MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 6, 1981

Vice-Chairman Sen. George McCallum called the twenty-first meeting of the committee to order at 8:00 a.m. in Room 415 of the State Capitol Building.

ROLL CALL: All members were present, except for Senator Healy.

CONSIDERATION OF SENATE BILL 252:

"AN ACT TO ESTABLISH A NEW CLASSIFICATION OF PROPERTY TAX FOR AUTOMOBILES AND LIGHT TRUCKS; DEFINING LIGHT TRUCK; AND AMENDING SECTIONS 15-6-139 AND 15-6-140, MCA."

Sen. Pat Goodover, District 22 said Bill 252 uses a different approach than other fee bills in the session. He said the heart of the bill was on page 3, line 14 through line 5 on page 4. He started with a low fee of $15 for cars valued at $1,000 or under, said valuation to be obtained from a monthly blue book. This amount was used just to get an idea of how it would work. Sen. Goodover said his system has a month-by-month valuation on vehicle age and, if the figures don't break even, proposes that the difference be made up from the general fund. The Governor is looking at a tax on oil and gas for his bill. He felt this system would bring back to the counties almost as much money as they have now. Sen. Goodover introduced Larry Huss, representing Montana Automobile Dealer's Association. Mr. Huss said the MADA has supported a uniform fee system and their principal complaint with the present system is that the automobile bears a disproportionate share--real property is taxed at 41/4% of its value, the automobile at 13%.

PROPONENTS: Jim Manion, Montana Automobile Association, supported the concept of this bill, but would like to stand for a flat fee system.

OPPONENTS: Mike Stephen, Montana Association of Counties said that one of the things that bothers them is the lack of consistent information on how these bills affect counties and county government. He said they would rather have an ad velorum tax.

Sen. Goodover closed by saying the reason for using the approach he has is for the benefit of the county, because it does retain the tax base.

Sen. Towe commented that the reason for fiscal note variance in figures between this bill and a former bill by Sen. Mathers was that figures were not based on dollars but the age of the automobile.

John Clark, DOR, said he has been responsible for putting together the fiscal notes on fee bills and said consistency should be there as all are done on the same data base. He commented that the old automobiles are going to pay a very low fee under this proposal. He also mentioned a technical problem in section 1 where you delete automobiles and the comma from 15-6-139, meaning all buses over 1 1/2 tons would be out in limbo.

Sen. Severson said he had calculated a comparison between his bill and SB 252 using the middle values to get an idea how it runs with the low schedule of $15. He said it runs even as it goes up, but in each case SB 252 gets a lower figure than it would if it were using wholesale value.

Sen. Towe felt that there would be a problem adjusting to bring in approximately the same revenue because smaller counties would have to pay more. Sen. Goodover said the difference would be made up by using the general fund. He said his intent was to set this figure and not apply anything against the mill levy.

Terry Murphy, lobbyist for Montana Farmers' Union, said he didn't want to be for or against, but called attention to the farm situation when older vehicles are owned that are seldom used. He felt if the fee system is across the board, treating everyone the same, he would agree with the system.

Sen. Eck wondered if there would be an income tax deduction allowed on this fee. John Clark, DOR, said he wasn't sure whether this would be deductible. The provision could be added to make it deductible on the state tax. He said it appeared to be a flat fee for the thousand dollar increment.

The hearing was closed on Senate Bill 252.

CONSIDERATION OF SENATE BILL 260:

> "AN ACT TO REALLOCATE THE COAL SEVERANCE TAX MONEY, INCREASING THE ALLOCATION OF COAL SEVERANCE TAX MONEY TO THE GENERAL FUND; AMENDING SECTIONS 15-35-108, 90-6-202, 90-6-205, 90-6-207, AND 90-6-211, MCA; REPEALING SECTIONS 22-3-112, 23-1-108, 90-1-108, 90-2-101 THROUGH 90-2-128, 90-4-101 THROUGH 90-4-107, AND 90-6-210, MCA."

Sen. Goodover said there would be a couple of amendments offered with this bill and he introduced Jim Mockler to make a few comments about the bill.

Mr. Mockler said he had passed out amendments to the committee, Attachment #1. He said when he talked to Sen. Goodover he found that he did not intend to reduce money going to impact aid. The first amendment is to 90-6-210 in the title referring to the highway improvement fund account, and that that wasn't meant to be done away with. Page 4, line 10, the intent of that amendment was to have legislative review to allow the Revenue Committee to review, not to eliminate, the funds to one million dollars. The rest of the amendments bring the rest into compliance. Mr. Mockler said his organization, Montana Coal Board, certainly does support the portion to impact with the amendments.

Sen. Goodover said SB 260 is an act to reallocate the coal severance tax money and increase the allocation of the severance tax to the general fund. This relates specifically to the earmarked revenue, not the Constitutional Trust Fund.

Sen. Goodover called the committee's attention to the changes in the bill. He said new section 6 makes transfer of funds from earmarked funds to the general funds. Sen. Goodover distributed copies of revenue fund estimates and earmarking of those funds, attachment #2. He said it was not his intention to eliminate the programs now receiving earmarked funds, only that these programs come to each legislative session and justify themselves for appropriations to continue their work, add to their work, or terminate if programs have accomplished their goals. If it is shown that those funds should be used, the legislature should make it available through the general fund.

There were no proponents.

<u>OPPONENTS:</u> James Flynn, Department of Fish, Wildlife, and Parks. (Attachment #3). He concluded by saying they already have to go to the legislature to spend money from the coal tax fund.

Bob Archibald, Montana Historical Society, said they receive a portion of the coal tax funds from which Fish, Wildlife and Parks further receives funds for parks. He said Historical Society's function is just to administer the funds, but that there are many proposals for projects and that the Society, on behalf of the organizations they represent, oppose Senate Bill 260.

Mildred Sullivan, representing Montana Arts Advocacy, subcommittee of the Montana Institute of the Arts agreed with Mr. Flynn that the library people can't spend monies without legislative appropriation, and asked the committee to consider that having earmarked funds allows organizations to plan.

J. D. Holmes, lobbyist for Montana Arts Advocacy.

Sen. Thomas Towe, as an opponent, handed out copies from a brief recently filed in the Supreme Court of the United States, attachment #5. He said he handed it out to show how much misunderstanding is prevalent in the nation's capitol on coal tax spending.

Jesse Long, Executive Secretary, School Administrators of Montana.

Joe Lamson, Montana Democratic Party, Democratic Central Committee.

Sen. Goodover reiterated that the purpose of the bill is to make the agencies getting earmarked funds accountable to the legislature, saying they need more, the same amount, or less, and said there is nothing in the bill that says money goes to tax relief. He felt there was a concern that courts would look at the 50% going into a place where nothing is being done with it, and the fact that it's there just drawing interest is what the courts are looking at.

Sen. Crippen wondered about the charge that if the bill passes the general fund would become too reliant on coal tax revenues. Sen. Goodover said there was no difference there than from the general fund being tied to all the revenues we have in the state.

Sen. Towe questioned Sen. Goodover's intent about having agencies come in every 2 years while two of the agencies said they rely on income that comes from a trust fund set up with interest from the money. Senator Goodover said there is nothing sacred about a trust fund of that kind. These agencies should also come back and ask for funding.

Sen. Steve Brown said whether any of us like it or not, how the State of Montana handles this money is an issue. He felt there was an image problem in wiping out these funds.

Sen. Goodover concluded by saying the fact that we take the earmarked funds out and make them responsible to the legislature every two years is that much more strong to show we are using the money properly. He felt that 50% sitting there would not benefit Montana's position in Washington.

The hearing was closed on Senate Bill 260. The chair was turned back to Senator Goodover, and the meeting was adjourned at 9:55 a.m.

Pat M. Goodover

PAT M. GOODOVER, CHAIRMAN

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981 Date 2/26/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"		✓	
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.	✓		

Each day attach to minutes.

DATE Feb 6, 1981

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME	REPRESENTING	Senate BILLS#	Support 252	Support 260	Oppose 252	Oppose 260
J. D. Holmes	MT. Institute of the Arts Foundation	SB 260				✓
James D. Mockler	MT. Coal Council			✓		
[illegible]	Mt. [illegible]	[illegible]				✓
Bette Christie	Office Public Instruction	SB260				✓
[illegible]	Assessor's Assoc.	SB 252			✓	
Robert [illegible]	Mt. Hist. Society	SB260				✓
[illegible]	MT AUTO ASS'N	SB 252	✓			
[illegible]	DEPT OF REV	252				
[illegible]	[illegible] Council	260				✓
[illegible]	[illegible] Council	260				✓
[illegible]	Montana Arts Advocacy / [illegible]	260				✓
John V Nichols	Montana Library Association	260				✓
Joe Lamson	MONTANA DEMOCRATIC PARTY	260				✓
Jim Flynn	Dept FWP	260				✓

(Please leave prepared statement with Secretary)

Attachment #1

Senate Bill 260

Proposed Amendments

Page 1, line 9: delete "and 90-6-210"

Page 2, line 14: delete "4%" and insert "8.75%"

Page 4, line 10: delete "the total" and insert "any single one"

Page 7, line 17: delete "the local impact and"

Page 7, line 18: delete entire subsection (c) and renumber following subsections

Page 8, line 7: delete "and 90-6-210"

Table 7
Expected Coal Tax Revenues
1982 Biennium
(000)

Acct	Category	Distri-bution	FY 1981	FY 1982	FY 1983	1982-83 Biennium
01100	General Fund	19%	$13,962	$18,287	$20,911	$ 39,198
08022	Constr. Trust Fund	50%	36,743	48,122	55,028	103,150
02266	Local Impact	8.75%	6,430	8,421	9,630	18,051
08021	Ed. Trust	10.0%	7,349	9,624	11,006	20,630
02217	Public School Equal.	5.0%	3,674	4,812	5,503	10,315
03002	Renewable Res. Dev.	1.25%	919	1,203	1,376	2,579
02951	Alternate Energy	2.5%	1,837	2,406	2,751	5,157
08020	Fish & Game	2.5%	1,837	2,406	2,751	5,157
02265	County Land Planning	.5%	367	481	550	1,031
02320	Library Commission	.5%	367	481	550	1,031
	TOTAL	100.0%	$73,485	$96,243	$110,056	$206,299

Total coal tax revenues are expected to drop about $2 million in fiscal 1981 and then increase 30.9 percent in fiscal 1982 and 14.3 percent in fiscal 1983. Reasons for the drop in fiscal 1981 include lowering the general fund share from 29 percent to 19 percent, the reduced demand for coal, and prices that are not attaining fiscal 1980 levels. The large increase in fiscal 1982 is due to a new coal mine being opened by Northwest Energy Resources. The following table summarizes our assumptions used to project coal tax revenue for the next biennium.

Attachment 3

PRESENTED BY: James W. Flynn, Director
Dept. Fish, Wildlife, & Parks

February 6, 1981

SB260

Mr. Chairman, members of the committee, my name is Jim Flynn, I appear today in tacit opposition to SB 260, but primarily to present the effect this bill would have upon the state's park system.

SB 260, as presently structured, would reallocate the coal severance tax money and increase the allocation of ~~this~~ money to the state general fund. Presently, two-thirds of 2.5% (5% of 50%) of the coal severance tax money is allocated for the acquisition of state park system sites and their operation and maintenance.

The impact from the state's park system would be first, the loss of revenue for the purchase of additional state park system sites. Since the inception of this severance tax, the coal tax trust fund for parks acquisition has provided $1,315,450 for the purchase of parks sites. There have been seven in number and they total approximately 5,749 acres. These seven sites are Roche Jaune, Bannack State Park Addition, Council Grove State Monument, Rosebud Battlefield State Monument, Makoshika State Park Addition, Giant Springs - Heritage State Park Addition, and Lake Josephine.

Secondly, the loss of revenue for the state through the Department of Fish, Wildlife, & Parks for the operation and maintenance of the state park system sites that have been purchased with this tax money. In FY80, the coal severance tax provided approximately $80,300 of the park division's operating budget. To continue to maintain and operate the state park system sites at the current level, this money would need to be allocated or appropriated from the general fund.

In addition, I would point out that this legislature will be considering proposed additions to the seven I listed above when it considers the eleven coal tax park proposals submitted under provision of 23-1-108, MCA.

Thus, in conclusion, should you act favorably upon this bill, we request you recognize that in order to provide current level support for the state park systems in the manner that has been carried out in the past, some other allocation or appropriation of monies will be necessary. The lack of other potential will, of necessity, point to the general fund as that source.

I urge a do not pass on SB260. Thank you.

Attachment #4

NORTHERN PLAINS RESOURCE COUNCIL

Main Office
419 Stapleton Bldg
Billings, Mt. 59101
(406) 248-1154

Field Office
P.O. Box 886
Glendive, Mt. 59330
(406) 365-2525

TESTIMONY BEFORE THE SENATE TAXATION COMMITTEE

SB 260

February 6, 1981

Charles Yarger

The Northern Plains Resource Council is a group of farming and ranching people, many of whom live in the coal areas of Montana, who have directly experienced the adverse effects of coal mining and conversion. The Council is committed to the continual economic health of our communities and this state now and after the coal mines close. Since Montana's coal severance tax was established, NPRC has supported it and the state's right to impose it. We are speaking today in opposition to Senate Bill 260 and to express our strong conviction that a vote for Senate Bill 260 is a vote to kill that tax.

The bill would achieve this end in several ways:

It would drastically cut the funds available for local impacts that accompany the extraction and conversion of coal. According to the fiscal note, nearly $11 million would be lost for local governments for impacts in Coal Board Grants and planning assistance over the next biennium alone.

It wipes out the earmarked funds that have been set up to insure that the tax is legitimately responding to the broader impacts of extracting a nonrenewable resource and building a legacy for our future. These are the earmarked revenues for the cultural and aesthetic enrichment of the state and the development of both alternative energy and renewable resources that will sustain this state's economy through the bust end of the cycle.

A significant investment from the coal tax is made in the education of succeeding generations of Montanans. This is justifiable as we reap the pay-off from a one-time harvest.

The so-called copper kings built the William Clark Library of Western History at UCLA and an art museum in Washington, DC, with wealth from Montana's copper. They gave the community of Butte a wonderful park - which was later gobbled up by the Berkeley Pit. Montana has the economic depression in the communities of Butte, Anaconda, and Great Falls - now in the inevitable bust end of the cycle to show for its copper wealth.

The clear and persistent necessity of retaining our coal tax is to try to prevent the tragedy of Anaconda on a vastly larger scale in Eastern Montana.

SB 260 would undercut the strongest arguements the state has in defending this tax which is under heavy and concerted attack. To cut the funding for impacts, to cut the earmarked funds and divert that money into undifferentiated tax relief and subsidies for the basic functions of government is a clear signal that the tax is up for grabs.

It would be pathetic for this committee or this legislative body to effectively kill the severance tax in the very year that Anaconda/ARCO walked out of this state on one day's notice. It has never been more clearly or convincingly demonstrated that the multi-national interests of these types of businesses do not coincide with Montana's in any consistent manner. In the long run, Montana has to look out for her own and she cannot and should not expect to bank her future on the benevolence of the mining industry.

Finally, there is the spectre of the Dutch Disease. The term has come to describe a government which addicts itself to a nonrenewable resource to support the basic, fundamental functions and services that government provides; and then must face withdrawal when the oil or coal runs out.

I urge you to vote against this bill.

Attachment #5
SB 260

NO. 80-581

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

COMMONWEALTH EDISON COMPANY et al.,

Appellants,

-against-

STATE OF MONTANA et al.,

Appellees.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF MONTANA

BRIEF OF AMICI CURIAE

This brief, submitted by Amici Curiae in support of appellants, will discuss the following questions:

1. Is a state severance tax on coal which has the practical effect of imposing a burden on interstate commerce subject to commerce clause scrutiny?

2. Does the commerce clause permit a state to tax without limit the severance of coal when substantially all of the burden of that tax is exported to out-of-state purchasers of the coal, and the taxing state realizes the full cost of mining impacts from revenue sources other than the severance tax?

As a direct result of these national policies, businesses and individual families in the Northeast-Midwest region of the country have become increasingly dependent on coal mined in the Western States. Federal clean air policies further promote the use of Western coal because of its relatively lower sulfur content.*

Sixty-eight percent of this invaluable resource--lower sulfur coal--is mined in the states of Montana and Wyoming. Three-quarters of Montana's coal is actually owned by the United States government, and developed pursuant to lases issued to private producers. In 1975 and 1976, Montana imposed a 30% severance tax on the value of coal. Mont. Code Ann. §§15-35-101 et seq. Under the provisions of long-term purchase contracts, the full amount of this tax is passed forward to out-of-state purchasers. Appellants Appendix 53. Thus, more than 90% of the Montana severance tax at issue in this lawsuit is exported. The burden is borne not by Montana taxpayers, but by users and consumers of coal in other parts of the country, including the regions represented by Amici.

Montana now realizes more than $60 million a year from its exported severance tax. By constitutional amendment, half of these vast revenues are placed in permanent trust for future use in Montana. Mont. Const. Art IX, §5. The balance of the funds are used to pay for governmental services within the State. This enormous income has permitted Montana to make sizeable reductions in the property, income and excise taxes imposed upon

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*Clean Air Act of 1970, Pub. L. No. 91-604, as amended, 42 U.S.A. §1857 et seq.

local residents. 1979 Montana Laws, Ch. 698, amending §§15-30-112, 15-30-114, 15-300-122, and 15-30-142, M.C.A.

If the current tax rates do not change, the States of Minnesota, Iowa, Illinois, Indiana, Wisconsin, Michigan, Ohio and New York alone will pay an estimated $240.4 million in coal severance taxes each year to Montana and Wyoming by 1987.* And if the decision of the Montana Supreme Court in this case stands, these coal-rich states will be free to increase the tax by 100%, or 1000%, or any amount they please, exacting billions of dollars annually from out-of-state interest dependent upon Western coal. The prospect is not a fantasy. The state of Alaska, for example, with only 400,000 residents, anticipates oil severance and royalty tax revenues alone of $128 billion between 1980 and 1996.**.

This circumstance imperils the federal system. Unless this Court acts to safeguard the national economy against the individual States' exploitation of a fortuity--the location of natural resources--the prospect looms of a energy wealth gap dividing the nation into warring camps. A few States rich in mineral deposits foresee overflowing coffers, vast improvements in public

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* Estimate based on demand projections in Argonne National Laboratory, A Survey of Electrical Utility Demand for Coal, August, 1979. The projected payments were calculated by Irwin M. Stelzer, President, National Economic Research Associates, Hearings on H.R. 6625 and H.R. 6654 before the House Subcommittee on Energy and Power, Committee on Interstate and Foreign Commerce, 96th Cong., 2d Sess., June 5, 1980.

** Alaska Dept. of Rev., Petroleum Production Revenue Forecast, Quarterly Report, September, 1980. (The state also contains massive gas reserves and anticipates producing substantial quanties of gas from these reserves before the end of the decade. More severance tax and royalty revenues derived from this gas production will also accrue to the Alaska state government by the year 2000.)