

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 14, 1987

The fifth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on January 14, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF SB 3: Senator Keating, Senate District 44, presented this bill to the committee. He stated this is a referendum to the people of the state of Montana with regard to a proposed change in the constitution of Montana. It deals with the Constitutional Trust Fund, which is referred to as the Coal Severance Trust Fund. In 1975 the voters of this state decided that one half of the coal tax should be placed into a Severance Coal Trust Fund to: (1) leave a legacy for future generations when the coal is exhausted and (2) to have a fund for reclamation for the repair of the environment and the land after the coal producers have exhausted their services. It is now ten years later. The concept that we must leave a legacy for future generations when the coal runs out, invites the consideration that possibly the coal somehow belongs to the people of Montana. This is not true, the coal is private property and belongs to the individual or individual entity that owns the coal as a mineral resource under their private property. As for the coal that is in public domain, which is truly in the public trust, but for the United States of America and not just the people of Montana. The idea of a legacy for future generations, he asked how far out in the future are we going to build that legacy. With the amount of coal that is in the ground, we have a 2,000 year supply of coal. With regard to a fund for reclamation, it is totally unnecessary in that there are laws which require that operators repair the land to its original condition immediately upon the closing of the mine. At the present time we have \$300 million in the trust fund. The referendum seeks to leave the trust fund as it is. It still cannot be touched except by a 3/4 vote by both houses of the legislature. It is well protected. The income from the investment of that fund may be appropriated under the law. The referendum asks the people of Montana to consider the wisdom of no longer directing 1/2 of the Coal Tax into the permanent trust fund. The 30% severance tax is divided in two, 1/2 to the permanent trust and 1/2 to the current government spending which is done by appropriation by the legislature and appropriation by

statute. The 30% severance tax is the highest in the nation and it is a red flag to all of industry, not only to coal, that Montana is a high tax state. The people of this state have asked for a reduction in taxes and spending. Many people who are aware of the situation have specifically asked for a reduction in coal tax. The coal industry is losing its market. Production has dropped from projected expectations. We have many businesses and millions of dollars of productivity and we are losing those markets to Wyoming. It is not that there is less demand for coal. Wyoming production is increasing and ours is decreasing because of the coal tax. If we want to be competitive we must make adjustments and to make adjustments then the savings account must be capped.

PROPOSERS: James D. Mockler, Executive Director, Montana Coal Council, gave testimony in support of this bill. He stated that this bill simply does one thing and one thing only. It allows the people of Montana to vote as to whether they feel the legislature is mandated to put away half of the severance tax to a permanent fund. You can still put half of the coal severance tax into the permanent or you could put none of the coal tax into the permanent fund. This will not effect the Build Montana program. This will not lower the coal severance tax; all it does is to say that you do not have to put half of that money into a permanent fund. He furnished the committee with a drawing on the "Montana/Wyoming Coal Market Share" with estimates from 1979 and 1986, attached as Exhibit 1. We hope that the legislature will lower the severance tax so that Montana will reverse the trend of lost business to Wyoming.

Dennis Burr, Montana Taxpayers Association, gave testimony in support of this bill. There are two reasons they support this measure: (1) this will allow the people of Montana to provide this legislature with more flexibility in dealing with revenues and appropriations and (2) to allow the legislature to allow Montana to be competitive in coal production with Wyoming. According to a Legislative Fiscal Analyst Report in 1986, Montana had 212 separate earmarked funding accounts, which represented 61% of the total state revenue. Montana is third in the nation for revenue that is earmarked for special purposes.

Mike Micone, Western Environmental Trade Assn., gave testimony in support of this bill. As recalling back the fund was to be reserved for future generations. Over the past ten or twelve years the question has continually been asked what is the future generation. The state

of Wyoming projects to have coal reserves of 1,000 years. When Wyoming runs out of coal Montana will maybe be able to sell coal at the price we want. He would assume that we would be projecting the future generations as after 2975. He would think if you were to ask a number of people in Montana that they would say that the time is now to start authorizing a review to take care of some of the money problems in the state.

Doug Day, representing Montco, gave testimony in support of this bill. He stated this is a long overdue measure. Capping the trust fund would enable the trust fund to set competitive incentives that would thrust Montana into a favorable coal marketing environment. This bill would be instrumental for Montana's coal industry with the expansion of existing mines and building of new mines as a possibility.

Forrest Boles, Montana Science and Technical Alliance, gave testimony in support of this bill. He is in favor of SB 3 in the interest of making Montana more competitive not only in the domestic but the work market.

Ken Williams, representing Entech for Western Energy, gave testimony in support of this bill. He gave figures showing the loss of production from 1979 to 1986. Our point in supporting SB 3 is that it would provide a mechanism to relocate some of the fiscal impact of a reduction in the coal severance tax.

Larry Salmonsens, representing Save Our State Inc., a group funded by coal miners, gave testimony in support of this bill. He stated he testified during the special session on a bill similar to this bill and if it would have been passed it would have made it easier for the legislature to balance the budget. His testimony is the same, we need to get this bill on the ballot for the people to vote on. He gave the committee information on reductions in production and people employed in the mines represented by Save Our State Inc.

Tony Stark gave testimony in support of this bill. He stated he is one of the ten men left working in a mine in the Hardin area. The unemployment figure for the Hardin area is 14 1/2 percent and he feels this bill could help with this problem.

Joe Presley, President, Westmoreland Resources, gave testimony in support of this bill. He stated we think this is an important first step in achieving a long

term reduction in the severance tax which we think is essential if we are going to preserve the coal industry in Montana. We produced in coal production in 1975, 5 million tons; in 1984, 3.6 million tons; in 1985, 3.2 million tons; in 1986, 2.1 million tons; and we are projecting for 1987, 1.7 million tons.

OPPONENTS: Jeanne-Marie Soungrey, Sierra Club, Montana Chapter of the League of Women Voters, gave testimony in opposition to this bill. The original decision of the voters reflected a desire to do a couple of things with the revenue from the development of a non-renewable resource to the day the coal is gone. They decided the revenue would be used for the general fund for today but half would be put in a fund for future generations. The current financial crisis, to some degree, is caused by reliance on energy and will not be solved by redirecting the coal tax money into the general fund and will only aggravate the problem. The coal trust fund is more than simply a pot of money. It has developed into a steady income of money for the state of Montana. She gave figures from the Legislative Fiscal Analyst's report showing the interest that goes into the general fund from this fund and stated this is a tremendous source of stability for the state now and in the future. She would urge the recognition of this trust fund not simply as a pot of money but as a reliable source of stability in the future.

Harriet Meloy, representing the League of Women Voters in Helena, gave testimony in opposition of this bill. She stated I believe in the wisdom of the constitutional convention people who decided that there would be a trust fund. She asked how we knew that now was the time to spend this money.

Teresa Cohea, Executive Assistant to Governor Schwinden, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 2.

Russ Brown, Northern Plains Resource Council, rose in opposition to this bill.

Phil Campbell, representing the Montana Education Assn., gave testimony in opposition to this bill. He stated this bill has nothing to do with the amount of tax, but only to do with whether the money will go into the trust fund. The money going into the trust fund supplies a stable source of funds that will not fluctuate depending on the coal production. This bill does not have anything to do with coal production and will not make Montana more competitive with Wyoming.

Gary Fritz, Water Resources Division, Department of Natural Resources and Conservation, gave testimony in opposition to this bill. He stated if the Coal Tax Trust Fund money does not run through the bond accounts, that means that we have broken our promise to those bond holders. Those bond holders could sue the state of Montana and the state's bond rating could be completely destroyed.

George Ochenski, Montana Environmental Information Center, gave testimony in opposition to this bill. He stated the Coal Tax Trust Fund provides financial security for this state.

Don Judge, representing the Montana State AFL-CIO, gave testimony in opposition to this bill. A copy of his testimony is attached as Exhibit 3.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Terry Cohea to explain what this bill is supposed to do.

Terry Cohea said what this bill would do is to cap the permanent Coal Tax Trust if approved by a vote of the people of Montana.

Senator Crippen said the Governor, in his state-of-the-state message, proposed that another controversial piece of legislation be put on a referendum for the people to vote on. He questioned why the Governor would endorse one and not the other to be voted on by the people.

Terry Cohea said the people have already voted on the constitutional trust in referendum in 1975. The sales tax has been considered by the people but that debate continues in recent years as strong as ever.

Senator Crippen said the bonding program is a concern and something that should be addressed.

Senator Keating furnished the committee with an exhibit that was drawn up for the special session on the cash flow of the Coal Severance Tax Trust Fund. This is attached as Exhibit 4. If the people decide to accept the proposal to cap the trust, the legislature then determines the disposition of the coal tax at whatever rate they establish legislatively. A portion of that coal tax can be earmarked statutorily through a bond fund to cover the Montana Development Board Fund and Water Development Fund. He stated there are sufficient

funds in the 15% return to satisfy the demands of the water development bonds and to take care of the Build Montana program. Those are things that can be handled statutorily.

Senator Mazurek said isn't it true that the bond fund will be subject to appropriation by a majority vote.

Senator Keating said the fund is subject to legislative action but the integrity of the fund would have to be considered by the legislative body at that time.

Senator Mazurek said it is now subject to a 3/4 vote of the legislature.

Senator Keating agreed.

Senator Mazurek referred to Gary Fritz's testimony whereby he stated that he was receiving an opinion from Bill Johnstone, Dorsey & Whitney, Minneapolis, bond counsel for the Department, that this proposal would effect the marketability of the bonds.

Mr. Fritz said Mr. Johnstone is sending his opinion as to what this will do to the state's bond credit overall. He stated we sell the water development bonds and a general resolution is drawn up which tells how the bonds will be paid by the state of Montana. Then a pledge of money is made through the Coal Trust Fund to the Bonding Fund. Perhaps that pledged amount could be replaced in another way but the resolution indicates that the state has pledged that that money will be in the Coal Tax Trust Fund Bond Account. If that money is not in the account those bond holders will sue the state.

Senator Crippen said the funds that you are referring to that are being used to back the bonds, are they funds that flow from the coal tax or are they the income from a portion of that income from the coal trust.

Mr. Fritz said the funds that are used and pledged by the state of Montana are the Coal Severance Tax funds that flow through the bond account and into the trust fund itself. It is not the interest.

Senator Crippen asked if we were subject to this provision until we pay off those particular bonds.

Mr. Fritz said when we issued the general resolution we said we pledge two times the debt on those bonds and that amount of money would remain in that trust fund account through the life of the bond.

Senator Crippen said that does not mean that the entire 50% has to remain there to protect those bonds.

Senator Hirsch said in view of the discussion on this bill, and the fact that the coal trust fund is not simply a pot of money but an active account that is used for lots of purposes in the state, he is wondering whether the people of Montana would be able to make an informed decision about a complex issue like this.

Senator Keating said in order to change the constitution we must rely on the peoples wisdom and knowledge and hope that in a matter this serious that they would take the time to be properly informed in making that decision.

Senator Hirsch asked if we can educate the people of Montana to make informed decisions on legislation of this depth.

Senator Keating said he believed it would be difficult but people should have that opportunity.

Senator Keating closed by reiterating his statements made when he presented this bill.

Hearing closed on SB 3.

CONSIDERATION OF SB 60: Senator Halligan, Senate District 29, presented this bill to the committee. He stated this will increase the tax credits allowed investors in qualified Montana capital companies. We passed the present law to allow for the formation of capital companies in Montana. This is a significant step forward as far as encouraging private investment. He thinks the state can afford to take a risk in this area. The bill, on page 2, lines 23 and 24, doubles the tax credit allowed from \$25,000 to \$50,000.

PROPOSERS: Dick Bourke, President of the Development Corporation of Montana, gave testimony in support of this bill. He stated we endorse the concept of raising the credit from \$25,000 to \$50,000. He has been working with Senator Van Valkenburg on a bill that will be out in the next couple of days. He supports the concept of this bill and will appear before the committee to testify on Senator Van Valkenburg's bill.

Sam Hubbard, Montana Science and Technical Alliance, gave testimony in support of this bill. They endorse the concept to increase the tax credit for capital companies.

Senator VanValkenburg stated he has a bill that virtually does the same thing although there may be more in his bill. He has no objection to this bill but would hope that the

Senate Taxation Committee
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committee would await executive action until they have heard his bill.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: None.

Senator Halligan closed.

CONSIDERATION OF SB 61: Senator Halligan, Senate District 29, gave testimony in support of this bill. He stated this bill would provide a one year corporation license and income tax holiday for new corporations funded in Montana. This tax holiday might be one of the kinds of incentives that would be very practical and favorable and wouldn't certainly cause much of an impact. If they do make a profit they could put that back into the corporation. There are some problems with the new corporation definition that may need to be addressed by the Department of Revenue.

Lynn Chenoweth, Department of Revenue, said there are a few amendments that the committee might consider for this bill. There are a couple of situations that the bill does not address. If a business is currently operating but not operating as a corporation, a proprietorship or partnership, the way the bill is written now they would not be included unless they decided to incorporate. Also, an out-of-state corporation that comes into the state of Montana to perform one project. In many cases construction companies come into the state and are here for a year or less to perform a construction project. That type of company would also be exempt from corporate license tax. He is not sure if that is the intent of this bill. Attached is a rough draft of his proposed amendments to deal with his comments, Exhibit 5.

PROPONENTS: None.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Crippen asked Senator Halligan if a corporation is an out-of-state corporation, but doing business in Montana, would they qualify.

Senator Halligan said if they are doing business in the state already they would not qualify. They would have to be doing business for the first time. They would have to be registered with the state of Montana that they are a new corporation.

Senator Neuman said someone from out of state could bid on a job in the state and get a substantial break without having to pay taxes on the year they made the contract for.

Senator Halligan said the amendments from the Department of Revenue are trying to deal with a corporation coming in for short term contracts.

Senator Neuman said what about a missile contract that would last three or four years.

Senator Halligan said if we had a new corporation coming in to the state they would get the exemption. There is no reason why they should not.

Len Chenoweth said his amendment would read, "A corporation which comes into the state to perform one specific contract and intends to leave the state after the performance of that contract shall not be considered a new corporation." Under this language they would not be exempt.

Senator Hirsch said if a farmer or rancher operated individually and then incorporated, how would you treat them.

Len Chenoweth said his amendment dealing with that would read, "Nor does a new corporation include a corporation that had unincorporated business operations in Montana prior to incorporation."

Senator Severson said what you are trying to do is just an incentive to get people to come in to start new business. He asked why this was limited to corporations.

Senator Halligan said we have done a lot of Build Montana programs for the small business. This was designed for the larger ones. He said he was trying to hit the ones that would create the largest number of jobs.

Senator Halligan closed.

ADJOURNMENT: There being no further business the meeting adjourned at 9:42 A.M.


SENATOR GEORGE McCALLUM, Chairman

ROLL CALL

TAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 1-14-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE February 14, 1987

COMMITTEE ON Senate Taxation

SB 3, SB 60, SB 61

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
J. Mockler	MT Coal Council	SB 3	✓	
Doug Ditzel	Montco	SB 3	✓	
Tom Ezzell	"	SB 3	✓	
Perry Weidler	MT Coal Council	SB 3	✓	
Joe Presley	Westmealand Resources	SB 3	✓	
Jane Marie Simpson	Serra Club	SB 3		✓
August C. Azzano	L.W. Veterans	SB 3		✓
Larry Johnson	Save Our State, Inc.	SB 3	✓	
Wesley Stark	self	"	✓	
Dennis Buer	MONTAX	SB 3	✓	
Russ Brown	N.P.R.C	SB 3		✓
Terry Glava	Bealby Coal Co.	SB 3	✓	
Mike Meier	WETA	SB 3	✓	
Bob Frank	MEDA	SB 3		✓
Terry Cohen	Gov. Office	SB 3		✓
Don Judge	MT STATE AFL-CIO	SB 3		✓
Phil Campbell	MEA	SB 3		✓
George Owenski	MT ENV. IFF. CNTR	SB 3		✓
F.H. Black Boles	INT. CHAMBER OF COMMERCE	SB 3	✓	
Sam Hubbard	MT Sci & Tech Alliance	SB 60	✓	

(Please leave prepared statement with Secretary)

hearing was packed with opponents. The only proponent speaking in favor of the increase was Gary Blewett from the Department. The hearings officer subsequently found against the increase stating that the Department had not shown sufficient evidence to justify an increase.

We now find ourselves in a regular session of the Legislature in which bills have been introduced again to completely eliminate the state retail liquor operations. The bills seem to be receiving a favorable response, in no small part because of the blunders and short-sightedness of the Department concerning this program, and the resulting bad publicity which has occurred over the past several months.

To put it bluntly, and it is necessary to be very blunt here, the Department management has demonstrated it simply does not know what it is doing when it comes to this program. If it does know what it is doing, that is even more distressing since it is difficult to avoid the conclusion that the program has been deliberately discredited by all the recent actions which have been taken in recent months which make the program look so bad.

The argument may be made that management is inadequate for the state government, and that new management may be more engaged towards this program. Simply changing agencies, in other words, may not accomplish much.

I would have two responses to that argument.

(1) How much damage can existing management continue to do in the meantime? In just a few short months it has made ridiculous blunders. Revenue management has demonstrated that it either cannot

NAME: Ken Williams DATE: 1/14/87

ADDRESS: 16 East Granite

PHONE: 723-5441

REPRESENTING WHOM? Entech for Western Energy

APPEARING ON WHICH PROPOSAL: SB3

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: JOE PRESLEY DATE: 1/14/87

ADDRESS: 1820 ARCAD. A DR B125

PHONE: 406-248-7803

REPRESENTING WHOM? Westmoreland Resources

APPEARING ON WHICH PROPOSAL: 5B-3

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: James D. Mockler DATE: 1/14/87

ADDRESS: 2301 Colonial Dr

PHONE: 442-6253

REPRESENTING WHOM? MT. Coal Council

APPEARING ON WHICH PROPOSAL: SB 3

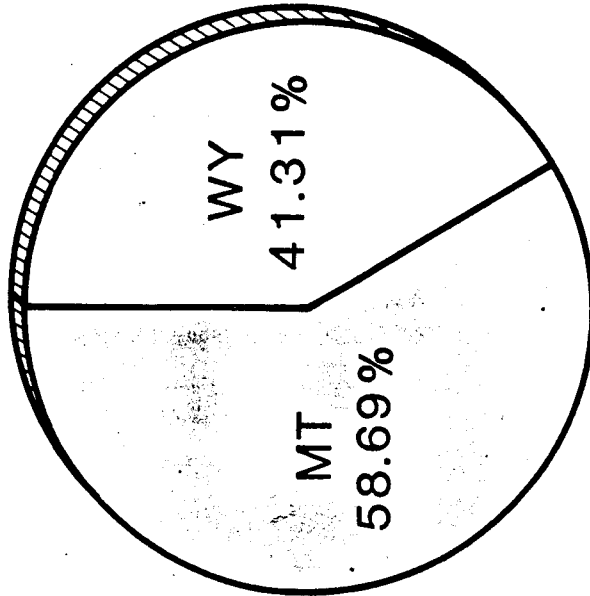
DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS: _____

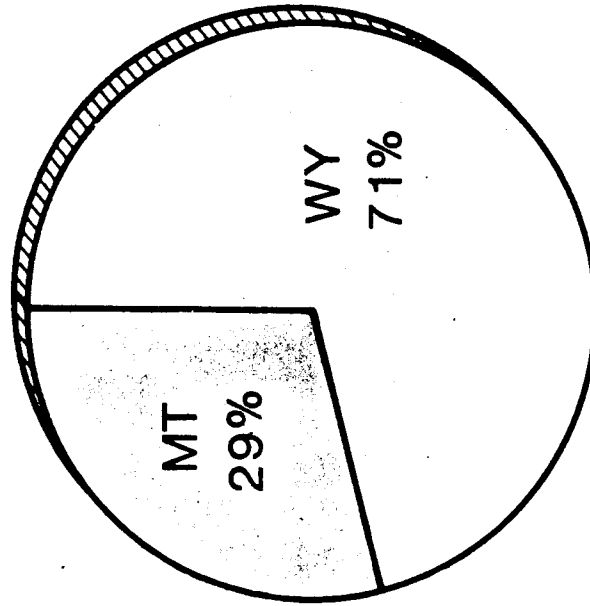
PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

MONTANA/WYOMING COAL MARKET SHARE

(to MN, WI, IA)



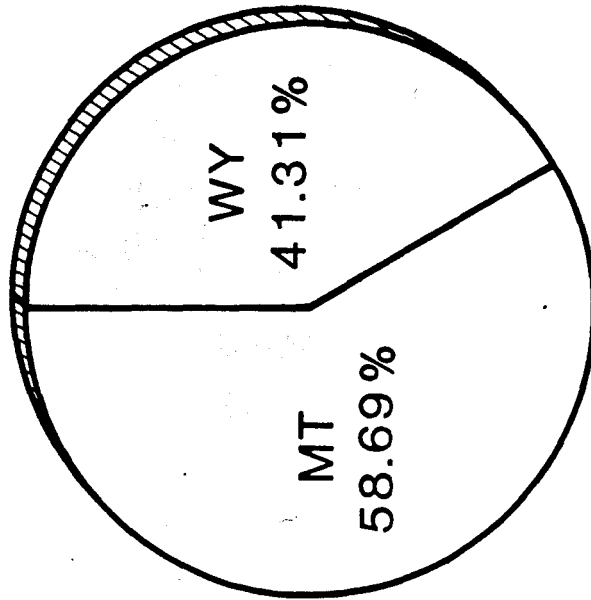
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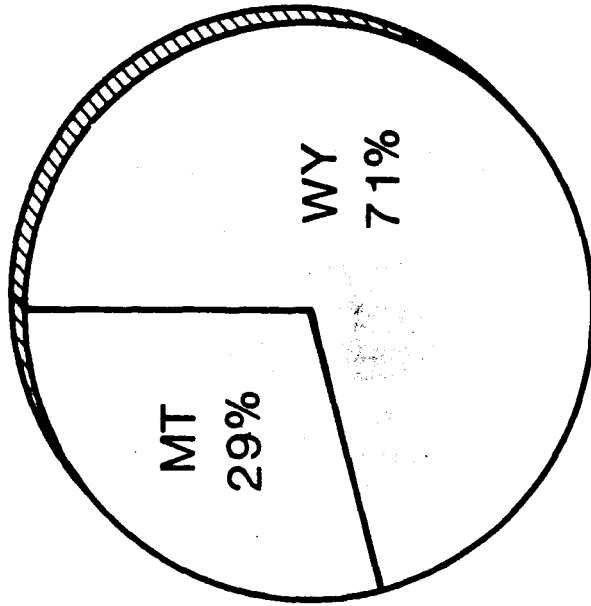
1986
(Estimate)

MONTANA/WYOMING COAL MARKET SHARE

(to MN, WI, IA)



1979



1986
(Estimate)

SENATE TAXATION
EXHIBIT NO. 1
DATE 1-14-87
BILL NO. SB-3

TESTIMONY TO SENATE TAXATION COMMITTEE
ON

SENATE BILL 3

Teresa Olcott Cohea, Executive Assistant to Governor Schwinden
Wednesday, January 14, 1987

Mr. Chairman and members of the Senate Taxation Committee, I appear in opposition to Senate Bill 3 for two reasons.

- 1) The concept of saving for the future is as important now as it was in 1975, when the Montana Legislature placed the constitutional referendum to create the coal tax trust before Montana voters. Supporters of the referendum called creation of the trust "one of the most forward looking proposals ever presented to the people of this state. It will demonstrate to future generations of Montanans that we chose to share the riches of this state's non-renewable resource heritage with them." Sixty-three percent of Montana voters agreed and, as of June 30, 1986, we have saved \$300 million in the trust.

The Executive Budget recommends that for the three years -- FY87 through FY89 -- we slow the rate of savings into the trust. The original framers of the referendum provided -- and the people approved -- a mechanism for temporarily appropriating funds from the trust -- a tacit acknowledgement that a future legislature might alter the savings flow. We have recommended that mechanism be used during the next three years to divert a portion of the revenue flowing into the trust into the general fund, allowing the state budget to be balanced without a tax increase. By reducing its savings rate during these difficult economic times, the state acts in the same manner as a two-income family which suddenly loses one paycheck and must temporarily stop putting money into their child's college savings account and concentrate on paying the mortgage and buying groceries. However, the prudent family keeps the savings account open and resumes their savings plan when their income returns to normal. Similarly, it's important that the constitutional trust remain in place and that we resume savings in FY90.

- 2) The Legislature and the people of Montana have considered and approved two programs that depend on the coal tax trust. In 1981, the Legislature enacted a comprehensive water development program, which included the sale of coal severance tax water development bonds. Backed by the funds flowing into the coal tax trust, these bonds provide low interest loans to local government and rural districts to help finance needed water projects. To date, the bonds -- totaling \$28.4 million -- have financed 36 local water projects.

SENATE TAXATION
EXHIBIT NO. 7
DATE 1-14-87
BILL NO. SB-3

Senate Bill 3 Testimony
Presented by Teresa Olcott Cohea
Office of the Governor
January 14, 1987

In 1982, the voters overwhelmingly approved I-95, creating an in-state investment fund for 25% of the revenue flowing into the trust fund. To date, the Economic Development Board has approved \$22 million in loans to 76 Montana businesses from this fund, ranging from an oil field service firm in Baker, a pole plant in White Sulphur Springs, to a cabinet manufacturer in Columbia Falls.

In the Executive Budget, we recommend the 25% allocation to the in-state investment fund continue. This assures that:

- 1) we will continue the MEDB and water development programs -- two state significant economic development efforts that create jobs and growth in our state.
- 2) we will continue to save -- although at a reduced amount -- for the future. Under the Executive Budget recommendation, \$10 million per year would be deposited in the coal tax trust in FY87-89.

For these reasons, I urge you to vote against Senate Bill 3.

SENATE TAXATION
EXHIBIT NO. 2
DATE 1-14-87
BILL NO. SB-3



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON SENATE BILL 3, BEFORE THE SENATE TAXATION COMMITTEE, JANUARY 14, 1987.

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS DON JUDGE AND I'M HERE TODAY ON BEHALF OF THE MONTANA STATE AFL-CIO TO TESTIFY IN OPPOSITION TO SENATE BILL 3.

THE COAL SEVERANCE TAX TRUST FUND WAS ESTABLISHED FOR VERY SOUND REASONS BASED ON HISTORICAL PRECEDENTS: TO MITIGATE THE BOOM AND BUST CYCLES THAT HAVE ACCOMPANIED MINING IN MONTANA. AFTER LOOKING AT SUCH DISTURBING LEGACIES STEMMING FROM THE BERKELY PIT LIKE THE TAILING PILES IN ANACONDA AND THE NO LONGER EXISTENT COPPER REFINERY IN GREAT FALLS, LAWMAKERS CONFIRMED THEIR VISION TO PLACE 50% OF REVENUES DERIVED FROM COAL PRODUCTION AND PLACE THEM INTO A TRUST WHICH PROVIDES FOR FUTURE GENERATIONS.

MR. CHAIRMAN, THERE IS NO DOUBT THAT MONTANA'S ECONOMY IS IN BAD SHAPE, BUT WE BELIEVE THAT THIS BILL IS SHORTSIGHTED AND NOT AT ALL IN THE BEST INTERESTS OF MONTANA'S LONG-TERM ECONOMIC FUTURE.

SENATE BILL 3 WOULD SUBMIT TO THE VOTERS A PROPOSAL TO AMEND THE STATE CONSTITUTION ELIMINATING THE REQUIREMENT TO DEPOSIT 50% OF ALL COAL TAX REVENUES INTO A PERMANENT TRUST FUND. WE SHOULD NOT LET THESE DIFFICULT ECONOMIC TIMES BLACKMAIL US INTO MORTGAGING OUR CHILDREN'S AND GRAND-CHILDREN'S FUTURE.

THERE IS CURRENTLY ABOUT \$300 MILLION IN THE COAL TAX TRUST FUND. SOME PROPONENTS SAY THAT THIS IS ENOUGH, BUT THE ARGUMENT IS FUNDAMENTALLY FLAWED.

SENATE TAXATION

EXHIBIT NO. 3

DATE 1-14-87

BILL NO. SB-3

ALREADY, GOVERNOR SCHWINDEN HAS REQUESTED THAT WE DIVERT THREE-FOURTHS OF THIS YEAR'S TAX FUND REVENUES, APPROXIMATELY \$83 MILLION INTO THE STATE'S GENERAL FUND FOR THE NEXT BIENNIUM. HIS BUDGET DIRECTOR HAS STATED THAT THERE ARE "NO GUARANTEES" THAT THE FUND WILL NOT BE RAIDED DURING FUTURE SESSIONS. IF WE WERE TO USE OUR TRUST FUND AT THE RATE RECOMMENDED BY GOVERNOR SCHWINDEN, THE FUND WOULD BE DEPLETED IN JUST EIGHT SHORT YEARS.

THE DELEGATES TO OUR AUGUST CONVENTION OF THE MONTANA STATE AFL-CIO ADOPTED RESOLUTION 41 (ATTACHED) WHICH DIRECTED OUR FEDERATION TO RE-EVALUATE OUR POSITION CONCERNING MONTANA'S 30% COAL SEVERANCE TAX AND CONSIDER SUPPORTING "REASONABLE REDUCTIONS" OF THE TAX TO MAKE OUR COAL MORE COMPETITIVE. THIS RESOLUTION DEMONSTRATES THAT OUR ORGANIZATION IS OPEN TO PROPOSALS THAT WOULD RESULT IN JOB CREATION FOR MONTANA WORKERS.

BUT OUR ORGANIZATION ALSO STANDS FIRM IN OUR OPPOSITION TO ANY ATTACKS ON THE PERMANENT COAL TAX TRUST FUND. A MUCH WISER COURSE IS TO USE THE INTEREST EARNED UPON THIS ACCOUNT, AND THE BOND BACKING THIS TRUST WILL PROVIDE CONTINUING ECONOMIC BENEFITS TO OUR STATE. WE CONTINUE TO SUPPORT PUTTING HALF OF THIS (MONEY) INTO A PERMANENT COAL TAX TRUST FUND FOR OURS AND OUR CHILDREN'S FUTURES.

RESOLUTION 41

WHEREAS, the Montana State AFL-CIO has a long-standing position in favor of maintaining the Montana coal severance tax at 30 percent of mine-mouth price; and

WHEREAS, the coal severance tax was enacted to mitigate the impacts of coal mining in Montana, and has been effective in doing so; and

WHEREAS, social costs associated with large-scale coal mining such as building roads, schools, water and sewer systems, and other infra-structure needs have been largely alleviated through the Montana coal severance tax; and

WHEREAS, on-going mining in Montana demands that we maintain a coal production-related tax of a level sufficient to meet current social needs, and place some revenue in reserve for future generations as compensation for a lost non-renewable resource; and

WHEREAS, coal mining in Montana as well as all across the nation is at a decline because of reduced demand for coal; and

WHEREAS, competition for sale of Montana coal with other states in this power region is becoming stiffer as a result of reduced demand for coal power; and

WHEREAS, Montana coal faces a disadvantage in bidding competition because non-competitive rail transportation rates are related to the monopoly of rail transportation in Montana by the Burlington Northern Railroad; and

WHEREAS, neither President Reagan nor the Congress appears willing to force rail rates down to a responsible level; and

WHEREAS, the Montana legislature can do little to affect rail rates in Montana, but can improve the competitive position for sale of Montana coal by regulating the taxation level of the coal; and

WHEREAS, the livelihood of many union Brothers and Sisters is at risk due to cutbacks in production of Montana coal;

THEREFORE BE IT RESOLVED, that the Montana State Building and Construction Trades Council convention goes on record as encouraging the Montana State AFL-CIO to review its position on the retention of the 30 percent coal severance tax; and

BE IT FURTHER RESOLVED, that should this review establish that the competitive bidding position of Montana coal could be substantively improved through a reduction in the 30 percent level of Montana's coal severance tax, that the Montana State AFL-CIO review its position to support a reasonable reduction of the 30 percent rate; and

BE IT FURTHER RESOLVED, that support for such a reduction in the coal

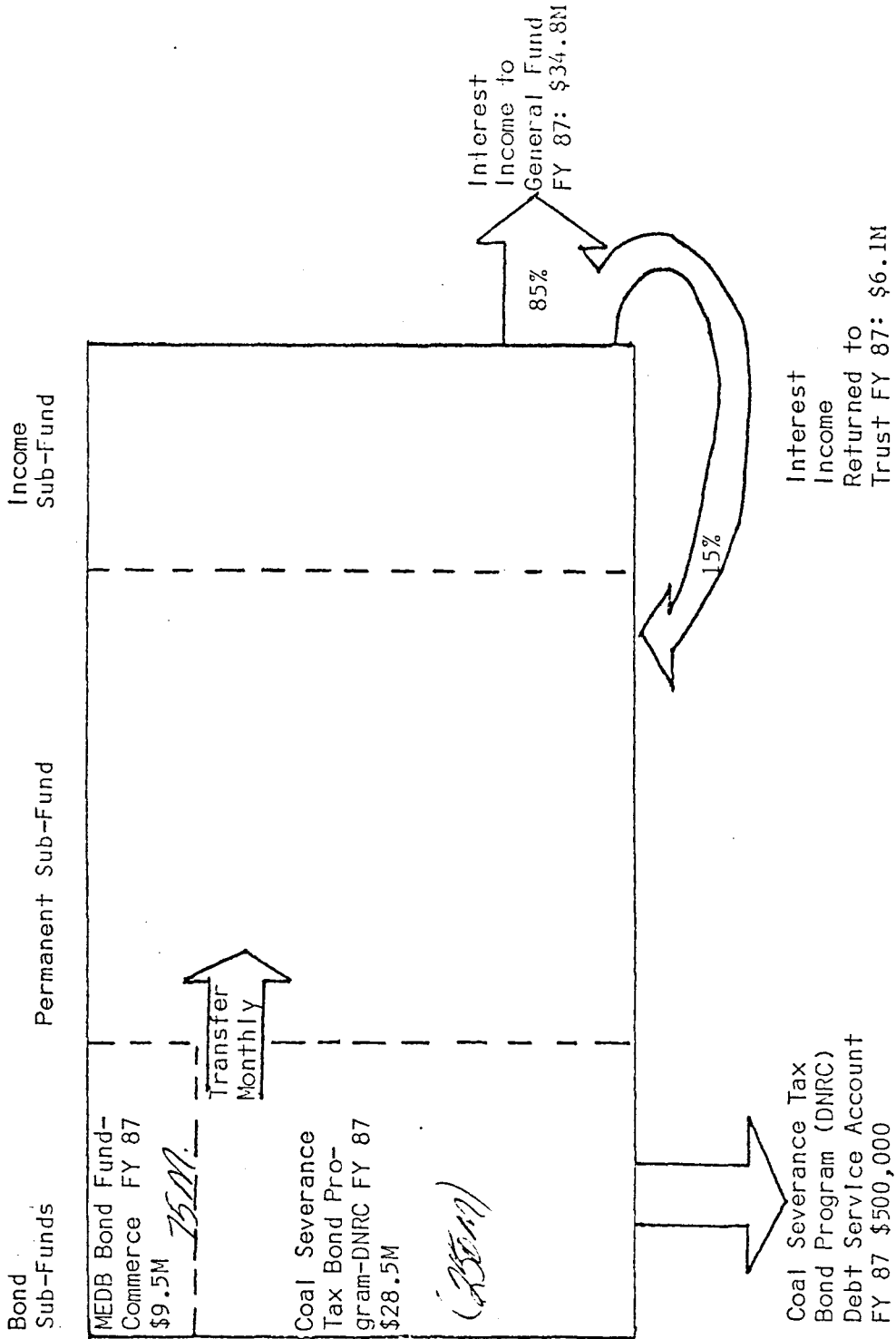
severance tax be contingent upon support for and legislative adoption of a replacement source of revenue for state and local governments impacted by any reduction in the coal severance tax; and

BE IT FURTHER RESOLVED, that one such area of replacement tax to be supported by the Montana State AFL-CIO come from a revision of the Montana corporate income tax to establish a progressive corporate income tax based upon the ability to pay; and

BE IT FINALLY RESOLVED, that this resolution be submitted to the 30th Annual Convention of the Montana State AFL-CIO for its concurrence and adoption.

SUBMITTED BY THE MONTANA STATE BUILDING AND CONSTRUCTION TRADES COUNCIL
CONVENTION VOTED CONCURRENCE, AS AMENDED

CASH FLOW OF COAL SEVERANCE TAX TRUST FUND



50% Coal Severance Tax Revenues FY 87 \$38 M

SENATE TAXATION
 EXHIBIT NO. 4
 DATE 1-14-87
 BILL NO. SB-3

COAL SEVERANCE TAX PERMANENT TRUST FUND

HISTORY:

The Coal Severance Tax Trust Fund was established in the Montana Constitution under Article IX, Section 5. The Constitution dedicates 50 percent of the Coal Severance Taxes collected to the Permanent Trust Fund. The income and earnings of the Trust may be appropriated by the legislature. The principal of the trust is permanent and can only be appropriated by a three-fourths (3/4) vote of the members of each house of the legislature.

The legislature created the Coal Severance Tax Water Development Bond Program in 1981 and split the Permanent Trust Fund into three (3) sub-funds listed in HCA 17-5-703. Which are as follows:

- a. Coal Severance Tax Bond Fund (Bond Sub-Fund)
- b. Coal Severance Tax Permanent Fund (Permanent Sub-Fund)
- c. Coal Severance Tax Income Fund (Income Sub-Fund).

All three sub-funds comprise the Permanent Trust Fund created in the Montana Constitution. The constitutionally dedicated tax receipts are first deposited into the Bond Sub-Fund. Monthly, the monies in the Bond Sub-Fund are transferred into the Permanent Sub-Fund where the funds are invested. All investment earnings from the Bond Sub-Fund and the Permanent Sub-Fund are transferred into the Income Sub-Fund until appropriated by the legislature. The legislature appropriated 15 percent of the earnings from all sub-funds of the Permanent Trust Fund to the Permanent Sub-Fund, and 85 percent to the General Fund.

The above three sub-funds were all present before the Montana Economic Development Board was created in 1983. At that time the legislature determined that 25 percent of the coal severance tax revenues directed to the trust were to be invested in-state by the Montana Economic Development Board.

SENATE TAXATION
EXHIBIT NO. 4
DATE 1-14-87
BILL NO. SB-3

Proposed Amendments
SB 61

Lyn Chenoweth
Dept. of Revenue
ph: 2441

Page 1 Line 12

After: the first

Delete: calendar

Insert: tax period

Page 1 Line 13

Delete: quarter

Page 1 Line 14

After: business

Delete: and the immediately succeeding
3 calendar quarters

Insert: in the state of Montana. The
corporation's tax period shall be
its taxable year for federal
income tax purposes.

Page 1 Line 15

After: means

Insert: either

SENATE TAXATION

EXHIBIT NO. 5

DATE 1-14-87

BILL NO. SB-61

Page 1 Line 16

After: business

Insert: in Montana for the first time

After: doing business

Insert: in Montana for the first time

Page 1 Line 21

After: association.

Insert: Nor does a new corporation include a corporation that had unincorporated business operations in Montana prior to incorporation. A corporation which comes into the state to perform one specific contract and intends to leave the state after the performance of that contract shall not be considered a new corporation.

Page 1 Line 23

After: A

Insert: new

Page 2 Line 1

Delete: year of activity

Insert: tax period if such tax period is seven months or greater. If the first tax period is less than seven months the corporation will not be subject to any of the taxes imposed by this Chapter for the first two tax periods.

SENATE TAXATION

EXHIBIT NO. 5

DATE 1-14-87

Page 5 Line 24

Delete: year of activity

Insert: tax period if such tax period is seven months or greater. If the first tax period is less than seven months the corporation is not subject to either the corporation license tax or the corporation income tax for the first two tax periods.

SENATE TAXATION

EXHIBIT NO. 5

DATE 1-14-87

BILL NO. SB-61