

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Harrington, on January 24, 1989,
at 9:00 a.m.

ROLL CALL

Members Present: All

Members Excused: None

Members Absent: None

Staff Present: Dave Bohyer, Legislative Council

Announcements/Discussion: None

HEARING ON HOUSE BILL 181

Presentation and Opening Statement by Sponsor: Rep. Fritz Daily, District 69, Butte, stated HB 181 is a bill to take the new money that is going into the permanent Coal Tax Trust Fund and use it to fund education. Rep. Daily stated that Montana is currently in a crises situation in regard to funding the educational system. The university system is currently underfunded and as a result, faculty members are leaving and necessary programs are being eliminated. Fees have had to be increased also for some areas of study. The vocational training centers are unable to offer all of the essential programs due to lack of funding. The equipment in the vocational training centers does not meet the current technological standards. Therefore, training is inadequate for today's world. Rep. Daily asked the committee to consider the future of the children of Montana and what that future will be in regard to education and training. He stated that by using the new money going into the Coal Tax Trust Fund which amounts to \$50,000,000.00, a good educational system can be provided for the children of Montana.

List of Testifying Proponents and What Group They Represent:

Ken Nortdvelt, Director, Department of Revenue
Wayne Phillips, Legislative Liaison to Governor Stan

Stephens

List of Testifying Opponents and What Group They Represent:

Bob Dozier, Northern Plains Resource Council
Vern Vertleson, Concerned Citizen
Kim Wilson, Montana Sierra Club
Ann Pernesky, Montana Alliance for Progressive
Policy
Phil Campbell, Montana Education Association

Testimony:

Ken Nordtveldt spoke in favor of the bill stating there is a great need to improve the funding in various areas of education. He stated taxes are collected to be spent, not placed in savings accounts and the State of Montana is currently in crises. Dr. Nordtveldt said there is a significant source of revenue available from the Coal Tax Trust Fund. This proposal does not reduce the approximately \$400,000,000.00 already collected but diverts only the new money coming in to the fund which amounts to about \$25,000,000.00. These monies would go to education under HB 181. He stated this would be a prudent use of taxes that are currently collected and is preferable to raising taxes.

Wayne Phillips spoke in support of the bill stating the governor has proposed two options for balancing the state budget. He stated one of the options was to cap the Coal Tax Trust Fund. Therefore, the governor's office urges the committee to consider this bill as one of the vehicles for accomplishing this effort.

Bob Dozier spoke in opposition to the bill stating HB 181 is one more attempt to raid the Coal Tax Trust Fund. Mr. Dozier stated when future generations do not have the coal industry to tax, the trust fund income will be needed. With new technology, burning coal for energy will soon be phased out. By taking the money now, the investment income will be reduced which will affect many programs now in place. He urged the committee to consider whether or not this is really the solution to the problem or only a temporary measure. Mr. Dozier stated the income from coal taxes is currently declining and will continue to decline. He therefore urged that the committee reject passage of the bill.

Vern Vertleson spoke in opposition to the bill stating that coal is one of Montana's vital natural resources. Future generations have the right to benefit from this

resource. Currently, the trust fund is \$400,000,000.00 with 11% or higher interest per year which is a reliable source of income. Mr. Vertleson said Montana has had difficult problems before and they have been resolved as he believes the current problems will be resolved. He stated he did not feel it necessary to use the Coal Tax Trust Fund money to relieve the current financial problems with education funding or any other funding.

Kim Wilson spoke in opposition to the bill stating he had no doubt there is a crises in the educational funding in the state of Montana but this is not the way to address that issue. Mr. Wilson stated the people of Montana wanted this money to be put away for future generations and to offset the effect of coal development in the state. He urged rejection of the bill.

Ann Pernesky spoke in opposition to the bill stating she felt the Coal Tax Trust Fund should be kept intact as it is one of the few sources of renewable income in the state. She stated it was important to see a fiscal note with this bill and urged a DO NOT PASS.

Phil Campbell spoke in opposition to the bill stating his organization opposed the capping of the Coal Tax Trust Fund. He noted the need to fund education but stated this was not the method to accomplish that purpose. He stated the tax system needed reforming rather than capping the trust fund.

Questions From Committee Members: Rep. Cohen asked if anyone was present from the Budget Office. Chairman Ream who had taken over for Chairman Harrington who left to make a presentation to the Senate, asked if anyone was present from the Budget Office. No one was and Rep. Cohen made the motion to recess the hearing until he could see a fiscal note on the bill due to the amount of money involved.

Chairman Ream stated this is a debatable motion and asked for discussion from the committee.

Rep. Raney stated this bill is not appropriating money.

Chairman Ream asked Rep. Cohen what is the purpose in recessing to which Rep. Cohen replied he would like to have the fiscal note in order to ask intelligent questions concerning the bill.

Rep. Gilbert stated the bill does not make any appropriation of money. It merely establishes the

mechanism to use the new money coming into the Coal Tax Trust Fund for education. He stated the motion was nebulous and the hearing should proceed.

Rep. Raney asked Dave Bohyer if he saw any appropriation in the bill. Mr. Bohyer replied there was none. The bill allows by a 3/4 vote of both houses, to appropriate money to education. In sections 2 and 3, the bill allows the interest income from the funds to be appropriated to education as stated in HB 181. Rep. Raney then asked Mr. Bohyer if the bill was just a statement. Mr. Bohyer stated that upon 3/4 vote of both houses of the legislature, the corpus of the Coal Tax Trust Fund can be appropriated. Fifteen percent interest income can currently be appropriated from the trust for education.

Rep. Giacometto asked Mr. Bohyer as a matter of clarification if the bill required a fiscal note. Mr. Bohyer replied it did not because there were no appropriations.

Rep. Cohen stated a fiscal note is required on revenue bills. He said he would like to have the Budget Office prepare a fiscal note on this.

Rep. Harrington, who had returned at this point, stated he strongly opposed the motion to recess the hearing. He said the bill is a basic mechanism and that the committee is currently discussing the bill. He said it will be some time before further action is taken. Therefore, recessing would be inappropriate.

Rep. Ream stated he also opposed. He stated there are two options in this situation. The committee can request fiscal information and the hearing can be continued with the hearing being kept open.

Rep. Cohen asked for a point of clarification on keeping the hearing open to which Rep. Ream replied the chairman simply does not close the hearing. Rep. Cohen then stated if there was agreement to keeping the hearing open, he would withdraw his motion. Chairman Harrington replied the bill would be heard further in executive session so he saw no point in keeping the hearing open but the committee could decide on this point.

Rep. Ellison concurred with Chairman Harrington stating he saw no point in keeping the hearing open as did Rep. Gilbert.

The question was called for by Rep. Giacometto. The motion to RECESS THE HEARING was defeated on a roll call vote 17 to 1.

Returning to questions from the committee on HB 181, Rep. Rehberg asked Director Nortveldt what was the inflation depletion of the trust fund. Dr. Nortveldt replied at present there is a loss of \$17,000,000.00 per year. Rep. Rehberg then asked Dr. Nortveldt how long he thought the coal reserves were going to last to which Dr. Nortveldt replied most geologists have put Montana's coal reserves in terms of thousands of years to come.

Rep. Raney asked Dr. Nortveldt why the trust is eroding. Dr. Nortveldt replied that money put away loses purchasing power in the general inflationary era. The interest rates tend to reflect inflation by being higher than normal rates so we are dealing with increased spending power from higher interest rates so in some instances, the principal is being used now through high interest rates. Rep. Raney then asked if all the money was returned to the trust, would it still be eroding. Dr. Nortveldt replied certainly not. Rep. Raney then asked Dr. Nortveldt if he saw the bill as appropriating money or doing anything that could not currently be done. Dr. Nortveldt replied the bill reaffirmed how the legislature can proceed concerning the coal trust principal and adds the one feature that if the money of the corpus is appropriated, it is to go to education. It is a statutory statement for the legislature in this regard.

Rep. Giacometto asked Dr. Nortveldt if this bill would tie the hands of the governor's office and the legislature to use the money for any other purpose than education and would another bill have to be introduced into the legislature for the funds to be used for any other purpose but education. Dr. Nortveldt replied there may be circumstances where this would be true but it would be unlikely that any such attempt would be made due to the enormous needs of the education system.

Rep. Ream asked Dr. Nortveldt if he would supply a fiscal note on the amounts concerned with HB 181. Dr. Nortveldt stated he would prepare this information for the committee.

Rep. Driscoll referred to page 3, line 18 of the bill asking Rep. Daily why the bill states "the legislature may" instead of must. Rep. Daily replied that he did not write the bill and his intentions are to have a 3/4

vote to use the new money for education. He stated he would not object to an amendment in this area if the committee felt it necessary.

Rep. Patterson asked Rep. Daily, referring to page 2, line 20, where would special education and gifted and talented programs be included. Rep. Daily replied the only area he knew was not included was the community colleges but perhaps the area of special education and gifted and talented should have specific mention. Rep. Patterson then asked if an amendment would be necessary for this area. Rep. Daily replied he thought that would be appropriate.

Closing by Sponsor: Rep. Daily stated he would see that the fiscal note for the bill is provided to the committee. He said he was not carrying the bill for the governor's office. The bill was planned long before Governor Stephens election. Rep. Daily commented that he felt the Montana Education Association wanted funding increased but did not supply any proposals. He stated he felt this was an opportunity to act in regard to the need for education funding and hoped the committee would take positive action on this bill. Rep. Daily stated that the Coal Tax Trust Fund had been created for the benefit of future generations. He stated it was his position that the future is now.

DISPOSITION OF HOUSE BILL 181

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

HEARING ON HOUSE BILL 161

Presentation and Opening Statement by Sponsor: Rep. Mary Lou Petersen, District 1, stated HB 161 is a bill requiring that property zoned as residential but rezoned as commercial property be appraised as residential property until the property is actually devoted to an income producing purpose other than residential rental.

List of Testifying Proponents and What Group They Represent:

Jerry Syth, Forsyth, Montana

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jerry Syth spoke in support of HB 161 stating he is a victim of overtaxation. Mr. Syth stated that in 1980, his property taxes were \$982.69, 1981 - \$1,044.90, 1983 - \$1,148.51. 1984 - \$1,005.93, 1985 - \$1,127.31 and in 1986, his taxes were \$3,437.97. His property is an old homestead and he is the third generation owner. This property has never been used for business but it has been zoned commercial. Mr. Syth stated he had taken his case to the county and to the State of Montana Appeals Board. The outcome of this case to the appeals board is attached. (Exhibit 1).

Ken Nordtveltdt, Director of the Department of Revenue, commented that in regard to Mr. Syth's testimony, there was no excuse for the differing appraisals he had received on his land and this would definitely not continue. Dr. Nordtveltdt stated in some sense, HB 161 would narrow and restrict an individual's right to preserve the residential status of his/her property. Dr. Nordtveltdt suggested that the word "zoned" in the bill be replaced with the word "used" because some properties of this type are in areas that are not subject to zoning. Dr. Nordtveltdt referred to section 2 which is an old version of the proposed changes. There is a mechanism for insuring that individual property is appraised as residential. This bill seems to narrow the ability of a taxpayer to use his rights under section 2. Section 3 changes the rollback provisions from five to three years, if the bill is passed as written, and by changing the effective date of the rollback from the present language which states use the present use date, problems may be created for unsuspecting buyers of property which may be subject to a rollback tax.

Questions From Committee Members: Rep. Raney stated to Dr. Nordtveltdt that Mr. Syth's problems may have occurred because the property was not his principal residence. If there is a rental on the property, there is no escape clause, but if this property had been his personal residence, he could have used the existing law to maintain his residential appraisal. Dr. Nordtveltdt

replied this was true and stated another feature of this bill was extending the provision to fourplexes which are currently appraised in the commercial real property division rather than the residential property division. If this bill is passed, then the appraisals of duplexes and fourplexes will have to be reconsidered. Rep. Raney asked what was meant by rollback. Dr. Nortveldt stated that if the status of a property is changed from residential to commercial but has continued to be appraised as residential, on the conversion the assessor goes back to some period of time into the past and assesses the property for this period of time at the higher commercial rate. Rep. Raney stated this was rather absurd. Dr. Nortveldt stated he was not defending the law but that is the situation.

Chairman Harrington stated if the bill was to pass, it would cause some very serious problems in certain areas. Dr. Nortveldt replied the committee would have to be careful not to restrict the rights of some while attempting to extend the rights of others.

Rep. Giacometto stated under the current law, if you are living on the property, you are not taxed the commercial rate. Dr. Nortveldt replied this was true and that is the point in careful consideration of all the rights of the taxpayers involved.

Rep. Ellison stated that if a developer buys land and until he has constructed four units on this land, he could continue with the residential appraisal rather than commercial. Dr. Nortveldt stated that was true as long as he had no more than four units and had historically been in residential use, then this could be kept in residential rates until an actual conversion takes place at which time the property would be subject to three years of rollback taxes.

Rep. Ream asked if Dr. Nortveldt knew the revenue impact effects. Dr. Nortveldt replied he did not know the status of the fiscal note at present.

Closing by Sponsor: Rep. Petersen thanked Dr. Nortveldt for pointing out that many Montana properties are not zoned at all. She stated "historic use" would be a better description and she asked the committee to consider that amendment. She also asked the committee to consider the rollback tax. She stated the rollback had been put into law specifically for developers and to protect Montana in this respect.

DISPOSITION OF HOUSE BILL 161

Motion: None

Discussion: None

Amendments and Votes: None

Recommendation and Vote: None

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 111:

Rep. Giacometto asked for a point of clarification before any executive action was taken on HB 111. He stated another bill is currently being drafted on the junk vehicle tax that will change the mechanism of funding. In this bill, as it is currently progressing, HB 111 will not be needed. Rep. Campbell is presently working on this. Rep. Giacometto recommended waiting on HB 111 to see what happens with Rep. Campbell's bill for the present time. Chairman Harrington concurred and the committee adjourned.

ADJOURNMENT

Adjournment At: 10:28 a.m.



REP. DAN HARRINGTON, Chairman

DH/lj

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DAILY ROLL CALL

TAXATION

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date January 24, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Elliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

EXHIBIT 1
DATE 11/24/89

~~White-3064~~

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

HB 161
Rep. Gary Jon Peterson

IN THE MATTER OF APPEAL)
NUMBERED: PT-1986-3301)
JERRY M. and NOREEN K. SYTH)
-vs-)
DEPARTMENT OF REVENUE)
OF THE STATE OF MONTANA)

NOTICE OF HEARING ON APPEAL TO
OVERRIDE A DECISION OF THE
FLATHEAD COUNTY TAX APPEAL
BOARD

TO: Jerry & Noreen Syth, P.O. Box 131, Fortine,
Montana 59918

AND TO: Gregg Groepper, Administrator, Property Assessment Division,
Department of Revenue, Mitchell Building, Helena, Montana 59620

You and each of you are hereby notified that the hearing on
the above-entitled appeal will be held at 1:15 p.m. on Monday,
December 21, 1987, in the basement conference room of the Department
of State Lands Building, 2250 Highway 93 North, Kalispell, Montana.

This hearing is held pursuant to Section 15-2-301 MCA.

The issue herein involves Sections 15-8-111 and 15-9-101(1), MCA.

If you have any questions, you may contact the State Tax
Appeal Board at 1209 8th Avenue, Helena, Montana 59620 or
(406)444-2720.

If you are planning to introduce exhibits, please be prepared
with copies for the board members and for the opposing side. Photographs
need not be duplicated.

DATED this 3rd day of December, 1987.

BY ORDER OF THE
STATE TAX APPEAL BOARD

Jere-Ann Nelson
JERE-ANN NELSON
Administrative Secretary

Conv. Mantz Hutchinson, Flathead County Appraisal Supervisor

EXHIBIT 1, pg. 2
DATE 1/24/89
HB 161
Rep. Mary Lou Peterson

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

JERRY M. and NOREEN K. SYTH,)	
)	Docket No. PT-1986-3301
Appellants,)	
)	
-vs-)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
THE DEPARTMENT OF REVENUE)	ORDER and OPPORTUNITY
OF THE STATE OF MONTANA,)	<u>FOR JUDICIAL REVIEW</u>
)	
Respondent.)	

The above-entitled cause came on regularly for hearing on the 21st day of December, 1987, in the City of Kalispell, Montana, pursuant to the order of the State Tax Appeal Board of the State of Montana, hereinafter referred to as the "Board." The notice of said hearing was duly given as required by law setting the cause for hearing. At this time and place, testimony was presented, exhibits were received and the Board then took the cause under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it for its consideration by all parties in the Docket, and being well and fully advised in the premises, finds and concludes as follows:

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VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. HB 181

DATE January 24, 1989

SPONSOR Fritz Daily

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Bob Dozier	Reedpoint Mt.		✓
Tom Wilson - Sierra Club	Helena		✓
Chris Kaufmann	MEIC - Helena		✓
Ernest			
Ernest Kelley	Helena MLWV		
Alex Prunski	HELENA		✓
Verner Bertalan	Don Co, MT		✓
Ernest Kelley	Helena	✓	
John Campbell	MEA		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

TAXATION

COMMITTEE

DATE 1/24/89

BILL NO. 181

NUMBER _____

NAME	AYE	NAY
Cohen, Ben	✓	
Driscoll, Jerry		✓
Elliott, Jim		✓
Ellison, Orval		✓
Giacometto, Leo		✓
Gilbert, Bob		✓
Good, Susan		✓
Hanson, Marian		✓
Hoffman, Robert		✓
Koehnke, Francis		✓
O'Keefe, Mark		✓
Patterson, John		✓
Raney, Bob		✓
Ream, Bob		✓
Rehberg, Dennis		✓
Schye, Ted		✓
Stang, Barry "Spook"		✓
Harrington, Dan, Chairman		✓

TALLY

LuAnne John
Secretary

1 17
Alan Harrington
Chairman

MOTION: Rep. Cohen's motion to DISCONTINUE HEARING ON HB 181
defeated.