

MINUTES OF THE MEETING OF THE HOUSE TAXATION COMMITTEE
March 9, 1983

The meeting was called to order at 8:00 a.m. by Vice-Chairman Neuman. Roll call was taken and all committee members were present except Representative Yardley, who came into the meeting later.

Testimony was heard on HB 870, SB 96, SB 185 and SB 186.

Executive action was taken on HB 779, HB 780, and HB 860 during this meeting.

SENATE BILL 185

SENATOR JACK GALT, District 23, sponsor of the bill, said SB 185 is an act to revise taxation exemptions for certain coal producers. When the coal tax was passed several years ago, there was an exemption given to a coal producer who extracted less than 20,000 tons of coal in a calendar year. The exemption was one-half of the contract sales price of coal sold by the coal producer. There are now only two mines that would qualify for that exemption. One of the mines is in Roundup. That operation will mine over 20,000 tons of coal this year. Senate Bill 185 would raise the limit of tons of coal mined from 20,000 tons per year to 100,000 tons per year. When the bill was heard in the Senate, the amount was lowered to 50,000 tons per year.

Proponents

REPRESENTATIVE GAY HOLLIDAY, District 46, said she is the co-sponsor of the bill and asked for a favorable recommendation on SB 185 from this committee.

KIM KUZARA, representing the P-M Coal Company and the Divide Mining Company and the Musselshell Valley Chamber of Commerce, said the two small mines near Roundup are the only two left in the state which mine coal exclusively for small business, home and local government use. Neither firm is presently economically viable and both owners have to supplement their mine incomes with other endeavors. One of the main reasons that they are financially pressed is that they have been forced to limit production and not attempt to develop expanded markets for their coal. They have done this in order to remain competitive with Wyoming coal and as a result, are in an impossible position. By remaining at production levels below the existing 20,000 ton severance tax exemption, they cannot afford the high costs of plant and equipment purchases to increase efficiency. They cannot continue to absorb the high costs involved with mine permitting, safety compliance, and reclamation.

If they produce in excess of the 20,000 tons, they must raise their price of coal to the \$40 to \$50 per ton range and thus lose whatever competitive edge they now have over out-of-state producers. Either way, they cannot continue without some form of relief. Mr. Kuzara read his prepared statement to the committee. (See EXHIBIT 1.)

ROBERT KROGH, Superintendent of the Roundup school system, said during the past two years the taxpayers of the school district spent some \$415,000 to replace one of the boilers and to upgrade the entire heating systems in our school buildings, so that they can be more fuel efficient. Our three school buildings, together with our local hospital, courthouse and county shop buildings are no doubt the biggest users of coal in Musselshell County, consuming some 850 tons a year. If our local mines are forced to close or coal production is limited, due to the 20,000 ton restriction for severance tax purposes, this could be devastating to our community. Mr. Krogh submitted written testimony on SB 185. (See EXHIBIT 2.)

There were no opponents testifying on SB 185.

Questions from the committee were heard at this time.

REPRESENTATIVE UNDERDAL asked if the Coal Creek Mining Company was going to temporarily shut down. Mr. Kuzara said they are shut down now. Representative Underdal asked why. He was told it is because of the severance tax.

SENATOR GALT, in closing, said SB 185 is not a Musselshell County bill. It affects a lot of the counties in southeastern Montana.

The hearing on SB 185 was closed.

SENATE BILL 96

SENATOR ROGER ELLIOTT, District 8, sponsor of the bill, said this bill was drafted after a meeting with the Coal Tax Oversight Committee. Senate Bill 96 is an act to change the disposition of coal severance tax constitutional trust investment and earnings, providing for deposit of certain interest and earnings in the state general fund.

SENATOR ELLIOTT said interest income earned from the coal trust was discussed in the 1979 legislature. However, the legislature forgot to appropriate the interest income from the trust account to the general fund. That required an appropriation by the legislature during the 1981 legislative session.

SENATOR ELLIOTT said this bill will eliminate the subfund and the interest will be deposited directly to the various funds involved.

Some of the interest would go into the I 95 fund, some of it would go into the principle of the trust and the balance would go into the general fund without any appropriation required. The reason for this change was because the interest income is becoming a significant amount of money. It is subject to call by every special interest group in the state of Montana. If they could specify that it goes directly to the general fund, it would be less likely to be attacked by the special interest groups.

Proponents

TROY MCGEE, representing the Office of Budget and Program Planning, said that office supports SB 96, which clarifies and recognizes what is being done now.

ANN MULRONEY, representing the League of Women Voters, said the League supported SB 96 before the Senate Taxation Committee and they support the amended bill passed by the Senate. We think it is necessary and appropriate that the interest from the coal tax trust fund be deposited in the general fund in accordance with standard investment practices. The League is addressing this bill because we are concerned that continuing a separate appropriation process for this money, both into and out of the general fund, will foster more pressure for earmarked accounts, a practice the League does not think should continue. We support the general fund appropriation process as the essential budgeting mechanism for state revenues, the place where the hard choices are made. To fulfill this function, the fund must have money and it must be where programs and services go to get money. The coal severance tax has been subjected to many proposals for earmarked accounts. Thus far, the general fund is the primary beneficiary of the interest income. Senate Bill 96 will assure that this situation continues.

SENATOR TOM TOWE, District 34, said he supports the bill but would like to offer some amendments. These amendments were rejected by the Senate on a party line vote. This is not a party issue. Senator Towe went over the amendments with the committee. (See EXHIBIT 3.) He then passed out copies of EXHIBIT 4.

SENATOR TOWE said when the coal tax is collected, it doesn't go directly into the coal tax trust fund. Fifty percent of the money goes into Subfund A where it is held for six months to see if any of it is needed to pay bonds. Interest on the constitutional trust fund and Subfund A goes into another fund, called Subfund C. That amount will be \$33 million this biennium and \$52 next biennium.

SENATE BILL 96 proposes to abolish Subfund C. Senator Towe said he objects to that. It would deposit money directly to I 95, constitutional trust fund and general fund accounts.

SENATOR TOWE said he has three reasons for his objection:

1. Constitutional objection. It allows for the coal tax to be held separately in a fund until it is appropriated by the legislature. (That appropriation could be made to the general fund.)
2. Bad policy. We have had to try to point out that we need this money and most of it is needed to impact matters and it doesn't go to the general fund. If it is deposited to the general fund, that would eliminate one of the arguments I have.

A bill was introduced to require us to account for all the coal tax money. If SB 96 passes, it would make it impossible to account for that money. The word "appropriate" would be put back into the bill. This amendment would allow us to trace the money from the general fund to wherever the money is used. The amendments would eliminate the words "to be deposited" and insert the word "appropriate".

3. If we do not restore "appropriate", we will not accomplish what the proponents want to accomplish. We will allow a precedent for earmarking interest income.

There were no opponents testifying on SB 96.

Questions were heard from the committee.

REPRESENTATIVE ASAY asked if he was correct in saying the proposed amendments would allow for no earmarking. Senator Towe said that was correct. Representative Williams asked what would happen if the bill does not pass. Senator Towe said if the bill doesn't pass, the process would continue as shown on EXHIBIT 4. The amendments would require the money to be appropriated to the general fund and a tracer be put on that money to see where it is being spent.

REPRESENTATIVE SWITZER asked what the difference is with earmarking. Senator Towe said there is a big difference. Earmarked money goes out automatically. Appropriated money, that is traced, cannot go out without the legislature's approval and then must be traced.

REPRESENTATIVE HARP asked if any part of this money is being earmarked presently. Senator Elliott said the funds are earmarked to the extent that 15% has to be allocated to Subfund B. There needs to be an appropriation bill to get those monies out of that fund.

REPRESENTATIVE ASAY said the amendments were already rejected by the Senate. If the House accepts the amendments and the bill then goes back to the Senate, what will happen? Senator Towe said he thought the Senate would go along with the decision made by the House.

SENATOR ELLIOTT said this started out as a very simple accounting procedure. The Office of the Legislative Fiscal Analyst and the Office of Budget and Program Planning supports the bill in its original form. In the Senate hearings, the staff attorney for the Senate Taxation Committee researched the subject on whether the words "may be appropriated" are permissive or a requirement of the bill. In his opinion, the wording is permissive and not a requirement. Because of Senator Towe's insistence, Senator Elliott said he went to other attorneys for their opinions and they confirmed what the staff attorney said.

SENATOR ELLIOTT said as far as tracing the expenditures, Section 3 of the bill contains an appropriation process. We are just eliminating one step in the accounting process. He asked if this committee wants to take the advice of a certified public accountant and the legislature or the opinion of Senator Towe. The two views are not similar at all. He said he thinks Senator Towe wants to earmark the money for some purpose and Senator Elliott said he wants the money turned over to the general fund.

The hearing on SB 96 was closed.

REPRESENTATIVE YARDLEY came into the meeting at this time and took over as chairman.

SENATE BILL 186

SENATOR ROGER ELLIOTT, District 8, sponsor of the bill, said the bill was proposed by the interim Coal Tax Oversight Committee. Senate Bill 186 is an act to authorize the Coal Board to consider applications for loans from the local impact and education trust fund account. The Coal Board has allocated up to 8.75% of the coal tax revenue. These funds are available for grants by the Coal Board, upon application and upon showing proof of impact. The Board presently has no authority to make a loan. Their choice in the matter is to either refuse help entirely or give a grant of the entire request. Testimony, during the interim meetings, indicated that the Coal Board does run into some situations where a loan of coal tax funds would be a useful alternative to a grant or to a refusal. Page 1, lines 19-21, of the bill, will provide for this authority. Language on page 2, line 9, limits the loans to be from current coal tax receipts only. It allows repayments and interest earned on those loans to be reused for additional grants or loans in the future. Section 4, page 4, paragraph 1, would limit loans to revenue producing projects as opposed to

property tax assessment. Paragraphs 2-5 give the Board the administrative control to run the program. The types of projects the Coal Board mentioned would be suitable for loans would primarily be water and sewer projects.

Proponents

NANCY LEIFER, representing the Department of Commerce, said the department supports this bill. They are aware of the fact that other states have the ability to use loans to meet impacts and that ability would be beneficial for Montana, also.

REPRESENTATIVE TOM ASAY, District 50, passed out copies of amendments to SB 186. The amendments would broaden the definition of those eligible for loans from the Coal Board. The amendments give the Coal Board authority to look at applications submitted by tribal units and, on their merits, award a grant or loan.

CLARA SPOTTED ELK, representing the Northern Cheyenne Tribe, said there is an increasing emphasis on state and tribal relations. It is the position of the Northern Cheyenne Tribe, and always has been, that they would like to establish and continue to work on negotiations and close communications with the state of Montana.

MS. SPOTTED ELK said the Northern Cheyenne reservation suffers significant impacts from coal development, i.e. their road systems, court systems, health care systems, education systems, etc. Because of the diminishing federal revenues, their tribal budgets cannot handle the problems. They need to have an opportunity to apply for some assistance to offset these adverse impacts.

The intent of the amendments is simply to give them the opportunity to apply.

The impacts caused by coal development are common usage impacts. If the tribe should apply for a loan or grant and receive one, the assistance would help the community at large.

EDWIN DAHLE, a member of the Northern Cheyenne Tribe, said every road that goes into the mine area, in the Powder River region, passes through the reservation. There are many people who use the roads on the reservation, not only to get to the mines but also to get to recreation areas. He said they wanted people to use the recreational facilities on the reservation and the roads to the mines, but those impacts cost money to the tribe and the tribe needs money to fund the mutual use concept.

DENNIS LIMBERHAND, representing the Montana Power Company, said he works with employment and training of tribal members at the Coalstrip project. At onetime, the tribe was opposed to the Coalstrip 3 and 4 project but are now active participants in the project. It provides needed job opportunities and training

opportunities for tribal members.

One of the most difficult areas to address, for both groups, is that of impact costs by the project and people coming into the area. The tribe and the power company sat down together and came up with a precedent setting agreement, in April, 1980, that provided for job and training preference for Northern Cheyenne tribe members that were qualified for the jobs. It addressed an agreement for tribal contributions towards law enforcement, air quality programs, transportation programs, a planning assistance program, etc. The tribe communicates on a regular basis with Montana Power and they enjoy that working relationship.

MR. LIMBERHAND said he feels the Coal Board funding was intended for the general use of the whole area. He asked for this committee's support of SB 186 and the offered amendments.

MR. JOHN LAHR, representing the Montana Power Company and the Western Energy Company, said they support SB 186 with the proposed amendments.

JIM MOCKLER, Executive Director of the Montana Coal Board, said he supports the bill as written. He said he will not address the amendments nor does he necessarily support the amendments. He believes they are a completely different subject from what the original intent of the bill was.

The bill will facilitate the expanding use of the coal tax fund in some areas. The provision for loans should be made only available to areas that have the ability to repay the loan, in other words, not the general taxpayer. The water and sewer projects are a good idea and would help to expand the use of the coal tax funds. It will help the areas it is intended to help.

BILL YELLOWTAIL, Executive Director for the Montana Intertribal Policy Board, said the Crow, Fort Peck, Fort Belknap, Rocky Boy, Blackfeet and Flathead tribes were unable to attend this meeting today and asked him to relay their support of SB 186, with the amendments that have been proposed.

There have been substantial coal related impacts on the reservation communities just as there have been on the non-reservation communities. The tribes do not have the means to accommodate the impact. They do not have access to the processes that other communities and other units of government have to seek assistance to meeting urgent needs brought about by coal development.

Senate Bill 186, with the proposed amendments, will allow the tribes the privilege of applying for loans and grants on the same basis as similar communities off the reservations.

MR. YELLOWTAIL urged favorable consideration of SB 186, with the proposed amendments.

REPRESENTATIVE RAMONA HOWE, District 58, said she supports SB 186, with the amendments.

JIM RUEGAMER, a Big Horn County Commissioner, said he is in favor of the amendments offered. The fact that the tribe has a local government and enjoys federal sovereignty does not relieve him of his duties to other residents of the county. No matter what the status of those residents is, he said they all have the same rights. Indians do not want anything less from life than any of us. There has to be equal political access for every citizen.

MR. RUEGAMER said it is the legislature's and county's job to provide a means of obtaining impact money.

REPRESENTATIVE GLENN ROUSH, District 13, said he comes from an area that is impacted by tribal government - Glacier County. He said he supports SB 186 in its current form but has a problem with the proposed amendments. He said he is sympathetic towards testimony given earlier. The problem we have in Montana is a problem that was raised by some of the proponents and that is regarding jurisdiction and sovereignty between tribal governments and the state of Montana. He said he sympathizes with the people living on the reservations in the areas of the coal development of Montana. The tribes are asking for assistance from the legislative body and we have no ability to respond in relation to a grant or loan being made to that tribal entity in case of a loan default. He said he brought up that point because of the problems occurring on the Blackfeet reservation in relation to individual contracts made with business people outside of the Blackfeet reservation boundaries.

As far as impacted areas in the coal development areas, the Coal Board has proven that many grants have been made in the reservation areas - not to tribal governments, but to local governments such as Lodge Grass, Forsyth, Coalstrip, Hardin, Ashland and probably more. If the committee did adopt these amendments, he would like to see authority in the bill so that the state government would have a recourse of recouping a defaulted loan. He said he doesn't mean to be out-of-line in saying the loans will be defaulted because he has all the confidence in tribal governments in a lot of ways. But the history of his region is that there has been a lot of defaulted loans from the Blackfeet members with business people outside that reservation. It is getting to a point that business people will not take credit from Indian residents living within that reservation. Representative Roush said he does not know the history of what is going on down in the southern part of the state but it is a problem where he lives.

REPRESENTATIVE ROUSH said he supports SB 186, as written.

MIKE STEPHEN, representing the Montana Association of Counties, said they support the original bill to expand the funding to loans

so that governments not qualifying under the grant system could qualify under the loan system.

There were no opponents testifying on SB 186.

SENATOR ELLIOTT, in closing, said he had decided not to amend the bill on second reading in the Senate because he wanted the bill passed, and adding the amendments might create further problems.

The Crows are claiming the right to the 30% severance tax. He doesn't think it would be right for them to be able to receive a grant or loan from the coal tax funds if the coal tax, itself, is not being paid into the state. If the amendment is adopted, Senator Elliott said further language should be added that if the coal tax is not collected by the state on a reservation, there could not be any grants or loans made to that particular reservation. He said he has not talked this over with the tribal authorities but said he would think it would just be logical.

Questions from the committee were heard at this time.

REPRESENTATIVE KEENAN asked if the interest rate determined by the Board was based on the going rate or the ability to pay. Senator Elliott said it would be based on the going rate at the time the loan is made. Representative Keenan asked if that rate would be lowered. Senator Elliott said it would not be lowered past the going rate.

REPRESENTATIVE WILLIAMS asked if the reservations are paying a severance tax at the present time. Mr. Mockler said there is a case in court right now (the Crow Tribe vs. the State of Montana). Up until this year, the tribe did pay severance tax, but now it is being escrowed.

REPRESENTATIVE DEVLIN asked how the tribal governments would secure the loans. Mr. Ruegamer said if you want to secure a loan, there are ways, just like any other loan. One way would be to require some commitment from the Bureau of Indian Affairs, such as cosigning the loan, or you could secure some property. How are you going to secure the other loans? You would do it exactly the same way with a loan given to a tribal government.

REPRESENTATIVE ASAY said we need to recognize areas where we have had a good ongoing relationship with the tribes. The Cheyennes have proven, by their responsible action, that they are a part of the community and they are going to remain a part of the community.

REPRESENTATIVE REAM said, with the way he read the law, he thought local governmental units included tribes. Are the amendments only for clarification of that? Representatives Asay said the amendments expand the process to include tribes. Representative Ream asked if any tribal units have applied for this loan before

and been turned down. Representative Asay said he did not know.

REPRESENTATIVE REAM asked if the wording on the amendment will be "federally recognized Indian tribes". Representative Asay said that was correct. Ms. Spotted Elk agreed with Representative Asay.

REPRESENTATIVE SWITZER asked if the question regarding the security for the loan won't be addressed by the Coal Board before a loan is made? Mr. Mockler said security on a loan won't be that much because a loan can only be given for a water or sewer district or a revenue-type bond.

REPRESENTATIVE WILLIAMS said Representative Roush had voiced a concern over the problem of the state being able to make an agreement with the tribal governments involving loans and to be sure they are secured. Representative Williams said four years ago, the legislature passed a bill which was drawn up and drafted by the Select Committee on Indian Affairs that gives the state of Montana and all segments of local government the right to draw up any agreement and contract with the tribal governments that put them in a legal status. That piece of enabling legislation would probably solve that particular problem addressed by Representative Roush.

REPRESENTATIVE ROUSH said the problem is with which court would handle a defaulted loan. When a bank has a defaulted loan, on the reservation that he comes from, that businessman has to go to the tribal court to get restitution from that loan. He cannot get restitution on that loan easily through any other court system. If this amendment is adopted, Representative Roush said he would like this committee to consider some language in the bill whereby the court that would handle that would be a state court system, not a federal or tribal court system.

REPRESENTATIVE WILLIAMS said if one checks the law, the law gives the state courts the right when an agreement is signed between the state and a tribe. Representative Roush said that may be correct.

REPRESENTATIVE VINGER said the bill says the Board shall review the millage rates levied for the present fiscal year in relation to the average millage rates levied during the three years immediately preceding coal development in that area of 1970, whichever is later, which impacts the local government unit applying for assistance. The tribes do not levy mills. What kind of a problem will that cause? Senator Elliott said that is a real problem concerning the application of this bill to the tribal governments because the requirements in the bill will have to be met by any unit of local government in order to be eligible for a grant or loan. You are putting the Coal Board in a situation where they will have to deny any request for a loan or grant based on that particular language.

SENATOR ELLIOTT asked if he could respond to a question raised as to whether a tribe is a unit of local government. That question was raised earlier and an attorney general's opinion was requested. The attorney general's opinion was that they were not considered to be a unit of local government as defined by this particular section of the law. His opinion was based primarily on the fact that units of local government would be defined as they are established by state law and since a reservation is not established by state law, then it cannot be a unit of local government. At the present time, they are not considered under that definition.

CHAIRMAN YARDLEY asked if the amendments are within the scope of the intent of the title of the bill. Senator Elliott said he raised the same question with the Governor's Office of Indian Affairs and they said they would pass that question by their lawyers. The general feeling was that these interpretations can be as narrow or as broad as any person may want to interpret them. He said he would request this committee to get another opinion that this would be germane to the subject of the title because they want to see SB 186, in its original form at the very least, passed and if the amendments can be considered germane to the subject then he would be agreeable to having them added to the bill.

REPRESENTATIVE REAM asked if this attorney general's opinion is a recent one with regard to this specific legislation. Louie Clayborn, representing the Office of the Coordinator of Indian Affairs, said the original opinion was not recent. However, at the request of the Montana Arts Council, there has been another opinion issued by Attorney General Greely, and the findings did come out in favor of the tribes being considered units of local governments.

The hearing on SB 186 was closed.

HOUSE BILL 870

REPRESENTATIVE JAY FABREGA, District 44, sponsor of the bill, said one of the critical things is how to allocate new taxable valuation that develops from large-scale mining to impacts. House Bill 870 is an act to exempt certain property of large-scale hard-rock mineral developers from the usual local property taxation of counties, cities, towns and school districts; to create a system for sharing the property tax base of large-scale hard-rock mineral developments among several taxing jurisdictions.

REPRESENTATIVE FABREGA passed out copies of EXHIBIT 6 which is an informational sheet on HB 870.

REPRESENTATIVE FABREGA said the concept is to take the increased taxable valuation of the dollars from the operation. You take

the increments and determine, within that county, how many people working at the mine live within that county or the area of the mine. If 60% of the people working at the mine live in a certain city, 60% of the increased taxable valuation would be assigned to that city.

REPRESENTATIVE FABREGA said the reason for the reading copy of the bill is that after the bill was introduced, some amendments were added to take out the migrating worker.

REPRESENTATIVE FABREGA said HB 870 is a fair way to approach impacts in the future.

Proponents

SENATOR MIKE HALLIGAN, District 48, said this is a jurisdictional mismatch problem. The hard-rock mining report states that the subcommittee carefully reviewed two measures designed and proposed to accomplish a system for assuring an equitable distribution of tax revenues among affected local government units. The first measure involves collecting property taxes from large-scale mineral developers at the state level and then distributing these collections to each of the affected government units on the basis of need. The other is a tax base sharing measure which requires that the assessed property valuation of a large-scale mineral development be divided up and allocated on the basis of impact to each affected government. Each jurisdiction then derives property tax revenues from the mineral development by applying its budgeting and mill levy procedures to its assigned portion of the taxable valuation.

The subcommittee endorsed the tax base sharing approach and rejected the state level property tax concept.

JIM RICHARD, representing Stillwater County, said a mine development will locate in a county and will have three taxing jurisdictions: 1) county; 2) elementary school district; and 3) high school district. House Bill 870 will distribute part of that taxable valuation to some equal jurisdictions. That doesn't increase the taxable valuation of the mining development. Overall, taxes that the company may pay will be higher or lower, depending on other mill levies compared to districts in which the development was located. Typically, municipalities have higher mill levies than counties.

The assumptions of HB 870 are:

1. People create costs for public services. But that can be turned around to say the cost of public services is proportional to the number of people who live there.
2. By counting where the mine employees live and where their children will go to school, those

employees will have a reflection on the entire related mine population.

The premise of HB 870 is that it does not conflict with the impact plan of HB 718.

This will not create any additional administrative problems. Distribution is related to the census taken of mine employees each year.

ANDREW EPPLER, representing Sweet Grass County Commissioners, said the bill represents an equitable and innovative approach to solving the "jurisdictional mismatch" problem associated with major mineral development. It also represents the culmination of approximately two years of dialogue between industry, local government representatives, and members of the EQU-ROC Hard-Rock Mining Subcommittee charged with trying to find a solution to this problem. The bill enjoys a broad-based support from each of these three factions. (See EXHIBIT 7.)

LES DARLING, representing the Stillwater PGM Resources, said they support HB 870. This bill will have the effect of increasing our property taxes but provides for a more equitable distribution of mineral development property taxes to governmental units in which our employees will most likely reside. He offered amendments to the bill. (See EXHIBIT 8.)

MARC LEDBETTER, representing the Northern Plains Resource Council, said they followed the development of this concept all the way and are most happy with this final concept.

REPRESENTATIVE DEAN SWITZER, District 54, said he is a proponent of the bill. The bill does something that is practical - allowing people most closely involved to solve the problems.

REPRESENTATIVE FABREGA, in closing, passed out copies of EXHIBIT 9, which is a gray copy of the bill, showing the amendments suggested. Any technical questions can be directed to John Carter, Environmental Quality Council.

Questions were heard from the committee.

REPRESENTATIVE HARRINGTON asked if this bill would grandfather areas already in existence. Representative Fabrega said this bill applies to future operations, not previous operations.

The hearing on HB 870 was closed.

CHAIRMAN YARDLEY called the meeting into Executive Session at this time.

EXECUTIVE SESSION

House Bill 780

REPRESENTATIVE HARP said there has been concern that a production cap could possibly affect an alcohol plan in Montana.

REPRESENTATIVE DOZIER said all the people he had talked with said a cap will kill the gasohol industry in Montana.

REPRESENTATIVE HARP said the caps were to allow the continuance of growth but at a certain rate.

MS. ELLEN FEAVER, Director of the Department of Revenue, said a without a cap, the subsidy would be raised from \$700,000 to over \$6 million per year. How much do you want to subsidize one industry and how much to you want to take away from the highways?

REPRESENTATIVE JACOBSEN said this issue could be looked at in two years because he said he doubts it will raise very rapidly. Representative Williams agreed.

REPRESENTATIVE HARP said the amendments to the bill take out the cap and add on three years to the program.

REPRESENTATIVE WILLIAMS said he had gone on record in support of the amendments but has since reconsidered. What will the caps do to the industry? What will the impact be if the industry grows more quickly than what we thought.

REPRESENTATIVE HARP moved HB 870 DO PASS. He said if we do nothing with this bill, we will affect the language in HB 16. Gasohol would pick up an additional subsidy.

REPRESENTATIVE BERTELSEN said this committee should pass this bill as is. It gives two years to see what will happen. The gasohol industry has a good potential but we should see if it can't come along on its own two feet.

The motion was voted on and PASSED. All committee members voted yes except Representative Jacobsen, who voted no. Representatives Keenan, Nordtvedt and Vinger were excused at the time of the vote.

House Bill 779

CHAIRMAN YARDLEY said this bill would put all trailers over 8,000 pounds on a fee system. An amendment was requested to raise the \$5 fee to \$7.

REPRESENTATIVE HARP moved that amendment to HB 779.

REPRESENTATIVE NILSON said he is no longer in favor of the bill because a great deal of the trailer owners are now paying \$3-\$4 and he didn't want to carry the bill if it raised the amount of the tax by a large amount.

The motion was voted on and PASSED. All committee members present voted yes except Representative Nilson, who voted no.

REPRESENTATIVE HARP moved HB 779 DO PASS, AS AMENDED.

The motion was voted on and PASSED. All committee members present voted yes except Representatives Neuman and Nilson, who voted no.

House Bill 860

CHAIRMAN YARDLEY said HB 860 puts a penalty in the law that is not there now (on self-employed people's taxes).

REPRESENTATIVE NILSON moved HB 860 DO PASS.

REPRESENTATIVE UNDERDAL said he opposes the exclusion portion of the bill because he finds it impossible to estimate gain.

REPRESENTATIVE ZABROCKI said HB 860 is nothing more than an accountant's bill and is totally unworkable. It just adds a lot of paper work.

REPRESENTATIVE WILLIAMS said either you include everyone or forget it. He opposes the bill.

MS. FEAVER said the effect would be on lawyers, accountants, etc., anyone but a wage earner.

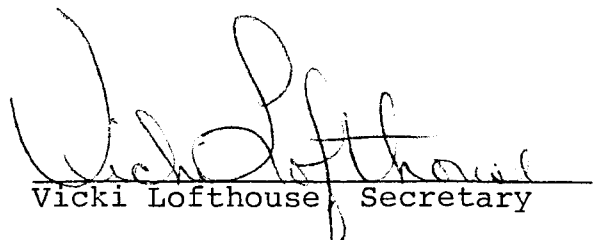
REPRESENTATIVE SWITZER said he doesn't like to prepay taxes.

REPRESENTATIVE ZABROCKI made a substitute motion that HB 860 DO NOT PASS.

The motion was voted on and PASSED. All committee members present voted yes except Representatives Dozier, Harrington, Nilson, Ream and Yardley, who voted no.

The meeting was adjourned at 11:10 a.m.


DAN YARDLEY, Chairman


Vicki Lofthouse, Secretary

VISITOR'S REGISTER

HOUSE TAXATION COMMITTEE

BILL SB 186 DATE March 9, 1983

SPONSOR Senator Elliott

[illegible]

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

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL HB 870 Date March 9, 1983

SPONSOR Representative Fabrega

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL SB 185

Date March 9, 1983

SPONSOR Senator Galt

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

WITNESS STATEMENT

Name James D. Mockler Committee On Taxation
Address 2301 Colonial Dr Date 2/9/83
Representing Mt. Coal Council Support ✓
Bill No. S.B. 186 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

REPRESENTATIVE YARDLEY, COMMITTEE MEMBERS, REPRESENTATIVE
HOLLIDAY:

For the record, I am Kim Kuzara and I am appearing in support of Senate Bill 185. I am representing the Musselshell Valley Chamber of Commerce which has about 60 business members, the owners of the P-M and Divide coal companies, and myself as a consumer who relies on coal for domestic heating.

While I don't relish the idea of wearing three hats, I think that the importance of this measure can best be illustrated by discussing its effects from the three perspectives. I will try to be brief.

First I would like to point out that I delivered some 60 personal letters and petitions containing about 300 names from Roundup area people to the Senate Taxation Committee during its hearing on this bill. Most were addressed to you also and I hope that some of that information has been transmitted to you.

The two small mines near Roundup are the only two left in the state which mine coal exclusively for small business, home and local government use. I hate to say it but neither firm is presently economically viable and both owners have to supplement their mine incomes with other endeavors.

One of the main reasons that they are financially pressed is that they have been forced to limit production and not attempt to develop expanded markets for their coal. They have done this in order to remain competitive with Wyoming coal and as a result, they are in an impossible position.

By remaining at production levels below the existing 20,000 ton severance tax exemption, they cannot afford the high costs of plant and equipment purchases to increase efficiency. They cannot continue to absorb the high costs involved with mine permitting, safety compliance, and reclamation.

If they produce in excess of the 20,000 tons, they must raise their price of coal to the \$40 to \$50 per ton range and thus lose whatever competitive edge they now have over out-of-state

producers. Either way, they cannot continue without some form of relief.

Owners of the Divide mine have already said that they will be out of business this year. That will leave only the P-M mine in operation and it too cannot make up the Divide mine's production without exceeding the 20,000 ton limit.

An accountant has indicated that with current costs of production, these small mines would have to produce between 30,000 and 45,000 tons in order to be viable. As costs increase, of course, those figures would have to be adjusted upwards also.

What this means is that some 3,000 users of Roundup coal are facing the loss of heating fuel. Although the Roundup area would be hardest hit, the mine owners tell me that about 60 percent of their customers are from the Yellowstone Valley. Others are scattered throughout Eastern Montana.

At any rate, I'm one of those 3,000. I heat my business with coal and I can't survive the loss of that source. One of our member firms converted from coal to oil about seven years ago. Just changing the burner head in their boiler cost about \$4,500. Fuel costs doubled the first year and they returned to coal the next year.

I talked to a heating contractor and he tells me that it would be a physical impossibility to change my system to anything other than electric. My structure occupies the entire city lot and there is no place to legally install a propane or fuel oil tank. Conversion to electricity would cost in the neighborhood of \$25,000.

About half of our chamber members are in the same boat. And, aside from the prohibitive conversion costs, the cost of the fuel itself - propane, fuel oil, or electricity - would run our heating bills up two or three times.

Other Montana or Wyoming coals will not burn properly in our boilers without costly feed and stoker modifications. Those coals are lower in BTU content and we would have to burn more of them to achieve the same heat output.

For those who could convert to other fuels, there is no

assurance of supply. Local fuel oil and propane dealers say that they don't know if they could obtain increased allocations to handle a significant increase. A Montana Power Company representative told me that it is doubtful that transmission capacity exists in our area to provide a significant increase in load demand.

In short, I and alot of other businessmen and many, many homeowners are going to be in serious trouble unless Senate Bill 185 becomes law. Speaking of homeowners, many of the users of coal are elderly or retired folks who must live on fixed incomes. Their homes are old, poorly insulated, and not constructed with heating systems in mind other than the venerable coal stove. Conversion for them is simply out of the question.

So far as revenues to the coal severance tax fund are concerned, this measure would have no effect. Neither of the mines now pay severance taxes and, hopefully, they wouldn't under Senate Bill 185.

When we drafted this piece of legislation, we asked for a 100,000 ton exemption with a roll-back to 20,000 tons if a producer chose to exceed the 100,000 tons. The Senate chose to lower that figure to 50,000 tons - a figure that we can live with for the time being. If there is any way you can see your way clear to do it, I would like to see you increase the exemption to at least 75,000 tons.

First, it would provide the mine owners with an attractive cushion within which to develop additional local markets and become more efficient. If the Divide mine closes, P-M mine will have to take over additional customers and they will again be pushing the limit. Then, we consumers would still be facing some uncertainties of supply and I can envision being back up here in two years asking for more.

I should point out that the other portion of this measure would, in fact, cost local government some money, especially the school districts. Using Musselshell County's mill levies, the local school district could expect to lose around \$16,000 while the county itself would lose about \$9,000. The state

would lose about \$3,000. Those numbers assume production increases between existing levels and the Senate's 50,000 ton limit and the cost of coal computed at \$33.00 per ton.

You should consider that these losses in gross proceeds taxes would be dwarfed by the losses in revenues should these mines close or should many of our businesses be forced to close.

In closing, I would like you to keep some important points in mind while considering this bill.

We are talking about small, family owned and operated mines and businesses here - not huge corporate giants.

We are talking about 45 mine jobs and hundreds of others in our local businesses - not quarterly dividends to stockholders in some distant city.

We are talking about survival for one or two small coal mines in Montana - not the bottom line on a P&L statement in some plush boardroom.

Thank you.

Chairman Neuman, members of the House Taxation Committee, Senator Galt and Representative Holliday.

My name is Robert Krogh, my home is in Roundup, and I am here this morning to also speak in favor of Senate Bill 185.

As Superintendent of the Roundup School System, we are very much concerned about the availability of coal from our local mines for our heating purposes.

During the past two years the taxpayers of our school district have just spent some \$415,000.00 to replace one of the boilers and to up-grade the entire heating systems in our school buildings, so that they can be more fuel efficient.

Our three school buildings, together with our local hospital, courthouse and county shop buildings are no doubt the biggest users of coal in Musselshell County, consuming some 850 tons a year. If our local mines are forced to close or coal production is limited, due to the 20,000 ton restriction for severance tax purposes, this could be devastrating to our community.

As far as the school district is concerned, if they must convert to another means of fuel, such as propane or fuel oil, it has been estimated by heating contractors that the cost would be somewhere in the range of \$300,000.00. I don't think it would be fair to force this added expense upon our taxpayers, who still haven't recovered from the expense of replacing the school's present coal heating system. School budgets would also have to be drastically increased to allow for the added cost for using another means of fuel. With school budgets being as tight as they are, this would result in higher special mill levies which could easily be rejected considering today's economic situation.

The only other alternative then would be to try and get coal from the next closest source, that being Colstrip, which is some 147 miles away. With our railroad gone, the coal would have to be hauled in by large semi-trailer trucks. Because of the long distance involved, the cost of transporting could be as much as the price of coal itself, thus doubling the cost for this fuel. We are presently paying \$39.00 per ton delivered for Roundup coal, so with some simple arithmetic, taking 850 tons, which is now costing the taxpayer \$33,150.00, and by adding the extra expense for the long haul and handling charges, the cost for this new source of energy could jump to \$66,300.00.

Another problem that we would be faced with, especially concerning our school buildings, is that there is not enough room around the buildings to accommodate large trucks for unloading purposes. This then could result in having to stock pile the coal elsewhere and then transfer it to the schools by another means.

It should also be noted that the coal obtained from ^{the} Colstrip area does not have the equivalent BTU's as that of the Roundup coal. Figures that I have obtained rate the Colstrip coal at approx. 8,850 BTU's as compared to the coal mined in our area which runs between 10,500 - 11,900 BTU's. To give us the same heat value which we need to keep our buildings at a comfortable level, we could conceivably have to burn another 1/3 more coal, thus adding more to the total cost.

Like most small hospitals, our county hospital is operating on a shoestring too and there is no way it could absorb the increased

costs to convert and operate using another fuel. No doubt they too would be forced to close their doors.

As it has already been stated here this morning, people living in our county are not the only ones who depend on the Roundup mines for their source of coal.

In checking with a number of communities around our area, I was surprised to learn that there are some fifteen (15) other school systems consisting of: Shepherd, Broadview, Lavina, Musselshell, Jordan, Winifred, Roy, Custer, Geyser, Rapleje, Hays Lodgepole, Reedpoint, Ingomar, Niehart and even as far as Ekalaka, who use Roundup coal for their main source of energy. The county shops in both McCone, Judith Basin and Wheatland counties also rely on the same means of fuel for their heating purposes. So, there is no doubt that alot of people could be affected if the supply of coal from our small mines is no longer available.

Many of the administrators from the mentioned schools have also indicated to me that many of these school buildings are quite old and if they had to be converted to oil or gas, they would certainly have to consider spending large sums of money to remodel their existing facilities, such as changing windows, and doing alot more insulating, as with the price of oil or gas, there would be no way they could afford to keep their buildings heated.

As you can see, I have tried to relate to you what effect the loss of coal could place on our schools, hospital, and other governmental agencies. Therefore, minor changes in the present law need to be made to insure that coal produced by the small mines can be made available for heating needs at a reasonable cost to the taxpayer.

And then, lets not forget the impact that this could place upon our younger generation if schools and hospitals are forced to close because of unbarriable heating costs which they can't afford. After all, they are our future taxpayers and our hope for tomorrow.

I sincerely hope that each member of this committee will do their part to strongly support Senate Bill 185.

Thank you.

PROPOSED AMENDMENTS TO SB 96

1. Title, line 9.
Following: line 8
Strike: "SECTIONS 17-5-703 AND"
Insert: "SECTION"
2. Page 1, line 13.
Following: line 12
Strike: section 1 in its entirety
Re-number: subsequent sections
3. Page 2, line 6 and line 7.
Following: "funds" on line 6
Strike: line 6 through "earnings" on line 7
Following: "subfund" on line 7
Insert: ", "
4. Page 2, line 8.
Following: line 7
Strike: "and"
Following: "subfund"
Insert: ", "
5. Page 2, line 9.
Following: "subfund"
Insert: "and the coal severance tax income subfund"
6. Page 2, line 11.
Following: page 10
Insert: " except as provided in subsection (2). Income and earnings from all subfunds must be transferred to and be retained in the coal severance tax income subfund."
7. Page 2, line 14.
Following: "legislature"
Strike: "state"
Insert: "legislature"
8. Page 2, line 15.
Following: line 14
Strike: "treasurer"
Following: "appropriate"
Strike: "deposit"
Insert: "appropriate as follows:"
9. Page 2, line 16 and line 17.
Following: "15%" on line 16
Strike: line 16 through "in" on line 17
Insert: "to"
10. Page 2, line 18.
Following: "year."

Strike: ";"

Insert: "each year;"

11. Page 2, line 22 through line 24.

Following: "balance" on line 22

Strike: line 22 through line 24 in their entirety

Insert: "to the general fund and be available each biennium for appropriation by the legislature, provided such funds must be separately appropriated and that there must be adequate language in the appropriations bill to connect the funds to their source, namely the coal severance tax income subfunds."

12. Page 2, line 25.

Following: "~~appropriated~~"

Strike: "deposited"

Insert: "appropriated"

13. Page 3, line 2.

Following: "~~further~~"

Insert: "further"

14. Page 3, line 5 through line 9.

Following: line 4

Strike: line 5 through line 9 in their entirety

Renumber: subsequent sections

15. Page 3, line 14.

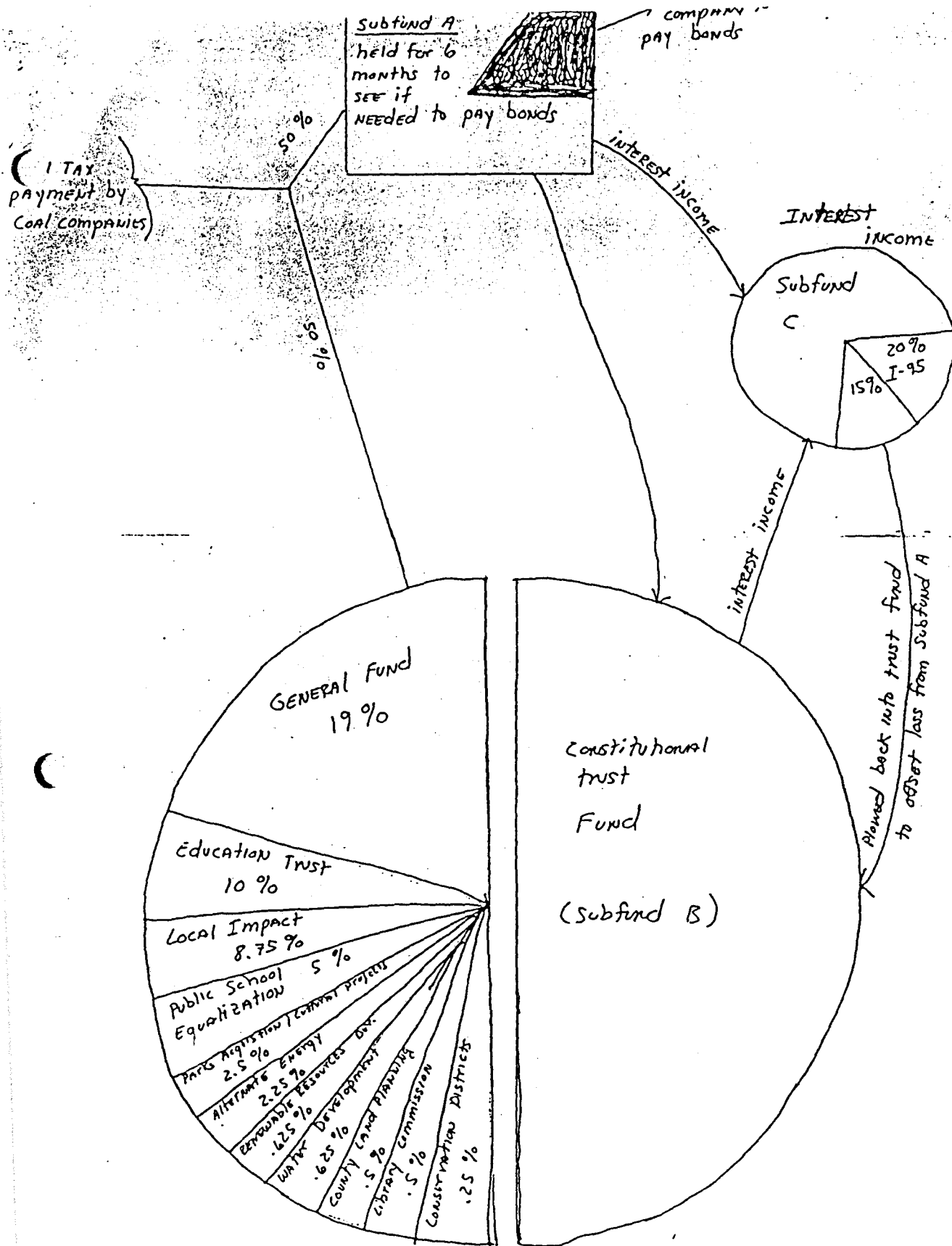
Following: line 13

Strike: "17-5-703 AND"

Following: "17-5-704"

Strike: "ARE"

Insert: "is"



AMENDMENTS TO SENATE BILL 186

1. Title, line 5.
Following: "TO"
Insert: "AMEND COAL BOARD AUTHORITY BY"
2. Title, line 5.
Following: "TO"
Strike: "AUTHORIZE"
Insert: "AUTHORIZING"
3. Title, line 7.
Following: "ACCOUNT"
Insert: "AND TO AWARD GRANTS AND LOANS TO TRIBES
AND UNITS OF TRIBAL GOVERNMENT" *feder. recognize*
4. Page 1, line 25.
Following: "local"
Insert: "or tribal"
5. Page 2, line 1.
Following: "local"
Insert: "or tribal"
6. Page 3, line 25.
Following: "county"
Strike: "or"
Following: "district"
Insert: ", tribe"
7. Page 4, line 1.
Following: "local"
Insert: ", tribal"
8. Page 4, line 17.
Following: "local"
Insert: "or tribal"
9. Page 4, line 17.
Following: "local"
Insert: "or tribal"

HB870

1. ADDRESSES JURISDICTIONAL DISPARITY PROBLEM BY DISTRIBUTING NEW MINING TAXABLE VALUATION AMONG ALL IMPACTED JURISDICTIONS.
2. MINING DEVELOPMENT—LOCATED IN AT LEAST 3 DIFFERENT TAXING JURISDICTIONS: -A COUNTY
-AN ELEMENTARY SCHOOL DISTRICT
-A HIGH SCHOOL DISTRICT
3. NEW MINERAL TAX.VAL. IS DISTRIBUTED WITHIN EACH CATEGORY.
4. NEW TAX.VAL. - SHARED IN PROPORTION TO: A. % OF MINE EMPLOYEES RESIDING IN A JURISDICTION
B. % OF STUDENTS OF MINE EMPLOYEES IN EACH SCHOOL DISTRICT
5. ASSUMPTIONS
 - A. COSTS OF PUBLIC SERVICES—PROPORTIONAL TO POPULATION;
 - B. LOCATION OF MINE EMPLOYEES' RESIDENCES IS PROPORTIONAL TO LOCATION OF ALL MINE-RELATED POPULATION (DIRECT AND SECONDARY)
 - C. ATTENDANCE OF EMPLOYEES' STUDENTS IS PROPORTIONAL TO ALL MINE-RELATED STUDENTS.
6. PREMISES
 - A. ANY REVENUE SHORTFALLS WOULD STILL MET UNDER 718 IMPACT PLAN;
 - B. HB 870 DOES NOT INCREASE MINE-RELATED TAX.VAL.
7. BENEFITS— THE "OUT" JURISDICTIONS WOULD RECEIVE SOME NEW TAX BASE
— INDUSTRY COULD RECOUP "FRONT-END" PAYMENTS THROUGH TAX REPAYMENTS;
FORFEITS— COUNTIES, SCHOOL DISTRICTS CONTAINING MINE DEVELOPMENT
8. PROCESS TRIGGERED BY APPROVAL OF IMPACT PLAN UNDER 718;
9. ANNUAL SURVEY CONDUCTED BY MINERAL COMPANY:
EMPLOYEES' RESIDENCES, STUDENTS' SCHOOLS;
10. STATE MILL LEVIES, 40 MILL BASIC COUNTY LEVY NOT AFFECTED;
11. UNDER HB 870, ACTUAL TAXES MAY BE MORE OR LESS, DEPENDING ON MILL LEVIES OF VARIOUS JURISDICTIONS. MUNICIPAL LEVIES NEARLY ALWAYS HIGHER THAN COUNTY LEVIES.

SWEET GRASS COUNTY, MONTANA



Board of County Commissioners

Big Timber, Montana 59011

March 8, 1983

The Honorable Dan Yardley, Chairman
House Taxation Committee
State Capitol
Helena, MT 59620

Dear Representative Yardley:

We hereby express our support for House Bill #870, and for the amendments proposed by Mr. Shanahan in his February 28, 1983 memo.

The bill represents an equitable (and innovative) approach to solving the "jurisdictional mismatch" problem associated with major mineral development. It also represents the culmination of approximately two years of dialogue between industry, local government representatives, and members of the EOC-ROC Hard Rock Mining Subcommittee charged with trying to find a solution to this problem. Importantly, the bill enjoys broad-based support from each of these three factions.

For these reasons, we urge the House Taxation Committee to give HB 870 a "do-pass" recommendation.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
Sweet Grass County, Montana

David E. Wilson
Chairman

Bjarne Bjornstad
Member

Ale Aiestad, by A.C. Epple
Member

WITNESS STATEMENT

Name Andrew C. Eppe Committee On House Taxation
Address Box 1052 Rgt. 59011 Date 3/1/83
Representing Sweet Grass Co. Commissioners Support ✓
Bill No. HB 870 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: On behalf of the Sweet Grass County
1. Commissioners, expressing complete support
2. for tax base sharing of mineral development
properties. See attached letter.

Sincerely,

A.C. Eppe

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

NAME Les A. Darling and
Ward A. Shanahan BILL NO. HB 870
ADDRESS P.O. Box 1715, Helena, MT 59624 DATE 03/08/83
WHOM DO YOU REPRESENT Stillwater PGM Resources
SUPPORT _____ OPPOSE _____ AMEND XXX

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Stillwater PGM Resources supports the concept of tax base revenue sharing as proposed by HB 870. This bill will have the effect of increasing our property taxes but provides for a more equitable distribution of mineral development property taxes to governmental units in which our employees will most likely reside. We have worked closely with Stillwater and Sweet Grass County representatives in the development of this proposal and offer the following amendments in an effort to improve the bill:

1. Page 2, line 11.
Following: "located"
Strike: "."
Insert: "in accordance with an impact plan adopted pursuant to 90-6-307."
2. Page 2, line 14.
Following: "(3)"
Strike: "In migrating mineral"
Insert: "Mineral"
3. Page 2, line 15.
Following: "who"
Strike: "establishes a temporary or permanent residence"
Insert: "resides"
4. Page 2, line 19.
Following: "(4)"
Strike: "In-migrating"
Insert: "Mineral development"
5. Page 2, lines 20 and 21.
Following: "guardian"
Strike: "establishes temporary or permanent residence"
Insert: "resides"

6. Page 3, line 2.
Following: "units"
Strike: "."
Insert: "as finally determined by the board in an approved impact plan."
7. Page 3, lines 3-16.
Strike: subsection (6) in its entirety
Insert: "(6) (a) "Large-scale mineral development" for the purposes of this part is defined in 90-6-302."
8. Page 3, line 17.
Following: "unit""
Insert: "for the purposes of this part"
9. Page 3.
Following: line 18
Insert: "(8) "Taxable valuation" of a mineral development means the total of the gross proceeds taxable percentage specified in 15-6-132(2)(a) when added to the taxable percentages of real property, improvements, machinery, equipment, and other property classified under Title 15, chapter 6, part 1, MCA."
10. Page 4, line 18.
Strike: "to"
Insert: "pro rata among"
11. Page 4, line 22.
Strike: "in-migrating"
12. Page 4, line 25.
Strike: "in-migrating"
13. Page 5, line 1.
Following: "boundaries."
Insert: "That portion of the taxable valuation of a mineral development distributed to a city pursuant to this section from a mineral development located outside the city's corporate boundaries is not subject to the county mill levy usually applied to property located in the city."
14. Page 5, line 2.
Strike: "to"
Insert: "pro rata among"
15. Page 5, line 4.
Strike: "in-migrating"
Insert: "mineral development"

16. Page 5, line 6.
Strike: "to"
Insert: "pro rata among"
17. Page 5, line 8.
Strike: "in-migrating"
Insert: "mineral development"
18. Page 5, line 15.
Strike: "in-migrating"
19. Page 5, line 17.
Strike: "in-migrating"
20. Page 5, line 19.
Strike: "in-migrating"
Insert: "mineral development"
21. Page 5, line 21.
Strike: "in-migrating"
Insert: "mineral development"
22. Page 5, line 24.
Following: line 24
Insert: "NEW SECTION. Section 7. Codification.
This act is intended to be codified as Title 90,
chapter 6, part 4, entitled "Hard-Rock Mining
Impact Property Tax Base Sharing."

1766S

1 HOUSE BILL NO. 870

2 INTRODUCED BY FABREGA, HALLIGAN,

3 TOWE, IVERSON, ECK

4 BY REQUEST OF THE ENVIRONMENTAL QUALITY COUNCIL

5 HARD-ROCK MINING SUBCOMMITTEE

6
7 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN
8 PROPERTY OF LARGE-SCALE HARD-ROCK MINERAL DEVELOPERS FROM
9 THE USUAL LOCAL PROPERTY TAXATION OF CITIES, COUNTIES,
10 TOWNS, AND SCHOOL DISTRICTS; TO CREATE A SYSTEM FOR SHARING
11 THE PROPERTY TAX BASE OF LARGE-SCALE HARD-ROCK MINERAL
12 DEVELOPMENTS AMONG SEVERAL TAXING JURISDICTIONS; AND
13 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

14
15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16 Section 1. Declaration of necessity and purpose. The
17 commencement of new large-scale hard-rock mineral
18 developments often results in revenue disparities among
19 adjacent local government units. This occurs primarily when
20 a mine that locates in one taxing jurisdiction causes
21 population influxes in neighboring jurisdictions. The result
22 can be that some jurisdictions will experience a need to
23 increase expenditures and receive no corresponding increase
24 in revenue, while others will experience an increase in
25 revenue and receive no comparable increase in expenditures.

1 There is therefore a need to allocate the increase in
 2 property tax base resulting from the development and
 3 operation of new large-scale mines so that property tax
 4 revenues will be equitably distributed among affected local
 5 government units.

6 Section 2. Definitions. As used in [this act], the
 7 following definitions apply:

8 (1) "Affected local government unit" means a local
 9 government unit that will experience a need to increase
 10 services or facilities as a result of the commencement of
 11 large-scale mineral development or within which a
 12 large-scale mineral development is located IN ACCORDANCE
 13 WITH AN IMPACT PLAN ADOPTED PURSUANT TO 90-6-307.

14 (2) "Board" means the hard-rock mining impact board
 15 established in 2-15-1822.

16 (3) ~~"In-migrating---minerat~~ MINERAL development
 17 employee" means a person who ~~establishes-a-temporary-or~~
 18 ~~permanent-residence~~ RESIDES within the jurisdiction of an
 19 affected local government unit as a result of employment
 20 with a large-scale mineral development or its contractors or
 21 subcontractors.

22 (4) ~~"In-migrating~~ MINERAL DEVELOPMENT student" means a
 23 student whose parent or guardian ~~establishes--temporary--or~~
 24 ~~permanent--residence~~ RESIDES within the jurisdiction of an
 25 affected local government unit as a result of employment

1 with a large-scale mineral development or its contractors or
2 subcontractors.

3 (5) "Jurisdictional revenue disparity" means property
4 tax revenues resulting from a large-scale hard-rock mineral
5 development that are inequitably distributed among affected
6 local government units AS FINALLY DETERMINED BY THE BOARD IN
7 AN APPROVED IMPACT PLAN.

8 (6) (a) "Large-scale mineral development" means--the
9 construction--or--operation--of--a--hard-rock--mine--and--the
10 associated--mining--facility--that--will--

11 (i)--employ--at--any--given--time--at--least--100--people--or
12 (ii)--cause--or--be--expected--to--cause--an--increase--in
13 estimated--population--of--at--least--15%--in--a--local--government
14 unit--when--measured--against--the--average--population--of--the
15 local--government--unit--in--the--3--year--period--immediately
16 preceding--the--commencement--of--the--mining--facility
17 construction

18 (b)--A--mining--operation--that--would--qualify--as--a
19 large-scale-mineral-development-under-this-subsection-(6)--is
20 not--a--large-scale-mineral-development-if-the-mine-owner-and
21 operator-qualify-as-small-miners--under--82-4-303 FOR THE
22 PURPOSES OF THIS PART IS DEFINED IN 90-6-302.

23 (7) "Local government unit" FOR THE PURPOSES OF THIS
24 PART means a county, city, or school district.

25 Section 3. Jurisdictional revenue disparity -- tax

1 exemption. (1) When an impact plan for a large-scale mineral
 2 development approved by the board pursuant to 90-6-307
 3 identifies a jurisdictional revenue disparity, the board
 4 shall promptly notify the developer, all affected local
 5 government units, and the department of revenue of the
 6 disparity. Except as provided in subsection (2) and
 7 [section 4], the increase in taxable valuation of the
 8 mineral development that occurs after the issuance and
 9 validation of a permit under 82-4-335 is exempt from the
 10 usual application of property tax mill levies.

11 (2) The taxable valuation of all large-scale mineral
 12 developments are subject to the statewide mill levies and
 13 basic county levies for elementary and high school
 14 foundation programs as provided in 20-9-331 and 20-9-333.

15 (3) Any property tax exemption provided for in
 16 subsection (1) remains in effect until the large-scale
 17 mineral development ceases operations or until the existence
 18 of the jurisdictional revenue disparity ceases.

19 Section 4. Allocation of taxable valuation for local
 20 taxation purposes. When property of a large-scale mineral
 21 development is exempted from local property taxation
 22 pursuant to [section 3], the taxable valuation so exempted
 23 must be allocated by the department of revenue as follows:

24 (1) The total taxable valuation must be distributed to
 25 each ~~PRD--RAIA--AMONG--THE~~ affected ~~city-and-county~~ CITIES.

1 COUNTIES AND SCHOOL DISTRICTS according to the following
2 formula:

3 (a) to each county according to its percentage of the
4 total number of ~~in-migrating~~ mineral development employees
5 that reside within the unincorporated areas of the county;

6 (b) to each city according to the percentage of the
7 total number of ~~in-migrating~~ mineral development employees
8 that reside within the city's corporate boundaries.

9 (2) The total taxable valuation must be distributed to
10 each affected high school district according to the
11 percentage of the total number of ~~in-migrating~~ MINERAL
12 DEVELOPMENT high school students that reside within each
13 district.

14 (3) The total taxable valuation must be distributed to
15 each affected elementary school district according to the
16 percentage of the total number of ~~in-migrating~~ MINERAL
17 DEVELOPMENT elementary school students that reside within
18 each district.

19 Section 5. Employee surveys. Each large-scale mineral
20 development subject to the provisions of [sections 3 and 4]
21 shall, on or before May 1 of each year, conduct a survey of
22 its employees and promptly submit a report of its findings
23 to the department of revenue. The report must include:

24 (1) the number of ~~in-migrating~~ mineral development
25 employees residing within each affected county;

1 (2) the number of in-migrating mineral development
2 employees residing within each affected city;

3 (3) the number of in-migrating MINERAL DEVELOPMENT
4 students enrolled in each affected high school district; and

5 (4) the number of in-migrating MINERAL DEVELOPMENT
6 students enrolled in each affected elementary school
7 district.

8 Section 6. Effective date. This act is effective on
9 passage and approval.

10 ~~SECTION 7. CODIFICATION INSTRUCTION. THIS ACT IS~~
11 ~~INTENDED TO BE CODIFIED AS PART 4. HARD-ROCK MINING IMPACT~~
12 ~~PROPERTY TAX BASE SHARING.~~

-End-

STATE OF MONTANA

REQUEST NO. 083-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 12,, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 96 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 96 changes the disposition of coal severance tax constitutional trust interest and earnings; provides for deposit of certain interest and earnings in the state general fund; and provides an effective date.

FISCAL IMPACT:

The proposed legislation should have no fiscal impact. The bill specifies that, after 15% of the income and earnings are deposited in the coal severance tax permanent subfund, the balance is to be allocated to the general fund - the current procedure. (See Montana Executive Budget 1984-1985, page 22).

FISCAL NOTE3:T/1

David M Lewis

BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-17-83

STATE OF MONTANA

REQUEST NO. 140-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, , 19 83 , there is hereby submitted a Fiscal Note for Senate Bill 185 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 185 revises taxation exemptions for certain coal producers and provides an immediate effective date and an applicability date.

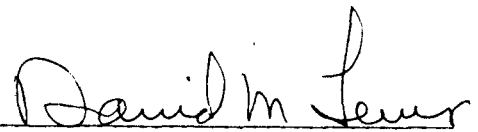
FISCAL IMPACT:

The fiscal impact, if any, of the proposed legislation cannot be estimated. Currently, there are no producers mining coal in the state that would be subject to the proposed exemption.

One company, Coal Creek Mining Co., had been producing about 45,000 tons of coal per year. They last reported production in the quarter ending December 31, 1981. Coal Creek would qualify for the exemption on the coal severance tax if it produced at the same level. The gross proceeds property tax from Coal Creek's coal production would add to the property tax base of Musselshell County if they resumed operations (one-half of production value).

Another producer, Knife River, currently produces approximately 200,000 tons of coal per year. Coal severance tax revenues would be reduced if this firm found it economically feasible to reduce its production level to under 100,000 tons per year (unlikely to alter the tonnage required for a coal fired power plant). The revenue loss in FY 84 coal severance tax collections would be approximately \$400,000 out of \$99 million if Knife River produced below the exemption level.

FISCAL NOTE 6:E/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-83

STATE OF MONTANA

REQUEST NO. 141-83

FISCAL NOTE

Form BD-15

In compliance with a written request received January 19, 19 83, there is hereby submitted a Fiscal Note for Senate Bill 186 pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA).

Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 186 authorizes the Coal Board to consider applications for loans from the Local Impact and Education Trust Fund Account; provides limitations; and amends sections 90-6-205, 90-6-206, and 90-6-208, MCA.

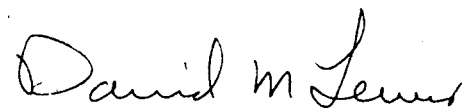
FISCAL IMPACT:

None Anticipated.

LOCAL IMPACT:

May provide a source of credit for some local governments which have had trouble marketing bonds.

FISCAL NOTE 5:FF/1



BUDGET DIRECTOR

Office of Budget and Program Planning

Date: 1-24-83

March 10, 1983

MR. **SPEAKER:**We, your committee on **TAXATION**having had under consideration **HOUSE** Bill No. **870****First** reading copy (**White** color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT CERTAIN PROPERTY OF LARGE-SCALE HARD-ROCK MINERAL DEVELOPERS FROM THE USUAL LOCAL PROPERTY TAXATION OF CITIES, COUNTIES, TOWNS AND SCHOOL DISTRICTS; TO CREATE A SYSTEM FOR SHARING THE PROPERTY TAX BASE OF LARGE-SCALE HARD-ROCK MINERAL DEVELOPMENTS AMONG SEVERAL TAXING JURISDICTIONS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That **HOUSE** Bill No. **870****be amended as follows:**

1. Page 2, line 11.

Following: "located"

Insert: "in accordance with an impact plan adopted pursuant to 90-6-307"

2. Page 2, line 14.

Following: "(3)"

Strike: "In-migrating mineral"

Insert: "Mineral"

3. Page 2, line 15.

Following: "who"

Strike: "establishes a temporary or permanent residence"

Insert: "resides"

~~ISSUES~~

March 10,

1983

4. Page 2, line 19.

Following: "(4)"

Strike: "In-migrating"

Insert: "Mineral development"

5. Page 2, lines 20 and 21.

Following: "guardian" on line 20

Strike: "establishes temporary or permanent residence"

Insert: "resides"

6. Page 3, line 2.

Following: "units"

Insert: "as finally determined by the board in an approved impact plan"

7. Page 3, line 3 through line 16.

Following: "development" on line 3

Strike: line 3 through "82-4-303" on line 16

Insert: "for the purposes of this act is defined in 90-6-302"

8. Page 3, line 17.

Following: "unit"

Insert: "for the purposes of this part"

9. Page 3, line 19.

Following: line 18

Insert: "(8) 'Taxable valuation' of a mineral development means the total of the gross proceeds taxable percentage specified in 15-6-132(2)(a) when added to the taxable percentages of real property, improvements, machinery, equipment, and other property classified under Title 15, chapter 6, part 1."

10. Page 4, line 18.

Following: "distributed"

Strike: "to"

Insert: "pro rata among the"

11. Page 4, line 19.

Following: line 18

Strike: "each"

12. Page 4, line 22.

Strike: "in-migrating"

13. Page 4, line 25.

Strike: "in-migrating"

March 10,

19 83

14. Page 5, line 2.

Following: "distributed"

Strike: "to"

Insert: "pro rata among"

15. Page 5, line 4.

Following: "number of"

Strike: "in-migrating"

Insert: "mineral development"

16. Page 5, line 6.

Following: "of"

Strike: "to"

Insert: "pro rata among"

17. Page 5, line 8.

Following: "number of"

Strike: "in-migrating"

Insert: "mineral development"

18. Page 5, line 15.

Strike: "in-migrating"

19. Page 5, line 17.

Strike: "in-migrating"

20. Page 5, line 19.

Strike: "in-migrating"

Insert: "mineral development"

21. Page 5, line 21.

Strike: "in-migrating"

Insert: "mineral development"

22. Page 5, line 25.

Following: line 24.

Insert: "NEW SECTION. Section 7. Codification.

This act is intended to be codified as Title 90,

chapter 6, part 4, entitled "Hard-Rock Mining Impact
Property Tax Base Sharing."

AND AS AMENDED

DO PASS

STANDING COMMITTEE REPORT

March 15, 1983

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 185

Third reading copy (Blue Color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO REVISE TAXATION EXEMPTIONS FOR CERTAIN COAL PRODUCERS; AMENDING SECTIONS 15-6-208 AND 15-35-103, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

Respectfully report as follows: That SENATE Bill No. 185

~~DO PASS~~ BE CONCURRED IN

STANDING COMMITTEE REPORT

March 22, 1983

MR. **SPEAKER:**

We, your committee on **TAXATION**

having had under consideration **SENATE** Bill No. **186**

Third reading copy: **Blue**
color

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; AND PROVIDING LIMITATIONS; AMENDING SECTIONS 90-6-205, 90-6-206, AND 90-6-208, MCA."

Respectfully report as follows: That **SENATE** Bill No. **186**

be amended as follows:

1. Title, line 7.

Following: "ACCOUNT"

Insert: "AND TO AWARD GRANTS AND LOANS TO FEDERALLY RECOGNIZED TRIBES AND UNITS OF TRIBAL GOVERNMENT"

2. Page 4, line 4.

Following: "development."

Insert: "For purposes of this part the term local government unit includes a federally recognized tribe and governmental units thereof."

~~DEPASTXX~~ **AND AS AMENDED**
BE CONCURRED IN