

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 14, 1983

The fourth meeting of the Taxation Committee was called to order at 9:05 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 36: Senator Himsl (District 9, Kalispell) sponsored the bill. Two years ago, he introduced a property tax relief bill which granted relief to senior citizens. Senator Pat Regan introduced a similar bill which allowed credit for rentals, which mine did not, and her bill passed. When we amended her bill, it was on a sliding scale with a maximum relief of \$400. It exempted social security benefits and railroad retirement benefits. The House stripped the bill of the railroad retirement exemption and continued to strip it in conference committee. Eventually the maximum relief was reduced to \$150. Senate Bill 36 proposes to exempt railroad retirement benefits, along with the social security benefits which are exempted. Senator Himsl also remarked that Flathead County had about 800 elderly make application for relief, but he was not sure how many of them were railroad retirees. In Montana, there are 8,302 railroad retirement beneficiaries who are under the Act and who are discriminated against. The monthly benefit for a retiree is \$629; for a spouse, \$291; and for a widow, \$428. Social security recipients are getting another tax break and railroad retirees deserve it, too.

PROPOSERS

Mr. Joe Woods, railroad retiree, Helena resident, reaffirmed Senator Himsl's comments. He quoted a portion of a letter from Governor Schwinden, dated May 27, 1982: "I agree that the program for the elderly discriminates against our retirees. I continue to support treating railroad retirees and social security recipients the same for this program, and I will recommend this change to the 1983 Legislature."

There were no opponents to the bill.

Questions were called for from the committee.

Senator Eck asked if the maximum benefits for railroad retirees were similar to the maximum benefits under social security. Senator Himsl explained that there is a 3-tiered system for the railroad retirement benefits. The top tier corresponds with social security. Since 1974, they combine the social security and the railroad retirement benefits and can't "double dip." Next, on the second tier, there is an overload

in which employees contribute more to build up their pension. The third tier is working 30 years and getting the maximum retirement benefits that can be paid.

Senator McCallum mentioned he has a friend on social security who makes about \$9,200 a year. Her taxes more than doubled in the past year. She claims social security is being included as income, too.

Senator Towe mentioned that three other bills related to SB 36 had been introduced. Senator Himsl was not aware of those. Senator Towe asked if all railroad retirement could be claimed exempt, why not other retirees. Senator Himsl responded that there was no double dipping. Senator Towe said the Governor's version of the bill would allow everybody's retirement as an exemption, with a \$4,000 limit. Senator Himsl said he liked that version, but asked that the committee keep this bill alive until the committee could see what happened with the other bills.

It was brought out that during the 1981 session, Senate Bill 33 was a code commissioner bill and was supposed to have editorial changes only, but in the end, the railroad retirees were taken out of the exemption.

Senator Turnage moved that the committee recommend a DO PASS on SB 36. It was seconded and carried unanimously.

CONSIDERATION OF SENATE BILL 96: Senator Elliott stated that this was a committee bill drafted between the 1981 and 1983 sessions by himself, Senator Manning and Representatives Winslow and Roush. During their study of these laws, they concluded that the law was deficient in that it left in doubt what was to be done with interest in the coal severance tax constitutional trust fund. By the 1981 session, they had accumulated such an amount in the account that they requested information from the Legislative Auditor's office as to where it should go. Since the interest is not sent anywhere else, it is included in the general fund. The Montana Constitution provides that the interest needs to be appropriated. Senator Elliott read from the Report of the Coal Tax Oversight Committee (pp. 3-4), November 1982 (copy attached). The purpose of SB 96 is to eliminate the need for biannual appropriation of the money and direct that it be deposited to the general fund on a regular basis. The bill is difficult to read through because it shows 15% of the subfund as being reallocated back to the trust fund. Initiative 95 provided that some part of the interest be allocated to an economic development fund. On page 2, line 20, of the introduced bill, the funds not otherwise appropriated may be appropriated to the economic development fund.

Representative Winslow stated that the coal tax is one of the least understood taxes. All money not earmarked goes into the general fund. By 1990, he said, \$80 million in interest will have been generated from the trust. There are 10 to 15 earmarked sources for this interest. Do we want to leave it available to be earmarked or leave it in the general fund?

Ann Mulroney, representing the League of Women Voters, spoke in favor of the bill, in depositing 15% of the income and earnings from all subfunds of the Coal Severance Tax Constitutional Trust Fund in the coal severance tax permanent subfund, and the balance of the income and earnings in the state general fund, and also supported the continuing reinvestment provisions. Her written testimony is attached as Exhibit B to these minutes.

Troy McGee from the Governor's budget office supports the bill and thought it would clarify the existing situation.

Judy Curtis, from the Fiscal Analyst's Office, agreed that the bill would clarify current laws and said there would be no fiscal impact. A copy of her written testimony is attached to these minutes as Exhibit C.

There were no opponents to SB 96.

Questions from the committee were called for.

Senator Towe asked how the constitutional provision was addressed. Senator Elliott responded that all general funds have to be appropriated in order to make expenditures of them.

Senator Eck wondered if a 3/4 majority vote was required to pass this bill. Senator Elliott said no, only a simple majority is required.

Senator Towe explained that the severance tax amendment could be found at article IX, Section 5, of the Montana Constitution. Half of the severance tax is to be dedicated to the trust fund (since January 1, 1980; before then, it was one-fourth). Only the interest and income may be appropriated. That means that it is not a special fund until such time as the Legislature decides to appropriate from that fund to the general fund. The Legislature would be allocating here in SB 96 and bypassing the constitutional amendment. We can appropriate but not allocate. The idea was that it was supposed to be kept separate, with separate appropriations each year.

Senator Elliott pointed out that the 1981 Legislature did allocate 15% of the interest on a permanent basis.

Senator Crippen asked how this interfaced with Initiative 95. He said the Legislature has a responsibility under Initiative 95

to do something with this situation this session. He felt the Legislature's out was in line 20 on page 2 of the bill-- not being otherwise specifically appropriated. According to Initiative 95, the Legislature is to appropriate the money. Senator Gage stated that the bill says the Legislature puts this money into the general fund. He wondered if it was possible that future legislatures might earmark these funds for other things.

Senator Towe said it is possible to the extent that it may be appropriated. It can't be earmarked but it may be appropriated each session.

Senator Turnage wondered if the Legislature could permanently appropriate anything, except under bond issues.

It was pointed out that this situation needs to be taken care of this session. Senator Towe said that in the past, the committee has put a statement in the appropriations bill. The budget office and the Legislative Fiscal Analyst say the money is part of the general fund. In 1979, we left without appropriating any of it, so we had double the amount of it in 1981.

Senator Lynch asked what would happen if the bill does not pass and suggested a specific bill to appropriate the 15%. It won't affect moneys in any way; it's just a constitutional question.

Senator Eck said the Legislature has to appropriate the money if there is time. That makes it earmarked. She felt the Legislature would be better off assuming that we have to make these appropriations each time and giving the Legislature a choice of appropriations.

Senator Turnage said the choice will not be here once a bond issue is sold until the issue is paid off.

Senator Towe explained that the 15% reimburses the permanent fund to make it whole again after the sale of any bonds. The bonding company looks to the principal. Senator McCallum asked where the other 85% went. Senator Towe diagramed the situation for the committee, and a copy of his diagram is attached. In order to make the bonds sell, he said, the Legislature appropriates a portion of this money (Subfund A) to secure the bonds. This 15% of the trust fund allocation is used to reimburse the permanent fund.

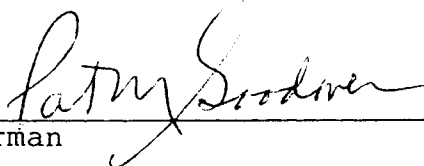
Senator Towe liked the language in the statutes and in the Constitution: The Legislature shall appropriate money every biennium, meaning they can't earmark it, so it is available for the Legislature. The percentage in the general fund can still be earmarked, but the interest from the coal severance tax fund is not earmarked.

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He said the Constitution says the Legislature may appropriate out of the 15% a sum of money into the economic development fund each biennium. It is not permanently done; therefore, it is not earmarked. When the coal severance tax money is paid by companies, it goes into Subfund C on the diagram and sits there for six months and then comes into this 50% of the pie. If the interest in Subfund C is not needed by the bonding companies, it flows back into the 50% (coal tax trust fund). Otherwise, some could be taken to pay the bonds. If it is not called for by the bonding companies, the interest goes into the coal severance tax fund.

Chairman Goodover said the discussion on SB 96 would continue on Monday, January 17, 1983, at 9 a.m.

The meeting was adjourned at 10 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/14/83

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓ <i>late</i>		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓ <i>late</i>		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

SENATE

Taxation

COMMITTEE

SEN. BILLS 36/96

VISITORS' REGISTER

DATE 1/14/83

Please note bill no.

NAME

REPRESENTING

BILL #

(check one)

SUPPORT

OPPOSE

Charles L. CurtisLegislative Fiscal AnalystJudy CurtisLegislative Fiscal AnalystTERRY W. JOHNSONOBPPDon BrucksDept. of RevenueJL WOODSSELFSB36XRep Cal WinslowCoal Tax Oversight

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

WITNESS STATEMENT

Name Troy W. V. 100 Date 7-14-22
Address 1000 1st St. Support ? YES
Phone: 3054 Representing Goodman (Buss) Oppose ?
Which Bill ? HB 94 Amend ?
Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Ann Mulvaney Date 1/14/83
Address 707 Power Support ? X
Phone: 445-6000
Representing House of Representatives Oppose ?
Which Bill ? SB96 Amend ?
Comments: attached - see exhibit B.

Please leave prepared statement with the committee secretary.

Two years ago the legislature enacted legislation providing for residential property tax credit for the elderly on a sliding scale of relief based upon income with a maximum of \$150. (15-30-176)

The senate bill gave the same exemption to retirees of the federal Railroad Retirement Act that it gave to Social Security Beneficiaries, but in the closing days of the session the House stripped the railroad retirees from the bill -- for reasons unknown to me. In the conference committee report, the House position prevailed. *They brought \$150 - from \$0*

The federal railroad retirement office reports that there are 8302 Montana beneficiaries who are discriminated against by this action. The average employees ^{Monthly} benefit as of October 1, 1982 is \$629, the average wives benefit \$281, aged widows average \$428.

Now we find social security beneficiaries getting a residential or rental tax break, however small-- but this is denied a retired railroader who lives in the same circumstances.

This simple bill would remove this discrimination. I hope you will see the justice in this proposal and treat the bill with favor.

November 1982, published by the Montana Legislative Council 58 96

SUBCOMMITTEE DELIBERATIONS

The Coal Tax Oversight Subcommittee met seven times during the 1981-83 biennium. By statute the Subcommittee is responsible for the oversight function of any program that receives coal severance tax derived funding. The Subcommittee spent much of its time reviewing such programs in hearings throughout the state. The following is an overview of the Subcommittee's deliberations and final recommendations in selected program areas.

I

CONSTITUTIONAL TRUST FUND

The Subcommittee discussed several aspects of the Constitutional Trust Fund during its meetings.

Members were unanimous that the 50% allocation of coal severance tax collections should continue to be placed in a permanent trust fund. The Subcommittee recommended that the legislature continue to support this allocation. The Subcommittee emphasized in its discussions that it is important for the people of Montana to realize that the Constitutional Trust Fund provides both programs and tax benefits to current generations while guaranteeing a source of public revenue and a measure of security for future generations.

The second area relating to the Constitutional Trust Fund involved the current system of allocating Trust Fund income. ~~Prior to the 1981 Legislative Session, the income from the Constitutional Trust Fund was always appropriated from an income account to a particular program or purpose.~~

Prior to 1981, the income was accumulated in an income account, and was not appropriated for any use.

In the 1981 Session, the Legislature appropriated from the Constitutional Trust Fund income account to the state General Fund all of the income in the account (see section 16, H.B. 500). This was for the 1981-83 biennium. This appropriation followed the past practices of making specific appropriations from the income account to a particular program or purpose.

The 1981 Legislature also revised the fund structure of the Constitutional Trust Fund in S.B. 406 -- the water development bond program. Under current law, coal tax collections flow into a Constitutional Trust Fund Bond Subfund and what is not needed to cover principal and interest payments on

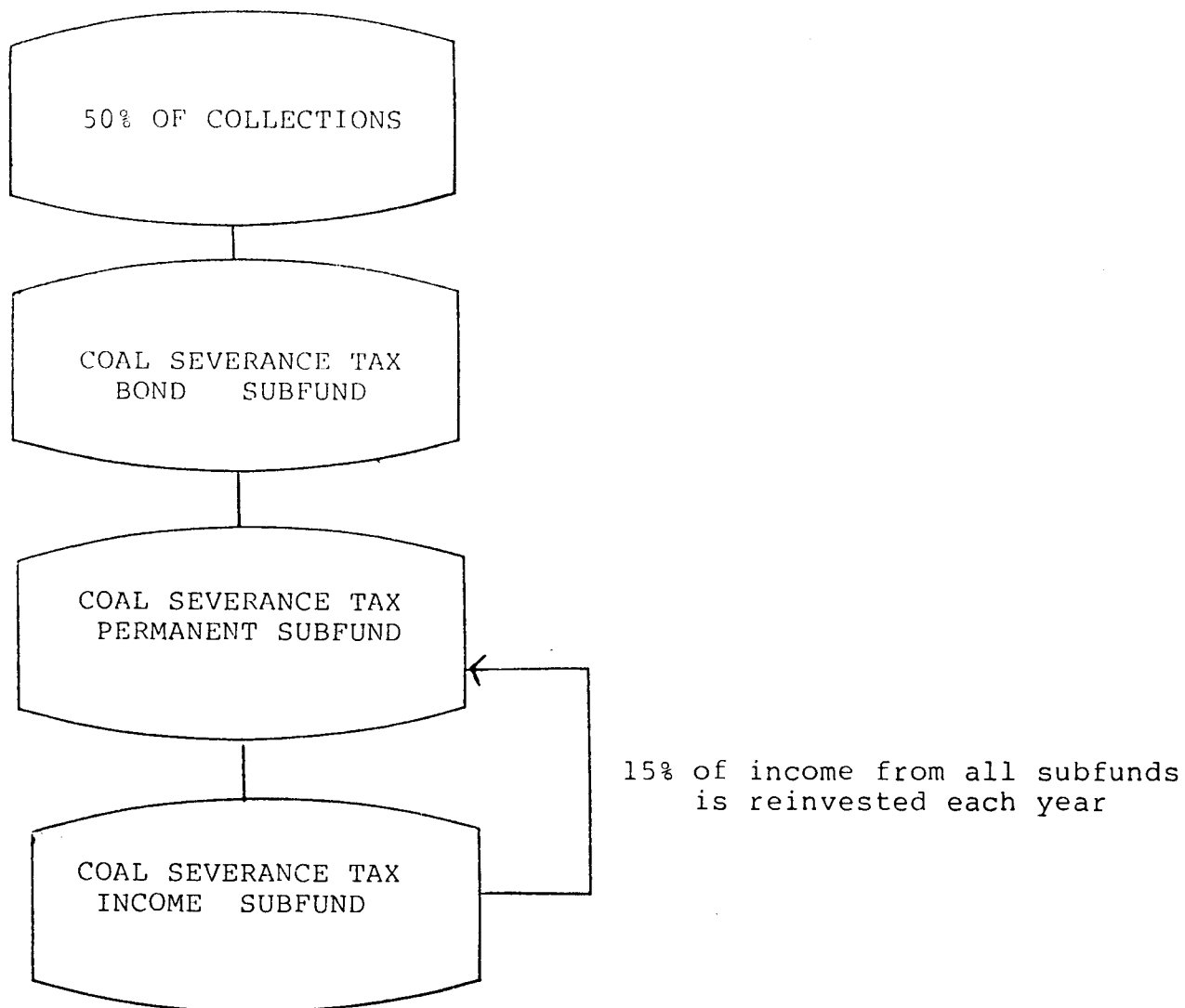
bonds is transferred to the Constitutional Trust Fund Permanent Subfund. Income from either of the two Subfunds above is transferred to and retained in a Constitutional Trust Fund Income Subfund. (See Appendix A)

S.B. 406 also contained a provision that requires the Legislature to appropriate annually 15% of the income from all Constitutional Trust Subfunds into the Constitutional Trust Fund Permanent Subfund. This provision constitutes a policy of reinvesting 15% of the income of the Trust back into the principal of the Constitutional Trust Fund.

The Subcommittee reviewed the 1981 Legislative changes in the organization of the Constitutional Trust Fund and past discussions regarding the disposition of the income from the trust. The Subcommittee believes it is important that members of the Legislature clearly understand the current organization of the Constitutional Trust Fund and the commitment of reinvesting 15% of the income.

The Subcommittee also recommended a bill that would specify that 85% of the income from the Constitutional Trust Fund be automatically deposited to the credit of the state General Fund. (See LC 104)

APPENDIX A



MONTANA LEAGUE OF WOMEN VOTERS TESTIMONY BEFORE THE SENATE TAXATION
COMMITTEE REGARDING SB 96. JANUARY 14, 1983

Mr. Chairman, members of the Committee. My name is Ann Mulroney and I represent the League of Women Voters. The League wishes to support the request of the Coal Tax Oversight Committee expressed in SB 96; to deposit 15% of the income and earnings from all subfunds of the Coal Severance Tax Constitutional Trust Fund in the coal severance tax permanent subfund, and the balance of the income and earnings in the state general fund.

Since 1979 the League has been studying the state budget and tax systems, including a special study of severance taxes in 1982. We reached a statewide member consensus on various aspects of these systems in the fall of 1982 and our action program begins with this legislative session. One of the most controversial issues we tackled was earmarking. Although many of us were reluctant to give up funding options for our favorite programs we concluded that except for impacts from non-renewable resource development the practice of earmarking is not an appropriate budget technique. Because the coal severance tax revenues are so vulnerable to earmarking we think it is especially fitting that the oversight committee take this action to control the practice by recommending the deposit of interest and earnings in the general fund.

Our lobbyists and many of the legislators and citizens we talk with are concerned about the growing complexity and confusion surrounding the legislative process. We recognize that the heart of that process is making choices - most of which are money choices. Earmarking, by reducing general fund resources, reduces the ability of the legislature to identify and adequately fund state priorities. More and more, revenue sources are developing their own special constitutencies. Rather than one budget, it often seems as if many different budgets are being developed.

The League commends the oversight committee's recommendation for SB 96, not only the general fund deposit but the continuing reinvestment provisions.



STATE OF MONTANA

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JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

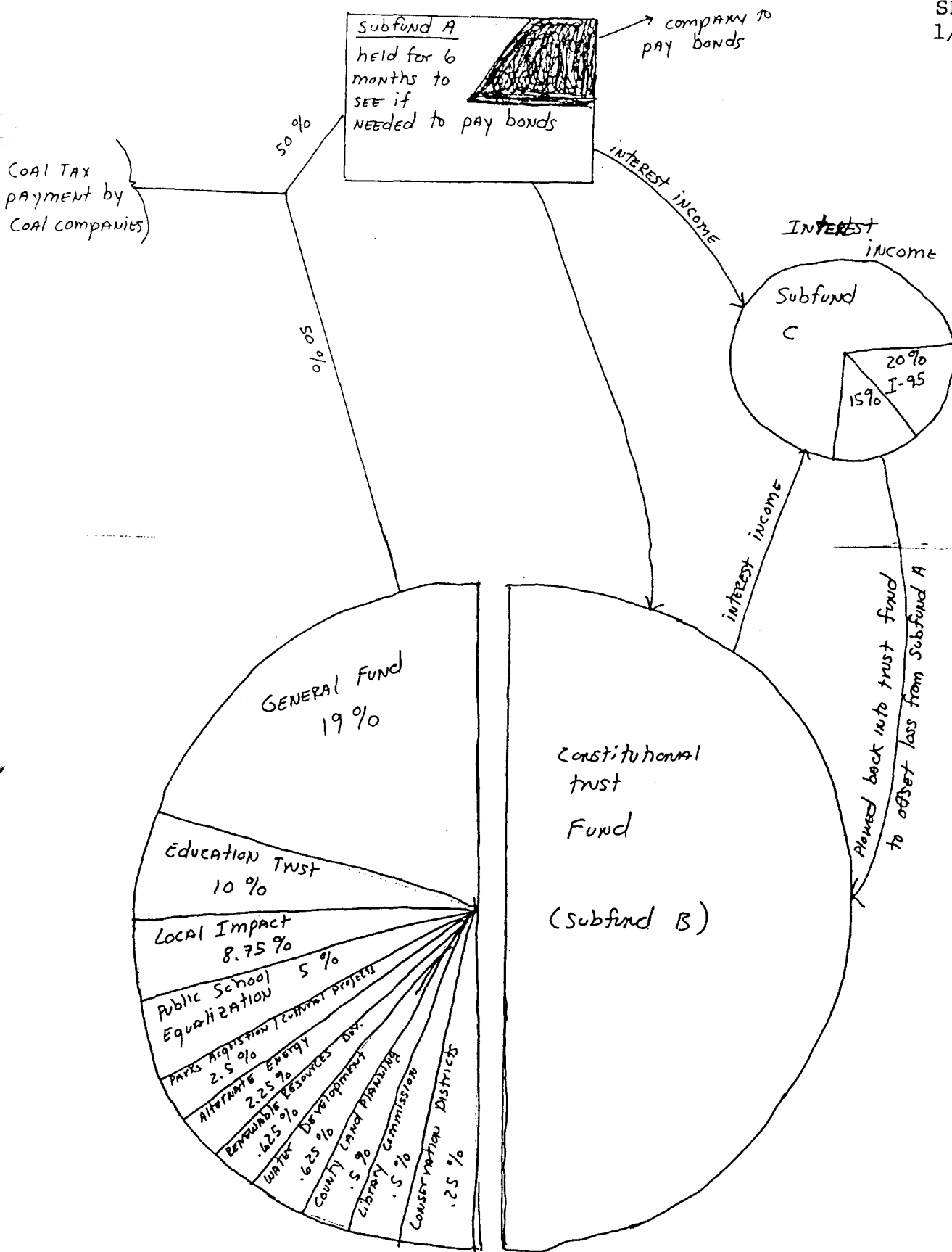
Testimony of Judy Curtis before the Senate Taxation Committee

January 14, 1983

The Office of the Legislative Fiscal Analyst views Senate Bill 96 as simply a clarification of current law: we see no fiscal impact resulting from modifications in the law as proposed by that bill.

In projecting revenues for the 1985 biennium, we have assumed that 15 percent of interest on the coal tax subfunds will be deposited into the permanent subfund. Senate Bill 96 would remove the need for a legislative appropriation to do this; instead, the state treasurer would be directed to initiate the deposit.

The bill also specified that the remaining 85 percent of subfund interest be deposited into the general fund unless the monies are otherwise appropriated. We have also assumed that 85 percent of the interest would be deposited in the general fund when making our revenue projections. The basis for this assumption is present law defining the treasury fund structure. That law states that the general fund consists of all moneys deposited in the state treasury which are available to defray the general costs of state government and which do not fall into any of the other funds defined in law. Since coal tax interest is not earmarked special revenue or debt service funds or any of the other funds listed in law, it must be general fund and we have treated it as such.



Senator's Towe's diagram referred to on page 4 of 1/14/83 minutes.

STANDING COMMITTEE REPORT

January 14

19 83

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 36

Respectfully report as follows: That Senate Bill No. 36

DO PASS

y/c