil and gas industry, which is important to the state, has asked for breaks that will "help them stay in business." He said part of reinventing government is planning for the future and that is what Rep. Bardanouve did in 1973 when he introduced legislation to establish the RIT and that is what should be done now for future generations of Montanans.

REP. MURDOCK said she thought the RIT was for reclamation and environmental projects and in her opinion it was serving as a "slush fund" to be used for all sorts of projects.

REP. NELSON said the 1973 law could be interpreted in more than one way. This is a difficult bill and should be considered seriously. He said he would support the bill.

REP. SWANSON said the definition of net earnings is in the statute and refers to tax revenue. She said she had no problem with the way the RIT money was being expended because the Supreme Court verified that the Legislature has the right to allocate the money for purposes other than the reclamation of land disturbed by the taking of natural resources.

REP. WENNEMAR said his concerns with the bill were inflation, increased costs for new technology and research and development, and federal money. He said there is always the assumption that there will be federal money available for clean-up. If federal money were not available, it would take the State of Montana 500 years, using earnings from the \$100 million trust, to clean up the toxic sites in Montana.

REP. ARNOTT said she had asked Sen. Keating if reducing the tax on oil and gas by .5% would mean they would start more production and he said it wouldn't make any difference. The real problem is that an undue burden has been placed on the oil and gas industry and forced them to do business in other states.

REP. FUCHS said it was easy for him to make a decision because it repealed a tax and future legislators should be able to handle whatever problems arise in the future. He would support the bill.

Vote:

On a roll call vote, the do concur as amended motion failed, 12 - 8.

Motion/Vote:

REP. REAM MOVED TO TABLE SB 152. The motion passed 19 - 1.

EXECUTIVE ACTION ON SB 255

Motion:

REP. FUCHS MOVED THAT SB 255 BE CONCURRED IN.

Discussion:

None.

Vote:

The motion passed 20 - 0.

EXECUTIVE ACTION ON HB 570

Motion:

REP. REAM MOVED THAT HB 570 DO PASS.

Discussion:

REP. REAM said there was an amendment to the bill that would clarify that the tax free income from government obligations applies only to U.S. territories and the State of Montana and not to other states.

Motion/Vote:

REP. REAM MOVED THAT THE AMENDMENTS TO HB 570 BE ADOPTED. The motion passed unanimously.

Motion\Vote:

REP. REAM MOVED THAT HB 570 AS AMENDED DO PASS. The motion passed unanimously.

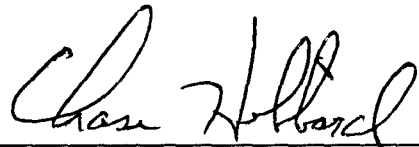
HOUSE TAXATION COMMITTEE

March 6, 1995

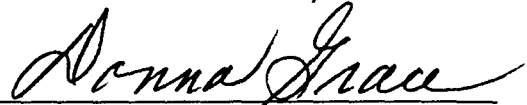
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ADJOURNMENT

Adjournment: 11:45 a.m.



CHASE HIBBARD, Chairman



DONNA GRACE, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE March 6, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott	✓		
Rep. John Bohlinger	✓		
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs	✓		
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		



HOUSE STANDING COMMITTEE REPORT

March 6, 1995

Page 1 of 3

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 565** (first reading copy -- white) do pass as amended.

Signed: _____

A handwritten signature in cursive script, appearing to read "Chase Hibbard", is written over a horizontal line.

Chase Hibbard, Chair

And, that such amendments read:

1. Title, line 8.

Following: "15-6-207,"

Insert: "15-24-303,"

Following: "15-24-903,"

Insert: "15-24-920,"

2. Page 1, line 20.

Strike: "sections"

Insert: "section"

Strike: "and 4"

3. Page 1, line 21.

Following: "15-24-903."

Insert: "An owner of livestock making an election to have
nonexempt livestock assessed on the average inventory basis
is bound by that election for 6 years."

4. Page 1, lines 29 and 30.

Strike: "sections" on line 29

Insert: "section"

Strike: "and 4" on line 30

5. Page 2, lines 15 through 21.

Strike: section 4 in its entirety

Renumber: subsequent sections

Committee Vote:

Yes 19, No 1.

521410SC.Hbk

6. Page 3, lines 11 and 12.

Strike: "that" on line 11 through "exempt" on line 13

7. Page 3, line 13.

Following: "section."

Insert: "All other livestock subject to the per capita tax levy must be reported on February 1 of each year."

8. Page 4, line 2.

Insert: "Section 6. Section 15-24-303, MCA, is amended to read:

"15-24-303. Proration of tax on personal property -- refund. (1) The tax on personal property brought, driven, coming into, or otherwise located in the state on or after the assessment date must be prorated according to the ratio that the remaining number of months in the year bears to the total number of months in the year. This section does not apply to motor vehicles taxed under Title 61, chapter 3, part 5, or to livestock.

(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613."

Section 7. Section 15-24-920, MCA, is amended to read:

"15-24-920. Election for proration of tax on livestock -- refunds -- additional assessment. (1) An owner of livestock who moves the livestock interstate may elect to have the nonexempt livestock taxed on a prorated basis.

(2) The owner shall file an election with the department on the statement required in 15-24-903. The statement must indicate the number of months the owner's livestock will be in the state.

(3) If a livestock owner elects to be taxed on a prorated basis, the tax on livestock that are moved interstate must be prorated according to the ratio of the number of months the livestock have taxable situs in the county to the total number of months in the taxable year. Livestock must be prorated as provided in this section regardless of when the livestock gain taxable situs in the county during the taxable year.

(4) Subject to the provisions of 15-16-603 through 15-16-605, a taxpayer whose nonexempt livestock are assessed under subsection (3) for a period longer than the actual number of months that the livestock have taxable situs in the state is entitled to a refund. The amount of the refund is equal to the difference between the original prorated amount paid and the subsequent amount owed after the actual number of tax situs months are determined at the end of the tax year. A taxpayer shall apply for a refund allowed under this subsection by January 31 following the year of assessment. The application must include a statement showing the date when the livestock were moved out of

the state.

(5) A taxpayer whose nonexempt livestock are assessed under subsection (3) for a period shorter than the actual number of months that the livestock have taxable situs is subject to additional taxes for the number of additional months that the livestock has taxable situs in the state.

(6) A taxpayer whose livestock are assessed under 15-24-902(2) is not entitled to a refund under this part."

Renumber: subsequent sections

9. Page 4, line 3.

Strike: "Sections"

Insert: "Section"

Strike: "and 4"

Strike: "are"

Insert: "is"

10. Page 4, line 5.

Strike: "sections"

Insert: "section"

Strike: "and 4"

-END-

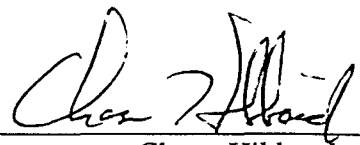


HOUSE STANDING COMMITTEE REPORT

March 6, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Taxation** report that **Senate Bill 255** (third reading copy -- blue) **be concurred in.**

Signed: 
Chase Hibbard, Chair

Carried by: Rep. Ryan

Committee Vote:
Yes 20, No 0.

521407SC.HBK

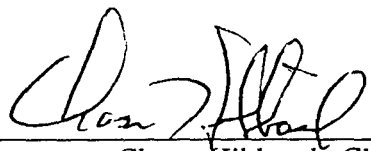


HOUSE STANDING COMMITTEE REPORT

March 6, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Taxation** report that **House Bill 570** (first reading copy -- white) do pass as amended.

Signed: 
Chase Hibbard, Chair

And, that such amendments read:

1. Page 1, line 16.
Following: "thereof"
Insert: "except"
Following: "taxation"
Insert: "by Montana"

2. Page 2, line 2.
Strike: "the states"
Insert: "Montana"

-END-

Committee Vote:
Yes 20, No 0.

521409SC.Hbk

HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/6/95 BILL NO. 525 NUMBER

MOTION: No Pass as Amended

NAME	YES	NO
Vice Chairman Marian Hanson	✓	
Vice Hairman Bob Ream	✓	
Rep. Peggy Arnott	✓	
Rep. John Bohlinger	✓	
Rep. Jim Elliott		✓
Rep. Daniel Fuchs	✓	
Rep. Hal Harper	✓	
Rep. Rick Jore	✓	
Rep. Judy Rice Murdock	✓	
Rep. Tom Nelson	✓	
Rep. Scott Orr	✓	
Rep. Bob Raney	✓	
Rep. Sam Rose	✓	
Rep. Bill Ryan	✓	
Rep. Roger Somerville	✓	
Rep. Robert Story	✓	
Rep. Emily Swanson	✓	
Rep. Jack Wells	✓	
Rep. Ken Wennemar	✓	
Chairman Chase Hibbard	✓	

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HOUSE OF REPRESENTATIVES

ROLL CALL VOTE

DATE 3/6/96 BILL NO. SB152 NUMBER

MOTION: Concur as Amended

NAME	YES	NO
Vice Chairman Marian Hanson	✓	
Vice Hairman Bob Ream		✓
Rep. Peggy Arnott		✓
Rep. John Bohlinger		✓
Rep. Jim Elliott		✓
Rep. Daniel Fuchs	✓	
Rep. Hal Harper		✓
Rep. Rick Jore	✓	
Rep. Judy Rice Murdock	✓	
Rep. Tom Nelson	✓	
Rep. Scott Orr	✓	
Rep. Bob Raney		✓
Rep. Sam Rose	✓	
Rep. Bill Ryan		✓
Rep. Roger Somerville		✓
Rep. Robert Story		✓
Rep. Emily Swanson		✓
Rep. Jack Wells	✓	
Rep. Ken Wennemar		✓
Chairman Chase Hibbard		✓

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Motion to Amend

EXHIBIT 1
DATE 3/6/95
SB 255

TESTIMONY IN SUPPORT OF SENATE BILL 255

House Taxation Committee

03/06/95

Presented by:

ROGER A. HAGAN

Officer and Enlisted Associations of the Montana National Guard

Mr. Chairman, members of the committee, for the record my name is MSGT Roger A. Hagan. I represent the more than 4,000 members of the Officer and Enlisted Associations of the Montana National Guard. It is my pleasure to provide comment in support of Senate Bill Number 255, a bill providing for the withholding of tax from National Guard and Reserve wages.

Our Associations concur with this bill as presented today. The Department of Revenue and Senator Franklin have both worked closely with our Associations on this issue. It is important that the purpose of the bill is understood. Under current law, our National Guard pay -- weekend drills and annual training -- is not included in the definition of wages in Section 15-30-201, MCA. Since our National Guard pay is not considered wages, there is no provision that our employer, the Department of Defense, withhold Montana state income tax.

This bill merely serves to include our National Guard and Reserve pay in the definition of wages. This change will facilitate the withholding of Montana state income tax from our training pay as we earn it. This may seem like an insignificant change, but for our guard members it is important. Currently we are required to pay the additional tax obligation at the end of the year when we file our tax returns; or, for some members, a quarterly estimated tax filing may be necessary.

A young guard member may find him/herself digging up an extra \$100 or more on April 15th. Some guard members who are required to file quarterly estimated returns face the potential of late filing penalties and other charges. Having the convenience of tax withholding at the time of wage payment is something we take for granted. This change will make tax payment for National Guard and Reserve pay as convenient.

What this bill does not do is make something taxable that wasn't taxable before. Our National Guard and Reserve wages are State Income taxable now and always have been. The membership of our Associations urge your favorable consideration of this legislation. I will remain for any questions the committee may have.

EXHIBIT 2
DATE 3/6/95
HB 569

Amendments to House Bill No. 569
Introduced Copy

Requested by Representative Wiseman
For the House Taxation Committee

Prepared by Roger Lloyd
February 21, 1995

1. Page 4, line 24.
Strike: "\$2 million"
Insert: "\$500,000"

2. Page 4, line 26.
Strike: "\$3"
Insert: "\$1"

{Office of Legislative Fiscal Analyst

444-2986}

Table 2
Renewable Resource Grant and Loan Program
1997 Biennium Funding Recommendations

Reflect Long-range planning

EXHIBIT 3

DATE 3/6/95

HB 569 Cumulative

Project Sponsor (Project Title)	Grant Request	Grant Recommended	Loan Recommended	Grant Recommended
Department of Natural Resources and Conservation (Emergency Grants)		\$125,000		\$125,000
Department of Natural Resources and Conservation (Private Grants)		100,000		225,000

Grants and Loans to Governmental Entities

Rank	Project Sponsor (Project Title)	Grant Request	HB 6 Grant Recommended	HB 8 Loan Recommended	Cumulative Grant Recommended
01	Fallon County (Lower Baker Spillway Construction and Cleaning)	\$31,743	\$31,743	\$0	\$256,743
02T	Conrad, City of (Reconstruct Outlet Conduit on Lake Francis East Dam)	100,000	50,000	50,000	306,743
03T	Lewistown, City of (Water System Improvements)	100,000	100,000	0	406,743
04	Department of Natural Resources and Conservation — WRD (Deadman's Basin Water Quality Improvement Project)	50,000	47,919	111,081	454,662
05	Department of Natural Resources and Conservation — WRD (Verification of PDSI for Montana)	65,000	0		454,662
06	Montana Tech of the University of Montana (Groundwater Protection and Education, Rural Schools)	84,560	84,560		539,222
07	Montana State University—Montana Watercourse (Preparing Citizens for Montana's Water Future)	100,000	100,000		639,222
08	Greenfields Irrigation District (Main Canal Flow Control System)	100,000	50,000	50,000	689,222
09	Lewis and Clark County (Helena Area Bedrock Aquifer Assessment)	100,000	100,000		789,222
10	Missoula County (Conservation of Riparian Areas Model Project)	100,000	100,000		889,222
11	Thompson Falls, City of (Water Engineering Study)	51,820	51,820		941,042
12	Bozeman, City of (Separator Waste Collection Facility)	50,000	50,000	158,850	991,042
13	Governor's Office—Flathead Basin Commission (Flathead Lake Watershed Management Plan)	100,000	100,000		1,091,042
14	Department of Natural Resources and Conservation — WRD (Flint Creek Return Flow Study)	100,000	100,000		1,191,042
15	Richland County (Lone Tree Dam Rehabilitation)	100,000	0	0	1,191,042
16	Mile High Conservation District (Effects of Land Uses on Montana's Salinized Lands)	99,933	0		1,191,042
17	Butte-Silver Bow Local Government (Big Hole River Water Transmission Line Replacement)	100,000	100,000	0	1,291,042
18	Montana Tech of the University of Montana (Hydrologic Evaluation, Florence and Seeley Lake)	95,422	95,422		1,386,464
19	Park Conservation District (Soil Survey on Rangelands and Forestlands / Park County)	100,000	0		1,386,464
20	Chouteau and Fergus Counties (PN Bridge—Campground)	99,651	50,000	0	1,436,464

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2/95

House Bill 7
Post Executive Action - Long Range Planning
 Reclamation and Development Grant Program
 1997 Biennium Funding Recommendations

Rank	Project Sponsor (Project Title)	Amount Recommended	Cumulative Total Recommended
01	Department of Natural Resources and Conservation (Abandoned Mine Reclamation Project)	\$300,000	\$300,000
02	Montana Board of Oil and Gas Conservation (Devil's Basin: Plug, Abandonment, and Restoration)	300,000	600,000
03	Montana Board of Oil and Gas Conservation (South Cut Bank Field-A : Plug, Abandonment, and Rest.)	300,000	900,000
04	Montana Board of Oil and Gas Conservation (South Cut Bank Field-B : Plug, Abandonment and, Rest.)	300,000	1,200,000
05	Department of State Lands (Oil Well Abandonment)	183,260	1,383,260
06	Lewis & Clark County / City of Helena (Tenmile Mine Site Reclamation Project)	75,000	1,458,260
07	Montana State University (Clean Tailings Reclamation)	100,000	1,558,260
08	Cascade County Conservation District (Muddy Creek Water Quality Improvement)	300,000	1,858,260
09	Department of Health and Environmental Sciences (Nonpoint Pollution Control)	300,000	2,158,260
10	Butte-Silver Bow Local Government (Upper Clark Fork Basin: Superfund Tech. Assist.)	93,622	2,251,882
11	Department of Health and Environmental Sciences (Superfund GIS)	95,200	2,347,082
12	Glacier County Conservation District (Comprehensive Evaluation of Groundwater, Red River)	150,000	2,497,082
13	Toole County (North Toole County Reclamation Project)	295,246	2,792,328
14	Department of State Lands (Scobey Reclamation Site)	11,000	2,803,328
15	Carbon County (Dry Hydrant Demonstration)	0	2,803,328
16	Petroleum County Conservation District (Petroleum County Artesian Basin Groundwater Project)	300,000	3,103,328
	Totals	<u>\$3,103,328</u>	<u>\$3,103,328</u>

REASONS FOR AMENDMENT

Under current Montana tax law, a mutual fund seeking to organize in Montana and to offer to Montana residents shares in a fund investing in a portfolio of Montana municipal obligations is under a distinct disadvantage. This is because the mutual fund is subject to corporate-level Montana income tax on the interest it earns on the Montana municipal obligations. This treatment is in contrast to the general pass-through treatment that mutual funds enjoy under federal law and the laws of most other states. The bill is designed to remedy this situation by providing pass-through treatment for a mutual fund investing in Montana Obligations. The bill also clarifies the Montana income tax treatment of both individual and corporate shareholders of a mutual fund investing in Montana municipal obligations, a subject not currently addressed by the Montana statutes.

Under current Montana law, corporations are subject to tax on income they earn from interest paid on municipal obligations, including obligations of the State of Montana and its political subdivisions and agencies ("Montana Obligations"). A mutual fund is taxable as a corporation. Under Subchapter M of the Internal Revenue Code (the "Code"), a mutual fund, if it qualifies as a "regulated investment company" (or "RIC"), is treated as a modified "pass-through" entity by being allowed a "dividends paid deduction" to the extent that it distributes its taxable income to shareholders. Under the Code, however, a RIC cannot claim a dividends paid deduction when it distributes income it has earned as interest on

municipal obligations, because such income is already excluded from its gross income under Code Section 103.

Under the current interpretation of the Montana Corporation License Tax Act, corporations are entitled for Montana tax purposes to all the deductions to which they are entitled under federal law, unless such a deduction is expressly prohibited by Montana law. See, e.g., Baker Bancorporation, Inc. v. Department of Revenue, 657 P.2d 89 (Mont. 1982). Thus, under current law a RIC taxable in Montana would be entitled to receive the dividends paid deduction with respect to income it distributed to shareholders except for income earned from municipal obligations (including Montana Obligations). The result is an unintended anomaly: a Montana mutual fund can be formed to invest in taxable stocks or bonds, but cannot be formed to invest primarily in Montana Obligations. If it did so, it would operate at a competitive disadvantage to a RIC formed elsewhere, since it would lack the principal advantage associated with RICs – i.e., exemption from corporate-level tax. This situation is contrary to the taxation of similar RICs provided by virtually every other state.

The above disadvantage to mutual funds investing in Montana Obligations was confirmed in a Declaratory Ruling issued by the Montana Department of Revenue in the matter of the Petition of D.A. Davidson & Co. (Docket No. CT-93-28) on July 6, 1993. The petitioner had sought a ruling that a mutual fund organized in Montana could claim the dividends paid deduction with respect to dividends it paid that were attributable to interest on Montana

Obligations. The Department held, however, that Montana law did not provide a dividends paid deduction in this case. The result was that, even if the mutual fund distributed all of its interest income on Montana Obligations to shareholders, it would be taxed at the corporate level on that income.

To remedy this situation, the bill would treat RICs for Montana purposes the same way as they are treated for federal purposes, as modified pass-through entities. This is accomplished principally by amending 15-31-114, MCA, to provide that RICs may claim a "dividends paid deduction" generally for all dividends paid during the year to shareholders that are attributable to income that is taxable by Montana when earned by a corporation (including interest on Montana Obligations). An amendment is also made to 15-31-119, MCA, denying RICs the ability to claim a net operating loss deduction, in order to conform their treatment to federal law.

At the level of the RIC shareholders, the bill provides that all shareholders, corporate as well as individual, would generally be taxed on the dividends they receive from a RIC. This is accomplished by amending 15-30-111, MCA (for individuals) and 15-31-113, MCA (for corporations), to require shareholders generally to include "exempt-interest dividends" in their Montana taxable income. "Exempt-interest dividends" are mutual fund dividends that are exempt from federal tax because they are derived from interest on municipal obligations. Under the amendment to 15-30-111, MCA, individual shareholders would be taxed on "exempt-interest dividends" paid by a RIC except to the extent

that these dividends are derived from interest on Montana Obligations or from other income that Montana is prohibited from taxing by federal law. Under 15-30-111(1)(a), MCA, as currently existing, individuals are already exempt from Montana tax on income earned from Montana Obligations held directly, and the same exemption should apply if the Montana Obligations are held through a mutual fund. The Department of Revenue has already so ruled in the Declaratory Ruling issued to D.A. Davidson & Co. on July 6, 1993. The bill would merely codify this ruling.

The bill provides that "exempt-interest dividends" are exempt in the hands of an individual shareholder if derived from income that Montana is prohibited from taxing by federal law in order to ensure exemption for dividends derived from interest on the obligations of a U.S. territory or possession – i.e., Puerto Rico, Guam, etc. Federal law provides that interest on the obligations of such territories and possessions is exempt from state taxation. See, e.g., 48 U.S.C. § 745 (Puerto Rico), 48 U.S.C. § 1403 (U.S. Virgin Islands), 48 U.S.C. § 1423a (Guam). The bill therefore merely clarifies that this exemption extends to mutual fund dividends attributable to such interest. The bill does not exempt dividends paid to individual shareholders that are attributable to interest paid on the obligations of the fifty states other than Montana. Such dividends will remain subject to Montana tax in the hands of both individual and corporate shareholders.

We respectfully submit this legislation is essential in order to establish a Montana Municipal fund and urge a do pass recommendation. Thankyou.

**Statement of Bruce A. MacKenzie
Representing D.A. Davidson & Co
Supporting House Bill 570**

ILLUSTRATION

Mutual Fund (Other than Montana Bonds)

Total Portfolio	\$100,000,000	
Investment Income (5%)		\$5,000,000
Less Administrative Fees (1%)		- 50,000
Less Dividends Paid (98%)		- 4,850,000
Total Income Subject to State Tax		\$ 50,000
Corporate License Tax (6.75% First 500,000)	\$	3,375
Investment Income Available to Distribute	\$	4,850,000
Rate of Return to Investor		<u>4.85%</u>

Mutual Fund (Exclusively Montana Bonds)

Total Portfolio	\$100,000,000	
Investment Income (5%)		\$5,000,000
Less Administrative Fees (1%)		- 50,000
Total Income Subject to State Tax		\$ 4,950,000
Corporate License Tax (6.75% First \$500,000)	\$	33,750
(7.25% of Excess)		322,625
Total Montana Taxes Paid	\$	356,375
Investment Income Available to Distribute	\$	4,593,675
Rate of Return to Investor		<u>4.59%</u>

EXHIBIT 5
DATE 3/6/95
HB 570

Amendments to House Bill No. 570
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
February 28, 1995

1. Page 1, line 16.
Following: "thereof"
Insert: "except"
Following: "taxation"
Insert: "by Montana"

2. Page 2, line 2.
Strike: "the states"
Insert: "Montana"

EXHIBIT 6
DATE 3/6/95
HB 565

Amendments to House Bill No. 565
First Reading Copy

Requested by Rep. Ellis
For the Committee on Taxation

Prepared by Lee Heiman
March 1, 1995

1. Title, lines 6 and 7.
Strike: "PROVIDING" on line 6 through "LEVY;" on line 7
2. Title, line 8.
Following: "15-24-902,"
Insert: "AND"
Strike: "AND 15-24-922,"
3. Page 1, line 20.
Strike: "sections"
Insert: "section"
Strike: "and 4"
4. Page 1, lines 29 and 30.
Strike: "sections" on line 29
Insert: "section"
Strike: "and 4" on line 30
5. Page 2, line 15 through page 3, line 13.
Strike: sections 4 and 5 in their entirety
Renumber: subsequent sections
6. Page 4, line 3.
Strike: "Sections"
Insert: "Section"
Strike: "and 4"
Strike: "are"
Insert: "is"
7. Page 4, line 5.
Strike: "sections"
Insert: "section"
Strike: "and 4"

EXHIBIT 7
DATE 3/6/95
HB 565

PROPOSED AMENDMENT TO HB565

Amend HB565 Section 5, lines 12-14 to read-(c) A taxpayer whose livestock are taxed on the average inventory basis for property tax purposes must also be taxed on an average inventory basis for the purposes of 15-24-921 and this section. All other livestock subject to the per capita tax levy must be reported on a February 1st basis.

EXHIBIT 8
DATE 3/6/95
HB 565

DEPARTMENT'S PROPOSED AMENDMENTS TO HB 565

1. Amend 15-24-303(1) to read-This section does not apply to motor vehicles taxed under Title 61, chapter 3, part 5 or to livestock.
2. Amend 15-24-920 to add Section (6) A taxpayer whose livestock are assessed under 15-24-902 (2), MCA is not entitled to a refund under this part.

Amendments to Senate Bill No. 152
Second Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Lee Heiman
February 28, 1995

Completes and corrects Coordination instruction:

1. Page 9, line 11.

Following: "(2)"

Insert: "(a)"

Following: "IF"

Insert: "Senate"

Strike: "[LC 0975]"

Insert: "412"

2. Page 9, line 14.

Strike: "(3)"

Insert: "(b)"

Following: "(2)"

Insert: "(a)"

Following: "THEN"

Insert: "the department of revenue shall, by rule, change the
formula for distribution of taxes collected under [section
18] of Senate Bill No. 412 to provide that"

3. Page 9, line 17.

Insert: "(c) The section imposing tax rates, [section 4] of
Senate Bill No. 412, must be amended by subtracting 0.5%
from all tax rates for oil and natural gas, for both the
working interest and nonworking interest on [the effective
date of this section]."

Clarifies the distribution of the resource indemnity trust tax
collected for the last year the tax is in effect and clarifies
that the "effective date" referred to in Sections 1, 10, and 11,
are the effective date of the section.

4. Page 9, line 13.

Page 9, line 20.

Page 9, line 24.

Page 9, line 26.

Page 9, line 27.

Page 9, line 29.

Page 10, line 1.

Page 10, line 4.

Page 10, line 6.

Page 10, line 7.

Page 10, line 10.

Strike: "ACT"

Insert: "section"

5. Page 9, line 22.

Strike: "the previous CALENDAR year's"

6. Page 9, line 23.

Following: "production"

Insert: "occurring in the calendar year immediately preceding
[the effective date of this section]"

7. Page 9, line 25.

Strike: "OWED"

Insert: "paid"

Following: "ISSUED"

Insert: "prior to May 1 following [the effective date of this
section]"

2

EXHIBIT 10
DATE 3/6/95
SB 152

Amendments to Senate Bill No. 152
Third Reading Copy

Requested by Senator Keating
For the Committee on Taxation

Prepared by Lee Heiman
March 1, 1995

Reduces the metalliferous mines tax by the amount allocated to the RIT, effective when the RIT hits 100 million.

1. Title, line 5.

Strike: "REALLOCATING"

Insert: "REDUCING"

2. Title, line 6.

Following: "SECTIONS"

Insert: "7-6-2225, 15-37-103,"

3. Title, line 9.

Following: "15-38-128,"

Strike: "AND"

Following: "15-38-136,"

Insert: "AND 20-9-231,"

4. Page 1, line 13.

Insert: "Section 1. Section 15-37-103, MCA, is amended to read:

"15-37-103. Rate of tax. (1) The annual license tax to be paid by a person engaged in or carrying on the business of working or operating any mine or mining property in this state from which gold, silver, copper, lead, or any other metal or metals or precious or semiprecious gems or stones are produced shall be an amount computed on the gross value of product which may have been derived by the person from mining business, work, or operation within this state during the calendar year immediately preceding.

(2) Concentrate shipped to a smelter, mill, or reduction work is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	1.81% <u>1.53%</u> of the increment

(3) Gold, silver, or any platinum-group metal that is done, bullion, or matte and that is shipped to a refinery is taxed at the following rates:

Gross Value of Product	Rate of Tax (percentage of gross value)
first \$250,000	0%
more than \$250,000	1.6% <u>1.35%</u> of the increment"

Renumber: subsequent sections

5. Page 1, line 18.

Strike: "58%"

Insert: "68.6%"

6. Page 1, line 19.

Strike: "1.5%"

Insert: "1.8%"

7. Page 1, lines 21 through 26.

Strike: subsection (c) in its entirety

Renumber: subsequent subsections

8. Page 2, line 1.

Strike: "25%"

Insert: "29.6%"

9. Page 2, line 13.

Strike: "(1)(d)"

Insert: "(1)(c)"

10. Page 2, line 16.

Strike: "(1)(d)" in both places

Insert: "(1)(c)"

11. Page 9, line 3.

Insert: "Section 9. Section 7-6-2225, MCA, is amended to read:

"7-6-2225. **County hard-rock mine trust reserve account -- expenditure restrictions.** (1) The governing body of a county receiving an allocation under 15-37-117(1)(~~d~~) shall establish a county hard-rock mine trust reserve account.

(2) Money received by a county pursuant to 15-37-117 or 90-6-331 must remain in the account and may not be appropriated by the governing body until:

(a) a mining operation has permanently ceased all mining related activity; or

(b) the number of persons employed full-time in mining activities by the mining operation is less than one-half of the average number of persons employed full-time in mining activities by the mining operation during the immediately preceding 5-year period.

(3) If the circumstances described in subsections (2)(a) or (2)(b) occur, the governing body of the county ~~must~~ shall allocate at least one-third of the funds proportionally to affected high school districts and elementary school districts in the county, and may use the remaining funds in the account to:

(a) pay for outstanding capital project bonds or other expenses incurred prior to the end of mining activity or the reduction in the mining work force described in subsection

(2)(b);

(b) decrease property tax mill levies that are directly caused by the cessation or reduction of mining activity;

(c) promote diversification and development of the economic base within the jurisdiction of a local government unit;

(d) attract new industry to the impact area;

(e) provide cash incentives for expanding the employment base of the area impacted by the changes in mining activity described in subsection (2); or

(f) provide grants or loans to other local government jurisdictions to assist with impacts caused by the changes in mining activity described in subsection (2).

(4) Except as provided in subsection (3)(b), money held in the account may not be considered as cash balance for the purpose of reducing mill levies.

(5) Money in the reserve account must be invested as provided by law. Interest and income from the investment of funds in the account must be credited to the account."

Section 10. Section 20-9-231, MCA, is amended to read:

"20-9-231. **Metal mines tax reserve fund.** (1) The governing body of a local school district receiving tax collections under 15-37-117(1)~~(d)~~ may establish a metal mines tax reserve fund to be used to hold the collections. The governing body may hold money in the fund for any time period considered appropriate by the governing body. Money held in the fund may not be considered as fund balance for the purpose of reducing mill levies.

(2) Money may be expended from the fund for any purpose provided by law.

(3) Money in the fund must be invested as provided by law. Interest and income from the investment of the metal mines tax reserve fund must be credited to the fund.

(4) The fund must be financially administered as a nonbudgeted fund under the provisions of this title."

Renumber: subsequent sections

12. Page 10, line 13.

Following: "Sections"

Strike: "1,"

Strike: "2,"

Insert: "3,"

Strike: "AND"

Following: "10"

Insert: ", 12, and 13"

13. Page 10, line 15.

Strike: "3"

Insert: "1, 2, 4"

Strike: "AND"

Insert: ", "

Following: "11"

Insert: ", and 14"

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