MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on March 20, 1991, at 8:00 a.m.

ROLL CALL

Members Present:
Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

HEARING ON SENATE BILL 454

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, sponsor, said the bill addresses District Court funding. This bill complements a House bill which provides relief for District Court funding and provides for the state to pick up some of the legitimate state costs in District Courts. Currently first class counties can levy 6 mills and second class counties can levy 5 mills to support District Courts. This bill would authorize County Commissioners to levy additional mills in order to pay off the Court deficit. Not all Courts have law clerks which adds greatly to the work load of the Court. He noted the mill does not raise a great deal of money in Cascade County and there is just not enough revenue to adequately fund the Court. The bill contains an exemption provision from I105.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said District Court costs are increasing all across the state. The bill provides an option for those Courts who are facing an increasing deficit situation.

Opponents' Testimony:

There were no opponents.

Questions from Committee Members:

Senator Van Valkenburg asked if the county can presently put general fund revenue into the District Court funding.

Mr. Morris said the county can do that, but county general funds are quite limited and most counties are really "strapped" for operating money and at the maximum millage under law.

Senator Halligan asked if the emergency levy under I105 isn't available to fund the Courts.

Mr. Morris said it is, but the provision only allows the county to increase the number of mills within the statutory authorization of current law.

Closing by Sponsor:

Senator Doherty closed.

HEARING ON HOUSE BILL 513

Presentation and Opening Statement by Sponsor:

Rep. Simpkins, District 39, sponsor, said this is a "people's bill". The bill addresses the problem of refunding improperly collected taxes on homes as a result of the reappraisal and appeal situation in Great Falls. A Cascade County family appealed their tax payment after they had paid it as they discovered they were assessed on the basis of a much larger, multi-family dwelling than they owned. The Commissioners declined to refund their overpayment because the law is permissive in terms of refunds. The Commissioners "may" make refunds. The bill requires a mandatory refund to the taxpayer when there has been a mistake in the identification of the property. A retroactive provision has been added to the bill beginning in 1990 forward. Rep. Simpkins presented proposed amendments (Exhibits #1 and #2).

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said the bill is a housekeeping measure and he expressed support for the refund provision.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer questioned the retroactivity provision.

Rep. Simpkins said the retroactivity begins in 1990 and moves forward from this year. If someone were to file for refund in 1994 he could only collect back to 1991. This is to avoid the counties being hit for ten years worth of refunds all at once.

Senator Thayer said expressed concern for those people who have paid twice and are due a refund should be able to get it, even if the county has to come up with ten years of refunds all at once.

Senator Towe said there is a case pending before the Supreme Court regarding an illegally collected tax. There will be a ruling on the "may" provision shortly. He asked Mr. Shanahan for his comments.

Ward Shanahan said the Department can retroactively correct errors in returns for ten years under current statute. He noted he has a case where the taxpayer paid a net proceeds tax where there was no direction for valuation. The payment was made on the taxpayers "best guess", the tax was overpaid, and the Commissioners declined to refund the overpayment.

Closing by Sponsor:

Rep. Simpkins by saying the bill deals with a small problem, but stated he has no objection to broadening the provisions if the committee so desires. He stressed he would like to retain the limited retroactivity in order to keep counties from having any further financial problems.

HEARING ON HOUSE BILL 446

Presentation and Opening Statement by Sponsor:

Rep. Tom Nelson, District 95, sponsor, said the bill requires if property is purchased by the delinquent taxpayer at a tax-deed auction, the minimum purchase price must cover all costs, delinquencies, interest and penalties, not withstanding the amount of the fair market value of the property.

Proponents' Testimony:

Merrill Klundt, Yellowstone County Clerk and Recorder, presented his testimony in support of the bill (Exhibit #3).

Gordon Morris, Montana Association of Counties, spoke in support of the bill saying it corrects the situation whereby a taxpayer can let property go delinquent and then come back and redeem it at less than fair market value.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe expressed concern that if the delinquent taxpayer is the only bidder on the property, and he bids below the fair market value, the county cannot accept his bid. As a result, the county has lost the sale and the all the proceeds of the sale.

Senator Gage agreed that if the taxpayer bids just the amount of the fair market value, not to include the costs and delinquencies, the county could not sell the property.

Closing by Sponsor:

Rep. Nelson said the bill is intended to act as a disincentive for a taxpayer to allow his property to go delinquent. He felt the net effect will be greater tax collections for the counties.

HEARING ON HOUSE BILL 591

Presentation and Opening Statement by Sponsor:

Rep. Southworth, District 86, sponsor, said the bill requires that a contract let for a project costing more than $25,000 and financed in whole or in part by tax-exempt industrial revenue bonds contain a provision requiring the contractor to pay the standard prevailing wage. Some public works contractors in the state are circumventing the standard prevailing wage laws and succeeding legally because these projects receive a state tax exemption even though the contractors are being paid with public dollars.

Proponents' Testimony:

Ron Burke, IBEW, Billings, expressed support for the bill. He said the prevailing wage laws in Montana work well at ensuring Montana workers get jobs.

Gene Fenderson, Montana State Building Construction Trades Council, said the protection laws for contractors and workers should be applied to the tax exempt bond status. More and more of the larger projects in the state are being funded this way rather than with straight private money. He urged the committee to pass the bill.

Darrell Holzer, Montana AFL-CIO, presented his testimony in support of the bill (Exhibit #4).

Ron Perine, IBEW, Billings, said he is a worker affected by the circumvention situation. For ten months in a row he worked 10 hours a day and commuted for 4 hours. He said there were over 200 employees on the project and no place for them to stay in Colstrip. He urged the committee to support the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if the Little Davis Bacon Act has an exemption.

Mr. Fenderson said it does, but it does not go into effect in any project under $25,000. He said he felt the monies are already covered under present law, but to avoid further disagreements with every city and county in the state, they would like to clarify the law with this bill.

Closing by Sponsor:
Rep. Southworth closed by saying the bill essentially addresses the prevailing wage which means money in the pockets of working people in Montana.

HEARING ON SENATE BILL 457

Presentation and Opening Statement by Sponsor:

Senator Doherty, District 20, sponsor, said the bill changes the taxation of metal mines back to the gross proceeds basis. In 1989, SB 410 changed taxation of metal mines from gross proceeds to net proceeds. By changing back to gross proceeds, it determines the value by going to a readily identifiable number which would be the price of the commodity or mineral product established in New York City or some readily identifiable area. It is straightforward and simple tax policy. The idea behind SB 410 was revenue neutrality. Revenue neutrality did not occur and there was some lost revenue. It is necessary to return to the gross proceeds base.

Proponents' Testimony:

Richard Parks, Northern Plains Resource Council, presented his testimony in support of the bill (Exhibit #5).

Carrie Garber, Montana Alliance for Progressive Policy, said the bill is good tax policy which should be given a favorable recommendation (Exhibit #6).

Opponents' Testimony:

Gary Langley, Montana Mining Association, said SB 410 provided clarity, consistency, and stability in state mining tax policy. It allows a mining entity to pay on the value it actually receives for its product rather than an inflated value that is published somewhere else. It is an easy way for the tax payer to pay and tax collector to collect. Revenue from metal mines is down, but not as a result of SB 410. He presented a comparison from the Department of Revenue on 1989 and 1988 metal mine and RIT taxes (Exhibit #7) which the following witness reviewed.

Ray Tilmon, Montana Resources, and a member of the Tax Committee of the Montana Mining Association, reviewed the information in Exhibit #7 for the committee. He said SB 410 was a good bill because it covered all the aspects of metal mine taxation and it should be given a chance to work.

John Fitzpatrick, Pegasus Gold Corporation, said the principal purpose in passing SB 410 was to clean up the metal mines and resource indemnity tax. There had been a long standing dispute with the Department of Revenue over the concept of gross value. The industry generally felt that gross value was money received and DOR said gross value was related to the assayed content of the concentrate or bullion. SB 410 attempted to solve the dispute by establishing a series of allowable deductions and adjusting the tax rates so the effective tax rates in SB 410 would be the same as previously paid, thereby establishing revenue neutrality. When a mining company sends a shipment to a smelter it does receive payment for 100% of the content. There are a number of different charges levied against the shipment that ultimately reduce the receipts. A mining company, on average, receives 65% - 85% of the theoretical gross value of the shipment. The industry does not wish to pay taxes on revenue it does not receive.

Under the resource indemnity trust tax, the tax is set at .5 of 1% at the point of extraction. With metal mines there is no market for raw ore as there is for oil at the wellhead. As a result, as companies attempted to pay the tax and DOR attempted to audit it, there was a different cost calculation for every company that was paying the tax. SB 410 attempted to solve the problem by allocating a percentage of the overall metal mines tax to the RITT account. As a result there is no longer a separate calculation of the RITT.

SB 410 was intended to be revenue neutral and it has proven to be so. This bill will cause a return to disputed taxes, negotiations, and trials, as well as higher taxes.

Mr. Fitzpatrick said his company generated over $2 million in taxes. The payroll value is $25 million. Last year the company lost $38.2 million in corporate revenue. Currently one mine in one standby, another mine is marginal, and two others are making a small profit. Those financial circumstances are due simply to changes in metal prices. Gold has dropped over $40 since the start of the Gulf war.

Historically the metal mines tax has been erratic due to changes in production and price levels. When the regulatory environment changes every two years it discourages investment. Mining is very capital intensive. Companies need assurance that they will get their investment back and that they might make a profit. SB 410 has basically been in effect for one year. He urged the committee to reject SB 457 and give SB 410 a chance to work.

Ward Shanahan, Stillwater Mining Company, agreed with Mr. Tilmon and Mr. Fitzpatrick. He said the mining tax does have instability which is built into the industry. He noted a great deal of effort went into the drafting of SB 410 and it should be allowed to operate for a while longer before judgments are made as to its effectiveness.

Dennis Burr, Montana Taxpayers Association, said the quarterly returns require four audits a year which is not a speedy process for either the companies or DOR. It is a real hardship for small individual miners. He also felt the companies should not pay taxes on ore for money they don't receive.

Senator Beck, District 24, sponsor of SB 410 of last session, said the continual litigation between the DOR and the metal mines was the primary reason for SB 410. He felt it would very premature to cut the legislation out at this point. Good things are happening for local governments because of SB 410 and it should have a chance to work.

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

Senator Towe said the rate of the mineral production went up and the taxes paid went down. He asked what caused that situation to occur.

Mr. Tilmon said the total figure includes all minerals such as talc, gypsum, limestone and cement. The bill addresses only metals.

<u>Closing by Sponsor:</u>

Senator Doherty closed by saying he thanked the committee and those who testified for a good discussion of the bill and of SB 410. He said small miners under $250,000 are exempt and do not have to pay anything. Regarding stability, he said the instability has been caused by the people filing the lawsuits and then coming to the legislature trying to get what they couldn't get from the lawsuits. A great deal of the revenue from SB 410 goes into the general fund. He said there has been a loss in revenue and that causes the general public to expend more money to provide the basic services that have been financed by the mine taxes. That is not revenue neutrality.

ADJOURNMENT

Adjournment At: 10:00 a.m.

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE________

____ LEGISLATIVE SESSION ____

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		4:25 in ✓
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE 3/20

COMMITTEE ON Senate Taxation ~~SB 457~~

SB 457 HB 591 HB 446

VISITORS' REGISTER SB 454 HB 513

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Richard Parks	NPRC	SB-457	✓	
Robin McCulloch	Mt. Bureau of Mines & Geol.	SB-453		
Denis Adams	DOR			
Darrell Holzer	MT. ST. AFL-CIO	HB591	HB591 ✓	
Ron Burke	IBEW Locals 32 BLGS	HB591	✓	
Ron Perring	" " " "	" "	✓	
Bill Rossiter	ASARCO			
Gordon Morris	MACo	SB 454	HB513 ✓	
" "	"	HB 446	✓	
[illegible]	Mt St Bldg Trades	591	✓	
John Fitzpatrick	Pegasus Gold Corp	457		✓
Merrill Klundt	Clerk & Recorders	446	✓	
Mary A Canaley	Mt. Mining Assn.	457		✓
WARD SHANAHAN	CHEVRON CORPORATION	457		✓
Roy Wilmore	Montana Resources	457		X
Dennis Burr	MT Taxpayers Assoc	SB 457		✓
Carrie Harker	Mt Alliance for Progressive Policy	457	✓	
LARRY HOUCK	MONT BOATING ASSOC.			
F.H. BUCK BOLES	MT CHAMBER		SB 457	✓
Kay Bellum	YVCC	457	✓	

(Please leave prepared statement with Secretary)

AMENDMENTS TO HB 513

Third Reading Copy (blue)

Department of Revenue

The bill as introduced changes the county commissioners' discretionary authority to issue refunds to a mandatory requirement. The purpose of previous amendments proposed by the Department and adopted by the House, was to limit the situations in which a mandatory refund is required. The county commissioners will be required to issue a refund if the Department of Revenue determines that it made a mistake as to the description or location of the land or improvements.

If the property owner disagrees with the valuation of the property they are entitled to appeal to the tax appeal boards and the courts. If they prevail, they are entitled to a refund. The procedure described in this bill is only for those situations where the Department made a clear error in the property description or in the location of the property and the owner did not file an appeal.

The previous amendments also require a refund when the Department determines that net or gross proceeds taxes were overpaid within the last five years. Presently the Department may audit a proceeds tax return -- which is similar to an income tax return -- and assess additional taxes for the past five years. However, the taxpayer is not entitled to a refund if the audit shows that they overpaid.

Finally, the amendments changed the date on which subsequent installment payment on a refund must be made from January 1 to October 1. This allows the county an opportunity to budget for the payments.

There was an error in the amendments prepared by the Department. In order to be consistent with the above intent, it is necessary to change the "shall" in section (4) (c) on page 3 to "may". This is consistent with the same change made in section (1)(b), (2)(b) and (4)(a).

1. Page 3, line 19
   Following: "commissioners"
   Strike: "shall"
   Insert: "may"

SENATE TAXATION
EXHIBIT NO. 2
DATE 3/20/91
BILL NO. HB 513

HB 513

Change

pg 3, line 19 after commissioners
delete "shall"
add "may"

pg 3, line 20
after collected, delete "or for any duplicate taxes paid."

pg 5, line 1
after IMPROVEMENTS, add: "or ~~for~~ for any duplicate taxes paid"

NO. 3

DATE 3/20/91

BILL NO. HB 946

County of Yellowstone

MERRILL H. KLUNDT
CLERK AND RECORDER

(406) 256-2787

P.O. BOX 35001
BILLINGS, MONTANA 59107

March 18, 1991

Senator Mike Halligan, Chairman
Senate Taxation Committee and Members
Senate District No. 29
Room 413/415
Capital Building
Helena, MT 59624

Dear Senator Halligan:

This bill is adding a new Section to 7-8-2301, M.C.A.

Under current statutes a delinquent taxpayer can bid his property at any tax deed auction and especially after the first sale, the County Commissioners reduce the appraised value and the taxpayer can bid on his delinquent property at a reduced price and thus escape in paying the actual amount of delinquent taxes due, costs, interest and penalties.

This bill would allow a delinquent taxpayer, successor in interest, members of the immediate family or agent to bid on their delinquent parcels at a public auction and if successful bidder, they are required to pay all county costs, delinquent taxes, assessments and all interest and penalty due in full.

Example: A delinquent taxpayer maybe delinquent to the amount of $500,000.00. After the first sale the appraised values are lowered and the delinquent taxpayer may bid them in at the following auctions and save at least $200,000.00. Under the current process, the state loses 40%, schools, county and city all lose 40%. This lose necessitates increasing levies, wherever possible, up to maximum levies allowed by I-105 to compensate for the loss of taxes and special assessments.

Ex. # 3
3-20-91

Further, if the revolving fund of the city and county are depleted, there must be a levy to provide funds for the revolving fund of each entity in order to retire outstanding bonds on R.S.I.D's or S.I.D.'s. The amount that can be levied is no more than 5% of the outstanding bond indebtedness. In Yellowstone County this would be $250,000.00 maximum, Section 7-12-2182, M.C.A. I know of one county the maximum amount that can be levied under this Section can not even pay the interest on the outstanding bonds and is now in court.

Therefore, a taxpayer in good standing is paying again on those who are speculators. This bill will stop some of the abuse in the current system.

Yours truly,

Merrill H. Klundt
Clerk and Recorder
Yellowstone County, Montana
Chairman of MACR
Legislative Committee

SENATE TAXATION
EXHIBIT NO. 4
DATE 3/20/91
BILL NO. HB 591

MONTANA STATE AFL-CIO
APRIL 29 1956

DONALD R. JUDGE
EXECUTIVE SECRETARY

110 WEST 13TH STREET
P.O. BOX 1176
HELENA, MONTANA 59624

(406) 442-1708

Testimony of Darrell Holzer on HB 591, Senate Taxation Committee, Wednesday, March 20, 1991.

Mr. Chairman and members of the committee, I'm Darrell Holzer, representing the Montana State AFL-CIO, and I'm here today to support the application of the standard prevailing wage to tax exempt bonded projects costing more than $25,000.00.

As others have testified, contractors currently utilizing tax exempt bonds to finance construction projects are able to circumvent the intent of prevailing wage laws. Because these contractors are, in essence, being paid with public monies to complete these projects, there is no reason to differentiate between this source of funding or a direct public expenditure.

Workers in our state and nation have enjoyed the protection provided by prevailing wage laws for more than fifty years In addition, these laws protect fair contractors, the general public and taxpayers, by ensuring that quality work will be performed by skilled and well-trained workers. These protections ought to be extended to the types of projects covered under the provisions of this bill.

We urge that you support the extension of these protections by approving HB 591.

Thank you for considering our views.

SENATE TAXATION
EXHIBIT NO. 5
DATE 3/22/91
BILL NO. SB 457

Northern Plains Resource Council

March 20, 1991

Testimony of the Northern Plains Resource Council in support of SB-457

Mr. Chairman, members of the committee, my name is Richard Parks. I own and operate a sporting goods store and fly fishing outfitting service in Gardiner, MT. I am also legislative chair of the Northern Plains Resource Council which has 14 local membership affiliates across Montana. Four of those affiliates, including my own, are located in Park, Sweetgrass and Stillwater Counties. We opposed SB-410 during the last session because it appeared to us that, despite claims of revenue neutrality, it would turn out to be a substantial tax break for the mines in our communities. In the event we were correct.

The facts are easy to state. Since SB-410 was enacted the U.S. Bureau of mines reports that gross metal mine production in Montana has gone up from $481 million to $530 million. In the meantime the taxable value dropped from $425 million to $336 million. Actual revenue recieved by the state from the Metals Mines License Tax (including RITT) dropped from $7.37 million to $5.75 million. Had SB-410 been revenue neutral the state should have recieved almost $2.4 million dollars more than we actually took in. We suspect a further impact in that, by redefining what constituted "gross value of production" as a species of net production, our local government units, the counties and school districts in particular, also took a substantial hit on the order of $650,000 state wide.

The intent of this bill is equally simple. By returning to our long established method of taxing gross production we will get what we were promised, revenue neutrality. By the way this doesn't mean that you only pay next year what you paid this year, it means you pay in the same proportion as you paid before. This bill does not address the equally sad fact that metals mines are substantially undertaxed. Even after the illadvised drop in the coal severence tax currently scheduled for next July, coal will be paying at an effective rate of 10%. That is approximately 10 times (almost 7 times if this bill is passed) what metals will return but obviously coal is not, in our estimation, over taxed. Attatched to my testimony is a graph showing what has happened with the MMLT over the last few years, copies of a letter sent by Representative Brown to the Department of Revenue asking them to clairify discrepencies in their biannual report, the Department's reply, and an article from the industry newsletter demonstrating their ability to pay.

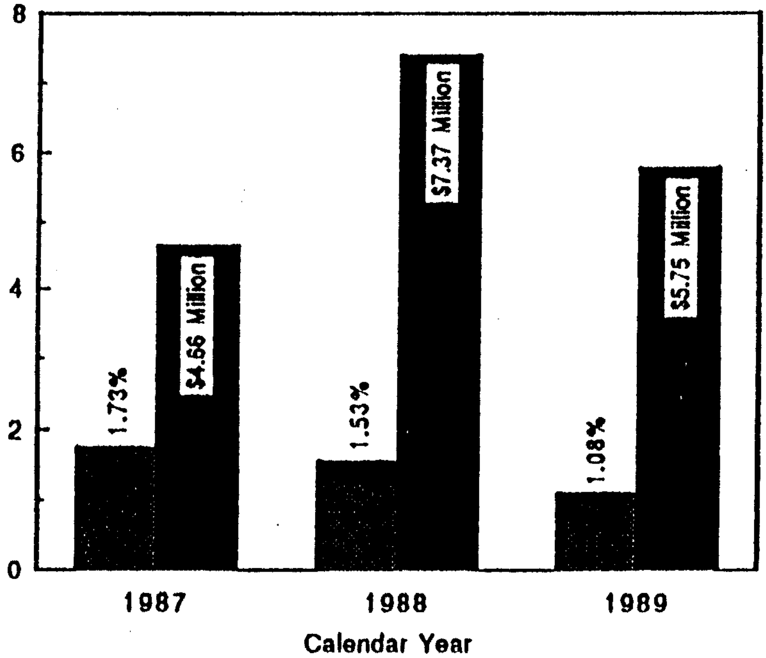
Richard C. Parks

419 Stapleton Building Billings, MT 59101 (406) 248-1154

Ex #5

Northern Plains Resource Council

Montana Metal Mines Tax Revenues



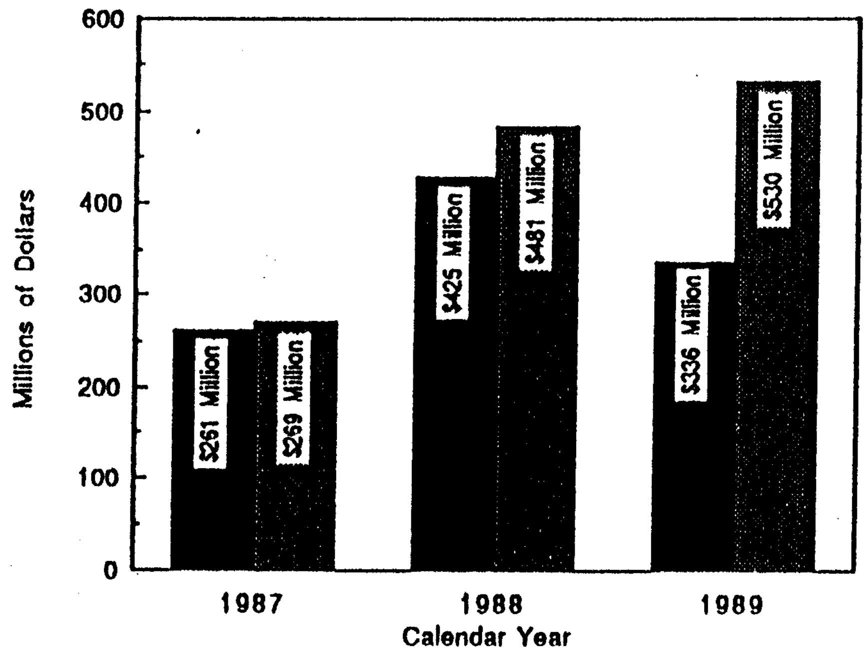
MMLT & RITT Revenues as a % of Metals Gross Production Value

Combined MMLT & RITT Revenues*

Sources: Montana Department of Revenue as of 1/24/91 and U.S. Bureau of Mines as of 1/30/91.

* SB 410 eliminated the 0.5% RIT tax on metal mines beginning in calendar year 1989.

Montana Metal Mines Gross Production Values



Montana Department of Revenue Taxable Valuation as of 1/24/91.

U.S. Bureau of Mines Gross Production Value as of 1/30/91.

419 Stapleton Building Billings, MT 59101 (406) 248-1154

Ex #5

The Big Sky Country

MONTANA HOUSE OF REPRESENTATIVES

REPRESENTATIVE DAVE BROWN

HOUSE DISTRICT 72

HELENA ADDRESS:
CAPITOL STATION
HELENA, MONTANA 59620

HOME ADDRESS:
3040 OTTAWA
BUTTE, MONTANA 59701
PHONE: (406) 782-3604

SPEAKER PRO TEMPORE

COMMITTEES:
JUDICIARY
LOCAL GOVERNMENT
RULES

February 8, 1991

Mr. Denis Adams, Director
Montana Department of Revenue
Sam W. Mitchell Building, Room 455
Helena, Montana 59620

Dear Mr. Adams,

On January 30, 1991, Dennis Olson of the Northern Plains Resource Council learned through personal communication with Department of Revenue staff of an error in the 1988-1990 Biennial Report of the Department of Revenue figures for the revenues received from the Metal Mines License Tax. The discrepancies are as follows:

Metal Mine License Tax Revenues

	FY 88	FY 89	FY 90
M.D.O.R. Biennial Report	$4,248,913	$6,355,005	$6,306,356
1/30/91 Staff Conversation	$3,911,599	$6,299,716	$5,753,020

The indication was that the Biennial Report figures were incorrect and that the lower figures were correct. Would you please provide me with an explanation of these differences. It would be most appreciated.

I look forward to your response as quickly as is convenient, since these figures are essential for making decisions on several bills which are being considered by the legislature.

Thank you for your consideration.

Sincerely,

Dave Brown

Dave Brown
Representative

DB/mf

Ex #5

State of Montana

Stan Stephens, Governor

Department of Revenue
Denis Adams, Director

Room 455, Sam W. Mitchell Building
Helena, Montana 59620

February 14, 1991

MEMORANDUM

TO: Representative Dave Brown
House District 72

FROM: Denis Adams, Director

RE: Metal Mines License Tax Collections

Regarding your letter of February 8 pertaining to metal mines license tax collections: the numbers shown in the Department's Biennial Report are not incorrect. These figures are taken directly from the Statewide Budget and Accounting System (SBAS), and include audit collections in addition to current year collections.

The figures that Dennis Olson received from our staff reflect current year collections only, and reflect actual production in the relevant years. If a person is interested in tracking current year production and the associated revenues, then these are the relevant numbers.

However, the function of the Biennial Report is to report total collections during the biennium regardless of whether collections are associated with current year production or prior year audit adjustments.

I hope this clears up any confusion regarding the discrepancies between the two sets of numbers in your letter.

H:\WP\DBROWN

Director - (406) 444-2460 Legal Affairs (406)444-2852 Personnel/Training (406)444-2860 Research/Info. (406)444-2981

Ex #5

Mining In Montana

Nonfuel Mineral Mining Tops $637 Million – An Increase Of 16 Percent

By The Montana Bureau Of Mines Staff

The estimated value of nonfuel mineral production for Montana in 1989 rose to $637 million, an increase of about 16% from 1988. Gains in the production value of gold, platinum group metals, and molybdenum contributed largely to the increase. Metallic minerals — copper, gold, iron ore, lead, molybdenum, platinum group metals, silver, and zinc — accounted for nearly 85% of the state's nonfuel mineral production value. Montana ranked 18th nationally in that value, compared with 17th in 1988.

Metallic mineral production continued to shine in Montana's mineral economy. With gold values leading the way with an increase of $39 million, total estimated production value for metals jumped 19%. The year saw the opening of two new gold mines — the Mineral Hill Mine near Jardine, and the Beal Mountain Mine near Butte. Metals exploration remained extremely active. A diversity of industrial minerals continued to be produced in the state. Total production value of industrial minerals remained virtually unchanged from 1988.

Exploration The Montana Department of State Lands reported a total of 210 active exploration permits in 1989, up from 192 in 1988. The U.S. Bureau of Land Management reported the filing of 13,084 new mining claims in 1989, for a total of 59,659 active claims in the state.

Highlighting exploration in Montana was the joint venture of Noranda Exploration Inc. and Crown Butte Resurces Ltd. near Cooke City, Park County. The companies announced discovery of additional gold, silver, and copper ore reserves in the New World district. Mascot Silver-Lead Mines announced signing a lease agreement with Pegasus Gold Corp. in which Pegasus will explore Mascot's Argentine and Silver Chief mining claims near Pegasus' Montana Tunnels Mine.

Orvana Resources Corp. continued exploration on its Libby gold project. ASARCO Inc. drilled its J. F., Trout Creek, and Minton Pass properties, as well as its Ross Point claims. Others that drilled in the northwestern part of the state included Santa Fe Pacific Mining Co., Western Exploration & Drilling co. (Westgold), and U.S. Borax & Chemical Corp.

In the Helena region, the joint venture of Inland Gold and Silver Corp. and N. A. Degerstrom continued exploration of its newly acquired gold property, the Blackfoot project. Phelps Dodge Corp. and Addwest Gold Inc. drilled the 7-Up Pete and McDonald Meadows properties.

Environment State and Federal environmental officials announced a $62.5 million plan to clean up a Superfund site that resulted from decades of mining, milling, and smelting waste being dumped into Silver Bow Creek, Deer Lodge County. Officials are now soliciting public comment on the Warm Springs Ponds Feasibility Study. The high-priority tailings pond sites are administered by the Atlantic Richfield Co., which is the responsible party that would have to pay for the cleanup.

Mineral Hill and Beal Mountain mines were new gold producers in 1989

Legislation and Government Programs. Effective October 1, new legislation required any small miner using cyanide or a cyanide compound to recover metallic minerals from ore to obtain an operating permit from the Montana Department of State Lands. Application for the permit must include an operating plan and a reclamation plan tailored to the size of the operation and site-specific conditions. Also, a new law required small placer operators to post reclamation bonds of up to $5,000 per site and to do reclamation work.

Review by Nonfuel Mineral Commodities. Two new gold mines began production. One was the Mineral Hill gold mine, a joint venture of American Copper & Nickel Co. and Homestake Mining Co. The 600 ton-per-day underground mine is in an environmentally sensitive area at Jardine, Park County. Processing included vat leaching, followed by Merrill-Crowe zinc precipitation. Pegasus Gold began production at its Beal Mountain open-pit, heap-leach gold operation near Anaconda, Silver Bow County. The company began exploring an adjacent ore body.

SENATE TAXATION
EXHIBIT NO. 6
DATE 3/20/91
BILL NO. SB 457

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 20th day of MARCH, 1991.

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Representing whom?
MONTANA ALLIANCE FOR PROGRESSIVE POLICY (MAPP)

Appearing on which proposal?
SB 457

Do you: Support? X Amend? _____ Oppose? _____

Comments:
MAPP rises in support ~~of~~ SB 457.
MAPP is a coalition of women's, Native American, senior citizen, environmental, low-income, education, and labor organizations. We represent over 60,000 Montana households.
SB 457 is good tax policy and we urge the committee's favorable consideration.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE TAXATION
EXHIBIT NO. 7
DATE 3/21/91
BILL NO. SB 957

DEPARTMENT OF REVENUE

COMPARISON OF 1989 METAL MINES TAXES TO 1988 METAL MINES AND RIT TAXES

TAX COLLECTIONS:			
1988 METALS VALUE		$425,059,000	
1988 METAL MINE COLLECTIONS			$6,294,000
1988 RESOURCE INDEMNITY TRUST			~~$909~~ 666 ,000
1988 METAL MINES & RIT COLLECTIONS			$7,203,000
1989 REPORTED METALS VALUE		$336,205,000	
1989 METAL MINES COLLECTIONS			$5,753,000
TAX REVENUE DIFFERENCE BETWEEN 1988 & 1989			$1,450,000

ANALYSIS OF TAX DEFERRAL AND TAX REVENUE LOSS:

(1) 1989 REVENUE DEFERRAL DUE TO CHANGING FROM ACCRUAL TO CASH		$41,285,000	
TAX LOSS DUE TO ACCOUNTING CHANGE			$726,000
(a) ACTUAL LOSS 31,285,000 X 1.81%	$566,000		
(b) ACTUAL LOSS 10,000,000 X 1.60%	$160,000		
(2) TAX LOSS DUE TO PRODUCTION & PRICE CHANGE			$823,000
(c) 1988 VALUE	$425,059,000		
1989 VALUE	($336,205,000)		
DIFFERENCE	$88,854,000		
ACCOUNTING ADJ.	($41,285,000)		
1989 REVENUE LOSS DUE PRODUCTION & PRICE		$47,569,000	
(a) LOSS 29,504,631 @ 1.81% RATE	$534,000		
(b) LOSS 18,064,369 @ 1.60% RATE	$289,000		
	$823,000		
(3) TAX LOSS/(GAIN) DUE TO RATE & METHOD CHANGE			($99,000)
TAX REVENUE DIFFERENCE BETWEEN 1988 & 1989			$4,450,000

(a) CONCENTRATES TAXED AT 1.81%
(b) DORE, BULLION, OR MATTE IS TAXED AT 1.60%
(c) NO VALUE INCLUDED FOR NON-RECOVERED OR PENALTY METALS

DEPARTMENT OF REVENUE
TAXATION OF METAL MINES

COMPARISON OF OLD LAW AND NEW LAW

The 1989 Legislature made significant changes in how mines that produce metals in the State are taxed. This document is an comparison of the old and the new laws. All three of the extraction taxes that applied to metal mining operations were affected. The taxes that applied to metal mining operations were: (1) Metalliferous Mines License Tax (Metal Mines License Tax), Title 15, Chapter 37, Part 1; (2) Resource Indemnity Trust Tax, Title 15, Chapter 38; (3) Metals Mines Gross Proceeds, Title 15, Chapter 23, Part 6.

OLD LAW - 1988 & PRIOR

Metal Mines License Tax

Tax Rates:

First $250,000 - exempt
More than $250,000, but less than
$500,000 - .5% of the increment
More than $500,000, but less than
$1,000,000 - 1% of the increment
More than $1,000,000 1.5% of the increment

NEW LAW - 1989 & AFTER

Metal Mines License Tax

Tax Rates:

First $250,000 - exempt

For producers of concentrates shipped to a smelter, mill, or reduction work is taxed at 1.81% of the increment;

For producers of gold, silver or any platinum-group metal that is dore', bullion, or matte and that is shipped to a refinery is taxed at 1.6% of the increment;

OLD LAW - 1988 & PRIOR

Distribution of tax collected
- 67% to the general fund;
- 33% to the hard-rock mining impact trust account;

Tax Base:

Tax based on gross value - defined as the market value of all merchantable metals extracted or produced from the mine and recovered from the smelter or reduction works, based on the <u>gross smelter returns</u> without deductions for the cost of smelting or refining.

INDUSTRY - DOR DISPUTE ABOUT VALUE

The Department's interpretation of this statute was that what ever the marketable or merchantable metals that were

NEW LAW - 1989 & AFTER

Distribution of tax collected:
- 58% to the general fund;
- 1.5% to the hard-rock impact trust account;
- 15.5% to the resource indemnity trust fund;
- 25% to the county in which mine is located to be distributed as follows:
  - not less than 40% to the county hard-mine trust reserve;
  - of the remainder 33 1/3% to the county for planning or economic development, 33 1/3% to elementary school districts affected by mine development, 33 1/3% to high schools affected by mine development;

Tax Base:

Tax based upon gross value - of product defined as the "gross receipts" of the mining company from the smelter, metal trader, roaster, or refinery. In addition, the new law clarified that transportation to the smelter, roaster, or refinery could not be deducted.

INDUSTRY - DOR DISPUTE ABOUT VALUE

The 1989 Legislature resolved the dispute by amending the statute to include the language of

Ex #3

OLD LAW - 1988 & PRIOR

produced or extracted from the mine were to be reported and tax paid on that amount. Several mining companies contended that if there were trace metals for which the miner did not get paid from the smelter or refiner for, then the mining company should not pay taxes on those metals. For example, if a miner was .05% gold in the concentrates or ores, and they were shipping to a smelter and the agreement or contract between the miner and the smelter stated that the miner would only get paid for the gold in excess of .1% the miner would not include the value of the gold in the filing of the return. The DOR position was that the gold was a "merchantable" metal and should be reported, the mining companies felt that since they weren't getting paid they should not report it.

Resource Indemnity Trust Tax

<u>Tax Rate:</u>

.5% of the mine mouth value

Gross Proceeds Tax

<u>Tax Rate:</u>

NEW LAW - 1989 & AFTER

"receipts received" from the sales of the metals. This means that only the metals that were paid for by the smelter would be included in the gross value.

Resource Indemnity Trust Tax

<u>Tax Rate:</u>

No separate tax calculation or filing of a RIT return occurs. The tax rate for the Metal Mines Tax was adjusted to include the RIT portion, and 15.5% of the Metal Mines collections are now distributed to the RIT fund.

Gross Proceeds Tax

<u>Tax Rate:</u>

OLD LAW - 1988 & PRIOR

The merchantable value of the gross metal yield is multiplied times the 3% class factor to determine the taxable value of the mine. The taxable value of the mine is multiplied times the total mill levy for the school district in which the mine is located, and this amount is then paid to paid to the county.

NEW LAW - 1989 & AFTER

The "receipts received" from the gross metal yield is multiplied times the 3% class factor to determine the taxable value of the mine. The taxable value of the mine is multiplied the total mill levy for the school district in which the mine is located, and this amount is then paid to the county.

The same value was adopted for the Gross Proceeds Tax that is used for the Metal Mines Tax - i.e. the "receipts received" from the smelter, roaster, or refinery, without any deduction for transportation to the smelter, roaster, or refinery.

VALLATION METHOD CAUSES A CHANGE IN ACCOUNTING METHOD

The pre-1988 Metal Mines law, as described above, defined the tax base as the market value of all merchantable metals extracted or produced from the mine for the period for which the return is filed. This meant that if a mining operation produced 500 ounces of gold in a quarter they were to report the value of 500 ounces even though they may not have received final payment for all of the 500 ounces until a subsequent period.

Under the 1989 law, again as described above, a miner reported only the "receipts received" during the period for which a return was filed. Therefore, when the law changed from a "production basis" to "receipts received basis" there were some cases where metals were already reported in 1988, or that weren't paid for until 1990, therefore, these would not be reported in 1989. This would be essentially the same type of adjustment that would be made when someone changes from the accrual method of accounting to a cash basis.

Ex #7

COMPARISON OF PRODUCTION AND PRICE FOR 1988 AND 1989

Product: Gold

Year	Ounces	Value	Price/Oz.	Percentage Increase/Decrease From 1988 to 1989 Production	Value	Price
1988	306,933	$131,970,789	429.97			
1989	378,621	$151,357,699	399.76	23.36%	14.69%	(7.03%)

Product: Silver

Year	Ounces	Value	Price/Oz.	Percentage Increase/Decrease From 1988 to 1989 Production	Value	Price
1988	5,996,514	$34,932,258	5.83			
1989	5,295,588	$24,718,947	4.67	(11.63%)	(29.24%)	(19.90%)

Product: Copper

Percentage Increase/Decrease
From 1988 to 1989

Year	Pounds	Value	Price/lb.	Production	Value	Price
1988	142,641,0[illegible]	$146,092,792	1.02			
1989	73,824,5[illegible]	$77,878,630	1.05	(48.24%)	(46.69%)	2.94%

Product: Molybdenum

Percentage Increase/Decrease
From 1988 to 1989

Year	Pound	Value	Price/lb.	Production	Value	Price
1988	14,066,66[illegible]	$43,241,035	3.07			
1989	13,028,64[illegible]	$40,837,105	3.13	(7.38%)	(5.56%)	1.95%

Product: Palladium

Percentage Increase/Decrease
From 1988 to 1989

Year	Ounces	Value	Price/Oz.	Production	Value	Price
1988	125,93[illegible]	$15,730,240	124.91			
1989	87,74[illegible]	$13,285,094	156.76	(32.70%)	(15.54%)	25.50%

Product: Platinum

Percentage Increase/Decrease

Ex # 7

From 1988 to 1989

Year	Ounces	Value	Price/Oz.	Production	Value	Price
1988	38,006	$20,726,589	498.77			
1989	25,302	$12,485,274	493.45	(33.43%)	(39.76%)	(1.07%)

Product: Rhodium

Percentage Increase/Decrease
From 1988 to 1989

Year	Ounces	Value	Price/Oz.	Production	Value	Price
1988	971	$1,089,526	1120.07			
1989	488	$576,041	1180.41	(49.74%)	(47.13%)	5.20%

Product: Lead

Percentage Increase/Decrease
From 1988 to 1989

Year	Pounds	Value	Price/lb.	Production	Value	Price
1988	19,445,692	$4,771,366	0.25			
1989	11,646,325	$2,436,151	0.21	(40.11%)	(48.94%)	(16.00%)

Product: Zinc