

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 6, 1981

The 64th meeting of the committee was called to order at 8:00 a.m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present, except Sen. Norman.

CONSIDERATION OF HOUSE BILL 42:

"AN ACT TO PROVIDE FOR POSTPONEMENT OF CAPITAL GAINS TAX BY REINVESTING GAIN WITHIN 1 YEAR; AMENDING SECTION 15-30-111, MCA."

Rep. Nordtvedt said he believes the bill, to promote venture capital, is a good way to promote capital staying in the state. Persons having a capital account where they are investing some of their net worth in capital investments--as long as they keep it in capital investments, they postpone the capital gains tax. This bill has another condition --for rolling over capital gains for income tax--that the investment must be made in Montana. The heart of the bill is on page 3. It says for purposes of Montana income tax you don't have to recognize gain if you invest within one year in a business or corporation that produces 50% of its taxable earnings in Montana or issues 50% of its payroll to employees whose principal residence is in Montana. Subsection 5 says that the basis of the sold asset is carried over to become the basis in the equalization of a new asset for the proceeds of the sale that are reinvested. For every 1 million dollars of postponed tax, it would account for 75 million dollars invested in Montana. The bookkeeping required is the same as in the exchange of capital assets.

There were no proponents, or opponents, so questions were called from the committee.

TOWE: What's your comment on the fiscal note? It says there will be a decrease in income taxes of 1.3 million in each year of the biennium.

NORDTVEDT: That's the assumption, that this bill would reduce 20% of the reinvestments to be in the state. If you accept a 20% figure, the other follows:

TOWE: The maximum could be 6.6 million dollars.

NORDTVEDT: If 100% of the people turned over capital assets, that would be the figure.

TOWE: You are satisfied that 20% is not too low or understated?

NORDTVEDT: That seems roughly in the ball park.

ECK: As far as the amount of money being fed into Montana's economy, do you see people actually reinvesting in other business ventures or into stock?

NORDTVEDT: It would include a few--about the only large Wall Street corporations who would qualify under this would be Montana Power. Most of this would be in small businesses.

ECK: We heard one the other day where we would have money available through Montana banks for investment. Would there be a way of working that if you wanted to invest it in a bank?

NORDTVEDT: This wouldn't deal with interest principal. This is for more risky types of investment.

TOWE: You have excluded land, 20 acres or greater. Is there any particular economic reason for doing that?

NORDTVEDT: Strictly to get past the people who are promoting land development.

The hearing was closed on HB 42.

CONSIDERATION OF HOUSE BILL 718:

"AN ACT TO CREATE THE HARD-ROCK MINING IMPACT BOARD; TO REQUIRE MINERAL DEVELOPERS TO SUBMIT AN ECONOMIC IMPACT PLAN TO THE BOARD; TO AUTHORIZE THE BOARD TO AWARD GRANTS TO IMPACTED UNITS OF LOCAL GOVERNMENT; TO PROVIDE FOR TAX PREPAYMENT FOR LARGE-SCALE MINERAL DEVELOPMENTS; TO PROVIDE FOR THE ISSUANCE OF EDUCATION IMPACT BONDS; AMENDING SECTIONS 15-16-201 AND 82-4-335, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Representative Ellison said HB 718 provides a method for meeting the impacts of mining operations on local governments. He sees this idea as a more equitable way to finance the impacts and thought it would encourage the mining companies to locate the base of their operations where it causes the least impact.

PROPOSERS:

Representative Bob Marks, District 80, co-sponsor of HB 718: My interest is really the same as Rep. Ellison's. My interest was intensified when I read that Sen. Towe was trying to accomplish a means to take care of a front-end impact. My district relies a great deal on the production of minerals. I feel that the imposition of a severance tax

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to the degree that has been expressed in bills from time to time causes great concern for the industry in my district, as well as others. Because the severance tax is based on a gross value, I think it is especially offensive to those industries that have a high cost of operation. Basically, HB 718 provides for front-end money to be taken care of entirely by the developer. It provides for a board that would be picked to make up the hard-rock impact board. Large scale is defined to be 100 people or more, or to cause an increase of 15% or more in the community. It provides for special bonding districts that will help on local government impact. There has to be production to have a severance tax. I would suggest that in another session a study on that topic would be important to see what kind of mechanism could be provided for shut-down impacts.

MORE PROPONENTS: Rep. Jean McLane, House District 72, Attachment #1; George Bennett, representing ASARCO; Ward Shanahan, representing Stillwater PGM Resources and Landusky and Zortman Mining Companies, Attachment #2 and a proposed amendment to HB 718, Attachment #3; Bill Sternhagen, Northwest Mining Association; Con Fredericks, County Attorney for Sweetgrass County, Attachments #4 and #5; Vincent Kunda, Big Timber City Council; Andy Epple, representing City-County Planning Boards of Sweetgrass County; Curtis Carter, representing Anaconda Copper, Attachment #6; Jim Tully, Chairman of the grade school board in Big Timber; Dave Wanzenried, Acting Director Department of Community Affairs, Attachment #7; Carol Ferguson, Department of Community Affairs; George Trabits, Manager Environmental Affairs, Homestake Mining Company; and Mitch Press, Stillwater Land-Use Planner, speaking on behalf of the county commissioners.

OPPONENTS: Mike Zimmerman: I do not speak against, but would like to point out one thing about the amendments by the Dept. of Community Affairs. A great deal of time was spent in drafting the tax provision. We pay taxes under Section 11 of the bill and get credit over a 5-year period. The Department of Community Affairs amendment would stretch that out to 10 years. When we make a tax pre-payment we have to go to the community at a floating prime. The sooner you can recover the tax pre-payment, the better for the industry. For that reason the House Natural Resources Committee spent time to create the two parallel tax pre-payment portions. We would ask that amendments 28 to 32 presented by the Department of Community Affairs not be adopted.

Representative Ellison closed. He said he agreed mostly with the only opponent of the bill. We did create these two tax sections for a purpose--not to interfere with coal and other industries. You will notice our payments of pre-payments are kept so that we can keep a mill levy level. I urge you to stay with the main concepts of the bill. I think the RIT should be built to 3 or 400 million dollars.

GOODOVER: Were any of the amendments that have been offered here offered in the House at the time of the hearing there?

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ELLISON: I believe some of them were. I don't know if these are the same amendments or not.

MANLEY: I would like a little history.

ELLISON: I first started out with Representatives Fagg, Marks, and some mining people. I said I was interested in a bill. I also met with people from Sweetgrass and Stillwater Counties.

MANLEY: Did you at any time during the interim draw a bill to address this?

WANZENRIED: We drafted a bill introduced last session that created a community development board. That bill was reintroduced by Bardanouve, was heard, and not acted upon.

MANLEY: Do your amendments take this bill that was killed and incorporate it?

ELLISON: I think Rep. Bardanouve's bill was of a larger scope. The reason I steered away from that one is I am not altogether satisfied with the way the impact money was scattered around.

TOWE: The amendments you prepared here were prepared after the final subcommittee report?

FERGUSON: That was the first time we had been asked to respond. Our response to this bill was with regard to its intent within the counties.

TOWE: With your proposal that we not adopt the change in the law with regard to the 3-year pre-payment--You did then oppose Anaconda's proposal of 8 years?

ZIMMERMAN: Yes, we would like to see it left as it is in the present law and a payment plan be set up to suit the mining company. We would favor leaving the tax pre-payment in the code as it is now.

TOWE: The proposal Anaconda is making proposes we change the system where it shall be repaid in the first 3 years; they want it made in 8 equal payments over 8 years.

ELLISON: I scattered this payment over an indefinite period to at least partially cover some of the impacts we didn't know about.

CARTER: We haven't proposed changing the amended portion of 15-16-201. In the bill itself, the tax pre-payment provision applying to the mining industry, we wanted to put a definite time limit on it.

TOWE: On page 16, there is a provision that the pre-payment would be based on the mill levies and taxable value of that particular county.

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In the event taxable value never gets as high as it was prior to the hardrock development, there never would be any repayment. I see you have stricken that.

CARTER: Yes, if it is a tax pre-payment and the present law goes back 5 years, we would like to get the additional 3.

TOWE: Your comments. Are you satisfied with that provision knowing the way the bill is drafted the counties would pay only determined by mill levies before and after development?

SHANAHAN: There are several defects in HB 718--that is one of them.

TOWE: About the provisions for approval of the plan. It appears to me that the last section provides there shall not be any commencement of operations until this plan is approved. While that matter is in court, it hasn't been approved. Therefore, it could delay the mining in the courts for many years.

SHANAHAN: That's why part of Senate Bill 344 was adopted.

TOWE: The definition of local government units. It says it means political subdivision of this state "including but not limited to a county, city, town, or school district, or other special district." Absarokee is not an incorporated town; Nye is not incorporated. You have to leave it open but, according to the attorney general's opinion, every local unit that has a board of directors can apply for money. Even the irrigation districts could say they are impacted. They will be appealing as well and will tie it up even longer.

CARTER: If they are impacted, we will cooperate to the greatest extent.

ELLISON: This is the section that puts the feet to the fire. I have already seen they are going to be cooperative. The plan will be started upon application for permit.

TOWE: The fact is you have written into the bill the company preparing the plan in the communities. Haven't we put the company and the government in an adversary role?

ELLISON: I look at it as forced cooperation.

SHANAHAN: Your point is well taken. That's why I offered an amendment for tax credit. If we get the tax credit, our compliance is going to be more willing.

TOWE: Page 7, the administering and operating expenses of the board shall be out of the general fund. Has an appropriation bill been introduced?

ELLISON: The House thought the best way would be an amendment to HB 500 when it goes to conference committee. I anticipated some of the front end and possibly tail end, and with the RIT might necessitate increasing that.

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TOWE: You refer to RITF. When that was passed several years prior to the coal tax, the understanding was that it was to reimburse future generations from resources we are using and depriving them of. Most of the language addresses environmental factors which suggest it was amended and reimbursing people. Most of the lands of people you represent are on public lands. Where do you suggest that the people will be protected from the exploiting of a resource from our future generations?

SHANAHAN: The company is exploiting public resources in the same sense those of you who have homesteads are getting them. Secondly, RITF language addresses the tail-end impacts. I am submitting that the solution is there in the RITF and is not being used.

ECK: We heard from a lot of mining operations that said they were going to get started and employ 100 to 150 people. Have those people been in touch with you? What kind of reaction have you had?

ELLISON: Mr. Sternhagen has heard.

ECK: You are willing to face the fact you might have to wait 3 to 4 years before all front-end impacts are taken care of?

STERNHAGEN: We would hope to get started much before that. As soon as you know you will have a mine, you could get started.

ECK: How about Sparrow? Are they in agreement?

STERNHAGEN: We're not sure about Sparrow. We have both large and small miners who are being kept advised.

S. BROWN: Where in the world did this procedure for appointing the board come from?

ELLISON: It didn't come from me. We have a theory in the House you never send the Senate a perfect bill.

STERNHAGEN: I didn't dream this up. I would like to support the concept of what is happening. They have representatives from hardrock, schools, and county commissioners.

CRIPPEN: The comment has been made these bills can work together. Do you have any comments?

SHANAHAN: If the mining industry couldn't stand the severance tax, it couldn't stand both of these burdens. I would object to both being passed.

ELLIOTT: We have amendments striking financial advisors from the board. I would like to know what the reasoning was.

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FERGUSON: When asked initially we were asked to prepare for two possibilities. Municipal representatives were excluded, towns received the major impacts, and they never shared the tax base. Without changing a great deal, we felt it was important to include municipal representation on the board. Then we were asked to prepare a greater array of amendments to the bill.

The hearing was closed on HB 718.

GOODOVER: I will talk to Representative Marks and suggest a combined Senate-House Subcommittee, with these amendments, so that a bill can be brought back that the committee can take action on.

ELLISON: Representatives Brown and Keedy did lots of work on this bill.

MCCALLUM: Sen. Crippen asked you if you thought the bills were compatible?

SHANAHAN: Only one section in the tax pre-payment section.

MCCALLUM: Senate Bill 344 was passed out. If 344 should pass, then you would not wish this one to be passed?

SHANAHAN: That answer is yes, from here in the corner where you have me.

The chairman announced that the subcommittee will address all amendments.

The meeting was adjourned at 10:15 a.m.

PAT M. GOODOVER
PAT M. GOODOVER, Chairman

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 4/26/81

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.

SENATE

Lafayette

COMMITTEE

BILLS 42 and 718

VISITORS' REGISTER

DATE Apr. 6, 1981

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)
SUPPORT OPPOS

Mitch Press

Stillwater County

H.B. 718

✓

Ann Ercole

Sweet Grass Co.

H.B. 718

✓

Dennis Fredricks

" " "

H.B. 718

✓

T. J. Smith

Placer Energy

H.B. 718

✓

GEORGE BENNETT

ASARCO, INC

H.B. 718

✓

GILES E. WALKER

AMAX EXPLOR., INC

H.B. 718

✓

John McLean

H.B. 718

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✓

J. F. McLean

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Walter H. H. F.

AMAX EXPLOR. COMPANY

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John H. H. F.

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PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

Amendment to Senate Bill 798, Statement of Intent, Third reading

1. Statement of intent, line 7.

Following: line 6

Strike: "Section"

Insert: "Sections"

2. Statement of intent, line 7.

Following: "5(3)"

Insert: ", 7(4) and 27(1)"

3. Statement of intent, line 14.

Following: "institutions,"

Insert: "procedures for guaranteeing loans under the loan guaranty program, review of loan applications, and"

4. Statement of intent, line 15.

Following: line 14

Strike: "acquiring"

Insert: "repossession"

Amendments to HB 798, Third reading copy

1. Title, line 8

Following: "AUTHORITY"

Insert: "; CREATING AN ECONOMIC DEVELOPMENT GUARANTY FUND; PROVIDING FOR
THE ISSUANCE OF GENERAL OBLIGATION BONDS TO FUND THE GUARANTY FUND"

2. Page 4, line 14.

Following: "finance"

Insert: "Two members of the authority must be active participants
in the management of a financial institution."

3. Page 4, line 15.

Following: line 14

Strike: "(a) Two"

Insert: "(2) Three"

Following: "governor"

Reinsert: stricken language through line 16.

4. Page 4, line 17.

Following: line 16

Strike: lines 17 through 20.

5. Page 4, line 21.

Following: line 20

Insert: "(3) Four members shall be appointed by the governor from a
panel of eight persons. Two persons shall be appointed to the panel
by each of the following individuals:

(i) the majority leader of the senate;"

6. Page 4, line 22.

Following: "(iii)"

Strike: "the speaker of the house"

Insert: "the majority leader of the house"

7. Page 4, line 24.

Following: line 23

Strike: line 24 through line 5 on page 5.

8. Page 5, line 6.

Following: line 5

Insert: "(4)"

ReNUMBER: subsequent sections

9. Page 5, line 11.

Following: line 10

Strike: lines 11 and 12.

ReNUMBER: subsequent subsections

10. Page 5, line 16.

Following: "employee of"

Strike: "any business enterprise"

Insert: "a financial institution"

11. Page 5, line 18.

Following: line 17

Insert: "(7) Unless he is a full-time salaried officer or employee of this state or of a political subdivision of this state, each member is entitled to be paid \$50 for each day in which he is actually and necessarily engaged in the performance of authority duties and he is also entitled to be reimbursed for travel expenses, as provided for in 2-18-501 through 2-18-503, incurred while in the performance of authority duties. Members who are full-time salaried officers or employees of this state or of a political subdivision of this state are not entitled to be compensated for their service as members but are entitled to be reimbursed for travel expenses as provided for in 2-18-501 through 2-18-503."

12. Page 8, lines 10 through 16.

Following: line 9

Strike: lines 10 through 16

ReNUMBER: subsequent subsections.

13. Page 9, line 8.

Following: "agencies"

Insert: "under terms and conditions it prescribes and pursuant to [section 7]"

14. Page 11, line 16.

Following: "fee"

Insert: ", provided such fee is consistent with the terms of the internal revenue code and regulations adopted thereunder"

15. Page 12, lines 4 through 7.

Strike: subsection (4) in its entirety

Following: line 7

Insert: "(4) Loans made by the authority must be secured by any property or collateral the authority considers necessary.

(5) The authority shall by rule establish:

(a) procedures for soliciting and evaluating applications;

(b) a system for evaluating applications considering the

following criteria:

(i) the applicant's net worth;

(ii) the applicant's inability to secure adequate financing from other sources at an interest rate that will allow a reasonable prospect for repayment;

(iii) the applicant's training and experience in the industry involved in the proposed project;

(iv) the applicant's prospects for succeeding in the proposed project;

(v) the degree to which the new or increased business resulting from the loan will meet the objectives of [section 2]; and

(vi) any other factors it may prescribe."

16. Page 13, line 25.

Following: line 24

Strike: "\$200"

Insert: "\$50"

17. Page 20, line 9 through line 11 on page 21.

Strike: section 18 in its entirety.

18. Page 24, line 11

Following: line 10

Insert: "Section 26. Economic development guaranty fund. (1)

The authority shall create an economic development guaranty fund.

The fund shall be held by a trustee or other fiduciary designated by the authority. There shall be deposited into the fund the proceeds of the sale of bonds authorized by [section 29] and such other revenues and assets as the authority shall consider necessary to comply with any contract or agreement entered into by the authority under [this act].

(2) The amounts in the fund shall be used to satisfy any claim resulting from a defaulted loan. The amounts in the fund may also be used for any other purpose determined by the authority in accordance with guaranty contracts with financial institutions entered into pursuant to [this act], including without limitation, the protection of the interest of the authority in projects during periods of loan delinquency or upon loan defaults.

Section 27. Loan guaranty program. (1) The authority may guarantee and make commitments to guarantee payment required by a loan for any project upon such terms and conditions as the authority may prescribe in accordance with [this act]. In administering the guaranty program, the authority may require the payment of a fee or premium, establish application fees, and prescribe application, notification, contract and guaranty forms, rules, regulations and guidelines.

(2) A loan guaranteed by the authority under [this act] shall:

(a) be made for a project;

(b) be financed initially from the proceeds of notes or bonds issued pursuant to [section 8];

(c) be made to a borrower approved by the authority or lending institution as responsible;

(d) contain complete amortization provisions satisfactory to the authority; and

(e) be in such principal amount, be in such form, and contain such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes and assessments, delinquency charges, and default remedies.

(3) The authority is authorized from time to time to enter into guaranties, insurance contracts, or any other agreement or contracts with respect to the guaranty fund and any guaranteed loan. Any such agreement or contract may contain terms and provisions necessary or desirable in connection with the guaranty program subject to the requirements established, including without limitation terms and provisions relating to loan documentation, review and approval procedures, origination and servicing rights and responsibilities, default obligations, procedures and obligations, and obligations with respect to guaranty contracts made under [this act].

(4) Any contract of guaranty made by the authority under the authorization of [this act] shall provide that claims payable thereunder shall be paid from any amounts available in the economic development guaranty fund and from any amounts available under the terms of any applicable contract or agreement with the financial institution which originated the guaranteed loan. The obligation of the authority to

make payments under any such contract shall be limited solely to such sources, and shall not constitute a debt or liability of the authority or the state. Any guaranty contract and any rule, regulation, or guideline of the authority implementing the guaranty program may contain such other terms, provisions or conditions as the authority considers necessary or appropriate, including without limitation, those relating to the payment of guaranty premiums, the giving of notice, claim procedure, the sources of payment for claims, the priority of competing claims for payment, the release or termination of loan security and borrower liability, the timing of payment, the maintenance and disposition of projects and the use of amounts received during periods of loan delinquency or upon default, and any other provision concerning the rights of insured parties or conditions to the payment of guaranty claims. Any premiums for the guaranty of loan payments under the provisions of [this act] may be determined on such basis, be payable by such person, and be payable in such amounts and at such times as the authority shall determine, and the amount of the premium need not be uniform among the various loans guaranteed.

(5) The minimum reserve requirement for the economic development guaranty fund shall be 10% of the aggregate amount of loans insured. No loan may be insured by the authority if such loan together with the aggregate of all other loans then insured exceeds ten times the amount of funds available in the economic development guaranty fund.

Section 28. Request for appropriations. (1) In order to assure the maintenance of the economic development guaranty fund, the chairman of the authority shall on or before September 1 in the year preceding the convening of the legislature deliver to the governor a certificate stating the sum, if any, required to restore the economic development guaranty fund to the minimum reserve requirement. The governor shall include in the executive budget submitted to the legislature the sum required to restore the economic development guaranty fund to the minimum capital reserve requirement.

(2) All amounts remitted to the authority under this section constitute loans to the authority and shall be repaid to the state treasury without interest from available operating revenues of the authority in excess of amounts required for the guaranty of loans.

Section 29. General obligation bonds authorized to fund economic development guaranty fund. (1) The board of examiners, upon the recommendation of the economic development authority created by [section 4], may issue and sell general obligation bonds in an amount not to exceed \$5 million. The bonds shall be issued, sold, and retired in the same manner as prescribed in 17-5-403 for the long-range building program bonds.

(2) The proceeds of the sale of the bonds authorized by subsection (1) shall be deposited in the economic development guaranty fund as provided in [section 26]."

Section 30. Report to 48th legislature. The authority shall investigate the feasibility of guaranteeing loans of the authority through methods other than the economic development guaranty fund provided for in [section 26 through 28] such as guaranteeing loans through private insurance coverage. The authority shall report its findings to the 48th legislature and make recommendations concerning whether to continue the economic development guaranty fund or to replace it with a more appropriate method of loan guaranty.

Section 31. Coordination instruction. If SB 437 is passed by the 47th legislature and approved by the governor, the "department" as defined in subsection (5) of [section 3] and to which the authority is allocated in subsection (5) of [section 4], shall be changed from the department of administration to the department of commerce."

AMENDMENT TO HOUSE BILL NO. 718

Delete lines 4 through 19, inclusive, on page 16, of the version passed by the House of Representatives, in their entirety, and insert, in lieu thereof, the following:

"(I) Determine its budget for the budget year;

"(II) Determine the amount of taxes which would be derived if a mill levy equal to the average of the mill levies of that jurisdiction for the 3-year period immediately prior to commencement of construction was imposed.

"(B) The excess, if any, of the amount determined under subsection (5)(A)(II) over the amount determined under subsection (5)(A)(I) equals the property tax prepayment credit allowed for the taxable year."

SENATE COMMITTEE ON TAXATION

Amendment to HB 718

Mr Chairman I respectfully move to amend the Third Reading copy of HB 718 on Page 7 following line 13, as follows:

INSERT: New Sub Section (5) to read:

"There is allowed a credit equal to 125% of all funds other than tax prepayments, contributed toward services facilities and other normal governmental expenses incurred by local governments prior to the opening of a mine or the commencement of production, including capital or net operating costs to be incurred as a result of the development. This credit is allowed against the tax imposed by Title 15, Chapter 37 Part 1, the Metalliferous Mines Tax. Before the credit is allowed the contribution must be approved in advance by the Hard Rock Mining Impact Board as being made for the type of expense described in this sub-section.

RENUMBER: The following sub-section.

TESTIMONY REGARDING HOUSE BILL NO. 718

Before: Senate Taxation Committee -- April 6, 1981

From: Conrad B. Fredricks, Big Timber, Montana.

This testimony relates to House Bill No. 718, as the same was passed out of the House Natural Resources Committee.

House Bill No. 718 is a step toward trying to alleviate some of the impacts caused by large-scale mineral development. It is not the entire answer to handling such impacts, but it is certainly a giant step in the right direction.

One of the big problems which is not solved by House Bill No. 718 is how to get the facilities necessary to handle the impacts in place by the time they are needed. There will be, of necessity, a time lag between the time that the need for capital expenditures is determined, either in the initial impact statement or as finally determined by the hard-rock mining impact board, and the time that the facilities required to be constructed can be constructed and ready for occupancy. During this period of time, construction and, perhaps, mining, will be progressing and the facilities will not be available for use.

A severance tax does not seem to provide an answer for this problem either, because no tax money would be generated until there was production and minerals had been severed, at which time the facilities should already be in place.

House Bill No. 718 is designed solely for front-end impacts which are identified and fixed at the time of approval by the hard-rock mining impact board. There is no provision to handle to cost of impacts which could not be anticipated or which were overlooked

by both the mineral developer and the local government until. Nor are tail-end impacts covered. These matters, it would appear, could be handled by an appropriate severance tax.

As stated before, it must be conceded that House Bill No. 718 does not provide the total answer. But it does contain a number of helpful provisions and its passage during this session is vital. We have to have something in place now, because of the rapidity of the progress in mineral development in this state, and particularly in the Stillwater Complex.

I have the following comments regarding specific sections of House Bill No. 718:

Section 1. The provisions for selecting the hard-rock mining impact board seem to be overly complex. It appears that having representation of cities on the board might be preferable to having representation of major financial institutions. Also, the amount of compensation for members of the board seems to be quite small, considering the responsibilities that they have. **50 a day for Silver Lake*

Section 3. Subsection (4). It would appear that the last word of this section should be changed from "mining" to "construction". If the developer had a construction force, say, equivalent in size to its mining force, and construction took 4 years, then there would be no increase in population when mining commenced, compared to the average of the previous 3 years, and subsection (4) (B) would be meaningless.

Section 5. There seems to be a lack of definition of the mechanism for local government units to apply for and receive payments out of the hard-rock mining impact fund established by section 4(5). It is unclear how the money goes from the developer to the board and thence to the appropriate local government unit.

Section 9. Subsection (5) could create some problems if there are more than one local government unit involved, if some receive tax prepayments and some don't, or if some receive differing percentages of tax prepayments. This could result, in the same year, of differing taxable valuations of the same property for different local government units, creating a bookkeeping nightmare for the county assessors and treasurers. It would be preferable, in my opinion, to leave the taxable valuation constant and give, instead, a straight dollar tax credit. Also, the average mill levy used should be based upon the years prior to the commencement of construction, rather than the commencement of mining operations. The average mill levy should relate to the normal, pre-mineral-development, operation of the local government unit and not to any period which has been distorted by construction.

In conclusion, I respectfully urge the Senate Taxation Committee to give House Bill No. 718 a "do pass" recommendation. It is urgently needed NOW.

Respectfully submitted,

Conrad B. Fredricks

Conrad B. Fredricks

TESTIMONY OF MITCH PRESS, STILLWATER COUNTY LAND USE PLANNER

APRIL 6, 1981

My name is Mitch Press; I am the Stillwater County Land Use Planner.

I am speaking here today on behalf of the Stillwater County Commissioners

We believe that:

1. Legislation is needed to provide funding for the many impacts resulting from hard-rock mining - both for initial impacts and long-term impacts.

2. The current scheme of taxation is not adequate to handle all the added costs of extra services and facilities needed to handle the additional residents resulting from a new mining operation.

3. For Stillwater County, faced with the potential development of the Stillwater Complex, legislation is needed this session.

We feel that H.B. 718 in its current form is workable and can satisfy the need for front-end impact money.

We suggest a few minor changes to make the bill more workable:

1. Clarify when in the development process impact funds would be paid to the Board, and when they would be paid to the affected communities by the Board.

2. Clarify that impact money paid by a mining company will be earmarked for counties where impacts from that company's mining project are felt.

3. Clarify funding procedures when impacts are caused from two or more companies mining in the same area.

4. Make specific provisions for dealing with long-term impacts caused from mining operations - for example those impacts felt when a mine closes and workers leave the area. *Senator Jones bill I believe addresses this issue* If these costs are to be totally covered in payments to the Hard-rock Mining Impact Board, then it should be specifically mentioned in this bill.

5. Provide state government expertise or funding to help local governments review company impact statements. This is a must, especially for counties without full-time planners.

6. Provide a longer period for local government review. We suggest 120 days rather than 90 days.

7. Place the burden of proof for proving the accuracy of the impact statement with the developer, or the local government. This provision is needed if local governments object to sections of the report.

DCA
I understand that ~~the Administration~~ is proposing amendments which address some of these concerns I have just discussed.

In summation, we strongly recommend your favorable consideration of H. B. 718. We suggest these changes to strengthen the bill and to fill some potential gaps.

Thank you for your consideration.

WITNESS STATEMENT

Name Arthur C. Enns Date 4-6-81
 Address T.O. Box 1052 Support ? ☒
 Representing W. H. & L. Mining Co. Oppose ? ☐
 Which Bill ? HB 78 Amend ? ☐

Comments:

HB 78, as passed overwhelmingly by the House, would provide assurance that the present impacts created by large scale open pit mining will be mitigated before the mining can occur. This is the kind of assurance that local govt. units want, and it is the kind of assurance that the mining industry has said it is willing to make.

I urge you not to tangle with Section 2, which has the mining permit to approval of the impact plan by the Impact Board. This conditional approval is the key to the bill. If you allow mining to occur without an approved impact plan, severe impacts will occur before mitigating measures have been taken.

I also urge you to adopt those amendments proposed by my colleagues from West Brass County and by the Dept. of Comm. Affairs, which will serve to strengthen and clarify the bill. I would especially like you to clarify the procedure by which the Impact Board would make payments to local govt. units, and to simplify the tax repayment as described in Section 4. Please leave prepared statement with the committee secretary.

I would further like to add that a reasonable assurance tax as proposed by HB 344 is completely compatible with HB 78. I urge you to not consider killing either bill at the expense of the other.

(over)

The people of Sweet Grass County, the
mining industry, and state officials
have all supported HB 718. The bill is
workable, the bill is fair, and I urge
you to give it a "do pass" recommendation.