MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON INCOME/SEVERANCE TAX

Call to Order: By BOB REAM, CHAIR, on March 21, 1991, at

ROLL CALL

Members Present:
Rep. Dan Harrington, Chairman (D)
Rep. Bob Ream, Vice-Chairman (D)
Rep. Jim Elliott (D)
Rep. Mike Foster (R)
Rep. Bob Gilbert (R)
Rep. Marian Hanson (R)
Rep. Jim Madison (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Bob Raney (D)
Rep. Barry Stang (D)

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

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

Subcommittee Hearing on HB 809

Questions/Discussion from Committee:

REP. REAM asked **MARC RACICOT, Attorney General,** what impact the fiscal note attached to HB 809 would have on the General Fund. **Mr. Racicot** stated the law, at present, is set at a 3/4% rate on insurance premiums and generates $470,000. It has taken only $346,000 to run the Fire Marshall Bureau. The remainder is going into the General Fund. **REP. REAM** said the fiscal note says total, but where does the total go. **Greg Petesch, LFA,** said the General Fund impact is because this money is now being earmarked rather than deposited into the General Fund and appropriated out. This is the General Fund impact. This doubles the premium tax on certain policies. If you are going to raise twice as much money, this money will go into a special levy not the General Fund. **REP. REAM** asked if what shows as total would go automatically into the Fire Marshall Fund. **Mr. Petesch** said it would go into the special revenue account.

REP. REAM asked if the bill passed, would the total General Fund impact be $99,000. **Mr. Petesch** said yes.

REP. FOSTER asked if HB 809 would add 16 FTEs to the staff. **MARC RACICOT** said yes. They would be adding ten more fire marshall inspectors and six support staff throughout the state. They estimate it to be one dollar per home owner for each premium. **REP. STANG** asked if the percentage is taken on the fire coverage portion of the policy or the whole policy. **Mr. Racicot** said the fire coverage portion. **REP. NELSON** said the State Auditor's Office has the same problem. Only 70 cents on the dollar gets back to the Auditor's Office.

REP. GILBERT said single family dwellings where not covered by inspections and asked **Mr. Racicot** what percentage would be coming from single family dwellings. He did not know. **REP. GILBERT** expressed concern that they would be taxing people for another service that they do not receive. **REP. GILBERT** asked if any thought had been given to increasing the fees on the buildings needing to be inspected so that the people who are receiving the service are paying for it. **Mr. Racicot** said no. They have taken the mechanism already in place and utilized the same reasoning.

<u>Motion/Vote:</u> **REP. McCARTHY RECOMMENDED THAT HB 809 DO PASS.** Motion carried 6 to 4 with **REPS. GILBERT, ELLIOTT, FOSTER,** and **MADISON** voting no.

<u>Subcommittee Discussion on SB 26</u>

SEN. TOWE, speaking for SEN. MANNING, sponsor of SB 26, stated SB 26 deals with the coal tax trust fund. It would change the in-state investment fund and make it a requirement that up to 25% be invested. He said that the "up to" language bothered him and proposed an amendment. The Board of Investments should invest more money into Montana. **EXHIBIT 1**

<u>Informational Testimony:</u>

Dave Lewis, Board of Investments, stated SB 26 began with a Board of Investments audit. At the present time, they give a five basis point interest rate break for every new job created through one of their commercial loans. For the larger loans, half is booked in the in-state fund; the rest into the coal trust. The auditors questioned if they had Legislative authority to give the interest rate break for the entire loan. There is statute that deals with a loan guarantee program adopted in 1983. It was found unconstitutional by the Supreme Court. We wanted to be sure to have a maximum size for the coal tax loans. We need Legislative direction as to how big a loan we should allow. **EXHIBIT 2**

Questions/Discussion from Committee:

REP. M. HANSON stated Section 18 was **SEN. MANNING'S** idea. He wanted to see more of this money invested in the state for small business. The changes were made to give incentives to the smaller investors so they could get a tax break.

Dave Lewis said that on the fiscal note there was a positive General Fund impact of $500,000. It is mandated to set aside a portion of the earnings and the origination fees on the loans into a pool which is to be used to cover bad loans. If we have a bad investment it is written off. This program has yet to loose a dollars worth of principle. It would be better to eliminate the loan loss reserve and revert it directly into the General Fund. This would have a positive impact on the General Fund.

REP. McCARTHY asked **Mr. Lewis** if there was more danger in bad loans from a smaller investor. **Mr. Lewis** said we buy up to 80% of the loan. The bank has to take 20%. This is the sorting process and the reason we have not had many bad loans.

SEN. TOWE said that Sections 17 and 18 are important and effective. We are asking is that it be put in statute. The more money we can invest in Montana the better.

REP. REAM asked **Mr. Lewis** if he would prefer the bill without the proposed amendments and is he currently mandated to spend the investment in Montana. **Mr. Lewis** said yes. We will comply with **SEN. TOWE'S** amendments by moving investments out of retirement funds. **REP. STANG** asked if you take money out of retirement and move it into this fund, are you prohibited from moving it back if someone wanted a loan. **Mr. Lewis** said no. They would not put themselves into a position where they cannot take advantage of the interest rate break. The only place the interest rate break is given is in the coal tax. The retirement must have the maximum rate of return. **SEN. TOWE** said they want the Board to be continually seeking out ways of investing the money in Montana.

Subcommittee Discussion on HB 832

REP. ELLISON, sponsor of HB 832, said HB 832 address the situation where a mine is in one county and the minerals are in the other. He asked that **Carol Ferguson** explain the bill and amendments.

Informational Testimony:

Carol Ferguson, Hard Rock Mining Board, stated HB 832 deals with two separate current pieces of legislation and amends them. Section 1 amends the present subsidiary to the Hard Rock Mining Act. It will reserve 20% of the gross proceeds taxable evaluation to the county or school district where the mine is located. Section 2 deals with the metal mines tax allocation. Last session SB 410 allocated 25% of the money made from the tax revenue that comes to the state back to the county where the mine is located. The Department of Revenue makes this allocation to the county. The bill does not give any direction about what to do if the mine is located in two bodies; especially if the ore body is in one county and the impacts fall on another county. HB 832 makes it very clear that the intention of the allocation is that the money should go where the impacts are. The 25% of the state's metal mines tax revenue goes to the county where the mine is located. The other 60% is divided between counties and school districts.

REP. ELLISON said the last portion of the bill was put into the Hard Rock Act after 1982. It was meant to cover mine closure and impacts where the mine closed.

Questions and Discussion from Committee:

REP. REAM asked if **REP. ELLISON** agree with the proposed amendments. He said he did. **Ms. Ferguson** stated the amendment presented by **REP. ELLISON** states if the formula in the Tax Base Sharing Act isn't going to put the taxable evaluation where the costs are, then let the impact plan amend the formula. **REP. BROWN'S** amendment talks about impacts that occur when people loose their jobs due to mine closure. **Mr. Shanahan's** amendment does the same thing the previous amendments do. **REP. McCARTHY** said they needed the **ELLISON** and **BROWN** amendments but not the third.

Motion: **REP. McCARTHY RECOMMENDED THAT HB 832 DO PASS.**

Motion/Vote: **REP. STANG** moved the **ELLISON** and **BROWN** amendments. Motion carried unanimously.

Motion/Vote: **REP. STANG RECOMMENDED A SUBSTITUTE MOTION THAT HB 832 DO PASS AS AMENDED.** Motion carried unanimously.

Recommended Disposition of SB 26

Motion: **REP. STANG RECOMMENDED THAT SB 26 BE CONCURRED IN.**

Discussion by Committee:

REP. FOSTER read a note from **REP. GILBERT** stating that he would vote against SB 26 because Montana capitol companies aren't that affective on the whole.

REP. RANEY asked if **REP. GILBERT** was referring to the money which has been spent by the in-state investment program. **REP. FOSTER** said he thought **REP. GILBERT** was talking about the in-state investment program but urged the committee to wait and let him explain his note in full committee.

Greg Petesch, LFA, said many bills this session have proposed doing something with the in-state investment funds. SB 242 gives an additional portion of the fund to science for research and development loans. This bill is coordinated with SB 26. When you look at these bill in the future, you must also coordinate them with SB 26.

Vote: Recommendation that SB 26 Be Concurred In carried 9 to 1 with **REP. GILBERT** voting no.

REP. REAM said the proposed amendments would be discussed in the full Taxation Committee.

ADJOURNMENT

Adjournment: 9:00 A.M.

Bob Ream
BOB REAM, Chair

Lois O'Connor
LOIS O'CONNOR, Secretary

BR/lo

EXHIBIT 1
DATE 3-21-91
HB SB 26

Amendments to Senate Bill No. 26
Second Reading Copy

Requested by Sen. Towe
For the Committee of the Whole

Prepared by Jeff Martin
January 24, 1991

1. Title, line 10.
Strike: "ALLOWING"
Insert: "REQUIRING"

2. Title, line 11.
Strike: "UP TO"

3. Page 12, line 8.
Strike: "<u>up to</u>"

4. Page 12, line 10.
Following: "(1)"
Insert: "(a)"

5. Page 12, line 12.
Strike: "<u>endeavor to</u>"
Strike: "<u>up to</u>"
Following: "<u>of</u>"
Insert: "all revenue deposited after June 30, 1983, into"

6. Page 12, line 19.
Following: line 18
Insert: "(b) To the extent that the investments described in subsection (1)(a) are not available, the board shall invest the balance of the amount required by subsection (1)(a) in other Montana investments, including but not limited to housing mortgages, small business administration loans, commercial real estate loans, and certificates of deposit in Montana financial institutions. The requirements of this subsection (b) apply even if it is necessary to reduce the rate of interest or the yield on the investments."

EXHIBIT 2
DATE 3-21-91
HB SB26

DEPARTMENT OF COMMERCE
BOARD OF INVESTMENTS

STAN STEPHENS, GOVERNOR

CAPITOL STATION

STATE OF MONTANA

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SENATE BILL 26

Background:

Senate Bill 26 originated from discussions the Board of Investments had with the Legislative Audit Staff during the annual audit in the summer of 1989. The audit staff pointed out the need to revise the coal tax loan statutes to reflect:

1) the Supreme Court decision that found the Board's loan guarantee program unconstitutional,

2) the need to establish legislative authority to apply the job creation interest rate credit to all coal tax loans,

3) and the need to establish in statute a maximum size for coal tax loans.

As a result of these discussions, the Board approached the Coal Tax Oversight Subcommittee and initiated discussions concerning management of the loan program. These discussions with the subcommittee led to Senate Bill 26.

Discussion of Sections

Sections 1 through 4

take out lang that is unconstitut

These sections are amended only to reflect the elimination of the guarantee program found unconstitutional by the Supreme Court and to coordinate statutory references.

Sections 5 and 6

These sections eliminate the old In-State Investment Fund and recognize that the Board should endeavor to invest up to 25 percent of the total Permanent Trust Fund in the Montana economy. The effect of this change is to statutorily recognize what the Board established by policy. The statutory change will allow the Board to apply the reduced rate of interest to a larger number of loans. The current In-State Investment Fund totalled $68 million as of June 30, 1991. This bill would have increased that to $112 million as of June 30. The Board had $44.5 million of commercial loans outstanding as of December 30, 1990. That amounted to $37 million in the In-State Funds and $8.5 in the rest of the Coal Trust Fund.

expand pool of funds