

HOUSE TAXATION COMMITTEE MEETING MINUTES  
March 12, 1981

A meeting of the House Taxation Committee was held on Thursday, March 12, 1981 at 8:00 a.m. in Room 102 of the State Capitol. All members were present except Reps. Harp and Vinger, who were excused. HOUSE BILL 791 and SENATE BILLS 207 and 208 were heard.

SENATE BILL 207, sponsored by Sen. Tom Towe, was the first bill to be heard. Both this bill and SB 208 were originated in the Coal Tax Oversight Committee, a Subcommittee of the Revenue Oversight Committee. He explained that the Coal Board was the authority that made grants to impacted communities to help make up some of the costs incurred because of coal development. The Coal Board has been in existence for six years and has been doing a very good job. The Oversight Committee has recommended a series of bills to help the Board become better able to take care of problems. This bill, the "formula" bill, addresses what happens in the event of a major coal development, for example a synfuel plant, which would have a great impact. The 8 3/4% now allocated to the Coal Board is adequate, but the impact from a synfuel plant would cost hundreds of millions of dollars, and the money wouldn't be available. This bill would provide a formula which requires the State to plan for such a possibility and prepare for appropriation measures. It taps the income from the Constitutional Trust. Although the Senate Taxation Committee agreed to keep the bill as the interim Committee recommended it, with the principle; it was changed to the income from the Trust on the floor of the Senate. He felt it was appropriate either way, because either way coal money is taking care of coal impacts. He stressed that there was no need to worry about appropriating the money until the impact happened.

He reviewed the mechanism in the bill by which it would be put into motion. An outside figure is derived to find the impact costs. The figure is compared with what the 8 3/4% will bring in and if the figure is higher, then the Constitutional Trust, hopefully, will provide the difference. In the budgeting process, the Legislature shall determine the amount in advance and put it in an appropriation bill. He stressed that the bill didn't appropriate any money; it just set up a mechanism. He distributed a sheet showing how the bill worked; see Exhibit "A." (1) This bill helps if there is a significant increase in coal development, a question that hasn't previously been addressed. (2) It ties the Constitutional Trust Fund impacts; that is helpful in the defense of the coal tax suit. This is probably the most important bill that will help the coal tax this year. (3) Some guidance will be given to the Coal Board as to the amount of money needed in impact areas. He asked that the Committee concur in the bill.

Ed McCaffree, Montana Association of Oil, Coal and Gas Counties, then rose in support of the bill. He stressed that there was going to be impact in Eastern Montana.

Margaret MacDonald, Northern Plains Resource Council, reemphasized

Sen. Towe's remarks that the defense of the severance tax will be strengthened by this bill. She pointed out that the State hadn't experienced the impact a synfuel plant would have, and when this did happen, it would be great.

James Mockler, Montana Coal Council Executive Director, then rose in OPPOSITION to the bill. He submitted that if the formula in the bill was used, there would be much criticism. For example, major impact in Great Falls won't be near what it would be in a smaller area. Therefore, a formula is being set up that doesn't provide a quantifiable figure. Impacts have to be figured on a case-to-case basis. There are no applications for a synfuel plant at present, although there is one possibility; no funds have been committed. He stressed that future Legislatures couldn't be committed to funding. If one wanted to take the interest from the Coal Tax Trust Fund and allocate it to the Coal Board, he is in support of this. He stressed that if the Legislature wanted to do something about impact, then they should do it, but this bill doesn't.

Questions were then asked. Rep. Bertelsen asked Sen. Towe about the formula figures. Sen. Towe said that the "3" measures the number of people that would come in for each employee that came in, including the employee. People who would be employed locally and the people who wouldn't be living in the community are subtracted. He said that 3.09 might not be the right figure and that is why it was not specified in the bill. He pointed out that in a place like Great Falls, a different multiplier would be used.

Rep. Williams wanted to know about local effort, and why it was ignored in the bill. Sen. Towe said that this bill doesn't address the discretion the Coal Board must still retain. The Board would still have to look at the specific local picture to determine if the application was justified. If an average is used, and there is already a school in place, the average would be reduced. This bill sets up a formula to determine how much money should be put into the Coal Board Fund so that they can make these individual decisions. The bill is a method for the Legislature to determine how much money the Coal Board needs. He stressed that the Coal Board must retain its discretionary powers.

Rep. Sivertsen submitted that the bill was trying to help the Coal Board because in the past they have not had a formula upon which to base their grants. Mr. Mockler said that the funding portion of the bill didn't do anything. He didn't think a set formula could be workable.

Rep. Sivertsen cited the case of Great Falls: using the formula, if there was a positive impact in the Community, just not as much money would be coming from the formula. Mr. Mockler said the bill should specify that the formula is used on a case-to-case basis. He said he would have no objection to that part of the bill if it could be amended in this way. Conceivably, if a school is built, taxes could

be dropped and the overall levy amount dropped. Therefore, it is impossible to apply a formula. He felt that HB 121 and SB 208 provided better ways to do this. He submitted that this bill provided a blanket formula.

Rep. Sivertsen responded that unless a formula was developed or suggested, the State might continue to be accused of not treating an area properly. He wanted to know if Mr. Mockler didn't feel the Coal Board was in a bad position by not having a formula in writing. Mr. Mockler said the formula needed to be a good one, and said he didn't feel the Legislature could address this area because of the difference in impact from area to area. He submitted that the Coal Board was designed to take the heat from its decisions.

Sen. Towe then closed. He didn't believe that Mr. Mockler really understood the bill. The number that the Coal Board is using in making the grants is not quantified at all. The multiplier will vary from biennium to biennium according to where the new development is going to take place. An upper limit of the amount that should be made available to the Coal Board is being quantified in the formula. The formula helps the Legislature determine how much money should be made available. The bill sets in operation the procedures to handle any new major development. The State will know what kind of multiplier it is dealing with and will be able to make estimates for the next biennium. Most important of all this bill will help the Coal Tax and its defense. (1) It allows the defenders of the tax to point out that provisions are being made for large impacts out of the Coal monies. (2) It allows them to say that the Trust Fund is being used for impact needs. He felt the State should be able to levy the tax, and not have to justify it, but others want more justification. He said that the Congress feels that the Trust Fund isn't being used, and therefore the money isn't needed. He submitted that impacts had to be met with coal money and this bill will see to that. The Congressional Budget Office booklet is being used to arrive at the figures and this would tie the State into it to determine their impacts. He submitted that all that was needed was to run some figures through the formula. The hearing on SENATE BILL 207 was then closed.

SENATE BILL 208, also sponsored by Sen. Towe, was then heard. This bill is a simple bill, and also came out of the Coal Tax Oversight Committee. This bill broadens the authority of the Coal Board by allowing them to make loans [to local communities] as well as grants. Also, organized districts with their own board of directors would be eligible. The reason for the bill is to provide flexibility. Extremes in taxable valuation influence whether or not grants are given but in an area with a low mill levy, a loan rather than grant would be advisable, because they would be able to repay the money in time. This bill allows the Coal Board to do their job better. He went through the mechanics of the bill.

James Mockler, Executive Director of the Montana Coal Council, then rose in support of the bill. He asked that the Senate amendments on P. 2, lines 9 -12 be removed. He said that the income from the Trust

wouldn't be jeopardized because there would be income from the loans. Allowing loans from the Trust Fund will provide a true mechanism for providing front-end money to the Communities.

Ed McCaffree, Chairman of the Oil, Gas, and Coal Counties, rose in support of the bill. It would eliminate some criticism that the Board has received in the past and would make funds available in a better fashion than what was being provided now under prepayment of taxes, which requires a tremendous amount of bookkeeping.

Margaret MacDonald, Northern Plains Resource Council, then spoke. She recognized that grants were not always appropriate in dealing with impact, and in some cases, loans would be more appropriate.

There were no OPPONENTS to the bill. Questions were then asked. Sen. Towe said that the Board would determine the interest rates on the loans. He felt that the Board should have the option of setting the rate.

Rep. Williams wanted to know if Sen. Towe had any objections to deleting the Senate amendment. Sen. Towe felt that deletion would accomplish what Mr. Mockler was saying. He didn't think anyone would seriously try to make loans out of the trust fund; grants have never been made from it.

Rep. Nordtvedt submitted that if there were no set interest rates and if loans were allowed from the Trust Fund, then the income from the Trust could be destroyed. Sen. Towe said he would insist on adequate security and reasonable interest rates if this was done.

Rep. Asay wanted to know if the bill could authorize the Coal Board to buy bonds. Sen. Towe said possibly this could be done. He would hope the Board would use its authority sparingly because if the money could be gotten elsewhere, it should be. He rose in support of the Board and said he had no problem with giving the Board the authority.

Rep. Nordtvedt submitted that to have a tax-free agency and tax-free bonds would be self-defeating.

Sen. Towe then closed. He added that on SB 207, the word "local" should be inserted before the word "government" on P. 2 line 9. Rep. Nordtvedt pointed out that in the Revenue Oversight Committee, this had been discussed. Sen. Towe said he would be happy to abide by whatever the Committee decided to do.

Rep. Williams then had a question regarding SENATE BILL 207. Sen. Towe said a budget was being devised for the entire State, and that was why the word "State" was used and not "local impact area." If the system were perfect, a Coal Board wouldn't be needed; however, it isn't, and the Board is needed to make the individual decisions. the hearing on SENATE BILL 208 was then closed.

HOUSE BILL 791, sponsored by Rep. Francis Bardanouve, was then heard. This bill creates a Community Economic Board rather than the present Coal Board. The bill does for Montana what the Coal Board does for impacted areas, and covers the same areas as the Coal Board does. He presented some amendments to the bill which had been drafted by the Department of Community Affairs; see Exhibit "B." At present, there are impacts in several areas of the State. He would like the Committee to look beyond a piecemeal approach to try and set up an economic solution for each area, as it is impacted. He stressed that the State not be provincial in its approach to the problem. He said he would like this bill to be included in other new concepts being enacted. The amendments will broaden the intent of the bill. Regarding the fiscal impact, it could be limited as much as the Committee wanted to. The input of the Committee was recommended, and he stressed that a vehicle was needed that reached beyond the Coal Board.

Dave Wanzenried, Department of Community Affairs, reiterated that the approach that was proposed in this bill proposes a more comprehensive approach than is being taken at present. A single Board would be established to administer the program and provide a more comprehensive response, at the State level, to impact. This bill represents the best understanding of the experience the Coal Board has had. The amendments would provide for grants for other than capital projects. This would give the new Board the flexibility the Coal Board currently has. He feels the bill is consistent with the attitude that more government isn't needed. The Board would replace the prospect of having a Board for every area which will have an impact in the State. Two-thirds of the revenues generated by bringing these accounts together would restore the money to the area of origin.

James Mockler, Montana Coal Council, then rose in OPPOSITION to the bill. He feels this bill wouldn't be a good argument in favor of the severance tax and would not be helpful in defense of the lawsuit. The bill allows two-thirds of the money to go back to the impacted area but he felt this should be an individual question. This Board would handle all impacts all over the State and that would be quite a job. He cited the problems the Coal Board has had with its job, 35 times smaller.

Ed McCaffree, First Vice President of the Montana Association of Counties, and a Rosebud County Commissioner, then rose in opposition to the measure. The Coal Board has proved itself. If the new Board was set up, administrative costs would grow by leaps and bounds. He was not sure that the language on P. 2 of the bill was something the State would want to get into. He was surprised that the Administration would propose something like this bill. He suggested that it might be in retaliation to the mandate that they be subject to the same requirements that local governments be subject to.

Don Allen, representing the petroleum industry, suggested that the Committee look at all the things they are doing in conjunction with each other rather than looking at one bill at a time.

Questions were then asked. Rep. Sivertsen wanted to know if the language on P. 4, line 24 meant that there could be a new Board after each Gubernatorial election. Rep. Bardanouve said it was potentially possible, but the same people could be reappointed, as has been done in the past. He pointed out that the Governor didn't control the Board. Also, it would be appointed in a broader manner than the Coal Board.

Mr. Mockler commented that the language on the bottom of P. 10 and the top of P. 11 divided 37 1/2% and came up with 40% and submitted that the figures should be 17 1/2%. Rep. Bardanouve said he was agreeable to correcting an error if there was one.

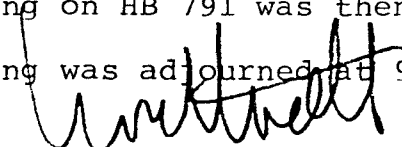
Rep. Bardanouve said that if the Committee wanted to put emphasis on Coal, the Board could be called the Montana Coal and Community Impact Board. This bill doesn't say that any diversions will be made from Libby. It is not necessarily taking any money from coal areas. The total package consists of several sources of revenue and maybe there would be no impact on the Coal itself.

Rep. Harrington asked Rep. Bardanouve how this bill would interact with his bill, which set up a Metal Mines Board. Rep. Bardanouve said the point of his bill was that so many boards were being set up that the picture of impact was being fragmented. If this bill was passed, he said it would have a political impact on Rep. Harrington's bill and if this bill was passed, Rep. Harrington's bill might be killed.

Rep. Bardanouve then closed. He said he understood the concerns of the coal industry but he feels the impacted areas must be looked beyond and Statewide impact must be looked at. It may be that if the Legislature alleviated the impact in coal areas and there was no pressing emergency, some of the money might flow to other areas of the State. However, if the Coal Board remains operating, this wouldn't be possible. Therefore, this is a mutual thing; if the coal impact is helped today, then other impacts might be helped tomorrow. He said he was confused by Mr. Allen's testimony. Many Counties are asking for help; therefore he doesn't understand the statement that the bill is only representing the coal counties. He said he was puzzled about why Mr. Allen was puzzled.

The hearing on HB 791 was then closed.

The meeting was adjourned at 9:30 a.m.



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Rep. Ken Nordtvedt, Chairman

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## VISITORS' REGISTER

HOUSE WYATT COMMITTEE

PULL 53 207

Date 3/12/81

SPONSOR TRW

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# SB 207 (Formula Bill)

- Assume: 1) Number of new employees (in mining, construction, plant operation & coal transportation) is 1000 employees.
- 2) Multiplier to determine number of people who will move into an area from number of new employees is 3. (Ratio of total increase in population to total new employees.)
- 3) The total operating costs of local government is \$1700 per new person, and total capital cost is \$2100 per new person.

$$\begin{array}{rcl}
 1000 \text{ employees new} & & \\
 \times 3 & & \\
 \hline
 3000 & = & \text{increase in population} \\
 \times \$8800 \text{ } (\$1700 + \$2100) & & \\
 \hline
 \$26,400,000 & = & \text{total allowable impact costs} \\
 \text{less } 17,500,000 & = & \text{82-83 biennium allocation from} \\
 & & \text{local impact fund.} \\
 \hline
 \$8,900,000 & = & \text{excess under the formula - to be} \\
 & & \text{made available from principal of} \\
 & & \text{Coal Tax Constitutional Trust Fund.}
 \end{array}$$

Assume: 500 new employees

$$\begin{array}{rcl}
 500 & & \\
 \times 3 & & \\
 \hline
 1500 & = & \text{increase in population} \\
 \times \$8800 & & \\
 \hline
 13,200,000 & = & \text{total allowable impact cost} \\
 \\ 
 17,500,000 & \text{Coal board allocation} & \\
 \hline
 13,200,000 & & \\
 4,300,000 & = & \text{amount coal board should} \\
 & & \text{revert to educational trust fund.}
 \end{array}$$



WITNESS STATEMENT

NAME James D. Mockler BILL No. S.R. 207, 208  
H.B. 491  
ADDRESS Heena DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT Mt. Coal Council  
SUPPORT 208 OPPOSE 491-207 AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

# VISITORS' REGISTER

HOUSE Taxation!

COMMITTEE

FTLL 53208

Date 3/2/81

SPONSOR TRUE

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

# VISITORS' REGISTER

HOUSE TAXATION

COMMITTEE

HB 791

Date 3/2/81

Bardano VE

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amend House Bill 791, Introduced Copy as follows:

1. Amend page 1, line 6  
Following: "UNITS"  
Strike: "FOR CAPITAL PROJECTS"  
Insert: "AND STATE AGENCIES TO ASSIST LOCAL GOVERNMENT UNITS"
2. Amend page 1, line 20  
Following: "strained"  
Insert: "or exceeded"
3. Amend page 1, line 25  
Following: "government's"  
Insert: "financial"
4. Amend page 1, line 25  
Following: "capability"  
Strike: "to finance"
5. Amend page 2, line 1  
Following: ";"  
Strike: "and"
6. Amend page 2, line 2  
Insert: new subsections  
    "(c) major resource development intensifies the need for  
    the adequate and timely provision of human services in rural areas;  
    (d) it is inequitable for existing residents and taxpayers to  
    bear the public costs of resource development; and"  
Renumber: subsequent subsection
7. Amend page 2, line 8  
Strike: "essential"  
Insert: "needed"
8. Amend page 2, line 15  
Strike: subsection 2  
Renumber: subsequent subsections
9. Amend page 2, line 22  
Strike: "Energy"  
Insert: "Resource"
10. Amend page 2, line 24  
Following: "transportation"  
Insert: "or transmission"
11. Amend page 2, line 24 <sup>25</sup>  
Following: "resources"  
Strike: "necessary to the production, storage, or transportation of energy"  
Insert: "or their energy-related products"

12. Amend page 6, line 1  
Strike: "grant"  
Insert: "award"
13. Amend page 6, line 2  
Following: "fund"  
Strike: "essential capital projects"  
Insert: "needed services and facilities and to state agencies to assist local government units meet the impacts of resource development. No state agency may receive grants which exceed 5% of the money allocated to the board for each fiscal year."
14. Amend page 6, line 5  
Strike: "granting"  
Insert: "awarding"
15. Amend page 7, line 11  
Following: "bonds"  
Insert: "or other appropriate means"
16. Amend page 8, line 9  
Following: "possible"  
Insert: "and appropriate"
17. Amend page 8, line 10  
Following: "sources"  
Insert: "To the extent funds are needed to evaluate and plan for the impact needs caused by resource development, consideration of bond issues and millage levies may be waived."
18. Amend page 8, line 11  
Strike: "one-third"  
Insert: "two-thirds"
19. Amend page 8, line 14  
Strike: "energy"  
Insert: "resource"

House Bill 791, Introduced Copy is amended as follows:

1. Amend page 4, line 13  
Strike: "community affairs"  
Insert: "commerce"
2. Amend page 19, line 16  
Insert: new subsection  
    "(4) If Senate No. Bill 432 (L.C. 1350) is not passed,  
reference to "department of commerce" is changed to  
"department of community affairs."

-end-

# STANDING COMMITTEE REPORT

April 8, 1961

MR. SPEAKER

We, your committee on TAXATION

having had under consideration SENATE Bill No. 207

A BILL FOR AN ACT ENTITLED: "AN ACT TO ESTABLISH A METHOD TO DETERMINE COAL DEVELOPMENT IMPACT COSTS TO LOCAL GOVERNMENT UNITS AND TO FIX THE MAXIMUM APPROPRIATION AVAILABLE FOR SUCH COSTS FROM THE CONSTITUTIONAL TRUST INCOME EARNINGS."

Respectfully report as follows: That SENATE Bill No. 207, third reading (blue) be amended as follows:

1. Page 1, line 13.  
Following: "of"  
Strike: "community affairs"  
Insert: "commerce"
2. Page 1, line 23.  
Following: "of"  
Strike: "community affairs"  
Insert: "commerce"
3. Page 1, line 24.  
Following: "that"  
Insert: "local and state"

(Page 1 of 2 pages)

DGRASS

## COMMITTEE ON TAXATION AMENDMENTS TO SENATE BILL 207:

4. Page 2, line 9.

Following: "by"

Insert: "local and state"

5. Page 2, line 19.

Following: "principal"

Strike: "INCOME"

Insert: "principal"

AND AS AMENDED  
HE CONCURRED IN



# STANDING COMMITTEE REPORT

April 1, 1951

MR. SPEAKER

## TAXATION

We, your committee on

having had under consideration SENATE Bill No. 208

A BILL FOR AN ACT ENTITLED: "AN ACT TO AUTHORIZE THE COAL BOARD TO CONSIDER APPLICATIONS FOR LOANS FROM THE LOCAL IMPACT AND EDUCATION TRUST FUND ACCOUNT; AMENDING SECTIONS 90-6-205, 90-6-206, AND 90-6-208, MCA."

Respectfully report as follows: That SENATE Bill No. 208

BE CONCURRED IN

HO:PASS