

MINUTES OF THE MEETING  
TAXATION COMMITTEES  
HOUSE AND SENATE

January 20, 1977

Chairman Mathers opened the meeting which was a joint meeting of the House and Senate Taxation committees, and held in Room 415 of the State Capitol Building on the above date, convened at 8:10 a.m. The Chairman said the meeting had been scheduled for the purpose of discussing some of the problems that the two committees will be facing this session, particularly in relation to the coal tax funds.

ROLL CALL: Roll call found all of the Senate Taxation Committee members present with the exception of Sen. Healy.

Chairman Mathers introduced Roger Tippy of the Legislative Council who had drafted all of the coal tax bills in the last legislative session. He said it would appear the choice that the Legislature has this session is whether to set up trust funds, if the principal should be invested at other than maximum yield, and quoting from the letter from the State Board of Investments which noted that the Legislature had the right to appropriate the principal by a 3/4 vote of both Houses. He said he had been asked to draft several approaches which would use a portion of the principal.

The Chairman then asked if any of those present, members of the committees and the interested persons in attendance, if they had comments to make regarding the subject. First to speak was Repr. Waldron who said he felt since the money represented non-renewable resources from Montana, the funds derived from the coal tax should be invested within the state as much as possible. Rep. Frabrega also spoke and said he too favored funds invested in the state, citing housing as one of primary importance. Rep. Tower asked about making the money available to Montana banks and savings and loans agencies for use within the state. Rep. Meloy said there is a bill in the House which concerns itself with obtaining funds for conservation programs and introduced Pat Binns who said he thought the problem of energy conservation should be addressed with the funds.

Sen. Blaylock then spoke, saying there is a study being conducted within the state concerning the problem of solid waste disposal and if and when a program is adopted, funds would be needed to lend to cities that wish to adopt such an important project. Sen. Warden agreed with his statements and said she would be carrying a bill dealing with this problem. She introduced Terry Carmody who said they had found there was a chance to conserve energy and also solve the solid waste problem in Montana should the program receive additional support.

Rep. Bengtson next spoke saying she thought education should share in the revenues and she introduced John Dracon of the State School Administrators Assoc., who thought higher education needed

a share of the revenues. Louis Forsell also opted for funds for higher education, saying that the present 6 mill levy might be reduced with help from the revenues. Repr. Dassinger spoke briefly also and supported the Bd. of Investments, saying he felt they were investing the moneys entrusted to them as wisely as possible. Repr. Waldon asked questions on the way that state funds are invested.

Jim Mochler, representing the association of coal companies, asked the legislators to consider that the coal tax was intended to have monies available for the impacted counties and that was the primary purpose for the 30% coal tax. He said he thought that was the original intent of the coal tax and he hoped the Legislature would answer this obligation to the people of Montana.

Jim Howeth, Bd. of Investments, next spoke and said SB44 puts the coal tax trust fund into the trust and legacy fund. He said this is a permanent trust fund and is 'inviolable, unless it is appropriated by the Legislature.' He said this would make it possible for the Legislature to liquidate all or a portion of the principal. He continued, explaining that if such a situation were to occur then such principal would necessarily be invested in short term investments. Several others questioned this portion of the law, and Sen. Towe said that only a very extreme circumstance would prompt the Legislature to vote for such a change.

Mr. Howeth responded to some of the questions, saying that it is not possible to invest the entire amount of the funds of the Board in Montana, as the law demands they invest the funds in the most prudent of ways.

Sen. Watt said the 3/4 vote portion of that particular law had been put in for extreme emergency, in the event of such a situation as the great depression or such emergency. Rep. Bertelsen said he felt the funds that everyone is asking for should instead support the counties most affected by the impact.

The point was then brought out that though the principal may at sometime be touched by future Legislatures, unless this law is changed, this Legislature must decide how the money is to be invested. Sen. Turnage said he felt the funds should go to the Board of Investments for investing and that the money should go into the General Fund for apportioning as needs indicate. Rep. Fabrega stated further he felt they must first meet cost of the impact in the coal areas, also he said he was impressed with the performance of the Coal Board. Neil Lynch, representing eastern coal counties, stated they hoped the 4% share of the coal pie might stay the same and the counties to retain that 1% of the revenue, where it is most urgently needed.

Mr. Tippy pointed out for those who had favored energy conservation, that the state banks who had set up Eco loans had abandoned the program for lack of interest. Rep. Dassinger, Sen. Towe and Sen. Goodover, also Rep. Lien discussed several other points briefly.

Sen. Manning then made one more point, complimenting the Chairman on bringing the two committees and other interested persons together for the morning's meeting. He stated that he felt the meeting to be most worthwhile and the individuals most concerned were able to get a picture of the thinking of all concerned with the fate of the coal tax revenues. He felt much had been accomplished by the meeting, to which others also agreed.

ADJOURNMENT: Sen. Manning then moved for adjournment; the motion, as seconded by Sen. Goodover, carried.



WILLIAM MATHERS

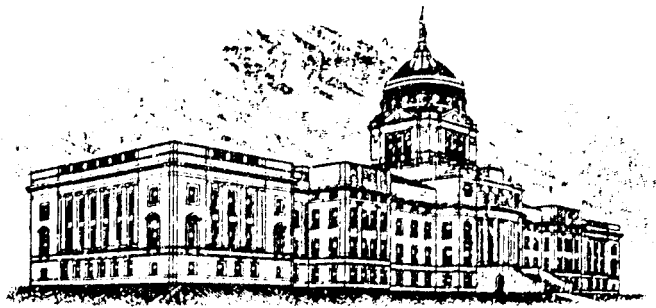
CHAIRMAN



# STATE OF MONTANA

DEPARTMENT OF ADMINISTRATION

## BOARD OF INVESTMENTS



ROOM 236, MITCHELL BUILDING  
HELENA, MONTANA 59601  
(406) 449-2656

January 17, 1977

Representative John Driscoll, Speaker of the House  
The State Capitol  
Helena, Montana 59601

Dear Representative Driscoll:

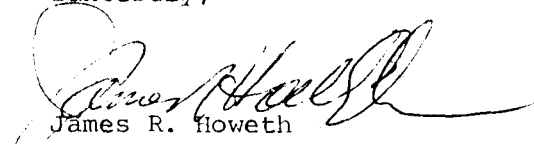
The new section of the constitutional amendment establishing the Coal Trust Fund is going to be extremely difficult in administering, investment wise, because of the conflicting language which is used. The heading refers to a permanent trust fund, which to me would indicate it's something that is lasting, forever. Also, the section states, "the principal of the trust shall forever remain inviolate." Here again, this would indicate that the principal of the fund would remain intact forever. If this were the case, we would be wise in investing the funds on a long-term basis, thereby, obtaining a maximum rate of return. However, the section goes on and adds, "unless appropriated by vote of three-fourths of the members of each house of the Legislature." This would indicate that at any legislative session the principal could be spent in its entirety, which from a prudent investment decision would prevent us from investing the funds long-term and investing them on a short-term basis which would reduce the potential rate of return on the investment substantially. It would appear to me with the use of the language "permanent and forever" it would be the intent to always maintain the principal and that it would be extremely remote and difficult for the Legislature to ever spend the principal of the fund in its entirety.

In writing the statutory laws pertaining to this fund, we should point out that we will invest the funds on a permanent basis and that should any legislature appropriate the principal, it could result in a loss of the principal because of a forced liquidation of the investments. I would suggest amending 79-309 Investment funds, following (5): new "(6) the Coal Trust Fund established under section 5, Article IX of the Constitution of the State of Montana. The principal of the trust fund shall be permanent and invested according to the permissible investments enumerated in section 79-310. Should the Legislature ever accept its right to appropriate the principal by vote of three-fourths of the members of each house of the Legislature according to the State constitution, they may create a loss or gain in the principal because of liquidation."

Representative John Driscoll  
January 17, 1977  
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I have discussed the problem with Roger Tippy, therefore, I am sending him a copy of this letter.

Sincerely,



James R. Howeth  
Investment Officer

JRH/dp

cc: Roger Tippy  
Jack Crosser