MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on January 17, 1991, at 9:05 a.m.

ROLL CALL

Members Present:
Dan Harrington, Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Members Absent: Bob Ream, Vice-Chairman (D)

Staff Present: Lee Heiman, Legislative Council
Mona Spaulding, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 34

Presentation and Opening Statement by Sponsor:

REP. ERVIN DAVIS, House District 53, Lake County, said the bill was presented at the request of constituents who feel coal severance tax is much too low and should be raised. The Amendment, **EXHIBIT 1,** prevents the severance tax from being instituted all at once. **REP. DAVIS** introduced **Stanley Peterson, citizen, Polson,** who made the presentation.

Proponents' Testimony:

Mr. Peterson requested **REP. DAVIS** to sponsor this bill. It is the result of **Mr. Peterson** attending a conference at Aspen, Colorado, 1990. **EXHIBIT 2**, excerpts from the opening address given by Professor Bartless, University of Colorado, provides information on which the bill is based. **Mr. Peterson** said he was stunned to learn that the tax had been reduced in 1991. The loss of revenue to the state will be about $50,000,000 this year and increase in the future. The greenhouse effect and exhaustion of a non-renewable resource are other aspects of continued use of fossil fuel which are even more important than monetary considerations. Promotion of solar and biomass energies, and more efficient transportation would be productive uses of severance tax money.

SEN. TOM TOWE, Senate District 46, Billings distributed "Corporate Tax Cuts have Hurt Montana", an article from The Billings Gazette, July 1, 1990, which he wrote, **EXHIBIT 3. SEN.** Reductions in the tax have been a mistake. The reductions were done with an understanding that an increase in production and in employment would result. Those expectations have not been forthcoming. When the new law took effect, 1142 people were employed in the coal mines. At present, 1100 are employed. July 1, 1991 when the full impact of the tax takes effect $38,000,000 will be lost annually. There is much interest in Powder River Basin coal. The quality of the coal and the Clean Air Act are important factors. 52% of the low sulfur coal in the U.S. is in Montana - about 10% of the world's coal supply. It is not reasonable to be overly concerned about marketing Montana coal. The world's oil supply is being bombed; coal, or coal derivatives, is the best substitute for oil. Whether taxes go up or down, production will ultimately go up because of the Clean Air Act and other things. Coal tax will have little, if any, effect on production. **SEN. TOWE** called attention to the fiscal note showing two scenarios. Perhaps a third scenario showing zero decline, no effect; and a fourth scenario showing an increase, the long term implication of the Clean Air Act, should be included. Looking at the two cases given: With a 15% decrease in production, state revenue increases $33,800,000 in the first year of the biennium, $43,700,000 in the second year. With a 50% decrease in production, state revenue increases $2,700,000 the first year of the biennium and $8,500,000 the second year. Increased production still increases tax revenue if the tax is at the right level and does not significantly affect employment.

Dennis Olson, Northern Plains Research Council (NPRC), said NPRC is a grass roots citizens organization with 6,000 members and supporters, 14 community groups and other members across the state who work with natural resources and development issues, and agricultural issues, **EXHIBIT 4**. In 1988, the Western Organization of Research Councils, an umbrella organization of citizens groups, with NPRC and sister organizations in four states published For Future and Current Generations, a comparison of non-renewable natural resource taxation in Colorado, Montana, North Dakota and Wyoming. Copies were given to the 1989 Montana Legislature. Those initial findings have been updated and released in a report entitled, Uncertain Fortunes, **EXHIBIT 5.** Conclusions argue to raise coal tax values at least to the original 30% level. It is no longer justifiable to think that lower tax rates will boost production, increase employment or stabilize state tax revenues. Even if it were, increased production not accompanied by increases in tax revenues or jobs, depletes the mineral wealth of western states and makes them poorer in the long run.

Jim Jensen, Executive Director, Montana Environmental Information Center (MEIC), said he didn't want to duplicate testimony given, but wanted to add his strong support and urge the committee to think in terms of a natural resource taxation policy for Montana in concert with a sane energy policy. Moving forward in an uncoordinated way, without a blueprint, is no longer acceptable in resource and energy production. A rational, long-term energy policy is needed for the state and nation.

Opponents' Testimony:

Mike Steven, representing Montana's oil, gas and coal counties, said they opposed the bill. the current volume of coal being mined, in the $32-34,000,000 range, is not excessive. In the long range there may be a need to increase the tax again. His constituents do not feel this is the time to increase the tax levy.

David Kasten, taxpayer, rancher, farmer and businessman, said he pays considerable taxes in McCone, Prairie, Bell and Custer counties. He adamantly opposed this bill and any other which would increase taxes on Montana resources and drive business from the state. He believes in stability, diversification and developing Montana's resources, including coal. The present tax at 15% is still twice as high as Wyoming. With stable tax laws, coal production will continue to increase.

Ken Williams, Entech, Butte, stated that the coal industry, during the 1987 Legislature, said two things: First, a significant decline in coal production inevitably would occur unless there was action by the Legislature. The stunning projections of 1987 predicted about 27.2 million tons and included long term contracts. If contracts become too expensive, people buy or find their way out of them. **Mr. Williams** said he didn't realize greenhouse effect and global warming would be debated during the hearing. A paper by Dr. Pat Michaels, a climatologist from the University of Virginia, casts considerable doubt on the science in this area. The coal industry's second message during the 1987 Legislature was that it hoped to be able to stabilize employment and competitively produce an additional 5 million tons. Production has been better than that in the face of productivity gains across the western coal market. **EXHIBIT 6** indicates plants which have the most work to do to comply with the newly passed Clean Air Act. They are located in the midwest - Illinois, Ohio, Indiana, Pennsylvania and West Virginia. If these plants are going to consider low sulfur coal as a fuel option, Wyoming is much better situated geographically than Montana. The capacity in Wyoming is such that it can meet an amount equal to all of Montana's production and any likely to result from the Clean Air Act, still with excess capacity. Only two Wyoming mines do not have compliance coal. The definition of compliance coal is coal that meets a 1.2 pound per million BTU fired standard for sulfur dioxide emissions. Neither of the two Wyoming mines with compliance coal export out-of-state. Of the five Montana mines indicated, **EXHIBIT 6,** only two have compliance coal. Three do not have the right product to take to the marketplace. Although Montana may have abundant low sulfur coal as a natural resource, not many mines produce it. With excess capacity available in Wyoming, it is unlikely that new mines will open to meet the fuel switch which is in demand resulting from the Clean Air Act. From the standpoint of the coal industry, the Clean Air Act took much of the fuel supply from some clients. Compliance options are being determined. In effect the Clean Air Act said to the industry, "you will forevermore live with only 8.9 million tons of sulfur dioxide emission on an annual basis." The cap on sulphur emission is a significant detriment to long term growth in the coal industry unless the technology for the generation of electricity changes. We oppose this bill and believe it would cost a majority of, if not all, out-of-state business.

Gary Spaeth, Mid West Energy Resources, Inc. said Mid West is a wholly owned subsidiary of Detroit Edison and is also a broker, or seller, of coal which negotiates contracts with other purchasers in the midwest and Canada. At the present time negotiation is underway with other large users including Consumer Power, General Motors, Wisconsin Electric, Ontario Hydro and Cypress Minerals. **Mr. Spaeth's** concern is that changes in Montana coal taxes may dramatically affect sales, at least in certain areas of the nation. 11.5 million tons of coal were exported to Detroit Edison and other customers last year. 10.5 million tons in 1989. 9.6 million tons in 1988. Mid West's ultimate goal is to purchase 18 million tons. **Mr. Spaeth** quoted John Nathan, Chief Executive Officer, Mid West Energy Resources, "Montana coal is real important to us." Nevertheless, he said, the delivered price is what makes the real difference. Most of the coal purchased goes through the terminal at Ontario, WI, where it is transported either directly to Detroit Edison by rail or transferred to ships and barge for distribution through the Great Lakes. Access to the St. Lawrence seaway makes foreign export possible. Negotiations are currently underway with a major coal purchaser in Spain. Wyoming is presently exporting abroad. Last year Mid West purchased two million tons of Wyoming coal at a few cents less than Montana coal. It was necessary to purchase Wyoming coal to be sure their system was adaptable in the event Montana coal should become difficult to procure competitively. Price stability is questionable for Montana coal. Potential purchasers worry about the stability of the Montana tax structure. Mid West knows that the tax structure can only change every two years, but it is the perception of some customers that it changes daily. Mid West contracts include a clause which allows purchasers to terminate a contract if the tax structure changes. **EXHIBIT 7**, then Governor Schwinden's 1987 amendatory veto, was taken seriously by Mid West. Montana was understood to make a commitment. In response, Mid West made a counter-commitment to change its corporate structure and buy more Montana coal.

Forest Boles, President, Montana Chamber of Commerce, said the Chamber is on record in support of the current law relative to the taxation of coal. He reiterated the point just made by Mr. Spaeth: Businesses look at tax structure and are more concerned about stability and predictability of the tax structure than the amount of the tax. If the tax is too high, they will not come into the state. Legislators of both parties have expressed concern about Montana's competitiveness. This is an important bill which does not support competitiveness and could cost jobs.

Kay Foster, Billings Chamber of Commerce, quoted Jim Jensen, "What we need is a blueprint for a sane, rational long-term policy for the state." This has been echoed by other testimony here today.

James Mockler, Executive Director, Montana Coal Council said the industry, during the coal tax debate two years ago, did not promise huge production or employment increases. Its commitment was to stabilize the labor market and produce an additional 5.2 million tons of coal, or 32.2 million tons in 1988. The governor said 32.2 million tons of production was required before the tax would be lowered to 15%, **EXHIBIT 7**. Many people anticipated that the tonnage would be met for one year but not sustained. The industry has sustained the increased tonnage: 38.9 million tons in 1988, 37.8 million tons in 1989 and 37.7 million tons in 1990. The industry thought the coal tax argument was over. Buyers are wondering why it is an issue again and worry about instability. Market flexibility has been demonstrated. Relative to the number of employees, **Mr. Mockler** said he has published a brochure entitled <u>Coal Facts</u> for 15 years which includes a poll of the coal companies and reports the number of employees mining coal, **EXHIBIT 8**. He disagreed with **SEN. TOWE's** figures and said the Department of Labor could not validate them. He hoped the Legislature would make Montana a better and more profitable place to live.

Denis Adams, Director, Department of Revenue (DOR) said, referring to **SEN. TOWE'S** request for projections showing no drop in production, a comparison has been done relative to Montana and Wyoming for fiscal year (FY) 92 and 93 showing no change in production and a 40% severance tax rate. Montana for FY92 would be $2.22 per ton compared to Wyoming $0.48; a difference of $1.74 per ton higher in Montana. Montana for FY93 would be $2.47 per ton compared to Wyoming $0.45; a difference of $2.02 per ton higher in Montana. Further analysis will be provided to the committee.

REP. MARIAN HANSON asked to be on record in strong opposition to HB 34.

<u>Questions From Committee Members:</u>

REP. BOB RANEY asked **SEN. TOWE** to respond to the opposition. **SEN. TOWE** said, responding to **Mr. Mockler,** that his figures are the average for each 90 days. The problem with **Mr. Mockler's** figures is the work force on any one day does not represent accurate employment figures. The average number for almost a year is very stable, right at 1100. The industry maneuvered to raise the production figure in order to meet requirements to gain the 15% tax rate. That production level has never been met since, albeit is has not gone down substantially.

REP. FRED THOMAS, referring to Governor Schwinden's amendatory veto tying the 15% tax rate to additional production and additional jobs, said the terms appeared to be met. **SEN. TOWE** said that was only part of the story; that amendatory veto did indicate the 15% would be acceptable if a particular goal was met that very next year. But, the underlying commitment, represented by the coal companies generally, was that much more coal and higher employment would be a result of the lower rate.

REP. THOMAS said **SEN. TOWE** was taking the Coal Council data and making it say something else, thus putting words in their mouths. **SEN. TOWE** said no, that their data relates to one specific amendment.

REP. THOMAS asked **Mr. Adams** at what level of production it had been agreed that the tax would be lowered to 15%. **Mr. Adams** said he believed it was 32,500,000 tons. **REP. THOMAS** asked if the level of production was met by the coal industry. **Mr. Adams** said yes. **REP. THOMAS** asked if production exceeds that level today. **Mr. Adams** said yes based on 1990 production.

SEN. TOWE responding to **REP. DAVID HOFFMAN** said there was no question that technically and legally the requirements of the law were met. Therefore, the tax is scheduled to go down to 15%. The larger question concerns the underlying commitment made by the coal industry. That commitment was that some substantial benefit would come to the state in exchange for taking $38,000,000 per year out of the state budget.

SEN. TOWE was asked about a seeming inconsistency in his testimony having to do with the length of time required to start new mines and that relationship to production figures. **SEN. TOWE** said the law was passed four years ago. No new permit applications have been applied for. There have been some additions to existing ones. There is one major new mine due to open. The tax rate has no bearing on it.

REP. ORVAL ELLISON asked **SEN. TOWE** if it was true that one of the arguments for setting the tax at 30% originally was to curtail development of Montana coal and encourage orderly development. **SEN. TOWE** said his recollection was different. He was the chief sponsor of the bill in question. The Smithsonian Magazine picked up quotes from his testimony. It was believed that production would not be affected at all. If it was, it was irrelevant. The coal would not spoil, but would keep.

REP. ELLISON asked **Mr. Mockler** if he remembered that coal companies had several contracts which were nearing the end of their tenure. Was one of the worries that if something wasn't done, coal production was going to drop? **Mr. Mockler** said yes, the whole reason was production was going back down.

REP. BOB REAM asked **Steve Bender, Office of Budget and Program Planning (OBPP)** if different assumptions were used to calculate coal price per ton and production on the fiscal note. He noted they are different from the Legislative Fiscal Analyst's report which was based on assumptions adopted by the Revenue Oversight Committee (ROC). **REP. REAM** requested a revised fiscal note based on the assumptions that were adopted. **Mr. Bender** said that OBPP assumptions had been used for fiscal note purposes because the HJR 13 is not done. He is not aware of the revenue estimates for the assumption being finalized. The last ROC meeting considered the problem which exists when a resolution is not completed. Projections will differ very little in this case because the assumptions are nearly identical. When the resolution is completed, adjusted figures will be available.

REP. JIM ELLIOTT asked **Mr. Spaeth** to give the dollar cost per ton of coal, including tax, mine head and delivered to Duluth. **Mr. Spaeth** said that he did not have that figure but knew there was a few cents difference between the last delivery between Wyoming and Montana coal. **REP. ELLIOTT** asked if there was a difference in cost to ship Montana coal from the Montana fields lying on the Burlington Northern line to Chicago vs. a difference in cost shipping Wyoming coal from their coal fields via the Chicago and Northwestern railroads. It looked like a monopoly in Montana by the Burlington Northern railroad. He didn't know if they took advantage of that fact in the differential rate. On the southern lines through Nebraska it is obvious that there is some competition. **Mr. Mockler** referred to the map, **EXHIBIT 6,** illustrating the rail lines. He said transportation means a lot because approximately 1.5-1.6 cents per ton a mile is added. Stated another way, for each 67-68 miles $1.00 is added to the price of the coal in transportation. That affects the delivered price of coal. The question to be addressed is, where is the coal going? If it comes out of Decker or Spring Creek, it goes on the rail to Sheridan, back to Forsyth, then back to Duluth.

It is generally then put on a barge and shipped to Chicago to Chicago Edison. Or it is taken on that barge down to Detroit and unloaded for the Detroit Edison plant. If you take that same route and go to other areas in Minnesota and Wisconsin, there is no question that Montana has a significant transportation advantage in excess of any coal tax that would be levied. If, however, the markets are in Iowa, Illinois, Missouri, Indiana, a cheaper rate is probably available by getting on the Chicago Northwestern or the Burlington Northern. Speaking to rates in general, it used to be that Montana had two big contracts in Texas - the Houston Light and Power and the Lower Colorado River Authority. Those contracts were entered into establishing a route coming past Wyoming. Thirty year contracts were allowed. Because of price escalations, allowing for it to increase near $30-32 per ton - when the going price was about $6-7 per ton, the contracts were broken. $30-32 per ton was unrealistic and unrealistic contracts will be broken. **Mr. Mockler** said it was true that freight rates will affect the price of coal. Only two people know what freight rates exactly are: the railroad and the utility. Those contracts are private. He will supply testimony from the utilities saying freight rates between Wyoming and Montana are competitive based on a 100 mile basis. **REP. ELLIOTT** repeated his request for the mine head cost, including tax, and the delivered price, including tax, at Duluth.

REP. BEN COHEN asked **Mr. Peterson** if, when he requested the bill, was he attempting to deal with much larger policy issues involving present and future uses of coal and global warming. **Mr. Peterson** said yes. Money in the bank at compound interest can be calculated with a simple formula. The same is true of the increasing rate of any resource. Incentives which increase the use of coal cause it to disappear faster. The point is well taken, relative to the greenhouse effect, that it is so complex that it cannot even be computer-modeled due to the number of variables. Certain points, however, are very well known. Carbon dioxide has increased to the highest level in 130,000 years. The main problem is the possibility of positive feedback effect. Positive feedback creates an additive escalating effect which is out of control and unmanageable.

REP. RANEY asked **Mr. Spaeth** to provide figures indicating the actual impact of the severance tax on coal delivered to Chicago; rail cost per ton of Montana and Wyoming coal; the value of the ton of coal originally, and how much the severance tax is - represented in dollars and cents - delivered to Chicago. He said similar sulphur and BTU content can be found for comparative purposes for Montana and Wyoming coal. **Mr. Spaeth** said he would see if he has the ability to provide that information. **REP. RANEY** said the information has been requested from many people in the past, but has not been forthcoming because they say contracts are secret due to competition. How can the Legislature set good tax policy without specific information? **Mr. Spaeth** said policy makers need to have as much information available as possible and his client will provide as much as possible.

REP. ELLISON asked **Mr. Spaeth** if there was a national policy relative to the greenhouse effect. He doubted that Montana acting unilaterally could make a difference, other than giving production to Wyoming. **Mr. Spaeth** said the greenhouse effect was of concern, but was difficult to debate since all aspects of it were unknown. He agreed that what was done in the state would make no difference.

REP. MIKE FOSTER asked a representative of **Montana Power** if any analysis had been done as to the effect on Montana jurisdiction customers if the new tax rate went into effect. The answer was not known; information will be provided to the committee.

Closing by Sponsor:

REP. DAVIS said he realized the bill would be referred to subcommittee. He said he was admittedly naive about coal tax. Although he thought the higher tax rate of 30% represented stability, he said maybe it did not. The intent of his constituents is to call attention to the issues.

HEARING ON HB 58

Presentation and Opening Statement by Sponsor:

REP. JERRY DRISCOLL, House District 92, Billings said the bill was submitted to correct legislation from last session. That bill, although written generically, made it possible for Pierce Packing, Billings, to reopen after a six month closure. It allowed property taxes to be held in suspension until such time as the new purchaser successfully completed three years of operation. After the legislative session ended, when the purchaser attempted to procure bank financing, it was not available because the tax lien enjoyed first lien position. Bankers would not enter into a loan which took second position behind the tax lien. This amendment moves the taxes to a second lien and so allows bank financing. An amendment is offered which adds legal wording and does not change intent. **EXHIBIT 9**

Proponents' Testimony:

Mike Matthew, Chairman, Yellowstone County Commissioners, spoke in favor of the bill as generic legislation. Using Pierce Packing as a specific example, there were delinquent taxes over $1,000,000. An operator was found and the preliminary work and employment criteria had been done. The project required that a substantial investment was needed, however, to get the plant into operable condition. Although the $1,000,000 was an advance which would have been forgiven, it was still in a first lien position. There was no authority to subordinate the first position of the tax lien for bank financing. It made that particular transaction unworkable. This is a housecleaning amendment.

Cal Cumin, Economic Development Director, Yellowstone County,

noted that all requirements for the consideration of abeyance of taxes, public hearings, determination of public interest, and so on, are already state law. Legislation passed in the last session was critical to economic development for large, out-of-operation plants throughout Montana. HB 58 results from practical experience subsequent to the last legislative session. Any time a large investment is undertaken, collateral is needed. This bill provides loan applicants a mechanism to collateralize their properties. **Mr. Cumin** said he supported the amendment which adds specific language allowing the local governing body to grant the subordination.

Kay Foster, Billings Area Chamber of Commerce, said the Billings Chamber works with national, county and city officials as well as potential buyers and supports the amended change.

Alec Hansen, Montana League of Cities and Towns said the bill has far reaching application beyond the Pierce Packing Plant example. Many plants in Montana have closed. The bill gives some leverage to get things moving throughout Montana.

Chris Gallus, Butte-Silver Bow Business and Development Center, supports the legislation. It applies to Pierce Packing now, but it is a good tool and adds flexibility to economic development in communities across the state.

Opponents' Testimony: None

Questions From Committee Members:

REP. MARK O'KEEFE asked for an example, from section 3, line 11, of "other factors" which the governing body may consider important in addition to those specified. **Mr. Hansen** said the addition of the words "other factors" leaves those factors to the local governing body. A public hearing is required to determine public interest. Wage rate, benefit package, plans for growth, where equipment and operating materials are purchased and many other things may be relevant. **REP. O'KEEFE** said he was concerned about how environmental factors were considered. **Mr. Hansen** said environmental factors are part of the public hearing process. They are not defined, but all of these factors can be considered. **REP. O'KEEFE** asked if it would create a problem if the committee required some environmental factors be considered, directing the responsibility to address them away from the local governing body. **Mr. Hansen** said most are already considered. Air quality standards in Billings, for instance, must be met. Water quality, sewage disposal, waste disposal...all are impacts already required by state and local law.

REP. HOFFMAN asked what the effect of the bill would be in the instance of bankruptcy. **REP. DRISCOLL** said the bill was intended to expedite the process by providing a way without going through the entire court system. The bill is not intended to allow property speculation. The problem now is that the only person in the state who can forgive taxes is a bankruptcy judge. There is no authority for county, city or government agencies. **REP. HOFFMAN** said he would redirect his question to **Lee Heiman, Legislative Council attorney,** during executive session.

Closing by Sponsor:

REP. DRISCOLL noted the bill, if passed, would be in effect until it was amended or repealed. He asked that the amendment be passed with the bill.

HEARING ON HB 153

Presentation and Opening Statement by Sponsor:

REP. BOB REAM, House District 54, Missoula, said HB 153 was requested by the DOR. It moves the filing date for workers' compensation taxes up 20 days and makes that date consistent with the date income tax withholding is filed.

Proponents' Testimony:

Denis Adams, Director, DOR, said the bill allows the Department to use one form for the collection of both the employers' surtax and workers' compensation tax. During the 1990 special session, the employers' surtax collection was transferred to the DOR. This change is beneficial both for the Department and for employers.

Opponents' Testimony: None

Questions From Committee Members:

REP. COHEN asked if a problem might be created for some employers who are submitting money withheld but would now be required to go through a series of calculations. **Mr. Adams** said no. The calculation is required for those using private insurance carriers and those who are participants in the state plan. **REP. COHEN** asked the date when the calculation needed to be filed. **Charlotte Maharg, DOR,** said 30 days after the close of the quarter.

REP. BOB GILBERT asked if a cross-section of employers throughout the state had been contacted to determine if they were in favor. **Ms. Maharg** said employers were contacted.

Closing by Sponsor:

REP. REAM made no further comment.

Announcements/Discussion:

Vice Chairman Cohen announced the property tax subcommittee will meet 1/18/91, 8:00 a.m., room 437.

Vice Chairman Ream announced the income tax subcommittee will meet 1/18/91, 8:00 a.m., room 132.

ADJOURNMENT

Adjournment: 10:58 a.m.

Dan Harrington

DAN HARRINGTON, Chair

Mona Spaulding

MONA SPAULDING, Secretary

DH/mls

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 1/17/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON, CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN		✓	
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG	✓		
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓		
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

CS05TAXATI.MAN

EXHIBIT 1
DATE 1/17/91
HB 34

Amendments to House Bill No. 34
First Reading Copy

Requested by Representative Davis
For the Committee on Taxation

Prepared by Paul Verdon
January 15, 1991

1. Title, line 4.
Strike: "ESTABLISHING"
Insert: "INCREASING"

2. Title, line 5.
Strike: "AT"
Insert: "IN INCREMENTS TO A MAXIMUM OF"

3. Page 2, line 4.
Following: line 3
Insert: "(a) Before July 1, 1993:"

4. Page 2, line 7.
Strike: "10%"
Insert: "20%"

5. Page 2, line 8.
Strike: "40%"
Insert: "30%"

6. Page 2, line 9.
Following: line 8
Insert: "(b) After June 30, 1993, and before July 1, 1995:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	23% of value	3% of value
7,000 and over	35% of value	4% of value

(c) After June 30, 1995:

Heating quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	27% of value	3% of value
7,000 and over	40% of value	4% of value"

7. Page 3, line 2.
Following: "~~25%~~"
Strike: "62.5%"
Insert: ": (a) 50%"

8. Page 3, line 3.
Following: "~~1991~~"
Insert: "sold after June 30, 1991, and before July 1, 1993;
(b) 57% for incremental production sold after June 30, 1993, and before July 1, 1995; and
(c) 62.5% for incremental production sold after June 30,

Ex. 1 p.2
1/17/91
HB 34

1995"

EXHIBIT
DATE 1/17/91
HB 34

COAL SEVERANCE TAX

I requested representative Davis to submit a bill to the legislature that would raise the coal severance tax. What led to this was attending a conference in Aspen, Colorado concerning transportation of the future. The opening talk was by a professor Bartlett from the University of Colorado. His talk was about the exponential growth in the use of fossil fuels. I am going to use some of his data. The first point I want to make is that coal can be consumed much faster than is generally known, therefore, this non-renewable resource should be preserved. Second is that the use of fossil fuels should be discouraged because of the adverse greenhouse effect.

The subject is -- How long will fossil fuels last?

Beginning in 1870 when oil was first used for energy the rate of increase in the world use of oil has been 7 per cent (8.9 % in the U. S.), therefore the consumption of oil has doubled every ten years. This is shown in figure 1. The area of the rectangle ABCD represents all the known oil in the world. Rectangle CDEF represents the new discoveries that must be made if we wish the 7 per cent/year growth to continue one decade from the year 2000 to the year 2010.

Obviously, the consumption could not increase so that all of the world's oil would be used by the year 2000. As the resource would dwindle, the price would go up. That happened dramatically in 1973 when there was a tenfold increase in the price of oil.

Since that time the rate of growth changed in the following manner: From 1970 to 1980 the per cent increase was 3 per cent per year and in the 1980's has been about 1.5 per cent.

Now consider coal production in this country. From 1860 to 1910 coal production grew exponentially at 6.7 per cent per year, a doubling time of 10.4 years. Then it leveled off at 500 million tons per year from 1910 to 1970 because of the greater use of oil and natural gas. Coal production has been increasing in the U. S. and in 1986 was 740 million tons.

What is the lifetime, then, of the U. S. coal reserves? Table 1 shows the data. If we want coal to last 200 years, the rate of growth of annual consumption will have to be held at one per cent per year. Thus, the giving of an incentive to increase the production of coal is certainly counter-productive. Why should there be any attempt to produce more coal in order to destroy the reserves faster?

After I made the decision to ask Ervin Davis to submit a bill to raise the coal severance tax, I was astounded to find out that the tax has been reduced from 30 per cent to 20 per cent and then in 1991 to go to 15 per cent. Terrible! Just the opposite should have been done. The loss in money to the state to date has been about $50,000,000. Somebody else will talk about finances.

The other aspect of continued fossil fuel production, which I think is more important than any other, is the generation of carbon dioxide and venting it into the atmosphere. This, as you well know, will cause a warming of the atmosphere because of the greenhouse effect. What is known, based on direct measurements as well as ice core analysis, a record of carbon dioxide concentrations 160,000 years into the past has been accumulated. The carbon dioxide concentration in air in preindustrial times was 275 parts per million. In 1988 it was 351 parts per million. This is the highest it has been since it was 300 parts per million during a warm interglacial period 130,000 years ago. At that time the temperature rise was 2.5 degrees.

Some evidence exists that the predicted warming trend has begin to manifest itself already. Two separate evaluations of temperature records taken around the world since 1860 suggest that a global warming of .9 degrees has occurred since that year, with nearly half of this rise occurring since 1965. Moreover, these temperature records show that six of the warmest years on record have occurred this decade.

The ocean itself can act initially as a buffer for global climate change because it acts as a heat sink. As the climate warms some of the excess heat produced by the greenhouse processes is siphoned off to warm the enormous bulk of the ocean waters. Thermal inertia could explain why the global warming to date is only about half of the warming that climate models predict should have occurred already on the basis of present levels of greenhouse gases.

What is not known is how global warming will ultimately effect the earth, but it most probably will be detrimental.

In conclusion, there are a number of reasons to raise the coal tax severance fund. For the immediate future they are:

1) Greater income for the state
2) Negligible or no effect on jobs.

Then, for the long term, the tax should be revised upward to whatever necessary to reduce the mining of coal in order to:

1) Preserve a non-renewable resource
2) Lesson the amount of carbon dioxide injected into the air.

I would hope that some of the coal severance tax money could be used to promote solar, wind, or renewable biomass energy.

Ex. 2
1/17/91
HB 341

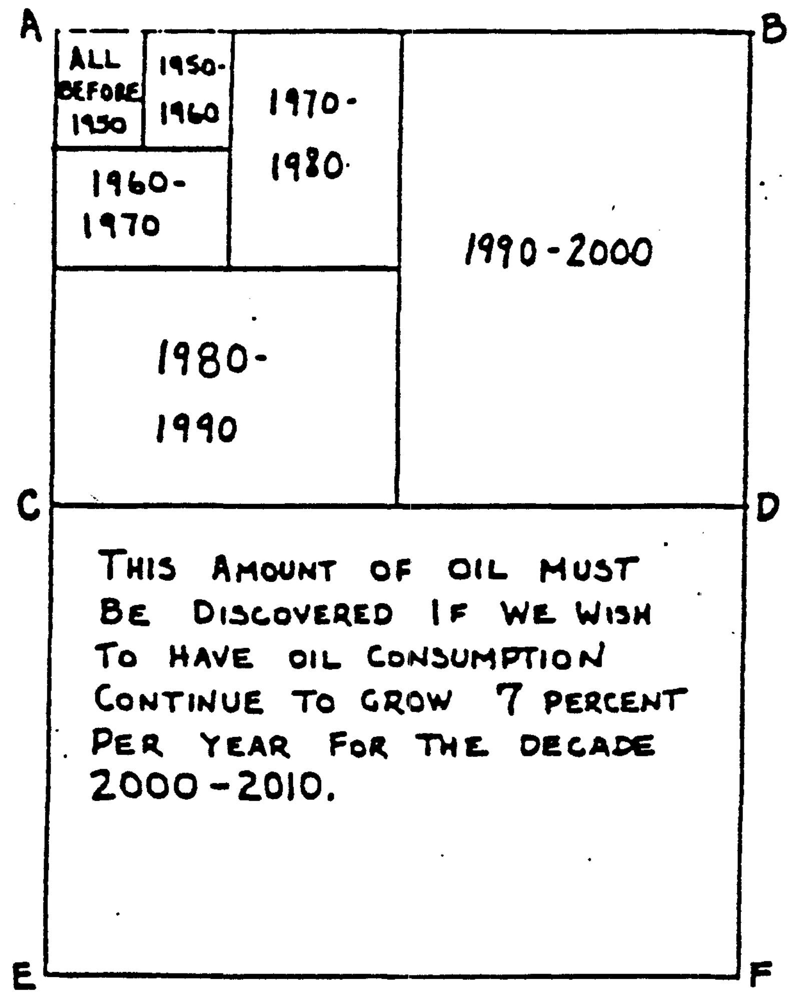


Figure 1.

EXHIBIT 2
DATE 1-17-91
HB 34

Table I

LIFETIME IN YEARS OF UNITED STATES COAL

Growth Rate (per cent)	High Estimate (years)	Low Estimate (years)
Zero	2872	680
1	339	205
2	203	134
3	149	102
4	119	83
5	99	71
6	86	62
7	76	55
8	68	50
9	62	46
10	57	42

EXHIBIT 3
DATE 1/17/91
HB 34

The Billings Gazette Sunday, July 1, 1990

Corporate tax cuts have hurt Montana

'Resource economy' staggers on

Guest columnist

Tom Towe

Gaylord Nelson, former U.S. senator from Wisconsin, recently stated, "Natural resources are our capital. We are spending our capital and thinking we are getting rich, when we are not. We are getting poorer."

Montana is a resource state. Its nickname is the Treasure State. At the turn of the century we had vast deposits of gold, silver and copper. We mined and mined and thought we were getting rich. Now most of it is gone — the richest hill on earth (Butte) is now a gigantic reclamation problem. And we are poorer.

Typically states and countries rich in natural resources are exploited by foreigners. They are colonies which exist primarily to be exploited by someone else. Once the minerals are gone, the colonists (foreign exploiters) move on to some other conquests. The wealth does not stay in the colony but is shipped "back home" to the mother country.

That is exactly what happened in Montana. The fabulous wealth that enhanced the fortunes of the Hearsts, the Rockefellers and the Rothchilds did not stay in Montana.

Not even Montana's own copper kings (Marcus Daly and William Clark) left their fortunes to benefit Montana. Although they endowed the Los Angles Symphony Orchestra, they built the library at Stanford University, they built the law school at the University of Virginia, and Clark's art collection became the nucleus of the well known Corcoran Art Gallery in Washington, D.C., the only thing of a comparable nature I can find they left to Montana is the $25,000 William Clark gave to build a theater inside the walls of the old state prison.

And we are poorer.

There is another aspect of a colonial economy that is devastating in Montana. Colonial economies tend to be susceptible to booms and busts. While ore is plentiful and the price is good, the boom is very large indeed. When the cycle moves into the inevitable bust, the impact is just as great.

Thus, Montana in the 1970s was booming. Fueled by sky-rocketing oil prices and newly discovered coal markets, Montana experienced an economic growth averaging 20 to 30 percent per year while the rest of the nation was growing at only 13.7 percent a year.

Then came the bust of the 1980's. Montana's economy crept along at a snail's pace — only 2 percent a year for the entire decade while the rest of the nation kept up a healthy 9 percent a year increase.

The worst part is that we were victims of this boom and bust economy. Nothing we could do in Montana could prevent the economic down turn. We don't like to admit that we can not control our own destiny, however, and we fell victim to the false promise of prosperity by granting tax relief.

The reasoning was simple; give business — particularly the large natural resource companies — a break by reducing their taxes and prosperity will be just around the corner. Jobs will magically reappear and we will return to the good times of the 1970's. We gave away more than half a billion dollars that way since 1981. Our annual tax base has been reduced by $128 million a year — over twice the projected deficit of the next biennium even under the most pessimistic projections. At least $70 million per year in tax relief has been given to the coal, oil, gas and mining industries just since 1987.

Tax relief at the top simply does not trickle down into jobs at the bottom of the corporate structures. We gave $20.8 million a year tax relief to the energy companies during the 1989 special session on education equalization ($4.9 million was recaptured during the 1990 special session leaving a net loss of nearly $16 million a year) and oil production is worse now than it ever has been.

By reducing the coal tax in half in the 1987 session, $38 million was taken out of the tax base (the full impact will not be felt until 1991 because of the phase-in). Yet in the 15 months since the reduction took affect, we have actually lost jobs in the coal mines — 1,142 to 1,100 jobs.

Jobs are controlled by the economy, not by taxes. We can't change the down turn in the economy. Neither can we change the up turn in the economy the next time a boom comes.

The Corporation for Enterprise Development, a national economic research organization, said the same thing in their recent report advising us what Montana can do if we really want to have an impact on building jobs in Montana. (It is to the credit of the Montana AFL-CIO that sponsored the study that members went to one of these economic think tanks which continually gives Montana such low marks on our "business climate." The Montana AFL-CIO said, in effect, if you think we have such a poor business climate, what do you think we should do about it.)

The Corporation for Enterprise Development concluded:

- The simple truth is that Montana is running out of money, in large part as the result of tax breaks and revisions that have cost the state nearly half a billion dollars — or more — since 1981.
- These and other very costly business tax cuts were conceived to promote economic development. Yet there is no evidence that they have had any positive effect.

In other words, we have got to stop giving away our tax base in the name of economic development. It does not work. And furthermore, we are broke.

There are many more effective ways of encouraging economic development and more jobs. Nothing, however, will give us a quick fix.

Tax relief for the natural resource exploitation companies not only does not work, but it makes our colonial economy even more colonial. Not only do we become poorer because of the exploitation of our natural resources, but we lose the tax they should produce as well. We are destined to remain a colonial state with the strings pulled by persons outside our state until we learn this lesson.

Northern Plains Resource Council

4
1/17/91
HB 34

TESTIMONY OF THE NORTHERN PLAINS RESOURCE COUNCIL BEFORE THE HOUSE TAXATION COMMITTEE ON HOUSE BILL 34, TO RAISE THE COAL SEVERANCE TAX

Thursday, January 17, 1991

Mr. Chairman, members of the Committee, my name is Dennis Olson, and I am a lobbyist for the Northern Plains Resource Council (NPRC). NPRC is a grassroots citizens' organization of approximately 6000 members and supporters, with 14 local community groups and other members across the state who work on natural resource development and agricultural issues. I would like to thank you for the opportunity to testify here this morning.

In 1988, the Western Organization of Resource Councils (WORC), an umbrella organization of citizens' groups including NPRC and sister organizations in four other states, published *For Future and Current Generations: A Comparison of Non-Renewable Natural Resource Taxation in Colorado, Montana, North Dakota and Wyoming.* NPRC provided copies of that study to members of the 1989 Montana Legislature, and still has a limited number of copies available for any legislator who is interested.

In the summer of 1990, WORC updated the initial findings of *For Future and Current Generations*, and has recently released the results of that update in a report entitled *Uncertain Fortune*, which I have just handed out to members of the committee. In my testimony, I would like to summarize some of the major conclusions of *Uncertain Fortune.* It is NPRC's position that these conclusions argue for passage of HB 34, to raise Montana's Coal Severance Tax at least back up to its original 30% level.

In 1987, legislators in several Western states, including Montana, enacted significant severance tax breaks, buying industry arguments that lowering taxes would stimulate production, thereby creating more jobs and tax revenues. Since then, legislators have extended old tax breaks and enacted new ones, still accepting the arguments of industry lobbyists in the absence of conclusive evidence of the effectiveness of these tax breaks. One conclusion of *Uncertain Fortune* is that it is no longer justifiable to accept the argument that lower tax rates will boost production, increase employment, or stabilize state revenues.

If tax breaks were going to accomplish these goals, some progress toward these ends should have been made since 1987. Instead, production in every sector of the mineral industry in all of the states studied varied with national economic trends and the value of mineral commodities, not with changes in state tax policies. Other factors, such as the demand for electricity within a market area, and transportation costs, are much more important in determining the amount of coal production in a given state. .

Although production of some minerals in the states studied has increased, the study found no significant correlation between the amount of the production increases and the tax policies of individuals states. Meanwhile, mineral industry employment and

Ex. 7
HB 34
1/17/91

severance tax revenues have continued to fall. Increased production, where it did occur, has been insufficient either to offset increasing efficiency and mechanization, which displaced workers; or to offset declining mineral values and tax rates, which decreased state revenues.

Tax breaks for the mineral industry have not solved the economic problems of Western states. For example, the Table below compares the results of changes in coal severance tax rates since 1987 on production, tax revenues, and employment in the four states studied.

Table 3

Results of 1987 Changes in Coal Severance Taxes

	Percentage Change, 1987-1989			
	Tax Rate	Production	Revenue	Jobs
STATE				
Colorado	- 40%	+ 21%	- 1.6%	-20.0%
Montana	- 50%	+ 5%	- 23.5%	- 2.7%
N. Dakota	-32%	+ 20%	- 17.2%	NC
Wyoming	- 19%	+ 29%	+12.4%	NC

NC = no change

The table shows an *inverse* relationship between the amount of state tax breaks passed in 1987, and the percentage rebound in coal production at the end of a national coal slump over the same time. For example, Montana initiated its tax cut of 50%, and experienced a 5% increase in production; while Wyoming cut its tax by only 19%, but nevertheless experienced a 29% increase in production.

EXHIBIT 4
DATE 1-17-91
HB 34

The table also illustrates the failure of tax cuts either to maintain or increase state revenues, or coal mine employment. This is shown by the dramatic 20% loss of jobs in Colorado, and the 23% decrease in state revenue in Montana, despite production increases in both states.

In conclusion, tax breaks have given away millions of dollars in each of the states studied, supplementing the profits of out-of-state corporations with funds that could have been reinvested in the states' own economies. Increased production, not accompanied by increases in tax revenues or jobs, depletes the mineral wealth of Western states and makes them poorer in the long run. Until this trend is reversed, both current and future generations will continue to pay a high cost for this misguided policy. NPRC urges this committee to take the first step towards stopping this unjustifiable hemorrhaging of non-renewable resource revenues out of Montana by voting for HB 34.

Thank you for your time and consideration. I will try to answer an questions you might have.

Dennis Olson
NPRC Lobbyist

Exhibit 5
1/17/91
HB 34

Uncertain Fortune

Natural Resource Tax Policy in the West, 1988 - 1990

Written by:
Sara Kendall

Edited by:
John D. Smillie

Published by the:

Western Organization of Resource Councils
412 Stapleton Building
Billings, MT 59101
(406) 252-9672

and its member groups:

Powder River Basin Resource Council
P.O. Box 1178
Douglas, WY 82633
(307) 358-5002

Northern Plains Resource Council
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

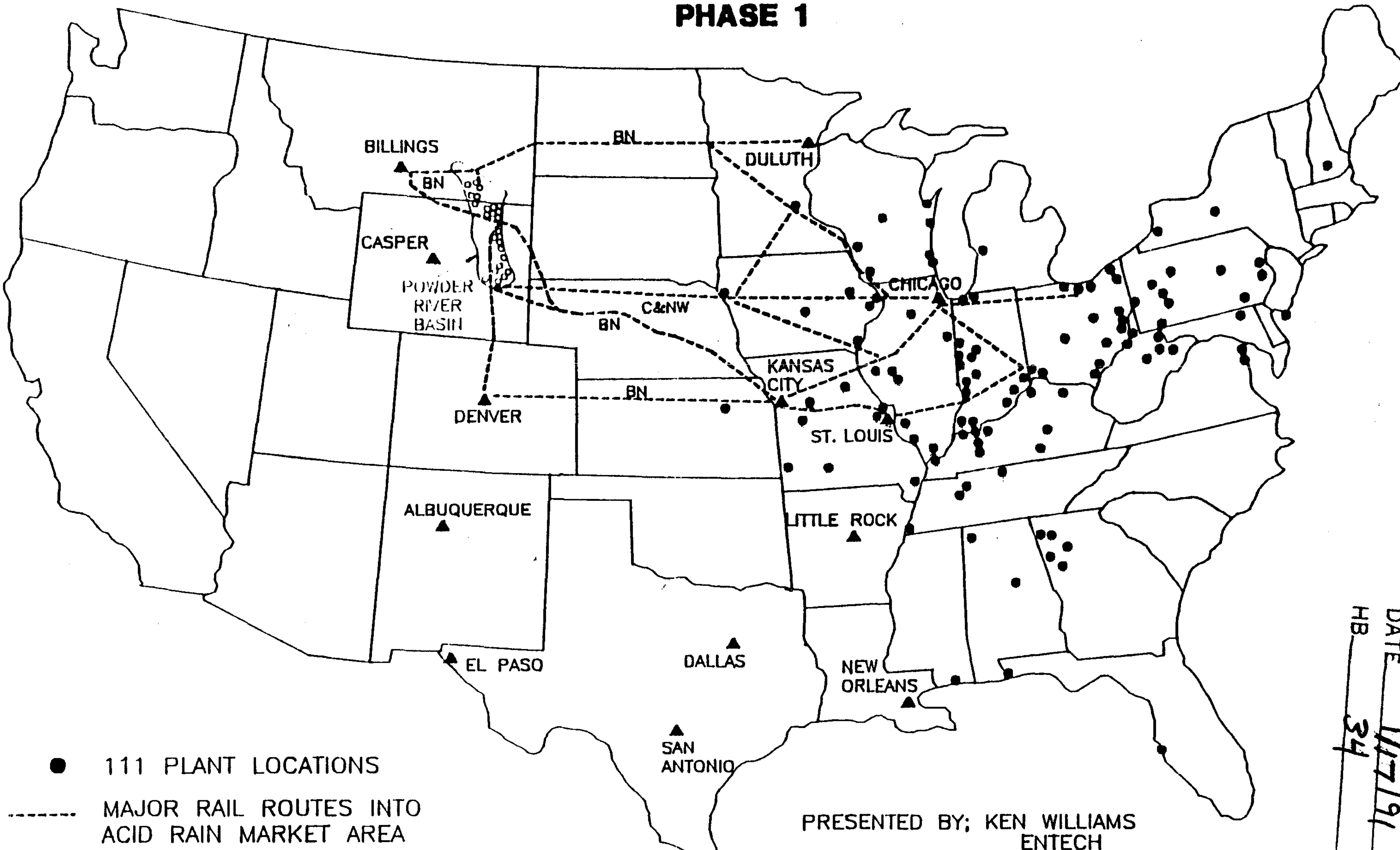
Dakota Rural Action
P.O. Box 549
Brookings, SD 57006
(605) 697-5204

Dakota Resource Council
RR 2, Box 19C
Dickinson, ND 58601
(701) 227-1851

Western Colorado Congress
P.O. Box 472
Montrose, CO 81402
(303) 249-1978

Copyright December 1990 by the Western Organization of Resource Councils

COAL FIRED PLANTS AFFECTED BY ACID RAIN LEGISLATION PHASE 1



● 111 PLANT LOCATIONS

------- MAJOR RAIL ROUTES INTO ACID RAIN MARKET AREA

° OPERATING MINES IN THE PRB (5 IN MT – 19 IN WY)

PRESENTED BY; KEN WILLIAMS
ENTECH

EXHIBIT 6
DATE 1/17/91
HB 34

JPS/JRW – ACIDPHA3
DATE: DECEMBER 20, 1990

Ex. 6
1/17/91
HB 34

1988 Powder River Basin Shipped Quality By Mine
Ranking by State by #SO2/MMBtu

WYOMING

Mine	Btu/lb.	% Ash	% Sulfur	#SO2/ MMBtu	1988 Prod. (K Tons)
North Antelope	8,836	5.00	0.20	0.45	6,088
Rochelle	8,785	4.73	0.23	0.52	8,694
Antelope	8,844	5.61	0.30	0.68	3,108
Belle Ayr	8,517	4.73	0.33	0.78	13,295
Black Thunder	8,857	4.99	0.36	0.80	24,862
Coal Creek	8,857	4.99	0.36	0.80	684
Eagle Butte	8,441	4.67	0.34	0.82	12,915
Caballo Rojo	8,447	5.05	0.35	0.82	7,127
Cordero	8,400	5.43	0.35	0.82	13,541
Rawhide	8,307	4.91	0.36	0.86	10,811
Caballo	8,350	5.21	0.36	0.87	12,780
Clovis Point	7,964	5.96	0.38	0.95	318
Ft. Union	8,104	5.21	0.41	1.01	498
Big Horn	9,428	4.91	0.48	1.01	945
Buckskin	8,408	5.64	0.45	1.08	7,187
Jacobs Ranch	8,655	6.35	0.51	1.18	14,533
Dave Johnston	7,699	10.43	0.48	**1.24**	2,607
Wyodak	7,951	8.04	0.64	**1.61**	2,709
Subtotal					**142,702**

MONTANA

Spring Creek	9,341	4.20	0.32	0.68	4,704
Decker	9,583	4.37	0.39	0.82	10,815
Absaloka	8,695	8.88	0.65	**1.49**	3,318
Rosebud	8,600	9.16	0.69	**1.61**	16,135
Big Sky	8,593	8.93	0.81	**1.88**	3,788
Subtotal					**38,760**
Total Weighted Average	**8,632**	**5.73**	**0.41**	**0.95**	**181,462**

BXG 1990 Update

State of Montana
Office of the Governor
Helena, Montana 59620
406-444-3111

EXHIBIT 7
DATE 1/17/91
HB 34

TED SCHWINDEN
GOVERNOR

April 6, 1987

The Honorable Robert L. Marks
Speaker of the House
State Capitol
Helena, MT 59620

The Honorable William J. Norman
President of the Senate
State Capitol
Helena, MT 59620

Dear Representative Marks and Senator Norman:

In accordance with the power vested in me as Governor by the Constitution and the laws of Montana, I hereby return House Bill 252 "A BILL FOR AN ACT ENTITLED: "AN ACT LOWERING COAL SEVERANCE TAX RATES; IMPOSING IN 1991 A SLIDING SCALE RATE SCHEDULE FOR SURFACE-MINED SUBBITUMINOUS COAL BASED ON THE AMOUNT OF COAL PURCHASED; REVISING LEGISLATIVE FINDINGS AND DECLARATIONS OF PURPOSE; AMENDING SECTIONS 15-35-101 THROUGH 15-35-104 AND 15-35-202 THROUGH 15-35-204, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE." without my signature and recommend the attached amendments.

Two years ago, I challenged Montana's coal industry to demonstrate that a lower coal severance tax would be an incentive for increased production and new contracts. The industry met the challenge. Despite a soft coal market, Montana producers secured a major long-term contract and sold over four million additional tons on the spot market. The signers of the long-term contract said the 20% tax rate created by the "window of opportunity" credit made Montana's coal competitive, allowing a Montana producer to compete directly against several Wyoming producers and win a 20-year, multi-million-ton contract.

Based on the success of the 1985 credit, I proposed to the 1987 Legislature a continuation of the "window of opportunity" credit and the phasing down of the tax rate on all Montana coal to 20% by July 1, 1990.

While Montana coal producers agree that the 20% tax rate helped win a contract and increased production during the last two years, they now argue that changes in the energy market--decreased demand for coal and low prices--make a 15% tax rate necessary to keep Montana coal competitive and Montana miners working.

Once again, I say--"prove it." These amendments create a second "window of opportunity"--a renewed challenge to the producers, purchasers, and shippers of Montana coal to demonstrate during the next two years that increased production and jobs will result from a 15% incentive tax rate on additional tons of coal. The Montana Coal Council--which represents all Montana's producing mines and the major buyers of Montana coal--has told the legislature that the 15% rate on additional coal has the potential to bring at least 5.2 million tons of additional production per year, which represents 200 jobs in Montana coal mines and 1,200 additional jobs in related rail and secondary industries.

If the Montana coal industry utilizes the 15% incentive rate to sell more coal than in recent years, we will lower the tax rate for all coal to 25% on July 1, 1988, to 20% on July 1, 1990, and to 15% by July 1, 1991. This challenge is the best guarantee to Montana miners and Montana citizens that the coal industry will translate predictions into reality. If the 15% incentive rate does not create additional tonnage, the scheduled reduction to 25% in FY89 and to 15% in FY92 would not take place. The 1989 Legislature can re-examine, based on the evidence provided during this second "window of opportunity," the rate at which Montana coal should be taxed in the future.

Some coal miners have argued that a 5% incentive tax rate--or no tax at all--is needed to keep Montana coal competitive. I reject that argument. Montana's coal industry and its customers assure us that a 15% tax rate can produce 5.2 million additional tons and 200 mining jobs. There is no solid evidence that a still lower tax rate would bring more production or create more jobs, but a "bargain basement" rate would give away badly needed revenue and potentially ignite a no-win "tax war" with Wyoming.

I urge your concurrence on these amendments.

Respectfully,

Ted Schwinden

TED SCHWINDEN
Governor

Ex. 7
1/17/91
HB 34

Governor's Amendments to HB 252

These amendments provide:

1. A 15% "window of opportunity" for additional coal sold during 1987 and 1988. This two-year "window" will allow Montana producers the opportunity to demonstrate that this lower tax rate will increase production in the short-run and provide solid evidence for future legislatures to determine the most appropriate long-term coal severance tax rate.

2. An incentive to recapture "Prodigal Tons". HB 252 increases the number of tons of coal eligible for the "window" credit by defining incremental coal as the lesser of 1986 production or current law. The Governor's amendments retain this broader definition, providing a significant incentive for purchasers to return "prodigal tons" to Montana. Under current law, Northern States Power gets the "window credit" only for purchases in excess of 6.8 million tons. HB 252 will allow the credit (a 15% tax rate) for all purchases in excess of 3.4 million tons.

3. A lower tax rate for all coal provided the "target" outlined below is met. The amendments would lower the tax rate for coal under existing contracts to 15% by July 1, 1991:

FY88	30%	FY90	25%
FY89	25%	FY91	20%
		FY92 and beyond	15%

As a matter of practicality, the 1989 legislature will determine what the appropriate rate for the coal severance tax should be in the future, based on the success of the 1987-88 "window of opportunity."

The majority (over 90%) of current contracts come up for renewal after 1992.

EXHIBIT 1
DATE 1-17-91
HB 34

4. A target in FY88 -- a challenge to the coal industry

Industry has said that a 15% tax incentive has the potential to produce 5.2 million additional tons per year and keep an additional 200 miners employed. The amendments challenge the coal industry to make these predictions a reality by meeting a target. If coal sales in FY88 with the 15% incentive rate exceed 32.2 million tons (the average of production for calendar years 1983-1986), then the scheduled tax reduction to 25% in FY89, 20% in FY91, and 15% in FY92 for all coal is implemented. If, however, the Coal Council's predictions do not materialize and total coal sales fall below this target, the tax rate on current production stays at 30% for FY89 and the scheduled reduction to 15% in FY92 does not occur. The tax rate in FY90 would be 25% and 20% in FY91 and beyond, if the target is not met.

To ensure that utilities' mechanical problems do not prevent the coal industry from meeting this challenge, the amendments provide a "catastrophic" clause. If a facility that burns Montana coal does not operate during part of FY88 due to mechanical failure, the Department of Revenue calculates the average monthly sales during the period it was operating, multiplies the average by twelve, and includes the annualized number in the total sales figure for FY88.

Production for the first two months of 1987 totalled 5.19 million tons -- during a period in which no "window of opportunity" credit for spot sales is in effect. If it continues at this rate, the CY 1987 production would exceed 31 million. To meet the target set in the amendments, Montana producers would have to prove that a 15% tax incentive will cause sales to exceed 32.2 million tons -- less than 4% above current production levels.

Ex. 7
1/17/91
HB 34

STATE OF MONTANA
HOUSE OF REPRESENTATIVES
1987
VOTE TABULATION

TIME: 1:18 PM
READING: 3

DATE: 04/22/87
SEQ. NO: 14.0
BILL NO: HB 252
SPONSOR: HANSON MARI

FCC Report

AYES: ADDY, ASAY, BACHINI, BRADLEY, BRANDEWIE, BROWN DAVE, BROWN JAN, BULGER
CAMPBELL, COBB, CODY, COMPTON, CORNE', DAILY, DEMARS, DEVLIN, DONALDSON,
DRISCOLL, ELLISON, EUDAILY, FRITZ, GIACOMETTO, GILBERT, GLASER, GRADY, GRINDE
HANSON MARIAN, HARP, HARPER, HARRINGTON, HAYNE, HOFFMAN, HOLLIDAY, IVERSON,
JENKINS, JONES, KEENAN, KELLER, KITSELMAN, KOEHNKE, LORY, M C CORMICK, MANUE
MENAHAN, MENKE, MERCER, MEYERS, MILES, MILLER, MOORE, NATHE, NELSON, O'CONNE
PATTERSON, PAVLOVICH, PECK, PETERSON, PHILLIPS, PISTORIA, POFF, POULSEN,
QUILICI, RAMIREZ, RAPP-SVRCEK, REHBERG, ROTH, RUSSELL, SALES, SANDS, SIMON,
SMITH, SPAETH, SQUIRES, STANG, STRATFORD, SWIFT, SWITZER, SWYSGOOD, THOFT,
THOMAS, VINCENT, WALLIN, WHALEN, WILLIAMS, WINSLOW, MR. SPEAKER.
TOTAL 86

NOES: BARDANOUVE, COHEN, CONNELLY, DARKO, GOULD, HANSEN STELLA, KADAS,
KENNERLY, NISBET, RANEY, REAM, STRIZICH.
TOTAL 12

EXCUSED: HANNAH.
TOTAL 1

ABSENT OR NOT VOTING: SCHYE.
TOTAL 1

IN THE CHAIR: MR. SPEAKER

4-22-87
3A HB 252
3rd Reading
46-4

BSN: 984

MONTANA SENATE
FCGA

4/22/87 12: 1 PM

50TH LEGISLATURE

~~45~~ 46 YEAS 4 NAYS 0 EXC ~~1~~ 0 N/V

HB 252

Y	ABRAMS	Y	GALT	N	LYBECK	Y	SMITH
Y	AKLESTAD	Y	HAFFEY	Y	LYNCH	Y	STIMATZ
Y	ANDERSON	Y	HAGER	Y	MANNING	Y	STORY
X	BECK	Y	HALLIGAN	Y	MAZUREK	Y	THAYER
Y	BENGTSON	Y	HAMMOND	Y	MCCALLUM	Y	TVEIT
Y	BISHOP	Y	HARDING	Y	MCLANE	Y	VANVALKENB
N	BLAYLOCK	Y	HIMSL	Y	MEYER	Y	VAUGHN
Y	BOYLAN	Y	HIRSCH	Y	NEUMAN	Y	WALKER
Y	BROWN	Y	HOFMAN	Y	PINSONEAULT	Y	WEEDING
Y	CRIPPEN	Y	JACOBSON	Y	RASMUSSEN	Y	WILLIAMS
Y	ECK	Y	JERGESON	N	REGAN	Y	YELLOWTAIL
Y	FARRELL	Y	KEATING	Y	SEVERSON	N	NORMAN, PRES
Y	GAGE	Y	KOLSTAD				

Ex. 7
1/17/91
HB 34

EXHIBIT 8
DATE 4/17/91
HB 34

MONTANA COAL COUNCIL

406·442-6223 2301 COLONIAL DRIVE · HELENA, MONTANA 59601

Montana Employment & Production
1987-1990

	Employment	Production (Million Tons)
1987	936	34.4
1988	1,065	38.9
1989	1,064	37.8
1990	1,134	37.7

EXHIBIT 9
DATE 1/17/91
HB 58

Amendments to House Bill No. 58
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
January 17, 1991

1. Page 2, line 9.
Following: line 8
Insert: " and the governing body may grant a"

hb005801.alh

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HB 34 DATE 1/17/91

SPONSOR Rep. Davis

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
STANLEY PETERSEN	130 Clearview Drive Polson, MT	✓	
Dennis Olson NPRC	723 Bridgeview	✓	
Kay Foster	Billings		✓
Gary Willis	Helena - Mont Power Co.		✓
[illegible] Robbin	Roundup, MT		—
Gloria Hermanson	Helena		
Jim Standaert	LFA		
Tom Ebzery	Nerco		✓
Gary Sprouth	Mid West Energy		X
Buck Boles	MT Chamber of Commerce		X
DAVE KASTEN	Brockway MT.		X
DENNIS BURR	MT Taxpayers Assoc		✓
Ken Williams	Entech		✓
Jim Mockler	MT. Coal Council		✓
Jim Jensen	MEIC	✓	
D			
PEP People for Economic Progress	Circle MT.		X
Sen. Thomas E. Towe	Billings, MT.	✓	
Mike Stephen	Helena MT Oil Gas & Coal		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. HB 58 DATE 1/17/91

SPONSOR Rep. Driscoll

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kay Foster	Billings	✓	
Cal Cumin	"	✓	
Mike Mathew	"	✓	
Chris Gallus	Butte	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

TAXATION COMMITTEE

BILL NO. 153 DATE 1/17/91

SPONSOR Rep. Ream

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
CHAR MAHARG	Helena / Revenue		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.