

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 24, 1983

The tenth 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 146: Senator Dave Manning, District 25, introduced SB 146 at the request of the Department of Natural Resources and Conservation (DNRC). DNRC has had 1 year and 7 months of experience with SB 409 from the 1981 session regarding the water development program in Montana. They are now proposing a few minor changes in the bill.

Senator Jack Galt, District 23, asked the committee to keep in mind that they are dealing with two pools of money: the coal severance tax constitutional trust fund and state-owned water project revenues.

PROPOSERS

Gary Fritz and Caralee Cheney, representing DNRC, testified in support of the bill, saying that the revisions are necessary to the more efficient operation of the water development program. Their written testimony is attached as Exhibit A to these minutes, and a diagram of the Montana Water Development Program is attached as Exhibit B.

Chad Smith, representing the Montana Land Improvement Contractors Association, agreed this bill was mostly a matter of clarification. He said the contractors look forward to participating in the program and that it is a good program for spurring the general economy of the state. They support SB 146.

K. M. Kelley, representing the Montana Water Development Association, also supported the bill.

Jo Brunner, who was not present at the meeting, had submitted a written statement in support of SB 146, and it is attached as Exhibit C.

OPPOSERS

There were no opposers to SB 146.

Questions from the committee were called for.

Senator Norman asked what projects there were so far and how much money was involved. Gary Fritz explained that there are two parts to the water development program. The smaller of those parts is also divided into two subparts--one from which grants and loans to private individuals are made, and the other from which the legislature can authorize grants and loans to public entities. An ancillary bill (now 17-5-719, MCA) allowed \$250 million worth of coal severance tax bonds to be used for water development projects and activities. He suggested putting together 11 or 12 projects in one appropriation from the legislature to be approved by vote of 3/4 of each house of the legislature.

Senator Norman said we are only talking about \$20-30 million this session and asked what requests were in the legislature now for them to consider.

Mr. Fritz stated that regarding SB 409 (Chap. 505, Laws of MT, 1981) last session, one of the major categories was rural water supply systems. There is one in Roosevelt County, one near Havre, and one in Geraldine. There are 3 state rehabilitation projects and 2 hydropower projects.

Senator Elliott asked if the foregoing were all self-sufficient money-producing projects. Senator McCallum asked if DNRC had first mortgages on these projects.

Caralee Cheney stated that their underwriters said they do not need a mortgage at this point.

Senator McCallum inquired whether the Daly ditch water project in Ravalli County came under this program. (See 85-1-401, et seq., MCA) Senator Severson responded that it did.

Chairman Goodover asked if HB 108, dealing with the Muddy Creek special water project, was involved in the water development program also. Mr. Fritz said HB 108 asks for money from the resource indemnity account to share the cost of a 7-year flood control and irrigation improvement program with irrigators. This would be allocated from the resource indemnity trust fund interest (85-1-604, 15-38-202, MCA) He said a separate bill is being introduced in addition to the Muddy Creek bill.

Senator Towe asked if the water development sinking account was being done away with. Ms. Cheney explained that the bond proceeds will go into the sinking account created by 85-1-603, MCA. If money is appropriated from the water development earmarked account, it can be used for loans and grants for water development projects after the debt service requirements are taken care of.

Senator Towe asked how the earmarked account was replenished if the sinking funds are needed. Ms. Cheney stated that the money passes through the coal severance tax fund and then goes into the water development earmarked account to replenish it. If there is enough money in the water development earmarked account, this passes over the sinking fund.

Ms. Cheney also stated that the proceeds from a bond issue would be used to cover loans that DNRC recommends. Money from the coal severance tax fund will be used to make the grants.

Senator Towe asked Ms. Cheney if they anticipate that bonds will pay for themselves.

Senator Gage asked where the Pondera County project came in as far as the water development program was concerned.

Senator Turnage said that revenue bonds are 1% higher than on general obligation bonds, which are now 9.5%, so, he said, we are talking about 10.5%. If they were 14%, would they still sell? The sponsor would be obliged to, Ms. Cheney said, and we are talking about 30-year bonds.

Senator Turnage told Ms. Cheney that they (DNRC) are going to be a captive audience of the bond people, no matter what the cost is to the state. He hoped there was some restriction. An 11% bond is just too generous.

Senator Eck stated that a lot of small towns have water projects they have been hoping for years to find a way to finance.

Senator Turnage remarked that the longer the term is, the harder the interest penalty. He wondered if a small bonding program with a series of smaller bond issues would be feasible. The underwriters say that the bigger the bond issue, the better off you are. If a smaller issue was feasible, a better interest rate and more local support could be obtained. Senator Towe said that D.A. Davidson insists that smaller issues have a better market and say it is cheaper if you can keep it under \$1 million.

Senator Manning then closed the hearing on SB 146.

CONSIDERATION OF SENATE BILL 96 (CONTINUED): Cort Harrington distributed two versions of amendments to SB 96--one, Senator Towe's, designated as "SB 0096/grey" and attached as Exhibit D to these minutes, and the other, Senator Elliott's, designated as "LC0104/01" and attached as Exhibit E. Senator Elliott moved that the amendments in LC 0104/01 do pass. The amendments make the Initiative 95 paragraph a little clearer, he said, and also take into consideration Senator Towe's comments.

Senator Towe objected, saying the language in LC 0104/01 made the bill not constitutional. " . . . the interest and income from which may be appropriated." "Appropriate" is the word that is necessary, not "deposit." We can't eliminate the coal severance tax income subfund.

Senator Elliott stated that the constitutional provisions provide an allowance by the legislature to make the appropriation, and since we cannot distribute without an appropriation, he said, he felt the legislature was within the constitutional limits.

Senator Mazurek asked why the legislature used the word "appropriate" last year and why now the legislature wants to change it. Senator Elliott said the purpose of the bill is to eliminate having to introduce an appropriations bill to transfer money from one fund to another.

Senator Brown asked if the only difference between the amendments was that an appropriations measure would have to be redrawn on Senator Towe's version, and on Senator Elliott's version, it wouldn't. Senator Elliott stated that he just wants to specify that these funds will get to the general fund for appropriation. Senator Crippen asked if the deposit is made first and then money appropriated, or if the appropriation was made first and then money deposited.

Senator Towe said that if his version is the correct one, the funds cannot be appropriated because it is earmarked; if Senator Elliott is right, it can be appropriated because it is not earmarked.


Senator Norman asked if the only problem was the constitutional question. Senator Towe said no, that the legislature should make a conscious decision each session where the funds are to go.

Senator Turnage thought a legislative fiscal analyst would say, assuming a general fund, this is what we have. (1) We are, in fact, treating the coal severance tax more importantly, and (2) we are avoiding the temptation of others coming in and asking for earmarked funds. Senator Towe agreed that not earmarking was a good policy.

Senator Towe made a substitute motion that the amendments set forth on SB 0096/grey do pass. (Neither the original motion nor this substitute motion were seconded.)

Chairman Goodover announced that Tuesday's meeting would commence at 8:30 a.m. instead of 9:00 a.m. The committee will continue discussion of Senator Gage's committee bill from 8:30 to 9:00, and consideration of HB 81 and other business will follow at 9:00 a.m.

Senator Mazurek moved that the committee adjourn, and it was so adjourned at 10:05 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 1/24/83

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	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE January 24, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

NAME (PLEASE PRINT)	REPRESENTING	BILL #	Check One	
			Support	Oppose
M. W. P. P.	Dept. of Labor			
Carroll Cheney	DNCA	146	X	
Gary T. L.		146	X	
Jack E. Galt		146	X	
H. M. Kelly	Water Development Board	146	X	
J. B. Bunker	WTFE	146	X	
M. B. Davis	League of Women Voters			
D. B. Bunker	Dept. of Revenue			
M. B. Bunker	Inter.			
Charles H. Smith	Marl Land Mfg Contractors Assn	146	X	

(Please leave prepared statement with Secretary)

NAME: K. M. Kelly DATE: 1/24/83

ADDRESS: Helena

PHONE: 458-5861

REPRESENTING WHOM? Montana Water Development Assn.

APPEARING ON WHICH PROPOSAL: SB 106

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

We support SB 106 and endorse
the concept of the Legislature controlling these
issues.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME :

DATE :

ADDRESS :

PHONE :

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Testimony of The Department of Natural Resources and
Conservation

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO THE
WATER DEVELOPMENT PROGRAM; AMENDING SECTIONS 17-5-704, 85-1-604,
85-1-605, 85-1-613, 85-1-616, 85-1-617, MCA; AND PROVIDING FOR
SEVERABILITY WITHIN THE PARTS OF THE ACT AND AN EFFECTIVE DATE
OF JULY 1, 1983.

The Department supports this bill and its components, as
it contains revisions that are necessary to the more efficient
operation of the Water Development Program.

Changes within the various Sections of the bill are
supported as follows:

Section 1: Wording is added to 17-5-704 to clarify the
authority of the legislature to appropriate funds from the coal
severance tax income fund.

This addition is necessary to clarify the legislative
authority.

Section 2: 85-1-604 is amended so that the principal and
interest received in loan repayments as well as fees and charges
for the servicing of loans are deposited in the existing water

development earmarked account. This money will in turn be made available for approved projects and for some administrative expenses incurred by the department.

Loan repayments must not be deposited to the sinking fund as the law now reads, or the tax exempt status of the bonds will be threatened.

Section 3: Wording added will allow the department to set up an administrative procedure to review projects which will require legislative approval prior to the issuance of coal severance tax bonds for financial assistance to public entities.

This session, applicants will be coming directly to the legislature with projects which have not been reviewed for technical, economic, or financial feasibility. Lack of this review will place the legislature in the difficult position of having to make funding decisions with inadequate information. The proposed change will be consistent with the current Water Development Program procedures and will make the department responsible for reviewing such funding applications and providing recommendations to the legislature.

Section 4: This section will amend 85-1-613 by raising the maximum limit on water development loans to \$200,000.

By raising maximum loan limits from \$100,000 to \$200,000, the Water Development Program will be better able to provide a more realistic level of funding consistent with today's economy, and the amount of funds necessary to implement construction of small to moderate size water development projects.

available to private individuals
→ public entities

Section 5: Complements Section 2 in that it also dictates that fees and charges are deposited in the water development earmarked account. *(now goes into general DNR acct.)*

Section 6: As in Section 2, this section will change where principal and interest received from loans made from bonds are deposited. The change is from the water development sinking fund to the water development earmarked account.

Section 7: This Section provides for severability between the various parts of this act. Under this section, if a part of this act is found invalid, all valid parts that are severable from the invalid part remain in effect. In addition, if a part of this act is found invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 8: This section provides for an effective date of July 1, 1983 on the contents of this act.

MONTANA WATER DEVELOPMENT

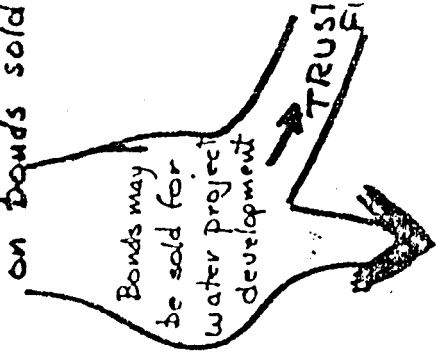
PROGRAM

409

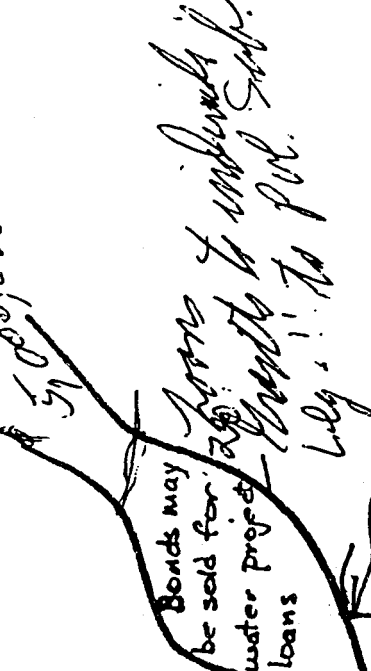
STATE-OWNED WATER PROJECT REVENUES \$300,000/year
 30% RESOURCE INDEMNITY TRUST FUND INTEREST \$650,000/year
 .625% COAL SEVERANCE TAX \$800,000/year

Bonds.

\$500 million limit on bonds sold



WATER PROJECT DEVELOPMENT



WATER DEVELOPMENT ACCOUNT

- Water development loans and grants
- Offstream Storage development
- Yellowstone River basin reservation development
- State-owned dam rehabilitation
- Recreation Projects
- Indian - State Water Projects

WIFE Women Involved in Farm Economics



NAME JO BRUNNER BILL NO. SB 146
ADDRESS 563 3rd St. Helena DATE JAN. 24, 1983
REPRESENT WOMEN INVOLVED IN FARM ECONOMICS
SUPPORT x OPPOSE AMEND

COMMENTS:

mr. chairMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JO BRUNNER AND I
SPEAK TODAY FOR THE MEMBERS OF THE WOMEN INVOLVED IN FARM ECONOMICS
ORGANIZATION.

MR. CHAIRMAN, THE MEMBERS OF THE W.I.F.E. ORGANIZATION ARE IN
AGREEMENT WITH THE PROPOSED CHANGES IN THESE SECTIONS OF THE
WATER DEVELOPMENT PROGRAM AND ASK A DO PASS FROM THIS COMMITTEE.
THANK YOU.

1 SENATE BILL NO. 96

2 INTRODUCED BY ELLIOTT, WINSLOW, ROUSH

3 BY REQUEST OF THE COAL TAX OVERSIGHT COMMITTEE
4

5 A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE
6 DISPOSITION OF COAL SEVERANCE TAX CONSTITUTIONAL TRUST
7 INTEREST AND EARNINGS; PROVIDING FOR DEPOSIT OF CERTAIN
8 INTEREST AND EARNINGS IN THE STATE GENERAL FUND; AMENDING
9 SECTIONS 17-5-703 AND 17-5-704, MCA; AND PROVIDING AN
10 EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:13 ~~Section 17-5-703, MCA, is amended to read:~~14 ~~"17-5-703. Coal severance tax trust subfunds ---~~

15 ~~transfers. (1) The trust established under Article IX,~~
16 ~~section 5, of the Montana constitution shall be composed of~~
17 ~~the following subfunds:~~

18 ~~(a) a coal severance tax bond subfund into which the~~
19 ~~constitutionally dedicated receipts from the coal severance~~
20 ~~tax shall be deposited; and~~

21 ~~(b) a coal severance tax permanent subfund; and~~22 ~~(c) a coal severance tax income subfund;~~

23 ~~(2) On each December 31 and June 30 the state~~
24 ~~treasurer shall transfer to the coal severance tax permanent~~
25 ~~subfund all money in the coal severance tax bond subfund~~

1 ~~except the amount necessary to meet all principal and~~
 2 ~~interest payments on bonds payable from the coal severance~~
 3 ~~tax bond subfund on the next ensuing semiannual payment~~
 4 ~~dates."~~

5 Section 1. Section 17-5-704, MCA, is amended to read:

6 "17-5-704. Investment of funds ~~---disposition of~~
 7 ~~earnings.~~ (1) Money in the coal severance tax bond subfund,
 8 ~~and the coal severance tax permanent subfund and the coal~~
 9 ~~severance tax income subfund, AND THE COAL SEVERANCE TAX~~
 10 INCOME SUBFUND must be invested in accordance with the
 11 investment standards for coal severance tax funds ~~except as~~
 12 ~~provided in subsection (2); income and earnings from all~~
 13 ~~subfunds must be transferred to and retained in the coal~~
 14 ~~severance tax income subfund EXCEPT AS PROVIDED IN~~
 15 SUBSECTION (2). INCOME AND EARNINGS FROM ALL SUBFUNDS MUST
 16 BE TRANSFERRED TO AND RETAINED IN THE COAL SEVERANCE TAX
 17 INCOME SUBFUND.

18 (2) Beginning on July 1, 1983, the legislature ~~state~~
 19 ~~treasurer~~ LEGISLATURE shall appropriate ~~deposit~~ APPROPRIATE
 20 AS FOLLOWS:

21 (a) ~~15% of the income and earnings from all subfunds~~
 22 ~~to be deposited to in~~ TO BE DEPOSITED TO the coal severance
 23 tax permanent subfund ~~each year.~~ EACH YEAR; and

24 (b) AN AMOUNT TO BE DETERMINED BY THE LEGISLATURE TO
 25 BE DEPOSITED TO THE ECONOMIC DEVELOPMENT FUND ESTABLISHED BY

1 [INITIATIVE 95]: AND

2 ~~fbt(C) the balance of-the-income-and-earnings-from-all~~
 3 ~~subfunds-not--otherwise--specifically--appropriated--in--the~~
 4 ~~state--general--fund~~ TO BE DEPOSITED TO THE GENERAL FUND AND
 5 BE AVAILABLE EACH BIENNIUM FOR APPROPRIATION BY THE
 6 LEGISLATURE AND SUCH FUNDS MUST BE SEPARATELY APPROPRIATED.

7 (3) The funds appropriated ~~deposited~~ APPROPRIATED to
 8 the coal severance tax permanent subfund under this
 9 subsection (2)(a) may not be further FURTHER appropriated
 10 except by vote of three-fourths of the members of each house
 11 of the legislature."

12 NEW SECTION. SECTION 2. NONSEVERABILITY. IT IS THE
 13 INTENT OF THE LEGISLATURE THAT EACH PART OF THIS ACT IS
 14 ESSENTIALLY DEPENDENT UPON EVERY OTHER PART. IF ONE PART IS
 15 HELD UNCONSTITUTIONAL OR INVALID, ALL OTHER PARTS ARE
 16 INVALID AND 17-5-704 IS NOT AMENDED IN ANY MANNER BY THIS
 17 ACT.

18 NEW SECTION. Section 3. Effective date. This act is
 19 effective July 1, 1983.

-End-

48th Legislature

LC 0104/01

_____ BILL NO. _____

INTRODUCED BY Elliott

BY REQUEST OF THE COAL TAX OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO CHANGE THE DISPOSITION OF COAL SEVERANCE TAX CONSTITUTIONAL TRUST INTEREST AND EARNINGS; PROVIDING FOR DEPOSIT OF CERTAIN INTEREST AND EARNINGS IN THE STATE GENERAL FUND; AMENDING SECTIONS 17-5-703 AND 17-5-704, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

Section 1. Section 17-5-703, MCA, is amended to read:

"17-5-703. Coal severance tax trust subfunds -- transfers. (1) The trust established under Article IX, section 5, of the Montana constitution shall be composed of the following subfunds:

(a) a coal severance tax bond subfund into which the constitutionally dedicated receipts from the coal severance tax shall be deposited; and

(b) a coal severance tax permanent subfund, ~~and~~

~~(c) -- a coal severance tax income subfund.~~

(2) On each December 31 and June 30 the state treasurer shall transfer to the coal severance tax permanent subfund all money in the coal severance tax bond subfund

except the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond subfund on the next ensuing semiannual payment date."

Section 2. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds -- disposition of earnings. (1) Money in the coal severance tax bond subfund, and the coal severance tax permanent subfund, ~~and the coal severance tax income subfund~~ must be invested in accordance with the investment standards for coal severance tax funds ~~except as provided in subsection (2) -- Income and earnings from all subfunds must be transferred to and retained in the coal severance tax income subfund.~~

(2) Beginning on July 1, 1983, the legislature state treasurer shall appropriate deposit:

(a) 15% of the income and earnings from all subfunds ~~to be deposited to~~ in the coal severance tax permanent subfund ~~each year;~~ and

(b) an amount to be determined by the legislature in the economic development fund established by [initiative 95];
and

~~(b)~~ (c) the balance of the income and earnings from all subfunds not otherwise specifically appropriated in the state general fund.

(3) The funds appropriated deposited to the coal severance tax permanent subfund under ~~this~~ subsection (2) (a) may not be ~~further~~ appropriated except by vote of three-fourths of the members of each house of the legislature."

NEW SECTION. Section 3. Deposits to general fund available for appropriation. The funds deposited to the general fund under 17-5-704(2)(c) are available each biennium for appropriation by the legislature.

NEW SECTION. Section 4. Nonseverability. It is the intent of the legislature that each part of [this act] is essentially dependent upon every other part. If one part is held unconstitutional or invalid, all other parts are invalid and 17-5-703 and 17-5-704 are not amended in any manner by this act.

NEW SECTION. Section 5. Effective date. This act is effective July 1, 1983.

-End-