

66

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 23, 1983

The fifty-second meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present except Senator Brown.

CONSIDERATION OF HOUSE BILL 582: Representative Dean Switzer, House District 54, sponsored this bill, which clarifies the deduction provisions of the net proceeds tax on mines applicable to nonmetallic mines and mining claims. He noted that the House had made some amendments to tie administrative costs to Montana operations.

PROPOSERS

Tom Dale, representing the Montana Mining Association, submitted written testimony attached as Exhibit A.

Earl Lovick, representing W. R. Grace & Co., Libby operations (vermiculite mine), submitted written testimony attached as Exhibit B.

Glenn Keyes, representing Pfizer Incorporated, Dillon, submitted written testimony, attached as Exhibit C.

Ward Shanahan, a member of the tax committee of the Montana Mining Association, referred the committee to pages 3 and 4 of the bill. The net proceeds tax is contained in two sections--one tells what it is and the other tells how it is computed. The tax section doesn't actually match the computation section. More insurance deductions are specified at lines 11-14 on page 3. Lines 20-22, page 3, and lines 11-14, page 4, relate to one another in regard to administrative costs. Lines 11-14 on page 4 explain what the administrative cost deduction is. The argument is what the word "necessary" on line 9, page 4 means. The companies say certain things are necessary and the Department of Revenue has disputed this. Under the Mine Health and Safety Act which we are required to abide by, reclamation of mines is necessary and so makes the engineering and geological services necessary. You can say that maintaining claims are a necessary part of the work. One determination pointed out was whether asbestos was present. They are required to remove asbestos from the materials, and the Department of Revenue has denied that deduction.

Cyprus Industrial Mineral Company also supported HB 582. See Exhibit D.

OPPONENTS

Dan Bucks, representing the Department of Revenue, discussed the nature of the net proceeds tax as the Department of Revenue has interpreted it over the past 60 years. The mining property is taxed on the basis of productivity. It is not an income tax. It was not intended that all of the necessary costs of being in business be deducted from the net proceeds tax. Those costs were the costs of extracting minerals. Overhead administrative costs are costs of being in business but don't vary with the nature of the deposits.

Mr. Bucks referred to the court cases discussed on Exhibit E. The 1924 case of Anaconda Copper Mining Company v. Junop provides that allowable deductions are those that vary with the nature of the deposit, not with the nature of the company. As HB 582 passed the House, it had a fiscal cost of \$600,000 a year. Removing taxes as a deduction will make a difference of about \$300,000. That leaves administrative costs and insurance costs. The additional insurance costs are a positive step; the Department didn't object to that. It will simplify administration, he said. But they cannot support the current provisions on administrative costs. Sections 1 and 2 are not consistent--section 1 is limited to Montana and section 2 is not. Section 2 will probably increase litigation regarding clerical costs, financial planning operations, etc., both inside and outside Montana. We think it is inherently difficult to decide what portion of time actually pertains to the Montana mining operations. We agree that tremolite testing should be an allowable cost.

Mr. Bucks submitted proposed amendments, attached as Exhibit F, saying they add certain deductions, but administrative costs would be excluded. We are agreeable to deducting assaying, sampling, geological, and engineering costs in Montana because they are costs that arise directly from the extraction of the minerals and can vary with the nature of the minerals. Final determinations on the years in question (1977-79) have just or not yet been issued. There is no pending litigation to their knowledge at this time.

Questions from the committee were called for.

Senator Towe asked Representative Switzer if he intended to take out taxes on page 5 to reduce the impact, and Representative Switzer said yes, he did.

Senator Towe asked him how he responded to the Department of Revenue's position on administrative expenses. Representative Switzer said it's like any other business. Administrative expenses include what Mr. Bucks addressed as far as the cost of doing business is concerned. It would remove the adverse position they have on the hard-rock mining industry.

Senator Towe stated that the Department says it is not their concern that there is litigation where taxpayers are claiming deductions not now allowed in the statutes.

Representative Switzer felt the Department's amendments indicate that they do accept to some degree some of the costs not now allowed.

Ward Shanahan noted that the Cyprus Mines case (discussed in Exhibit E) used a formula to separate the costs of the office from the cost of mining. It contained a lot of home office expenses but it did not say costs attributable to the Montana operation couldn't be deducted. The Cyprus Mines case deals with subsection (4) on page 5 of the bill, which appears in only one of the two sections of the bill. If a geologist comes to Montana to perform services attributable to the Montana operation, that should be deductible.

Senator Crippen wondered if the amendments on Exhibit F(1) were proposed in the House, and Dan Bucks said no, they were not.

Senator Crippen said that notwithstanding the court cases, the Department of Revenue's position then is that they can accept these deductions. If we should pass this bill, will the Department of Revenue accept that as the decision of the legislature? Mr. Bucks replied that the current provisions on administrative costs are not workable. We are reflecting statutory case law.

Senator Crippen stated that his question goes back to the original concept, not to the Department's philosophy of the net proceeds tax. It is our decision what it is.

Senator Norman stated that he knows a person who works for Cyprus Mines looking for ore samples. He goes to mine shafts, etc., in Arizona, Nevada, Wisconsin, for example, and occasionally in Montana. That should be part of the cost of finding metal. Where does he appear in this when most of what he is doing is not in Montana? Mr. Bucks said that time and expense records could be kept related to that. It is segregated through accounting records.

Don Hoffman, from the Department of Revenue, said they do audits based on records in the company to show what an individual is doing. If an individual is not working on extraction of mineral ore on a Montana mine, the Department would not allow the deduction.

Senator Eck asked Mr. Bucks what the difference was in the process of figuring net proceeds tax on nonmetal mines and for other operations. Mr. Bucks said the process is similar. The value of the gross product is taken and costs are deducted according to law to arrive at the net proceeds. The Department follows what they believe to be the statutory and case law in each case.

Senator Eck asked if administrative costs (clerical, etc.) were allowable on other proceeds taxes, and Mr. Bucks replied no, they were not.

Senator Towe stated that if you look at 15-23-603, MCA, the net proceeds for oil and gas language is verbatim except for "mine" operations and developments and the addition of administrative and other insurance expenses. If you accept that for mines, I guess we have to look at oil and gas, too. Mr. Bucks indicated there would be a very large cost involved in doing that.

Ward Shanahan stated that there was a tax deduction granted when the bill was originally drafted. In oil and gas and coal net proceeds, there are deductions with respect to taxes that aren't in this bill now. There is a series of federal tax deductions that have to do with federal tax computations also. See his proposed amendment attached as Exhibit F(2).

Senator Towe thought we were moving from a net to a gross proceeds tax and that maybe we should do so for the others, too. Mr. Shanahan said he didn't recommend that at this time.

Senator Gage pointed out that at the time this law was first enacted, we had no environmental regulations like we have today. Those are necessary today, and it is a cost of extraction. He felt the statute needed some updating. Mr. Bucks said the suggested amendments to the bill have taken that into consideration and will do that. We are not trying to inflict departmental philosophy here. We don't believe the office costs are appropriate and fall in that category of law we are talking about.

Senator Lynch asked Mr. Shanahan if he would be amenable to including the "in Montana" language. Mr. Shanahan replied that Pfizer in Dillon was a bulk producer. They brought their mining operations into Montana from Utah and other states. We then got into an argument with the Department of Revenue, Pfizer Incorporated v. Madison County, about the difference between "mining" and "manufacturing" and what is "necessary." The Department of Revenue took one position and we took another.

Glenn Keyes, plant controller from Pfizer, explained that the administrative costs he was referring to were for the payroll clerk. He must pay his miners, he said. Up to 1977, the payroll clerk was a legal deduction. As soon as they got a computer, they lost the deduction. He said he is talking about the girl who prepares the checks here in Montana after she gets the information from the computer from out of state--her costs of sitting in Dillon. If she was on site up at the mine, she would be deductible. Mr. Bucks stated that the problem isn't with the payroll clerk; it is with the computer outside the state. You are dealing with companies that both mine, reduce and beneficiate minerals, and also manufacture. The Cyprus Mines case says minerals are not to be valued past the beneficiation stage. Management sciences and other operations of the company are very difficult to break out from extraction, reduction and beneficiation of minerals in Montana

on the computer that is utilized for the whole company's operations. It is not workable administratively to pick those costs out. That is the problem.

Senator Gage wondered if the committee could work with the Department of Revenue to come up with a percentage factor in lieu of costs. Mr. Shanahan said that they proposed .3 and .4 to the Department.

Senator Towe asked Mr. Keyes if he was seeking to have the payroll clerk's whole salary deducted, and Mr. Keyes said no, just regarding the mining checks.

Representative Switzer closed, saying the need for the bill has been demonstrated.

The hearing on HB 582 was closed.

CONSIDERATION OF HOUSE BILL 446: Representative Dave Brown, House District 83, said the hard-rock mining subcommittee's study found that impacted areas need proper funding. This bill allocates the metalliferous mines license taxes two-thirds to the general fund and one-third to the hard-rock mining impact trust account beginning July 1, 1985. New section 2 provides the bases for awarding grants and loans from the impact trust account. The trust account will be maintained on a county-to-county basis. The deletion of 15-1-501(1)(c) on page 4 is to make this section consistent with the new language on page 1 of the bill. The amendment in section 5 on page 5 adds impacted local governments to the beneficiaries of the metal mines tax. Section 6 offers a slight change in the way the tax is computed. A small miners' exemption is provided. Section 8 establishes the hard-rock mining impact trust account within the earmarked revenue fund. Section 9 authorizes the hard-rock mining impact board to award grants or loans in accordance with the other provisions of this bill. Mining began in Montana in 1864; we have been 119 years without this legislation. He said he hoped that in the future we won't have to face the impact problems that Butte has today.

PROPONENTS

Gary Langley, representing the Montana Mining Association, submitted written testimony attached as Exhibit G.

Ward Shanahan, representing Stillwater PGM Resources, submitted written testimony, attached as Exhibit H.

George Bennett, representing ASARCO, supported the bill, saying their Troy mine has been operating since before the War of the Copper Kings. This bill, and HB 718 from the 1981 session, redefine mining in this state. Mining is cyclical. Mining in the future in Montana will be on a smaller scale. See Exhibit I.

John Peterson, representing Golden Sunlight Mine (Pfizer Amex), supported the concept of HB 446 and endorsed the comments of Representative Brown and the other proponents. After their mine completes production, they will provide for the local community suffering any tail end impacts.

Mark Ledbetter, representing the Northern Plains Resource Council, said HB 718 from the 1981 session solved a lot of problems and this one will solve even more. Tail end impacts are a serious problem in Montana. In Sweetgrass and Stillwater Counties, there was a sudden collapse in the tax base when the mine shut down, and bonds were left unpaid, etc. The costs of closure would be dumped on ranchers to pay. These problems are expensive. The new mine in Whitehall may be grossing \$30 million a year. HB 446 would set aside \$2 million to take care of the effects when the mine closes. Two million dollars doesn't go very far. There is some money here though, so we will support it, he said.

Jim Richards, from Stillwater County, said the county commissioners are in favor of the bill.

Carol Ferguson, on behalf of the Hard-Rock Mining Impact Board, said she wouldn't take a stand on the substance of the bill. She said she was familiar with the responsibilities under the bill and can accept them.

OPPONENTS

There were no opponents to HB 446.

Questions from the committee were called for.

Senator Towe wondered how much would be available in July of this year and if the \$.5 million that the Anaconda Company will pay would go into the impact trust fund. He suggested maybe \$150,000 would be available under this bill.

Senator Lynch asked Representative Brown if impacts relating to suspension were included as well as those occurring because of a shutdown. Representative Brown thought they would be.

Representative Brown urged that any amendments to the bill be just technical ones and nothing else. He said that if the committee wanted to put the allocation to the account back to 33% (the House amended it to 11% through June 30, 1985; then to 33% thereafter), that would be acceptable.

Senator Towe said that his bill, SB 299, would allow borrowing from the educational trust fund, but Representative Brown said he didn't like trading accounts between sources of money.

The hearing on HB 446 was closed.

Senator Norman moved that HB 446 BE CONCURRED IN. The motion was seconded.

Senator Towe then submitted to the committee a comparison of nonferrous metal prices, attached as Exhibit J. He said he would submit to the committee amendments which would (1) increase the taxing on a sliding scale, and (2) authorize borrowing from the coal tax funds. He said he wanted to prevent the taking of \$450,000 from the general fund this year by providing a means of recovery. The budget office has understated the estimates for hard-rock mines this year. He said Representative Brown's figures are more accurate. That money is scheduled to go to the general fund. Senator Towe said his amendments would add a way of recouping the money without touching the general fund.

The committee then discussed borrowing from the coal tax fund. Some thought the money should be used without having to pay it back; other thought it should be paid back to the coal tax fund if it is used.

Senator Crippen suggested that in all fairness to Senator Towe, the committee should let him submit his amendments tomorrow.

Senator Mazurek moved that the committee pass consideration of HB 446 for the day. The motion was seconded and passed, with Senator Norman voting no.

Senator Turnage reminded the committee that if we get into the trust fund, we need a 2/3 vote.

The meeting adjourned at 10 a.m.

Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 3/23/83

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 March 23 , 1983

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
GEORGE T. ...	ASL ...	446	✓	
JOHN L. Peterson	Golden Sunlight Mine	446	✓	
WARD SHAWHAN	STILLWATER DGM	446	✓	
" " "	MONTANA MINING ASSN	582	✓	
Fad Dale	Mont Min Assoc	582	AS AM'D	
Glenn Kenner	FLANK INC	582	AS AM'D	
Wm J. McCaig	W. R. GRACE & Co.	"	AS AM'D	
"	"	446	✓	
Earl D. Herick	W. R. Grace & Co	446	✓	
Earl D. Herick	" " " "	582	✓	
Fad Dale	Mont Min Assoc	446	✓	
Yore A. ...	Mont Mining Assn	446	✓	
Yore A. ...	Mont Mining Assn	582	✓	
Dave Brown	Sponsor Rep Dist 3	446	✓	
Dean ...	Sponsor Rep Dist 54	582	✓	
Carol ...	Handbook ...			
Lo ...	Stillwater ...	446	✓	
Jim ...	Stillwater ...	446	✓	
Marc ...	NDRC	446	✓	

(Please leave prepared statement with Secretariat)

March 23, 1983House BILL/RES. 582

TESTIMONY OF THE MONTANA MINING ASSOCIATION
ON HOUSE BILL 582
BEFORE THE SENATE TAXATION COMMITTEE
MARCH 23, 1983

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS THOMAS A. DALE. I AM PRESIDENT OF THE MONTANA MINING ASSOCIATION AND I AM EMPLOYED BY PFIZER, INC. WHICH OPERATES A TALC MINE NEAR DILLON.

I SPEAK TODAY IN BEHALF OF THE MONTANA MINING ASSOCIATION WHICH REPRESENTS EVERY MAJOR PRODUCER OF NON-METALLIC MINERALS IN MONTANA.

I APPEAR IN SUPPORT OF HOUSE BILL 582.

HOUSE BILL 582 IS MERELY AN ATTEMPT TO CLARIFY THAT ESSENTIAL BUSINESS EXPENSES ARE ALLOWABLE DEDUCTIONS IN CALCULATING THE NET PROCEEDS OF MINES TAX.

THE NON-METALS MINING INDUSTRY PAYS REAL AND PERSONAL PROPERTY TAXES JUST LIKE EVERY OTHER TAXPAYER.

THE NET PROCEEDS OF MINES TAX IS A TAX UNIQUE TO THE NON-METALS MINING INDUSTRY AND IN ADDITION TO OTHER PROPERTY TAXES.

HOUSE BILL 582 DOES NOT IN ANY WAY REPRESENT ANY FORM OF TAX RELIEF. IT IS SIMPLY MEANT TO CLARIFY WHAT WILL BE ALLOWABLE DEDUCTIONS TO ARRIVE AT A NET PROCEEDS BECAUSE IN PAST YEARS THERE HAS BEEN AN INCONSISTENCY IN THE INTERPRETATION OF NET PROCEEDS DEDUCTIONS.

PASSAGE OF HOUSE BILL 582 WILL NOT RESULT IN A LOSS TO LOCAL GOVERNMENTS. SEVERAL NON-METALLIC PRODUCERS ARE EITHER IN LITIGATION OR NEGOTIATIONS WITH THE DEPARTMENT OF REVENUE ON THE INTERPRETATION OF PROPER DEDUCTIONS. ANY LOSS OF REVENUE CITED BY THE DEPARTMENT SIMPLY REPRESENTS THEIR POSITION ON THE NEGOTIATIONS AND LITIGATIONS.

THE NET PROCEEDS OF MINES LAW AS IT EXISTS TODAY IS OLD AND ARCHAIC. HOUSE BILL 582 BRINGS THE LAW INTO COMPLIANCE WITH MODERN BUSINESS PRACTICES.

THE MONTANA MINING ASSOCIATION URGES THAT THIS COMMITTEE GIVE HOUSE BILL 582 FAVORABLE CONSIDERATION.

THANK YOU.

GRACE

SENATE TAXATION COMMITTEE
EXHIBIT B
March 23, 1983
Zonolite House BILL/RES. 582
Construction Products Division
March 23, 1983

I am Earl D. Lovick, Manager of Administration for the W. R. Grace & Co., Libby Operations where we have a producing vermiculite mine. We are subject to the Net Proceeds law and are in support of HB 582.

The net proceeds law is old and archaic. It was designed when mines were simple compared to what they are today. Costs were easy to identify and isolate as pertaining to the mining and milling of ore. This is no longer true. This bill defines deductibility of necessary costs of conducting the business of mining, milling and selling minerals which at the present time are unclear or controversial.

The following are examples of essential costs which should be deductible items for computing net proceeds of mines for property tax purposes:

1. Boiler and machinery insurance and public liability insurance, incidental to the mining and milling operation.
2. Costs of welfare and retirement fund payments.
3. Administration costs attributable to the support of the mine or to the concentration process.
4. Costs for office, clerical, plant security, engineering, geological, assaying and sampling services, and those administration costs pertaining to the support of the Montana mine and the reduction or beneficiation process.

Examples of those necessary costs and services which are essential to the mine operation, but which may be removed from the mine site are: research necessary to improve the metallurgical recovery process, the end result of which is preservation of a resource; and, the testing and analysis of tremolite asbestos from the concentrate which is a hazardous substance and which must meet standards adopted by MSHA (Mine Safety & Health Administration) and by NIOSH (National Institute of Occupational Safety & Health); and, administration costs which covers such items as preparation of payroll, purchasing of necessary supplies and materials; accounting for all aspects of the operation; and operating computers which record the statistical data of ore deposits, ore mining plans, and control mining areas and mill feed.

In short, this bill is amending existing laws as a housekeeping matter only and brings this law into compliance with modern techniques of doing business.

Furthermore, it should end the changing interpretation of allowable deductions each time there is a change of personnel in the Department of Revenue.

While the net proceeds tax is a property tax and is assessed in this manner rather than trying to assess the value of the deposit itself, I would like to draw attention to the name "Net Proceeds". Its taxable value is at 100% of the net proceeds, it is not intended that the mine should be taxed at 100% of gross proceeds. We believe this bill is fair and will make the administration of this tax simpler.

Earl D. Lovick

March 23, 1983House BILL/RES. 582**MINERALS, PIGMENTS & METALS DIVISION**

P. O. BOX 1147, DILLON, MONTANA 59725

06) 683-4231

March 21, 1983

Mr. Chairman, Members of the Taxation Committee

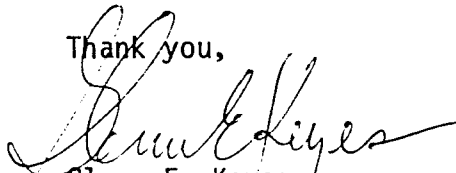
I am Glenn E. Keyes, Plant Controller for the Pfizer Incorporated Barretts plant near Dillon. Our operation mines and mills talc. I wish to voice my support for HB 582.

It is the intent of the bill to remove the uncertainties over deductions for mining costs. The Department of Revenue has challenged our company's claims to many costs which are reasonable and necessary for any modern mining operation to be successfully maintained. For example:

1. Although the cost of conversion of the product into money has been in the act for many years, the department continues to disallow expenses related to this cost.
2. Although clerical, accounting, security, engineering, and geological services are all necessary to our mining operation, disputes have arisen between the company and the department as to what "necessary" means...and whether it includes these labor costs. HB 582 would serve to clarify these deductions and would take the bias of interpretation out of the present method of calculation.
3. The "net proceeds tax" is a property tax on a basic industry just like agriculture. But agriculture is given the benefit of valuing its property on "productivity" rather than a market value. These deductions in this bill achieve the same effect for non-metal mining. They achieve a productive value yielded to the producer, rather than a value which fails to reflect the costs of production. Although it is computed in a similar way to the income tax, it is paid to the county and local government.

I respectfully urge your favorable consideration of this bill.

Thank you,

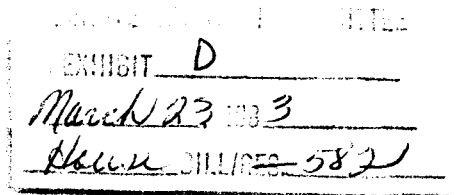

Glenn E. Keyes
Pfizer Incorporated
Plant Controller

GEK/dj

Cyprus Industrial Minerals Company

Highway 287
Ennis, Montana 59729
Telephone 406) 682-4275

Post Office Box 516
TWX 910) 963-2028



March 1, 1983

Senate Taxation Committee
Capitol Station
Helena, Montana 59620

Dear Mr. Chairman and Fellow Members:

Cyprus Industrial Minerals Company would like to express their complete support of HB 582 and HB 717. We feel that both of these bills provide:

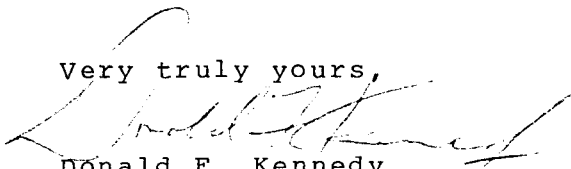
Stimulation to the mining industry to expand or increase production facilities which means more jobs for Montanans.

A more equitable means to calculate the actual costs of doing business.

Minor overall impact as it effects only a few counties in the state.

Also, we oppose SB 299 and HB 829 as both of these bills will just add another tax burden to the metal mines and cause further degradation to an important Montana and national industry.

Very truly yours,



Donald F. Kennedy
Manager, Mines
DFK/tw

CC: Senate Taxation Committee Representatives

Pat Goodover	Tom Hager
George McCallum	Mike Halligan
Bob Brown	J. D. Lynch
Bruce Crippen	Joseph P. Mazurek
Dorothy Eck	Bill Norman
Roger Elliott	Elmer Severson
Delwyn Gage	Thomas F. Towe

CYPRUS

DEPARTMENT OF REVENUE

SENATE TAXATION COMMITTEE

EXHIBIT E

March 23, 1983

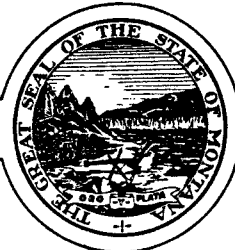
House BILL/RES. 582

MITCHELL BUILDING

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

HELENA, MONTANA 59620



March 22, 1983

MEMORANDUM

TO: Dan Bucks
Deputy Director Operations

FROM: Don Hoffman, Chief *D.O.*
Natural Resource Bureau
Natural Resource & Corporation Tax

SUBJECT: H. B. 582 - pertinent court cases

- 1) Anaconda Copper Mining Co. v. Junop (decided July 7, 1924). In this decision the court held that taxes and fire insurance are not deductible in determining the net proceeds of mines.

They specifically stated:

"We are of the opinion that the words "actual cost" in both instances were used in a restricted sense; that is to say, in case of extracting ores from the mine, not all, but only the direct, costs and expenses were contemplated as deductible items."

"It was the aim and intention of the legislature to fix some definite and uniform basis for the determination of net proceeds of mines for taxation purposes. This it has done by authorizing deductions of only actual costs. It was not its intention to permit deduction of every conceivable item of expense."

- 2) Pfizer, Inc. v. Madison County (decided January 19, 1973). In this particular case the issue before the court was the value of talc in Montana. However, in deciding this case, it provided language that clearly provides guidance as to when the "mining" deductions stop.

The court provided:

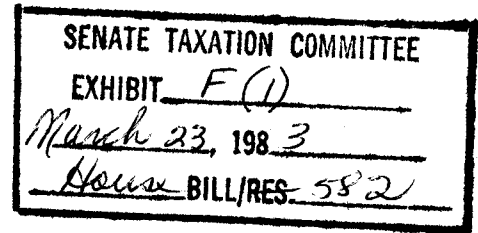
"Only deductions for the mining operation will be allowed up through the beneficiation stage. All other expenses will be incurred as to the manufacturing process."

- 3) Cyprus Mines Corporation v. Madison County (decided March 7, 1977). In this case the issue was the allocation method used to determine cost of marketing and conversion into money. Included in this calculation were such things as administration, production, engineering, accounting, data processing and research and development.

The court held:

"Taxpayers' allocation formula fails to meet the test of definiteness and uniformity contemplated in section 84-5403, R.C.M. 1947. Taxpayer failed to allocate the actual costs which it incurred in the mining of talc, when determining the net proceeds of its Yellowstone and Beaverhead Mines."

Amend H. B. 582 as follows:



- 1) Title, page 1, line 4

Following: An act to
Strike: clarify the deduction provisions of
Insert: provide additional deductions on

- 2) Title, page 1, line 4

Following: proceeds
Strike: tax on
Insert: of

- 3) Section 1, page 3, line 20

Insert: New subsection 14 to read:
Cost of testing extracted minerals for the purpose
of satisfying federal or state health and safety
laws or regulations.

- 5) Section 2, page 4, line 11

Following: developments
Strike: including the costs for office, clerical, plant
security, engineering, geological, assaying and
sampling services and those administrative costs
PERTAINING to the Montana operations.

- 6) Section 2, page 5, line 5

Following: ~~Fire~~
Strike: Taxes

- 7) Section 2, page 5

Following: Subsection (g)
Insert: Subsection (h) to read:

All moneys expended for necessary labor, equipment
and supplies for testing minerals extracted to
satisfy federal or state, health and safety laws
or regulations.

- 8) Section 2, page 6, line 2

Following: thereof
Strike: , except those persons providing services referred
to in subsection (l) (b) or those engaged in the
sale and marketing of the product and conversion of
the same into money, including administrative personnel.

HB 582

SENATE TAXATION COMMITTEE

EXHIBIT F (2)

March 23, 1983

House BILL/RES- 582

Amend the Third Reading copy of HB 582 as follows:

1. Page 5, line 5.
Strike: "taxes,"
2. Page 5, line 7.
Strike: "costs, including"

and, as amended, DO PASS.

TESTIMONY OF THE MONTANA MINING ASSOCIATION
REGARDING HOUSE BILL 446
BEFORE THE SENATE TAXATION COMMITTEE
MARCH 23, 1983

SENATE TAXATION COMMITTEE

EXHIBIT 3

March 23, 198 3

House BILL/RES 446

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

MY NAME IS GARY LANGLEY, I AM EXECUTIVE DIRECTOR OF THE
MONTANA MINING ASSOCIATION.

THE MONTANA MINING ASSOCIATION REPRESENTS EVERY MAJOR PRODUCER
OF HARDROCK MINERALS IN MONTANA AS WELL AS SOME COMPANIES THAT HOPE
TO BECOME ACTIVE IN MONTANA IN THE FUTURE.

THE MONTANA MINING ASSOCIATION SUPPORTS HOUSE BILL 446.

THE MINING INDUSTRY SUPPORTED HOUSE BILL 718 IN THE 1981
SESSION. THIS BILL CREATED THE HARDROCK IMPACT BOARD AND SET IN
MOTION THE APPARATUS FOR DEALING WITH THE FRONT-END IMPACTS OF HARD-
ROCK MINING.

SINCE HOUSE BILL 718 WAS PASSED, THERE HAS BEEN SOME CONCERN
EXPRESSED ABOUT "TAIL END" IMPACTS THAT OCCUR ONCE A MINING OPERATION
CEASES PRODUCTION.

HOUSE BILL 446 SPECIFICALLY ADDRESSES THAT PROBLEM BY SETTING
ASIDE A CERTAIN PORTION OF METAL MINES LICENSE TAX COLLECTIONS FOR
LOCAL IMPACTS.

HOUSE BILL 446 IS THE CORNERSTONE OF A REPORT ISSUED BY THE
ENVIRONMENTAL QUALITY COUNCIL'S SUBCOMMITTEE ON HARDROCK MINING
WHICH WAS MANDATED BY HOUSE JOINT RESOLUTION 66 PASSED BY THE 1981
LEGISLATURE.

TESTIMONY
MARCH 23, 1933
PAGE 2

THE SUBCOMMITTEE'S REPORT ISSUED AFTER 18 MONTHS OF STUDY,
HAS SINCE BEEN ENDORSED BY THE FULL ENVIRONMENTAL QUALITY COUNCIL
AND THE REVENUE OVERSIGHT COMMITTEE.

WE URGE THIS COMMITTEE'S CONCURRENCE IN HOUSE BILL 446.

THANK YOU.

March 23, 1983NAME Ward A. Shanahan BILL NO. HB 446 BILL/RES.ADDRESS P.O. Box 1715, Helena, MT 59624 DATE 03/23/83WHOM DO YOU REPRESENT Stillwater PGM ResourcesSUPPORT XXX OPPOSE AMEND XXX

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Stillwater PGM Resources has generally favored the "local impact" application of property taxes generated by the extraction of natural resources. In the 1981 session, we supported HB 718, which created the Hard-Rock Impact Board. This created a system of dealing realistically with mining impacts at the local level. HJR 66, the recent EQC study, was intended to further review the "impact bill" to determine if it needed adjustment and to determine other tax requirements. The study found that the Impact Board needed proper funding and that mine closure problems should also be addressed. HB 446 specifically answers three problems:

1. It provides a source of funding for the impact board.
2. It creates a source of funding for the mine closure problem.
3. It uses an existing source without unduly increasing the burden.

HB 446 has been endorsed by both the EQC and the Revenue Oversight Committee.

Although we believe the HJR 66 study demonstrates that hard-rock mining taxes should actually be cut, HB 446 is the obvious alternative. The Hard-Rock Board is in place to do the job for "tail-end impacts." HB 446 would make this possible.

Mining taxes should be kept at the local level with other property taxes. HB 446 is a step towards achieving that goal, and we approve.

The adoption in Montana of the impact financing approach to local problems, based on a demonstration of needs directly related to the changes caused by the industry, is a realistic way to solve local problems of a rural economy. We hope this approach will continue in place of the destructive effects of high state-related severance taxation. This will be a solid encouragement for our company.

(This sheet to be used by those testifying on a bill.) I

March 23 1983
House
DATE: 3/23/83 446

NAME: GEORGE T. BENNETT

ADDRESS: P.O. Box 1705 HELENA 59624

PHONE: 442-8950

REPRESENTING WHOM? ASARCO INC

APPEARING ON WHICH PROPOSAL: H.B. 446

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

COMMENT: This bill is a part of the legislative
program developed as a result of
the "EAC/DOC Study" Report to
the 48th Mont. Leg. on the Socio-
Economic Impact of Large Scale Hard-
Rock Mining.

The policy of this bill and of
the study is supported.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

1982 - Towe - HB 446

SENATE TAXATION COMMITTEE
EXHIBIT J
March 23, 1983
House Bill No. 446
Platinum

	Gold	Silver	Copper	
JANUARY	\$ 384.13	\$ 8.30	.78	475.00
FEBRUARY	374.07	8.26	.77	475.00
MARCH	330.28	7.21	.74	475.00
APRIL	350.34	7.31	.74	475.00
MAY	334.40	6.67	.76	475.00
JUNE	314.98	5.57	.70	475.00
JULY	340.10	6.49	.69	475.00
AUGUST	369.95	7.13	.69	475.00
SEPTEMBER	417.00	8.18	.70	475.00
OCTOBER	435.56	8.72	.69	475.00
NOVEMBER	414.93	9.89	.71	475.00
DECEMBER	445.43	10.58	.72	475.00
AVERAGE FOR 2 YEAR	\$ 375.93	\$ 7.86	.72	\$ 475.00

metals

NEW YORK (AP) — Spot nonferrous metal prices Friday:

Copper -84-86 cents a pound, U.S. destination.

Lead -20-23 cents a pound.

Zinc -38-40 cents a pound, delivered.

Tin -\$6.6122 Metals Week composite lb.

Aluminum -76 cents a pound, N.Y.

Gold -\$412.50 per troy ounce, Handy & Harman (only daily quote.)

Gold -\$430.30 per troy ounce, NY Comex spot month closed Thu.

Silver -\$10.260 per troy ounce, Handy & Harman (only daily quote.)

Silver -\$10.880 per troy ounce, NY Comex spot month closed Thu.

Mercury -\$330.00 per flask.

Platinum -\$399.00-\$400.00 merch. troy ounce, N.Y.

Selected world gold prices Friday:

London morning fixing \$415.50, off \$14.00

London afternoon fixing \$412.50, off \$17.00

Paris afternoon fixing \$428.84, off \$10.32

Frankfurt fixing \$426.87, off \$6.32

Zurich late afternoon \$416.00 bid, off \$16.50

\$417.50, asked

Handy & Harman (only daily quote)

\$412.50, off \$17.00

Engelhard (only daily quote) \$412.50, off \$17.00

Engelhard fabricated (only daily quote)

\$412.50, off \$17.00

NY Comex gold spot month Thu. \$430.30

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