MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 18, 1987

The twenty-sixth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on February 18, 1987 by Chairman George McCallum in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present.

CONTINUATION OF QUESTIONS FROM THE COMMITTEE FROM 2/17/87: Senator Crippen asked Dan Bucks if he would summarize how the figure on the fiscal note was arrived at on alternative minimum tax of $2 million.

Dan Bucks said the corporate alternative tax figure was estimated at $1 million and individual income tax is $2 million. We discussed the corporate alternative minimum tax and that is estimated at $1 million. Basically we used two sources of data to arrive at that estimate, data from the IRS on what the previous minimum tax had raised, plus a survey of returns from our own sources on file with the Department as to what the new federal law would raise, on which this would be piggybacked. Combining the two approaches, we were able to produce this estimate, based upon a review of actual data.

Senator Crippen said it would seem that figure should be a little higher. He asked George Anderson to comment.

George Anderson said this is a new area, we are breaking new ground with the alternative minimum tax as far as the state is concerned. He does not believe the Department of Revenue has the data to compute the amount. He thinks their estimate is somewhat of an educated guess. He knows of one company that will be somewhere around $1.3 million, which would be an increase in tax of 48%.

CONSIDERATION OF SB 307: Senator Neuman, Senate District 21, presented the portion of the bill dealing with oil and gas severance tax revisions. He said we made some significant changes during the last session of the legislature and we again need to try to help cut costs in this area. During the last session we lowered tertiary rates to 2 and 1/2% on incremental oil. We created a system that is very difficult to administer. This bill proposes, rather than doing the incremental at 2.5% and the rest of the current level production at 5%, to average that to 4% for all tertiary oil production. Stripper wells have higher production costs than other wells. To prevent the premature closure of those stripper wells, production will be taxed at 2% below the regular severance tax rate. When the price of oil is above $20 the full rate will be applied. The tax on all oil production from tertiary oil projects will be 1% below the regular rate as long as the price per barrel of oil is $40 or less. The full rate would apply above that price. These stripper well and tertiary oil production incentives will help insure that Montana oil resources do not remain in the ground and will keep producing in Montana.

PROPONENTS: Dan Bucks, Deputy Director, Department of Revenue, gave testimony in support of this section of the bill. A copy of his written statement is attached as Exhibit 1.

Don Cecil, Cardinal Drilling Company, gave testimony in support of this section of the bill. His company is Montana based and operates 19 rigs in 10 different states. He is a member of the Governor's Economic Development Transition Task Force and they recommended that the tertiary and stripper wells be addressed.

Eric Feaver, Montana Education Association, gave testimony in support of this section of the bill. He said it is important that the oil industry be given the opportunity to continue to pump in Montana. He speaks as a major consumer of the revenue that does come from oil production in the state.

OPPONENTS: Janelle Fallan, Executive Director, Montana Petroleum Association, gave testimony in opposition to this bill. A copy of her testimony is attached as Exhibit 2.

Carl Iverson, Western Natural Gas, gave testimony in opposition to this section of the bill. He appreciates the Governor's effort in lowering the severance tax but he does not think it goes far enough. If oil would go up there would be some modification. He believes this should be modified to a lesser percentage than 3% on production in his area. When the wells are shut down that is it.

QUESTIONS FROM THE COMMITTEE: Senator Halligan asked Carl Iverson the number of stripper wells in his group and the average number of barrels.

Carl Iverson said he had 841 stripper wells in the Madison group and several hundred in the Sunburst field and the average production of those wells in the third quarter of 1985 was 1.8 barrels per day. See attached Exhibit 3.

Senator Halligan asked how he could make any money producing less than two barrels per day.

Carl Iverson said some of the operators have as many as 200 wells and when you add them all together you can make something.

Senator Crippen said isn't a stripper well defined as 10 barrels or less a day. He asked Janelle Fallan if she knew the average production of stripper wells in the state.

Janelle Fallan said stripper wells are half of the oil wells in the state and they produce about 10% of the oil produced in the state.

Senator Crippen asked at what point they become economic. At this point they are losing or breaking even. This would be with the 3% tax.

Carl Iverson said between 25 and 30 barrels. He referred to the chart furnished to the committee and attached as Exhibit 3.

Senator Crippen said he could appreciate what the administration is trying to do. Comments have been made that this is not going far enough. Since we only receive 10%,at the most, in oil from these wells, is it a state policy decision to keep them going until we have better times. He asked Dan Bucks to comment.

Dan Bucks said the approach in the incentive, in essence, is to put the stripper wells in the state at a level of percentability that is comparable to when prices are $4 or $5 higher than they are now. We are providing an incentive for keeping those stripper wells in production.

Senator Crippen said since it is a policy decision to keep them going, how many of the stripper wells are below the average barrels per day in production and if they are below the average, would it make sense to reduce the tax even further and not have any tax at all on those wells.

Dan Bucks said if your question is whether or not there might be different approaches to the same thing and in terms of looking at further adjustments for below average production, he would refer to John LaFaver's testimony on the first day of hearings where he stated we are here to work with the committee and they would be glad to sit down and look at that with the committee.

Senator Crippen asked if he was telling him that it is consistent to administration policy to reduce or eliminate the tax.

Dan Bucks said at some point we have to be realistic in looking at this. He does not think it is their objective to make the very least profitable well in the state profitable through tax policy.

Senator Halligan asked Dan Bucks if they have thought of including the gas stripper well in the package.

Dan Bucks said that has not been a point of discussion to this point.

Senator Halligan asked if they had data on the gas wells.

Dan Bucks said he thought they would have comparable date for gas wells as they have available for oil wells.

Senator Halligan asked what the average tax rate was for tertiary oil in other states.

Jerome Anderson said he did not know for sure. He thinks that by and large, the reduction suggested by the Governor's bill is typical of the type of reduction that simply reduces the tax. He is willing to accept the Governor's proposal.

Senator McCallum said Senator Gage has quoted the price differential between Montana oil and Texas crude as being $3 to $3.50 different. He asked Janelle Fallan if she would agree with that.

Janelle Fallan said in discussing this with the President of our association we believe the margin to be between $2.50 and $3.00. In Senator Gage's area it may be closer to $3.50.

Dan Bucks said when the proposal was being prepared, the information that was available was the information that the petroleum industry provided tothe Revenue Estimating Advisory Council and that was an average difference of $1.25.

Bill Nyman, independent from Billings, quoted a price for Montana oil at $16.65 and for Western Texas Intermediate at $18.50. We have to consider a difference in the gravity adjustment and transportation charges and that would bring the Montana price down at least $1.15. So, it would be something like $14.50 compared to $16.85.

CONSIDERATION OF SB 307: Senator Neuman, Senate District 21, presented the portion of the bill dealing with coal severance tax revisions. During the last session he sponsored a bill to give a window of opportunity to coal production and the window of opportunity was successful. We did receive some additional production during that time but the price of coal has continued to fall and the production has also continued to decline. This bill will reduce the price in coal tax from 30% to 20%. New coal sold under the "window of opportunity" program will continue to be taxed at 20%. The tax rate on all other coal will be phased down to 25% on July 1, 1988, and to 20% on July 1, 1990. This phased reduction of rates will place Montana coal in a better competitive position at the time contracts are renegotiated.

PROPONENTS: James D. Mockler, Executive Director, Montana Coal Council, gave testimony in support of this bill. He represents 99.9% of the coal produced in Montana. He commends the Governor for his courage in offering to lower the coal severance tax. This is obviously something that is beneficial to the industry and the people who work in it. They also appreciate the extension of the window of opportunity. He does not feel the Governor goes far enough in his proposal. To keep in the market, Montana's severance tax needs to be at a maximum of 15%. He feels it would be best to lower the severance tax to 10% and to do it today. This would be best for increased production and jobs and everything that goes with it. He is in support of HB 252 and would suggest that it be amended into this bill or passed through this committee as it is.

Al Bell, President of Metco Kenworth Inc., gave testimony in support of this section of the bill. He is a member of the Governor's Council on Economic Development. He supports this reduction. Their recommendation to the Governor was to urge the Montana legislature to reduce the coal tax to a level that would insure the competitiveness of Montana coal producers. He also furnished the committee with a newspaper article, attached as Exhibit 4, relating to Wyoming coal production.

Don Cecil, Cardinal Drilling Company, gave testimony in support of this section of the bill. He strongly supports the reduction in coal tax.

Mike Micone, Western Environmental Trade Association, gave testimony in support of this section of the bill. He said for a long time they have had an interest in the coal industry and the taxes that have been imposed on that industry. He said SB 307 is the first step to promote equity in this system. The coal severance tax has been debated for over a decade and Montana has imposed the highest coal severance tax in the nation. The result has been to stagnate the industry that has had the potential to provide Montana with high paying jobs and needed revenue. He supports the Governor's effort to reduce the coal severance tax but he does not believe it goes far enough. He would encourage the committee to address HB 252. Significant reduction in the coal severance tax is needed now if we are going to stimulate the industry.

Bennett Flage, laid-off miner representing miner friends at Colstrip, gave testimony in support of this section of the bill. He does not feel this bill goes quite far enough but it is a start.

Keith Anderson, President, Montana Taxpayers Association, gave testimony in support of this section of the bill. He said our recommendation has been to reduce the coal severance tax to 15% to be competitive with Wyoming. He said we have to be competitive in all areas of taxation. He does not think this bill goes far enough and supports the position of the Montana Coal Council.

Eric Feaver, Montana Education Association, gave testimony in support of this section of the bill. He said it is very difficult to represent public education and say it is time to cut taxes in an area that funds our business, particularly at this point in the legislature when there is no guarantee that any other source of revenue will develop that will replace the revenue loss. Notwithstanding that, he is in support of the Governor's proposal as being the appropriate one for the Montana Education Association. Perhaps other proposals would be appropriate on the assumption that if we cut taxes far enough there will be increased production. He does not know where the tax should be but would hope the legislature would balance the tax for the consumers, public schools, and the needs of the industry.

<u>OPPONENTS</u>: Russ Brown, Northern Plains Resource Council, gave testimony in opposition to this section of the bill. A copy of his written statement is attached as Exhibit 5.

Representative Hanson, House District 100, gave testimony in opposition to this section of the bill. A copy of her statement is attached as Exhibit 6.

Senator Severson asked James Mockler if this is far enough and fast enough.

James Mockler said no it is not far enough or fast enough.

Senator Brown asked Dan Bucks how many additional tons of coal will have to be sold with the 20% tax to make the fiscal note on this bill a wash.

Dan Bucks said he did not have the answer to that question but could get the information.

Senator McCallum asked Dan Bucks to respond to James D. Mockler's statement that the coal tax in Montana is closer to 35%.

Dan Bucks said the Coal Tax Oversight Committee asked the Department of Revenue to lay out an "effective rate" comparison between Montana and Wyoming and that information is provided in Exhibit 1. He said he thinks everyone understands that you cannot just compare rates, you have to compare the basis of the tax as well. The Wyoming and the Montana tax base are different. The Wyoming tax base, in general, is a bigger base and our tax base is smaller. The effective rate of all of the taxes that Montana levies when the 30% tax applies, this includes severance tax, gross proceeds and RIT tax, is 24% of FOB mine value. Under SB 307, the effective rate of all those taxes would be approximately 16% of FOB value. Wyoming rates are not that large, a little bit lower in terms of effective rate.

Senator Crippen asked James Mockler to respond.

James Mockler said he furnished, earlier in the session, information that would compare the two rates. What Mr. Bucks is telling you is absolutely absurd. Wyoming has a deduction of its base of $1.85 per ton on so called processing. Montana does not have that provision. Wyoming allows taxes on production and processing costs. Montana allows the deduction of taxes on production. That is the only deduction Montana allows.

Senator Crippen asked Russ Brown to respond.

Russ Brown said he could not even pretend to be the economic experts that Mr. Mockler or the state are. His only intention is that when you hear these continual conflicting figures, that you get some figures out that reflect what Montana's true tax rate is and let the people decide.

Senator Neuman closed.

<u>CONSIDERATION OF SB 307</u>: Senator Neuman, Senate District 21, presented the section of the bill dealing with capital company incentives. He said this topic was discussed earlier in a bill heard in committee. His presentation is attached as Exhibit 7.

PROPONENTS: Dick Bourke, President, Development Corporation of Montana, gave testimony in support of this section of the bill. He said we appeared on SB 22 and supported that bill and it did pass out of committee. He is in support of the increase in the tax credit from 25% to 50% in Senator Neuman's bill and obviously supports the spirit of increasing financial incentives for investment in capital companies. He is also representing Buck Boles, Montana Chamber of Commerce.

San Hubbard, Executive Director, Montana Science and Technical Alliance, gave testimony in support of this section of the bill. He testified in support of SB 22 and supports this bill to stimulate the formation of private venture capital companies.

OPPONENTS: None.

QUESTIONS FROM THE COMMITTEE: Senator Brown asked Senator Neuman if the Revenue Estimating Committee was estimating a shortfall this legislative session of $200 million.

Senator Neuman said that is his guess based somewhat on hearsay on what we have done midway of the session.

Senator Brown asked if that $200 million deficit would be increased to $209 million with this bill or $191 million without this bill.

Senator Neuman said he has used the figures from the executive budget projections, which would take into account the reduction that this bill entails. The answer is $191 million.

Senator Crippen said SB 22 pertains to venture capital and he believes that bill is broader than this bill in that it goes 4 years rather than 2 years. He said if we pass this bill, would there be any objections to amending in some of the incentives provided in SB 22.

Senator Neuman said he is willing to discuss any amendments proposed for this bill. It is his position that he does not want to make this not revenue neutral. It is the intent of this legislation for overall fairness.

Senator Neuman closed.

ADJOURNMENT: The meeting adjourned at 9:50 A.M.

George McCallum

SENATOR GEORGE McCALLUM, Chairman

ah

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 2-18-87

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 January 8, 1987

COMMITTEE ON Senate Taxation

VISITORS' REGISTER SB 307

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
~~[illegible]~~	~~Billings Neon~~	~~696~~	~~X~~	
[illegible]	[illegible]			X
Carl Iverson	Western Natural Gas	307		X
Ed Vander Pas	Ed Vander Pas - Oil	307	O	X
George D Anderson	Mont Chamb & Self	307		✓
Janelle Fallan	Mt Petroleum	307		X
~~Bill Nyman~~	~~Billings Neon~~	~~696~~	~~X~~	
Don Bird	Cardinal Drilling Co.	307	X	
Al Bell	Meteo Kenworthy	307	X	
Tom Marquardt	Self	307		X
Sam Hubbard	MSTA	307	X	
J.H. Buck Boles	MONTANA CHAMBER	HB 53, 54, 56, 77, 307	X	
James D. Mockler	MT. Coal Council	307	X	
Gary Abelin	Montana Oil & Gas Res	307		X
Ross Brown	Northern Plains Res Council	~~307~~		
Don R. Lee	Montana Oil & Gas Assoc.	307		X
Mike Micone	WETA	307	X	
Dennis H. Flaga	self	307	X	
Freeland Teague	Teague Geological	307		X
G.K. Coolidge	Coolidge Inc	307		X
S. Keith Anderson	Mont Tax	307	Support Coal Provisions	

(Please leave prepared statement with Secretary)

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

NAME: Bob Kelly DATE: 2/12/87

ADDRESS: 1330 San Flower

PHONE: 721-1587

REPRESENTING WHOM? Governor's Task Force on Econ. Transition

APPEARING ON WHICH PROPOSAL: Corporation Tax reduction

DO YOU: SUPPORT? ✓ AMEND? ______ OPPOSE? ______

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

TESTIMONY ON SB 307 TO THE SENATE TAX COMMITTEE
THE MONTANA ECONOMIC AND TAX REFORM ACT OF 1987

Stripper and Tertiary Oil Incentives

Dan R. Bucks, Deputy Director, Dept. of Revenue
February 18, 1987

Mr. Chairman and Members of the Committee, this morning I wish to discuss the changes in oil taxation that are proposed beginning on page 102 of the bill. I will be providing you with information on the stripper and tertiary oil incentives.

In the next two and a half years, oil prices are expected to vary somewhere between $15 and $18 -- and perhaps a bit higher at times, but not above $20. The price of West Texas Intermediate Crude yesterday was $17.79 a barrel, which should translate into a Montana price in the mid-$16 range.

Using the cost data submitted to the Department under net proceeds tax returns, the average stripper oil well will remain profitable at the price levels expected in the forseeable future, but the rate of profit will be much lower than when prices were in the $20 to $25 range.

The proposed reduction in the oil tax on stripper wells to 3% is specifically designed to return oil producers to a rate of profitability comparable to what they experienced when oil was in the $20 to $25 range. By rate of profitability, I am referring here to the percentage of pre-tax profits that will be retained by oil operators and owners after state and local taxes are paid. In general, it will insure that oil operators and owners will retain approximately 70% of the pre-tax profits.

The 3% rate is well-designed in a precise way to maintain a balance between the rate of profits and public revenue. It raises the share of profits earned by oil producers back to a level comparable to what existed when prices were higher. Thus, this rate should work effectively to maintain stripper well production and prevent the premature shutting-in of wells.

For tertiary production, we recommend that the approach to the incentive for this production be changed from a tax reduction calculated on incremental oil to a tax reduction on all oil produced in a tertiary project. Instead of a 2 and 1/2% tax rate on incremental oil, there would be a 4% tax rate applied to all tertiary oil when oil prices are below the boom-time levels of $40 a barrel.

We recommend a change because, after long and careful study and extensive consultation with the industry, we have concluded that there is no workable and consistent way to implement the 1985 law. The critical barrier to implementing that law is that once an oil field changes from secondary oil recovery to tertiary oil recovery, it is impossible to estimate what the secondary production would have been. To calculate the incremental oil that would receive a tax reduction requires that an estimate be made of what the secondary production would have been, and it is simply impossible to do that.

After the 1985 session, we consulted with experts from private industry, universities, the state oil and gas commission, and the federal government on the 1985 law. Without exception, none of these experts could provide us with a method of implementing the that law. Indeed, several of the sources advised us that the task of implementing the law as written was simply impossible.

Instead of an unworkable incentive, we propose a workable approach that would grant a tax reduction to all production from a tertiary project. That approach would allow producers to recoup some of the added capital costs associated with tertiary projects and would serve as an incentive for such projects.

The proposed law would also clarify that pre-existing tertiary projects in Montana would also qualify for the tax incentive.

The stripper and tertiary oil incentives are realistic approaches to tax incentives that are tailored to market conditions and that will work to achieve the objective of improving oil production in Montana.

SENATE TAXATION
EXHIBIT NO. 1
DATE 2-18-87
BILL NO. S.B. 307

2-18

Tax Comparison
Montana-Wyoming

Much has been said about the "effective rate" for Montana and Wyoming coal. Following are two comparisons of the taxes levied by the respective states.

The first set of columns (Table I) uses prices that were presented to the Coal Tax Oversight Committee as representative of the lowest mine contract sales price by the Governor's Budget Office.

The second set of columns (Table II) is from data supplied by the Department of Revenue at the same Coal Tax Oversight Committee meeting.

Montana

Table I				Table II
$6.40		Contract Sales Price (F.O.B. Mine Price Less Taxes & Fees)		$8.61
	1.92	Severance @ 30%	2.58	
	.29	Gross Proceeds @ 4.5%	.39	
	.03	Resource Indemnity Trust @ .5%	.04	
2.24		**Total Production Taxes**		**3.01**
	.35	Abandoned Mine Reclamation Fee	.35	
	.39	Black Lung Fee	.50	
.74		Total Federal Taxes		.85
$9.38		F.O.B. Mine Price		$12.95
	35%	Production Taxes as % of Contract Sales Price	35%	
	23.9%	Production Taxes as % of F.O.B. Mine Price	23.2%	

SENATE TAXATION
EXHIBIT NO. 1
DATE 2-18-87
BILL NO. S.B. 300

Wyoming

$4.50		F.O.B. Mine Price		$8.85
	.15	Royalty Deduction	.15	
	1.85	Processing Deduction	1.85	
2.50		Taxable Value		6.85
	.17	Ad Valorem @ 6.7%	.46	
	.26	Severance @ 10.5%	.72	
.43		**Total Production Taxes**		**1.18**
	.35	Abandoned Mine Reclamation Fee	.35	
	.19	Black Lung Fee	.40	
.54		Total Federal Taxes		.75
	$3.53	Contract Sales Price (F.O.B. Less Taxes & Fees)	$6.90	
	12.2%	Production Taxes as % of Contract Sales Price	17.1%	
	9.6%	Production Taxes as % of F.O.B. Mine Price	13.3%	

The real effect of the rate is how much the tax raises the price to the customer on a ton of coal. When you view it in that manner, Montana's production taxes raise the price of our most competitive coal by $2.24. Wyoming on the other hand through its production taxes raises the price of its competitive coal by $.43, a difference of $1.81.

Using DOR's somewhat higher prices, we see that the taxes raise the price of Montana coal $3.01 and the Wyoming coal $1.18 for a difference of $1.83.

Because of the processing deduction allowed by Wyoming, the higher the price the less influence it has on the percentage of F.O.B. mine price.

SENATE TAXATION
EXHIBIT NO. 1
DATE 2-18-87
BILL NO. S.B. 307

MONTANA PETROLEUM ASSOCIATION
A Division of the
Rocky Mountain Oil and Gas Association

Helena Office
2030 11th Avenue, Suite 23
Helena, Montana 59601
(406) 442-7582

Billings Office
The Grand Building, Suite 501
P.O. Box 1398
Billings, Montana 59103
(406) 252-3871

Janelle K. Fallan
Executive Director

Testimony on SB 307
Senate Taxation Committee
Oil Stripper Well Provision
by Janelle Fallan, Executive Director
February 18, 1987

We appreciate the Governor's concern for the plight of stripper wells but do not believe his proposal will provide the level of relief that is needed.

If it is conservatively figured that 300 stripper wells were abandoned in 1986, that represents a loss of $183,960 in severance tax and $257,544 in net proceeds (figuring $14/barrel). Loss of state and county revenue due to loss of income by the operator and lost royalty income are not figured.

Those wells are gone; there is nothing you or I can do about them. They are very unlikly to be redrilled.

We believe that, in several ways, the Governor's proposal does not do as much as could be done to help prevent continued abandonments.

It proposes lowering the severane tax from 5% to 3%.

Complete elimination of the severance tax on stripper wells, as proposed in HB 776, would save the operators a total of $2,259,287, or $650 per well (assuming $15/barrel oil) per year. This proposal would save $260 per well per year.

Operating costs may be as high on stripper wells as on more productive ones and operating costs have not declined with the price of oil. This past year, the taxing jurisdiction in some cases has gotten more income from a well than the operator.

The bill also does not address stripper gas wells, defined as those producing less than 60 MCF per day.

We do not believe that tying the tax break to the price of oil is the correct approach. It seems to say that stripper wells in Montana are in trouble because the price of oil is low. While that is true, it addresses only part of the problem. If we want resource development, what we really need to consider is the fact that Montana has the highest average oil and gas taxes in the nation.

SENATE TAXATION
EXHIBIT NO. 2
DATE 2-18-87
BILL NO. SB-307

Further, the price differential allowed between Montana and West Texas Intermediate is too narrow at $1.25. The price differential actually is closer to $2 and has been as high as $3. What this means is that, when the price of WTI reaches $21.25, this tax reduction will no longer apply -- even though Montana refiners may be paying between $18 - $19.25, rather than the $20 contemplated in this bill.

North Dakota and Wyoming have both had lower taxes for stripper wells in effect for many years -- and not tied to the price of oil. It's time Montana caught up.

As I mentioned, there is a bill in the House -- HB 776 -- that also addresses stripper wells, and we believe that is the meaningful approach.

Approved By

Production For Kevin - Sunburst Field

SENATE TAXATION
EXHIBIT NO. 3
DATE 2-18-87
BILL NO. S.B. 307

Price per Barrel of Oil - Projected			# 1200	#12 00
Production Taxes:				
Oil & Gas Production Taxes .0008			01	
Severance Tax .05			60	
Resource Indemnity Trust Tax .005			06	
Net Proceeds Tax	12.876	13½	155	1.56
		14	222	1.68
Royalty Ave. in the Field.			196	1.50
Net After Royalty & Taxes.			782	
Transportation Charge.			50	
			# 732	

B.O.P.D.	B.O.P.M.	Operating Costs/Mo.	Operating Costs per BBL	Net Revenues
1.0	30	500	1667	(935)
1.5	45	500	1111	(379)
2.0	60	500	833	(101)
2.5	75	500	667	65
3.0	90	500	556	176
4.0	120	500	417	315
5.0	150	500	333	399

Operating Costs for Average Independent per Month.

Contract pumper per well per month	100 00
Supervision.	100 00
Accounting.	50 00
Office Supplies.	1 00
Utilities	25 00
Well Servicing	150 00
Maintenance.	75 00
	$ [illegible]

ım: Clearly the superboom is

pokesmen
ɔr energy
ɜek unity

ɔy KATHY BROWN
ıssistant Managing Editor

th state lawmakers looking on
day, energy industry
esmen urged a united effort
ing Wyoming's economy back
its feet.
ring a banquet for the Rocky
ntain Master Mechanics
ciation in the Holiday Inn,
l and uranium industry
ials and industry suppliers
e for the need to eliminate
densome laws to make
ming competitive again.

ave Ham, manager of state
rs west for AMAX Coal Co.,
the speakers in urging
peration between the
rnment and the industry.
the state government and coal
ıstry join together to change
s implemented during the
alled "superboom," then "we
ıe coal industry could be the
ht spot in Wyoming's economy
he 1990s if we seize the

Continued on Page 14

Energy

Continued from Pag

opportunity," he told the 200 people at the banquet.

The goal should be to have Wyoming coal in all the coal-fired plants built west of the Mississippi for the next 50 years. Although "we can't guarantee Wyoming can supply every one," Ham said, the objective should be to supply as many as possible.

That's a long way from the current situation in the coal industry. He described that situation in one word — change.

Ham said the industry is in an important transition period after enduring great change in the past 15 years.

The Gillette resident said that the Powder River Basin reflects those changes — it began with one operating coal mine and has now expanded to 14. About $1 billion has been spent in Campbell County alone to build those mines. The coal industry employs about 5,000 people in Wyoming.

That generated the "superboom myth," Ham said. People had the idea that the energy business would "boom right through the end of the century."

In response, federal and state governments passed laws to deal with the impact of the boom.

✔ Federal coal royalty taxes increased from 20 cents to as much as $1.25 per ton. The taxes are now assessed on a percentage basis — 12½ percent of the sales price — and that may vary between mines, Ham explained.

✔ The federal government also became involved in the environment, passing several laws that have made the coal industry more environmentally sensitive, but also resulted in costly bureaucracy.

✔ Wyoming severance taxes were raised to 17 percent, compared to 1 or 2 percent before, Ham added.

All that combines to "make a significant impact on our ability to market Wyoming coal."

Government and industry must work together to make Wyoming coal more competitive. It must adjust the times, Ham said.

"Clearly the superboom over." This year, for the fi time in 15 years, co production in the Powd River Basin will decline. A "the next three years look ve flat."

It's time to do some long-te planning to protect Wyomin jobs, he said.

Ham suggested that t legislature reduce or elimina a portion of its 1½ perce capital facilities tax on co uranium and trona. That mon is used to build highwa community colleges a schools. It's unfair to burd Wyoming minerals' indust with the tax when there a adequate facilities in the sta to handle its population, added.

He also said the Legislatu should look at the way assesses the value of co Companies now pay feder taxes for the abandoned mi land and black lung progra but Wyoming includes th payments in its formula assess severance taxes.

SENATE TAXATION
EXHIBIT NO. 4
DATE 2-18-87
BILL NO. SB 307

NORTHERN PLAINS RESOURCE COUNCIL

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

Testimony presented on SB 307
Before Senate Taxation 2/18/97

SENATE TAXATION
EXHIBIT NO. 5
DATE 2-18-87
BILL NO. SB-307

Mr. Chairman and members of the Senate Taxation Committee, for the record, my name is Russ Brown and I work for Northern Plains Resource Council.

Mr. Chairman, I want to make it perfectly clear, that we are not in opposition to Senate Bill 307. Northern Plains recognizes and supports many of the important reform measures it contains. However, we do have some serious concerns with sections 55 through 57, and it is to those sections that we speak today.

Mr. Chairman, Montana's coal severance tax represents the shaking off of the corporate dominance which plagued Montana through most of its 98 year existence. States and countries rich in natural resources are typically exploited by outsiders and Montana has been no exception. Montana history is replete with exploitation by the copper kings, the Hearst family, the Rothchilds, Rockefellers, Standard Oil and the Anaconda Co.

Fabulous wealth and many fortunes were taken out of Butte and out of MOntana from copper mining, and Montana has almost nothing to show for it, except the environmental and social problems caused by the wind down of of the mining. The coal tax is testimony to our determination that this won't happen again.

Mr. Chairman, there is no hard evidence that a reduction of the coal tax will result in one additional ton of coal being purchased and sold from Montana. The "window of opportunity" was supposed to test whether a reduction would make a difference. Only one new contract is claimed, and the importance of the window on this contract is unclear. In fact, the Coal Tax Oversight committee, charged with studying this matter concluded:

"After careful consideration of all the relevant information the Subcommittee was unable to find conclusive evidence that the New Coal Pruduction Incentive Tax Credit was the sole determining factor in the awarding of any new contracts for future coal production to a Montana mine."

There is simply no evidence that reducing the coal tax will protect our markets. The only thing that is certain is that if the coal tax is the incremental competitive factor between Montana and Wyoming, then, Wyoming will simply reduce its tax accordingly, and we will be right back where we started.

Mr. Chairman, Northern Plains Resource Council has supported both the right of Montana to tax and the rate of Montana's coal tax since 1975. However Mr. Chairman, we submit that has been years since Montana has had a true 30% coal Severance tax. With this in consideration, and aware of the winds of chabege blowing across the political spectrum of Montana, NPRC re-evaluated its position on the coal tax rate this fall. At our 15TH Annual meeting this fall, NPRC members concluded:

RESOLUTION ON THE COAL SEVERANCE TAX, NOVEMBER 22, 1986

WHEREAS, Montana's current 30% coal severance tax is commonly perceived by the public and elected officials to be too high; and

WHEREAS, the tax continues to be an appropriate one, to indemnify future generations against loss and damage to the environment and rural communities, and to ensure a secure economic future; and

WHEREAS, the Silverman/Duffield report has shown that the rate of 30% now has an effective rate of 21%, indicating that it is not an economic obstacle to present or future coal contracts; and

WHEREAS, the effect of the severance tax is negligible when compared to the freight charged in the delivered price of coal;

NOW THEREFORE BE IT RESOLVED, that the NPRC advocates a tax simplification program that would remove all tax credits and deductions in the coal severance tax and set the severance tax at a flat rate of 20%; and

BE IT FURTHER RESOLVED, that the NPRC support of this coal tax simplification program is accompanied by the insistence that other costs involved in mining and delivering coal to the market are examined and lowered as well; and

BE IT FURTHER RESOLVED, that the NRPC vigorously opposes any proposals that would not be essentially revenue neutral, except by a referendum of the people of the State of Montana.

Mr. Chairman, with this resolution in mind, we supported an initial bill draft that would have set a flat coal severance tax rate of 20%, with no deductions. However, an analysis of this by the Montana Coal Council indicated that this 10% cut in the tax rate was a tax increase. Somewhat confused, but being reasonable, we now support a bill, HB 643 that proposes a flat rate 18.5% severance tax. It really no suprise but still somewhat confusing to find that acording to another Coal Council analysis, that even this 11.5% cut from 30%

still represented a tax increase. Mr. Chairman and members of the Committee, how can a tax cut in our 30% tax of over 33% be considered a tax increase by the mining industry? We either have a 30% tax which has been called, excessive, punitive and responsible for "killing the Golden Goose", or we don't. Mr. Chairman, the people of Montana have right to know what is the truth about our coal tax rate.

Mr. Chairman, this is why we are so concerned about the coal tax cuts proposed in SB 307. Are we truly talking about at 25% to 20% cut, or is it more like a 19% to 13% decrease? Mr. Chairman, there is a hearing scheduled on the 18.5% coal tax bill for March 3rd. We urge you to postpone any action on these sections of SB 307 until after the debate on HB 643. If the "true" or effective tax rate can be clarified, then the legislature and the people of Montana can determine what they want for a coal severance tax. Thank you for the opportunity to share these concerns.

Lisa Brown

2-18-87

SENATE TAXATION
EXHIBIT NO. 5
DATE 2-18-87
BILL NO. S.B. 307

Testimony on SB 307

Opposition to Sections 55 & 56

SENATE TAXATION
EXHIBIT NO. 6
DATE 2-18-87
BILL NO. SB-307

Montanans for the Coal Trust is an organization of citizens concerned about preservation of the coal tax and the coal trust fund. Although membership is open to anyone who shares the same concern, its membership is largely legislators and former legislators.

Our Chairman, former Senator Tom Towe, was unable to be here today because of a prior commitment. He has asked me to express his regrets to the committee.

Montanans for the Coal Trust does not oppose SB 307. In fact there are some very important reform measures contained in it. MCT is, however, very much opposed to the inclusion of Sections 55 and 56 dealing with the rate of the coal tax and the extension of the window of opportunity. We take no position on Section 57 dealing with quarterly computations of the incremental production.

Section 55 would reduce the coal tax permanently by one third. Although it would not take effect until July 1, 1988, and then it is phased in at one sixth reduction until July 1, 1990, it will mean over $25 million dollars less tax in the first two years and over $700 million dollars less tax over the following 26 years.

Thus, by the year 2015 this section of SB 307 will have cost the State of Montana over $700 million--over $25 million a year. And this

SENATE TAXATION
EXHIBIT NO. 6
DATE 2-18-87
BILL NO. S.B. 307

assumes current production and price figures, way too low in a 28 ye projection. Why we should make such an enormous reduction at a time when revenue is so short is beyond logic and rational reasoning.

There is no hard evidence that a reduction of the coal tax will result in one additional ton of coal being produced and sold from Montana. The window of opportunity was supposed to test whether a reduction would make a difference. Only one new contract is claimed and the evidence is unclear on this contract. For Western Fuels to state it was "a significant element" in awarding its contract to Westmoreland Resources is simply not proof that Westmoreland would have lost the contract but for the window of opportunity.

In fact, the Coal Tax Oversight Committee, charged with studyi this matter, concluded:

> After careful consideration of all the relevant information, the Subcommittee was unable to find conclusive evidence that the New Coal Production Incentive Tax Credit was the sole determining factor in the awarding of any new contracts for future coal production to a Montana Mine.

Two events show that we are loosing money because of the window of opportunity. AEM Corporation entered into a small contract (225-350 thousand tons) with Western Energy. AEM is a captive consumer--because of its location near Colstrip, it is not feasible to purchase coal from any other mine. Nevertheless, it still will receive the credit.

Second, Decker Coal Co. reverted 1.5 million tons from its Wyomi mine to its Montana mine for its Commonwealth Edison contract. But this

SENATE TAXATION
EXHIBIT NO. 6
DATE 2-18-87
BILL NO. S.B. 307

would have happened with or without the credit because the Big Horn mine in Wyoming was no longer economically feasible to operate.

The only remaining significant contract is the recently announced contract between Peobody and Northern States Power. Peobody will furnish the coal out of its mine in the Powder River Basin near Gillette, Wyoming, where coal companies are so hungry for contracts that they are willing to bid way under their costs of production--as low as $2.90 per ton. This contract went to Wyoming in spite of the Window of Opportunity. Thus, to lower the tax to 20% permanently would not have made a difference because it was already at 20% for this contract and Montana still couldn't get it.

There is simply no evidence that reducing the coal tax will help protect our markets. How can we throw away $700 million dollars without any more certainty than this. The only thing that is certain is that if the coal tax does make a difference, Wyoming will simply reduce its tax accordingly and we will be right back where we started.

But for those of you who feel we must do something, we suggest there is a way to reduce the tax to below Wyoming's rate and still not loose the revenue. In other words, Montana can have its cake and eat it to. Simply divide the tax into two parts. The first part should be a gross receipts tax, with no deductions, at 12%. This would be approximately the same as the window of opportunity rate (or the rate under this bill after 1990). It would be slightly lower than Wyoming's rate (before inclusion of the gross proceeds tax and the resource indemnity trust tax).

The second part would be based on a net proceeds much like the oil severance tax. A deduction for costs of production and a 5% profit margin could be built in along with language that this part of the tax could not be passed on to the consumers. Thus it would not interfere with the companies who are concerned about the new contracts that will come up for renewal. Yet there will still be considerable revenue from those companies who are making more than 5% profit. And as the coal market improves, hopefully all the companies will make higher profits and pay the net proceeds portion of the tax.

Such a provision can be worked out. It was suggested by the Coal Tax Oversight Committee.

Rather than throw this controversial issue into a comprehensive tax reform package, it should be dealt with separately. That is why we strongly recommend that Sections 55 and 56 be deleted from this bill.

Thank you.

SENATE TAXATION
EXHIBIT NO. 6
DATE 2-18-67
BILL NO. S.B. 307

TREATMENT OF ALL CORPORATIONS, NOT SPECIAL TREATMENT FOR A FEW SHOULD BE THE STANDARD WE SEEK.

venture capital

THERE ARE, THOUGH, EXCEPTIONS TO EVERY RULE. TAX BENEFITS SHOULD BE GRANTED ONLY IN CASES WHERE SUCCESS IN ACHIEVING LARGER PUBLIC BENEFITS IS WELL ASSURED. INCREASING VENTURE CAPITAL IN MONTANA IS SUCH A CASE. SB 307 WOULD DOUBLE THE RATE AND MAXIMUM AMOUNT OF THE TAX CREDIT THAT CAN BE CLAIMED FOR INVESTING IN A MONTANA CAPITAL COMPANY. IT WOULD INCREASE FOURFOLD THE AMOUNT OF CREDITS THAT CAN BE EARNED THROUGH ANY ONE COMPANY. IT WOULD MAKE AVAILABLE $3 MILLION IN NEW TAX CREDITS AS WELL AS ALLOW THE USE OF UNUSED CREDITS FROM PRIOR YEARS.

UNDER THIS BILL, MONTANA CAPITAL COMPANIES WOULD CONTINUE TO FOCUS THEIR DEVELOPMENT EFFORTS ON MONTANA.

VENTURE CAPITAL ACTS AS A SPARK PLUG FOR ECONOMIC GROWTH. THE VENTURE CAPITAL INDUSTRY IS AN INFANT INDUSTRY IN MONTANA, AND SB 307 WILL HELP THAT VENTURE CAPITAL INDUSTRY MATURE INTO AN EFFECTIVE FORCE FOR BUILDING THE MONTANA ECONOMY.

SENATE TAXATION
EXHIBIT NO. 7
DATE 2-18-87
BILL NO. SB-307