

MINUTES

MONTANA SENATE  
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Bob Brown, on January 12, 1989,  
at 8:00 a.m.

ROLL CALL

Members Present: Chairman Brown, Vice Chairman Hager,  
Senator Bishop, Senator Crippen, Senator Eck, Senator  
Gage, Senator Halligan, Senator Mazurek, Senator  
Norman, Senator Walker.

Members Excused: Senator Harp, Senator Severson

Members Absent: None

Staff Present: Jeff Martin, Legislative Council Researcher,  
Jill Rohyans, Committee Secretary.

Announcements/Discussion: None

HEARING ON SENATE BILL 1

Presentation and Opening Statement by Sponsor: Senator  
Anderson, District 37, sponsor of the bill, said it was  
introduced at the request of the Coal Tax Oversight  
Subcommittee. His written testimony is attached as  
Exhibit 1.

List of Testifying Proponents and What Group they Represent:

Jim Mockler, Executive Director, Montana Coal Council  
Tom Asay, private citizen  
Ken Williams, Entech and Western Co. Energy  
Dennis Burr, Montana Taxpayers Association

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Jim Mockler, Executive Director, Montana Coal Council, said  
private ownership in coal is typically in a  
checkerboard pattern in most mines. That is primarily

true with both the Peabody and Western Energies mines, both at Colstrip. Most of that coal is owned by Burlington Northern Resources and is in a checkerboard pattern. The leases have already been negotiated. Therefore, BN Resources will not get an advantage from this bill. Any savings would ultimately be passed on to the customer and would make the coal more competitive in the market. As a result of House Bill 252, of the 1987 session, coal production has increased tremendously and test burns of our coal are occurring all over the United States and in some foreign countries. Those burns run anywhere from 20,000 tons to several hundred thousand tons and can result in long term contracts and a broadly expanding market. This bill brings us to a point of fairness - whether it is Burlington Northern, a small private rancher, the state, or federal government. All will be treated equally.

Tom Asay, appearing as a private citizen, said he had served as chairman of the Coal Tax Oversight Committee. He said the committee felt this bill completes what was intended in HB 706 of the 1983 session. This bill does not affect the amount of royalties paid. HB 706 began the process of computation of the severance tax at 15 cents per ton. The coal market is extremely cost competitive and it is necessary to establish a continuity, which will allow Montana coal to be as competitive as possible now and in the future.

Ken Williams, Entech and Western Co. Energy, said Western Energy is one of the mines with the checkerboard pattern of ownership. The equal tax treatment of private royalties would allow for more logical mining sequences which would lead to better reclamation techniques. It would also put them on a more even footing with the other mines in Montana and also Wyoming. He noted when the Department of Revenue prepared the fiscal note they used 1987 private royalties which were on about 11 million tons. The leases were about to roll over and were still at 11 cents per ton at that time, and the private production was accelerated. In a normal year they would be in the 7-8 million ton per total private production and that would reduce the fiscal note figure by about 20 per cent. He also pointed out the tax savings would be considerable and would be passed on to the customer where the market will allow.

Dennis Burr, Montana Taxpayers Association, expressed support for the bill.

There were no opponents.

Questions From Committee Members: Senator Eck asked if royalties went up significantly on land the coal companies own, would they pay themselves royalties.

Mr. Mockler said none of any of the coal properties are privately owned by any of the mining companies. The coal is leased from the state or federal governments or a private owner for a number of years at a specified royalty. That royalty has gone from 15 cents per ton to 12 1/2 per cent of the value of the coal, whatever that value is. On the federal and state royalty they only pay tax on the 15 cent a ton royalty, but on private royalty they are paying 12 1/2 percent of the value.

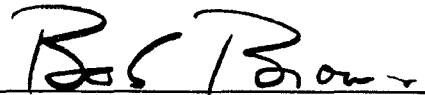
Senator Halligan asked Mr. Mockler if we're waiting two years for the effective date in order to avoid the fiscal impact this session.

Mr. Mockler said of course the companies would rather have it now, but the Coal Tax Oversight Committee requested the 1991 effective date and they agreed to it.

Closing by Sponsor: Senator Anderson said in closing, as a matter of fairness and allowing the private owners of the coal to be equally competitive, the bill should pass.

ADJOURNMENT

Adjournment At: 9:35 a.m.



SENATOR BOB BROWN, Chairman

BB/jdr

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ROLL CALL

TAXATION

COMMITTEE

50~~st~~ LEGISLATIVE SESSION -- 1989

Date 1/12/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP			X
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON			X
SENATOR WALKER	X		

Each day attach to minutes.

SB 1

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, I AM SENATOR JOHN ANDERSON, DISTRICT 37.

I APPEAR HERE TODAY IN SUPPORT OF SB 1, INTRODUCED AT THE REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE ON WHICH I HAVE SERVED FOR THE PAST FOUR YEARS.

IN 1983 THE COAL INDUSTRY CAME TO THE LEGISLATURE AND ASKED THAT ROYALTIES BE EXEMPT FROM SEVERANCE TAX.

AT THAT TIME THE ROYALTY ON COAL WAS 15-20 CENTS PER TON. BUT THE FEDERAL AND STATE LEASES WERE EXPIRING, AND THE RENEWAL RATE WAS SET AT 12 1/2 PERCENT OF VALUE INSTEAD OF AT 15-20 CENTS PER TON.

THE LEGISLATURE RESPONDED BY EXEMPTING ALL BUT 15 CENTS PER TON OF THE ROYALTY FROM TAX ON FEDERAL, STATE AND INDIAN COAL, BUT FOR WHATEVER REASON DID NOT SIMILARLY EXEMPT PRIVATE ROYALTIES.

SINCE THAT TIME PRIVATE LEASES HAVE LIKEWISE EXPIRED, AND NATURALLY THEY TOO ARE NOW A PERCENT OF VALUE.

THE COAL TAX OVERSIGHT SUBCOMMITTEE FELT, AND I AGREE, THAT PRIVATE ROYALTIES SHOULD BE TREATED IN THE SAME MANNER AS FEDERAL, STATE AND INDIAN ROYALTIES.

THE MEMBERS OF THE SUBCOMMITTEE HAD EXTENSIVE DISCUSSION ON THIS ISSUE, AND WE BASED OUR DECISION TO SUPPORT THIS BILL ON TWO BASIC ISSUES.

FIRST, THE HIGHER TAX ON PRIVATE COAL TENDS TO MAKE IT LESS

Ex. #1  
1/12/89 SB1

COMPETITIVE IN THE MARKET. IN THE MINES THAT HAVE PRIVATE COAL, THE PRIVATE COAL IS INTERMINGLED WITH FEDERAL AND STATE COAL. IT SEEMS GROSSLY UNFAIR TO PENALIZE THESE MINES AND TO MAKE THEM LESS COMPETITIVE THAN THOSE THAT CONTAIN ONLY FEDERAL, STATE OR INDIAN COAL.

SECOND, WE FELT THAT THE TIME HAD COME TO TREAT PRIVATE OWNERSHIP AT LEAST AS WELL AS GOVERNMENTAL OWNERSHIP. ON THIS POINT IT IS SIMPLY A QUESTION OF FAIRNESS TO THE PRIVATE ROYALTY OWNER. THE HIGHER COST OF PRIVATE COAL WILL NOT ONLY RESULT IN THE COAL BEING LESS COMPETITIVE FOR THE MINING COMPANY, BUT ALSO WILL RESULT IN MINING COMPANIES DESIGNING THEIR MINE PLANS TO AVOID MINING AS MUCH OF THE HIGHER COST PRIVATE COAL AS POSSIBLE.

I ASK THAT YOU VOTE A "DO PASS" ON SB 1.

WITNESS STATEMENT

NAME: Jim Mockler DATE: 1/12/89

ADDRESS: 2301 Colonial Dr

PHONE: 443-6225

REPRESENTING WHOM? MT Coal Council

APPEARING ON WHICH PROPOSAL: SB1

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

WITNESS STATEMENT

NAME: Ken Williams DATE: 1/12/88

ADDRESS: 16 E. Granite

PHONE: 782-4233

REPRESENTING WHOM? Entech

APPEARING ON WHICH PROPOSAL: SBI

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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