

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bruce Crippen, on January 9, 1989, at 10:00 a.m. in Room 325 of the Capitol.

ROLL CALL

Members Present: Chairman Bruce Crippen, Vice Chairman Al Bishop, Senators Tom Beck, Mike Halligan, Bob Brown, Joe Mazurek, Loren Jenkins, R. J. "Dick" Pinsoneault, John Harp and Bill Yellowtail.

Members Excused: None.

Members Absent: None.

Staff Present: Staff Attorney Valencia Lane and Committee Secretary Rosemary Jacoby

Announcements/Discussion: Chairman Crippen asked that the committee consider it standard policy to study bills before coming to the hearings. If they had any questions on the bills, he suggested that committee members contact sponsors or the staff attorney for assistance.

HEARING ON SENATE BILL 8

Presentation and Opening Statement by Sponsor: Senator Dorothy Eck of Bozeman, representing District #40, opened the hearing. She said she was sponsoring the bill at the request of the Department of Revenue to clarify the exemption of tribal royalties received under 1938 leases from state taxation. She said that there had been a number of problems in the bill drafting, one being that the wrong court case had been cited. The bill should have referred to the Blackfeet Tribe vs. the State of Montana. She announced that amendments were being prepared and would be presented to the committee. She then reviewed the amendments (Exhibit 1).

List of Testifying Proponents and What Group they Represent:

Jerry Foster, Department of Revenue
Jim Mockler, Montana Coal Council

List of Testifying Opponents and What Group They Represent:
There were none.

Testimony:

Jerry Foster apologized for the length of the amendments. He gave some history of the bill, stating that the courts gave a decision in 1985 that the DOR could not tax royalties. Since that time, the DOR has administered the decision and has settled back taxes for the tribe. This bill, he said, defined net benefits and excluded royalties in the computation.

Jim Mockler reiterated Jerry Foster's testimony, then added that he felt the statute needed to be clarified.

Questions From Committee Members: Senator Yellowtail asked if it would be appropriate to resolve the Crow case within this bill. Jerry Foster said he would prefer to pass this bill as drafted and suggested that other legislation be drafted for the Crow Tribe.

Senator Yellowtail asked if it would be appropriate to make that request. Senator Crippen asked that he do so as an individual, rather than having the committee make the request. He suggested that Senator Yellowtail work with Jim Mockler and Jerry Foster on the suggested legislation.

Senator Pinsoneault asked what revenue the state derives from the Blackfeet Trusts and Jeff Miller of the DOR said that none was derived. Senator Crippen said the state considered the tribal properties within the state taxable until told otherwise. Senator Pinsoneault commented that the problems involved with these properties are extremely complex. He agreed it would be best to limit the scope of this bill to one tribe.

Senator Yellowtail asked if the Fort Peck Tribe would be dealt with in the same manner. Mr. Foster said he would have to research that.

Senator Yellowtail said he understood the way the bill read on refunds. He asked if the department would not charge royalties hereafter. Mr. Foster said his understanding was correct regarding the royalties.

Closing by Sponsor: Senator Eck closed the hearing, saying she would prefer that the bill not be radically altered to include the Crows.

DISPOSITION OF SENATE BILL 8

Discussion: Discussion brought out that the reference to the Crow tribe had been removed in the amendments (Exhibit 1) by the person who drafted the bill. Staff Attorney Valencia Lane thought the amendments addressed the intent of the sponsor and proponents. Senator Yellowtail agreed that the two tribes had different issues and should be treated separately. Senator Pinsoneault asked if the bill dealt with the Blackfeet Trust properties. Valencia Lane said she didn't know.

Amendments and Vote: Senator Jenkins MOVED that the amendments be accepted. The MOTION CARRIED UNANIMOUSLY.

Recommendation and Vote: Senator Jenkins MOVED that Senate Bill 8 DO PASS AS AMENDED. The MOTION CARRIED UNANIMOUSLY.

HEARING ON SENATE BILL 55

Presentation and Opening Statement by Sponsor: Senator John Harp of Kalispell, representing District #4, opened the hearing. He said that the state had almost \$25 million in delinquent receivables. This bill attempted to address the problem by eliminating some of the exemptions which would allow the DOR to compete with the federal government. In the federal government, garnishment is unlimited, he said, but the state restrictions are 25%. Living expenses and household expenses would be taken into consideration, he said, but the object of the bill was to get on the "same footing" as the federal government.

List of Testifying Proponents and What Group they Represent:

Jeff Miller, Department of Revenue

List of Testifying Opponents and What Group They Represent:

None.

Testimony:

Jeff Miller said this bill addressed the two major exemption problems for the department: Section 4-11 and the exemption under Section 6-14.

He encouraged the committee to give a Do Pass recommendation to the bill.

Questions From Committee Members: There were none.

Closing by Sponsor: Senator Harp closed the hearing.

DISPOSITION OF SENATE BILL 55

Recommendation and Vote: Senator Harp MOVED that Senate Bill 55 DO PASS. Senator Yellowtail asked for a postponement on the bill until he had time to do further study. The committee agreed. Senator Harp WITHDREW his motion.

ADJOURNMENT

Adjournment At: 10:35 a.m.



SENATOR BRUCE D. CRIPPEN, Chairman

BDC:rj
minrj.109

ROLL CALL

JUDICIARY

COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date Jan. 9, 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR BECK	✓		
SENATOR BISHOP	✓		
SENATOR BROWN	✓		
SENATOR HALLIGAN	✓		
SENATOR HARP	✓		
SENATOR JENKINS	✓		
SENATOR MAZUREK	✓		
SENATOR PINSONEAULT	✓		
SENATOR YELLOWTAIL	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

January 9, 1989

MR. PRESIDENT:

We, your committee on Judiciary, having had under consideration SB 8 (first reading copy -- white), respectfully report that SB 8 be amended and as so amended do pass:

1. Title, line 7.

Following: "PROCEEDS,"

Strike: "COAL SEVERANCE,"

2. Page 1, lines 10 through 12.

Following: "Court in"

Strike: remainder of line 10 through "(1988)" on line 12

Insert: "Blackfeet Tribe v. Montana, 471 U.S. 749 (1985)"

3. Page 1, lines 12 through 13.

Following: "Montana's"

Strike: remainder of lines 12 through "Crow Tribe" on line 13

Insert: "oil and gas production taxes or royalties"

4. Page 1, lines 14 through 15.

Following: "federal law"

Strike: remainder of line 14 through "sovereignty" on line 15.

5. Page 1, line 18.

Following: "from"

Strike: "state"

6. Page 1, line 19.

Following: "proceeds,"

Strike: "coal severance,"

continued

7. Page 2, line 4.
Following: "chapter 23,"
Strike: "parts 5 through 8"
Insert: "part 6"
Following: "Title 15,"
Strike: "chapters 35 and"
Insert: "chapter"

8. Page 2, line 5.
Following: line 4
Strike: "Title 15, chapter 37, parts 1 and 2;"

9. Page 2, lines 6 and 7.
Following: "23," on line 6
Strike: remainder of line 6 through "8" on line 7
Insert: "part 6"

10. Page 2, line 7.
Following: "Title 15,"
Strike: "chapters 35 and"
Insert: "chapter"

11. Page 2, lines 7 and 8.
Following: "36;"
Strike: the remainder of line 7 through "2;" on line 8

DO PASS

Signed: _____
Bruce D. Crippen, Chairman

Y.C.
11/9/89
3:00

CLERICAL

S Bill No. 8

Date: 1-10-89

Time: 5 pm

S / H Standing Committee
Beaverly
(Chairman) Crippen

S / H Committee of the Whole

MER
(Legislative Council Staff)

(Sponsor)

In accordance with the Rules of the Montana Legislature, the following clerical errors may be corrected:

Amendment # 1 should read:

" Title, line 7.

Strike: " STATE "

Following: " PROCEEDS, "

Strike: " COAL SEVERANCE, "

Amendments to Senate Bill No. 8
First Reading Copy

Requested by Senator Eck
For the Judiciary Committee

Prepared by Eddy McClure
January 5, 1989

1. Title, line 7.
Following: "PROCEEDS,"
Strike: "COAL SEVERANCE,"

2. Page 1, lines 10 through 12.
Following: "Court in"
Strike: remainder of line 10 through "(1988)" on line 12
Insert: "Blackfoot Tribe v. Montana, 471 U.S. 759 (1985)"

3. Page 1, lines 12 through 13.
Following: "Montana's"
Strike: remainder of lines 12 through "Crow Tribe" on line 13
Insert: "oil and gas production taxes on royalties"

4. Page 1, lines 14 through 15.
Following: "federal law"
Strike: remainder of line 14 through "sovereignty" on line 15.

5. Page 1, line 18.
Following: "from"
Strike: "state"

6. Page 1, line 19.
Following: "proceeds,"
Strike: "coal severance,"

7. Page 2, line 4.
Following: "chapter 23,"
Strike: "parts 5 through 8"
Insert: "part 6"
Following: "Title 15,"
Strike: "chapters 35 and"
Insert: "chapter"

8. Page 2, line 5.
Following: line 4
Strike: "Title 15, chapter 37, parts 1 and 2;"

9. Page 2, lines 6 and 7.

Following: "23," on line 6

Strike: remainder of line 6 through "8" on line 7

Insert: "part 6"

10. Page 2, line 7.

Following: "Title 15,"

Strike: "chapters 35 and"

Insert: "chapter"

11. Page 2, lines 7 and 8.

Following: "36;"

Strike: the remainder of line 7 through "2;" on line 8

DATE Jan. 9, 1989

COMMITTEE ON Judiciary

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Opp
Jerry Foster	Dept of Revenue	SB 3	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jeff Miller	Dept of Revenue	SB 55	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CHARLES WOODRIF	Dept of Revenue	SB 55	<input type="checkbox"/>	<input type="checkbox"/>
Jim Nookler	MT Coal Council	SB 8	<input type="checkbox"/>	<input type="checkbox"/>
M. J. Skewes	MTLVA		<input type="checkbox"/>	<input type="checkbox"/>
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(Please leave prepared statement with Secretary)