

## **MINUTES**

### **MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By Senator Mike Halligan, Chairman, on April 6, 1991, at 9:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

Mike Halligan, Chairman (D)  
Dorothy Eck, Vice Chairman (D)  
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:**

Robert Brown (R)

**Staff Present:** Jeff Martin (Legislative Council).

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

**Announcements/Discussion:** None

#### **HEARING ON HOUSE BILL 801**

##### **Presentation and Opening Statement by Sponsor:**

Representative Menahan, District 67, said the bill defines polluted property for purposes of taxation and provides that unpaid taxes on Class 21 property are a lien on all other property owned by the owner of the Class 21 property. The bill applies primarily to the 6000 acres of EPA superfund sites in Butte, Anaconda, and Bozeman. Businesses who want to come into the area cannot get loans on any of the land in the area because they then become the primary responsible party. This is not punitive legislation and the cost is only about \$20,000. The tax base in Deer Lodge County has gone from \$20,000 per mill to a little less than \$8000 per mill.

Proponents' Testimony:

Gordon Morris, Montana Association of Counties, said this bill was approved by the MACo membership at their convention. He said the Class 21 lien provisions are very important to the affected areas and would free the property for development by the new owners without assuming the tax burden of the previous owner. The liens would apply to other property owned by the seller.

Opponents' Testimony:

Ward Shanahan, Atlantic Richfield, presented proposed amendments to the bill (Exhibit #1). He said there are problems in the bill. The assessment in the bill cannot be less than \$100 per acre. There are 6000 acres involved for a total of \$600,000. In a 300 mill county the total is \$150,000 in taxes. The statement of intent gives the Department authority to develop rules for polluted property, yet the scope of the rule-making authority is not limited to property in the Butte-Anaconda area. The policy of valuing polluted property as if it were environmentally sound and productive is not back by any fact finding. He expressed concern about a double tax rate in Section 2. The superfund site in Butte could conceivably stretch from Butte to Pondera Lake in Idaho under the provisions of the bill. Mr. Shanahan noted Atlantic Richfield is addressing the problems identified by EPA under a consent order at this time. He urged the committee to give serious consideration to the amendments, although he said there are many concerns about the bill which the amendments do not address.

Questions From Committee Members:

Senator Thayer asked what the reasoning is for putting a lien on property that is not involved in the sale.

Rep. Menahan said the lien is put against land that has some value.

Senator Doherty asked if the amendments would affect anyone but ARCO.

Mr. Shanahan replied they certainly could.

Rep. Menahan said Pomida wants to buy land in Anaconda for a new business venture. They cannot get a loan on the property and ARCO will not clean it up. Homes in Anaconda have lost value and no land east of Anaconda can be built on.

Senator Eck said she thought there were a lot of sites around Montana that should be included in the bill.

Closing by Sponsor:

Rep. Menahan closed by saying the land they are trying to develop has a direct relationship to the economic health of the community. As a result of the loss of millage, the fireman have been cut from 15 to 3 and the police force has been cut from 18 to 10. He felt ARCO has a social responsibility to help Montana as they made the mess and then walked away.

HEARING ON HOUSE BILL 832Presentation and Opening Statement by Sponsor:

Rep. Ellison, District 81, said the bill addresses a problem in the hardrock mining impact act. A mine can be located in one county with the ore located in another county. The taxes go to the county where the mine is located and the county where the ore is located does not receive any tax revenue.

Proponents' Testimony:

Rep. Elliott, District 51, said the Niranda project in Lincoln and Sanders County has the ore in one county and the crushing plant in the other county. There is a discrepancy in the law in which 25% of the metalliferous mines license tax goes to the county in which the mine is located. By definition, the mine is the point of extraction. It is felt only fair that the law should be clarified and that the tax should be allocated to the taxing jurisdiction wherein an economic impact was felt in concord with the hardrock mining act. The second impact of the bill is in the gross proceeds distribution. Under the hardrock mining act provisions, the gross proceeds are distributed to the taxing jurisdiction which suffers the economic impact. Ore is a wealth to the county and once it is extracted, it is gone and there can be no more benefit to the county. The larger issue is one of policy. There are a lot of counties with boundaries along ridge lines. He urged the committee to give serious consideration to the bill.

Ward Shanahan, Stillwater Mining Company, expressed support for the bill and it goes a long way toward solving the problems between counties.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Clarification questions were asked of Carol Ferguson, Executive Secretary, Hardrock Mining Impact Board. The questions did not impact the bill or decisions made on the bill, but were clearly of an informational nature.

Closing by Sponsor:

Rep. Ellison closed by saying he had no intention of complicating the existing system, rather the bill is intended to clarify definitions and distribution of tax revenue.

EXECUTIVE ACTION ON HOUSE BILL 832Amendments, Discussion, and Votes:

Senator Harp moved to adopt the amendments as presented in Exhibit #2 from the Department of Revenue.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Harp moved HB 832 Be Concurred In As Amended.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 699Presentation and Opening Statement by Sponsor:

Representative Ellison, District 81, said the bill exempts travertine and building stone from mines net proceeds taxation. The travertine mine at Livingston was originally opened by the railroad, but later abandoned when it proved not to be a lucrative venture. It is now a family owned business. The travertine is used as a decorative fireplace rock. It was not taxed as a valuable mineral until 1987 and then the tax was imposed by rule by the Department of Revenue. Rep. Ellison contended the tax should have been imposed by the legislature. He noted the firm does pay the RIT tax.

Proponents' Testimony:

Greg Strong, Livingston Stone and Granite, said his family has been quarrying travertine since the mid-1950's. They employ four people and have less than \$250,000 in gross sales per year. They were informed in 1987 that they would have to pay gross proceeds. This is an extreme nuisance tax in the sense that it costs the company a lot of money to comply, however, the administrative problems are more costly than the tax is worth.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions of a relevant nature.\

Closing by Sponsor:

Rep. Ellison closed by saying this is a small business with a big problem that has been imposed unfairly by the state. The legislature needs to address it and deal fairly with the situation.

EXECUTIVE ACTION ON HOUSE BILL 699Recommendation and Vote:

Senator Thayer moved HB 699 Be Concurred In.

The motion CARRIED with Senator Towe voting no.

HEARING ON HOUSE BILL 753Presentation and Opening Statement by Sponsor:

Representative Harrington, District 68, said the bill eliminates restrictions on granting property tax exemptions for business incubator property determined by the Department of Revenue to qualify for exemption. The main change in the bill is that the Department can grant the exemption, but the local governing body can then decide whether to apply the exemption or not.

Proponents' Testimony:

Evan Barrett, Butte Economic Development Corporation, said the county option of going along with the state exemption very important to the local governments. He said the provides an incentive for small business development organizations. The other nine economic development organizations in the state asked him to express support for the bill on their behalf.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage asked if there is an additional hearing added on the local government level.

Mr. Barrett said the bill does require a hearing at the local level.

Amendments were distributed by the Department of Revenue which addressed that issue (Exhibit #3).

Senator Towe asked if this exemption applies to buildings or land or both.

Mr. Barrett replied it would only apply to real property.

Closing by Sponsor:

Rep. Harrington closed.

EXECUTIVE ACTION ON HOUSE BILL 753

Amendments, Discussion, and Votes:

Senator Towe moved adoption of the amendments as presented in Exhibit #3.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 787Presentation and Opening Statement by Sponsor:

Representative Quilici, District 71, said the bill establishes a property tax exemption for industrial park property which has been determined by the Department of Revenue to be eligible. There have to be public notice and public hearings before the exemption is granted. Clarification amendments proposed by the Department of Revenue were submitted to the committee (Exhibit #4).

Proponents' Testimony:

Evan Barrett, Butte Local Government Development Corporation and also representing the nine other economic development corporations in the state, expressed support for the bill saying it would offer an incentive to new business development.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer asked if the property would have to be within the confines of the industrial park itself or could the property be bought for some future development.

Mr. Barrett said, in his opinion, it would have to be purchased within the industrial park. Perhaps it could be seen by the Department and local governments as a future development site.

Senator Halligan asked how the bill would apply to leased property.

Mr. Barrett said the property would go back on the tax roll when it was sold, leased, or rented.

Closing by Sponsor:

Rep. Quilici closed by saying this bill is a small, but important, step for economic development.

HEARING ON HOUSE BILL 793

Presentation and Opening Statement by Sponsor:

Representative Marion Hanson, District 100, said the bill gives County Commissioners and County Treasurers the discretion to reallocate funds from the flat tax to other accounts in the county. If a certain account is low and there is excess in another account, the balance can be shifted from one to the other.

Proponents' Testimony:

Mike Stephen, representing the Oil and Gas and Coal Counties, said the bill only impacts county funds and only applies to revenues already collected and distributed.

Sharon Harlan, Bighorn County Assessor, expressed support for the bill.

Rod Svec, Superintendent of Schools, Hardin, expressed support for the bill.

Gordon Morris expressed support for the bill on behalf of Musselshell and Rosebud County Commissioners.

Dwight Thiessen, Richland County Commissioner, expressed support for the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Representative Hanson closed by saying with the base year established the roller coaster effect is removed from the distribution of flat tax revenues.

HEARING ON HOUSE BILL 868Presentation and Opening Statement by Sponsor:

Representative Steppler, District 21, said this is a fairness issue. The impression given by the proponents of the flat tax in the 1989 session was that the flat tax would be revenue neutral. Using the unit value for redistribution on oil and gas has worked out very well, however, that has not been the case with coal. During the redistribution process there were three counties that lost money, Richland, Bighorn, and Musselshell. All that money went to Rosebud County. Within the three counties that lost money were school districts that lost significant amounts of money. Amendments have been added to the bill which would ensure that the state does not have to pick up any costs if there were a loss of production in any coal mine in any district. If there is a loss of production in any one jurisdiction, that loss would not be shared with other entities. The same is true with excess amounts. Once all taxes are taken care of, excess money would be returned to the county of origin to be distributed between county governments and school districts that have that coal mine in their jurisdiction. An amendment was added on the House floor that addresses the issue of protested taxes.

Proponents' Testimony:

John McNeil, Superintendent, Savage Schools, presented his testimony in support of the bill (Exhibit #5).

Dwight Theissen, Richland County Commissioner, reviewed the cuts suffered by the Savage School system and urged the committee to support the bill.

Jim Steffen, Savage School Parent, said he is a small farmer from the Savage area. His children have all attended the Savage Schools and he has seen the quality of education eroded significantly due to the adverse effects of the flat tax on the county. He urged the committee to support the bill and the affected agencies in the three counties.

Harlan Conradson, Savage, said the cuts in home economics and industrial arts, counseling and other staff positions, have left the Savage schools ravaged. The quality of the school system has gone "down the tube" he said.

Don Price, a semi-retired resident of Savage, said he has supported the school system all his life, through his children, grandchildren, and now his great-grandchildren and nieces and nephews. He drives the school bus and is terribly concerned that these kids get a good education which is becoming very difficult with the cuts that have had to be made. The community has been

very supportive of the schools and just voted again to increase their taxes for the schools. But the impact is very great and help is desperately needed to restore the quality to the educational system in Savage.

Sharon Harlan, Bighorn County Assessor, expressed support for the bill.

Rod Svee, Superintendent of Schools, Hardin, expressed support for the bill.

Gordon Morris, expressed support on behalf of the County Commissioners from Musselshell and Rosebud Counties.

Jim Mockler, Montana Coal Council, expressed support for the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage said he tried to get the representatives of the coal industry to go on the unit value during the special session and they were not interested in doing it at that time. He tried to explain that there were problems in this area but they chose not to support a change and decided to live with it and see what would happen. He submitted a written statement to the committee (Exhibit #6).

Closing by Sponsor:

Representative Stepler closed saying the bill is a compromise which has been worked out by the taxing units involved. It sets the unit value for coal for redistribution to the taxing units in a fair and uniform manner. He stressed again that this is a fairness issue and must be addressed in this session.

ADJOURNMENT

Adjournment At: 11:45 a.m.

  
SENATOR MIKE HALLIGAN, Chairman

  
JILL D. ROZYANS, Secretary

MH/jdr

# VISITORS' REGISTER

(Please leave prepared statement with Secretary)

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 7/6/91

52<sup>nd</sup> 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		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

52nd Legislature

HB 801/02

AMENDMENTS TO HOUSE BILL NO. 801  
SECOND READING COPY

INTRODUCED BY MENAHAN, HARRINGTON, MCCARTHY

A BILL FOR AN ACT ENTITLED: "AN ACT DEFINING POLLUTED PROPERTY FOR THE PURPOSES OF TAXATION; ESTABLISHING A PUBLIC POLICY FOR THE TAXATION OF POLLUTED PROPERTY; PROVIDING FOR A METHOD OF APPRAISING POLLUTED PROPERTY: PROVIDING THAT UNPAID TAXES ON CLASS TWENTY-ONE PROPERTY ARE A LIEN ON ALL OTHER PROPERTY OWNED BY THE OWNER OF THE CLASS TWENTY-ONE PROPERTY; AMENDING SECTIONS 15-1-101, 15-7-103, and 15-8-111, AND 15-16-403, MCA; AND PROVIDING AN APPLICABILITY DATE."

1. Title, lines 8 through 9.

Following: "LIEN ON"

Strike: "ALL OTHER PROPERTY OWNED BY THE OWNER OF"

2. Title, line 10.

Following: "PROPERTY"Insert: "ASSESSED"

3. Page 2, line 20.

Following: "because of"

Insert: "unaddressed"

4. Page 2, line 24.

Following: "property"

Insert: ", that is not or has not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions, or is not subject to a federal or state order requiring response action,"

5. Page 6, line 14.

Following: "that"Strike: "have been"

6. Page 6, line 15.

Following: "(I)"Insert: "have been"

7. Page 6, line 17.

Following: "activity;"Strike: "AND"

8. Page 6, line 18.

Following: "(II)"

Insert: "are"

9. Page 6, line 20.

Following: "AMENDED"

Strike: "."

Insert: "; AND (III) are not or have not been the subject of good faith discussions with an appropriate federal or state governmental authority or agency pertaining to response actions, or are not subject to a federal or state order requiring response action."

10. Page 13, lines 7 through 9.

Following: "against"

Strike: the remainder of lines 7 through 9

Insert: "The class twenty-one property assessed."

CLERK OF HOUSE  
ENCL. 2  
DATE 4/6/91  
FILE NO. HB 832

AMENDMENTS TO HOUSE BILL NO. 832  
Third Reading (blue copy)

Explanation of amendments

The first two amendments are to specify that the counties will receive the funds in direct proportion to the fiscal or economic impact finally determined by the plan.

The second set of amendments cure what appears to be a drafting or printing error. The sentence doesn't make any sense.

1. Page 3, line 21.

Following: "or"

Strike: "proportionally"

2. Page 3, line 25.

Following: "90-6-307"

Insert: ", in direct proportion to the fiscal and economic impact determined in that plan,"

3. Page 3, line 25.

Following: "impact"

Insert: "plan"

4. Page 4, line 1.

Following: "90-6-307"

Strike: "or, if no impact plan has been prepared,"

Amendments to House Bill 753  
3rd Reading Copy

5  
CHECKED BY \_\_\_\_\_  
EXEMPT NO. 3  
DATE 4/6/91  
BILL NO. HB 753

Prepared by Department of Revenue  
(4/5/91)

Reasons for Amendments

1. The amendments eliminate the requirements for an initial determination and public hearing by the Department of Revenue.
2. The amendments combine the notice and hearing requirements in subsection (3)(A) with the requirements in subsection (4). By combining the two into one paragraph previous inconsistencies are removed.

**Amendments to House Bill 753  
3rd Reading Copy**

**Prepared by Department of Revenue  
(4/5/91)**

1. Page 1, line 19 through page 2, line 18.

Strike: all of subsections (2) and (3) in their entirety

Renumber: subsequent subsections

2. Page 3, line 1.

Following: "hearing"

Strike: "."

Insert: "as defined in 76-15-103. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each business incubator in its respective jurisdiction. The governing body may not grant approval for the business incubator until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."

3. Page 3, line 11.

Following: line 10

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

# HOUSE BILL 753 - Third Reading

Point Sheet  
April 4, 1991

- PROPOSAL:
- \* expands the existing property tax exemption for business incubator property from local mill levies to local and state levies;
  - \* requires the Department of Revenue to hold a hearing and make the initial determination that a business incubator qualifies for the exemption (this was amended in the bill because the House felt that if the tax on state levies was waived the state should make the decision):
  - \* gives local government the opportunity to disapprove the exemption:
  - \* eliminates the requirement that school districts must approve the tax exemption: and
  - \* is effective for this year.

- ISSUES:
1. Schools may be giving up the most revenue if a tax exemption is granted. Yet, they are excluded from the approval process.
  2. Both the department and the local governing body are required to hold a hearing. Only one public hearing is necessary. The requirement for the department to conduct a hearing should be deleted.
  3. The bill doesn't provide guidance to the department for deciding if a business incubator qualifies. Perhaps Section 1 subsection (2) should be amended to reference subsection (4).
  4. The bill doesn't state what the procedure is if the DOR determines that the property doesn't qualify for exemption after holding the hearing. It is unclear whether an adverse determination is appealable.
  5. Approval by DOR does not appear to be required for a local entity granting the exemption after its hearing. Subsection (3) says the local entity can hold a hearing to grant the exemption after the DOR hearing.
  6. Subsections (3) and (4) requiring governing bodies to hold hearings should be combined. There is no reason to have 2 sections that say the same things. Subsection (3) should be amended to include counties for required hearings.

IMPACT: There are only a few business incubators in the state. Therefore, the fiscal impact of this bill is limited. This legislation doesn't significantly impact the administrative responsibilities of the department.

SENATE JOURNAL 4  
ENACTED BY 4  
DATE 4/6/91  
BILL NO. HB 787

Amendments to House Bill 787  
3rd Reading Copy

Prepared by Department of Revenue  
(4/5/91)

Reasons for Amendments

1. The amendments eliminate the requirements for an initial determination and public hearing by the Department of Revenue.
2. The amendments combine the notice and hearing requirements in subsection (3)(A) with the requirements in subsection (4). By combining the two into one paragraph previous inconsistencies are removed.

Amendments to House Bill 787  
3rd Reading Copy

Prepared by Department of Revenue  
(4/5/91)

1. Page 1, line 18 through page 2, line 17.

Strike: all of subsections (2) and (3) in their entirety

Renumber: subsequent subsections

2. Page 2, line 25.

Following: "hearing"

Strike: "."

Insert: "as defined in 76-15-103. The governing body may approve or disapprove the tax exemption provided for in subsection (1). If approved, the governing body must do so by a separate resolution for each industrial park in its respective jurisdiction. The governing body may not grant approval for the industrial park until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval."

3. Page 3, line 12.

Following: line 11

Insert: "(3) Upon receipt of approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change for the tax exemption provided for in this section."

Renumber: subsequent subsections

DATE 4/4/91 JOHN J. McNEIL  
Superintendent  
BILL NO. 113 DARREL STOLL  
H.S. Principal  
868 JOHN PFEIFER  
El. Principal  
MILDRED SHIELDS  
Clerk

# SAVAGE PUBLIC SCHOOLS

Elementary District No. 7 & H.S. District No. 2

Richland County

Savage, Montana 59262

776-2317

## BOARD OF EDUCATION

CLIFFORD BERGSTEDT, Chairman  
HARLAN CONRADSEN, Vice-Chairman  
GARY DARDIS, Trustee  
DOUG PUST, Trustee  
MARK TOMBRE, Trustee

The Honorable Gene Thayer  
Senate Chambers  
State Capitol  
Helena, MT 59620

Dear Senator Thayer,

We are requesting your assistance in correcting a problem we feel exists in the Coal Flat Tax. Representative Steppler is sponsoring a bill to re-distribute revenues from the Coal Flat Tax based on a Unit Value system. At present there exists no re-distribution of revenue from the Coal Flat Tax, a key ingredient in the conversion from Gross Proceeds Tax to a Flat Tax.

The change from Gross Proceeds Tax to Flat Tax occurred during the Special Session Summer 89. Taxes on oil-gas, and coal were to be based on a percent times production rather than local and state mill levies levied against gross proceeds. The amount of the percent was determined by the revenue needed to replace the gross proceeds revenue requirements of the local taxing jurisdiction the year prior to the conversion. The law as added to H.B. 28 used a unit value for oil and gas producers which redistributed revenue to local taxing jurisdictions to replace the gross proceeds revenue. It was our understanding the same was to occur with coal, but the coal portion of the law contained no unit value system and stopped redistribution with collection of the Flat Tax at each county treasurers office.

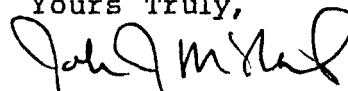
The results of the Flat Tax collected at each county treasurers office during 90-91 were shortfalls in Richland (-\$111,737), BigHorn (-\$511,155), and Musselshell (-\$7502), while Rosebud County (+\$928,267) received a windfall above the amount needed to replace the gross proceeds revenue. The effects on Savage School District tax payers was an additional 42.13 mills to replace the \$58,744.11 we lost in gross proceeds revenue.

Representative Steppler's bill would establish a Unit Value system similar to that of gas and oil with one exception. Once gross proceed replacement levels were reached in each of the coal producing counties, the county generating the redistributed revenue would have any remaining amount returned to the county for redistribution within that county. Had the bill been in place this year all four counties would have received 100% of their gross proceeds replacement revenue. Rosebud County would have received an additional \$297,875. over 100% gross proceeds replacement to redistribute to local tax jurisdictions in their county.

We hope you can see the fairness of Unit Value redistribution being applied to the Coal Flat Tax. If you have any questions or concerns with this proposed legislation please contact Representative Steppler or John McNeil Supt. of Savage Schools.

Thank you for your time in considering this issue. We have also included three documents "The Effects of the Coal Flat Tax on Savage Schools", "A Historical Perspective of the Coal Flat Tax by Savage School", and "Spreadsheet from Special Session 90" for your further information.

Yours Truly,

  
John J. McNeil

BOARD OF EDUCATION  
CLIFFORD BERGSTEDT, Chairman  
HARLAN CONRADSEN, Vice-Chairman  
GARY DARDIS, Trustee  
DOUG PUST, Trustee  
MARK TOMBRE, Trustee

**SAVAGE PUBLIC SCHOOLS**  
Elementary District No. 7 & H.S. District No. 2  
Richland County  
Savage, Montana 59262  
776-2317

JOHN J. McNEIL  
Superintendent  
DARREL STOLL  
H.S. Principal  
JOHN PFEIFER  
El. Principal  
MILDRED SHIELDS  
Clerk

**SAVAGE SCHOOL FLAT TAX ON COAL**

**DISTRICT #2 SAVAGE HIGH SCHOOL**

	<u>89-90</u>	<u>90-91</u>
TAXABLE VALUE OF THE DISTRICT	\$2,744,719.	\$1,600,154.

<u>FUNDS</u>	<u>COAL REVENUE 89-90</u>	<u>COAL REVENUE 90-91</u>	<u>LOSS</u>	<u>MILLS TO REPLACE</u>
GENERAL	39,952.00	23,350.00	16,602.00	10.38 MILLS
TRANSPORTATION	4,116.01	81.80	4,034.21	2.52 MILLS
DEBT SERVICE	7,276.00	144.60	7,131.40	4.46 MILLS
TOTALS			<u>27,767.61</u>	<u>17.36 MILLS</u>

**DISTRICT #7J SAVAGE ELEMENTARY SCHOOL**

	<u>89-90</u>	<u>90-91</u>
TAXABLE VALUE OF THE DISTRICT	\$2,324,346.	\$1,250,390.

<u>FUNDS</u>	<u>COAL REVENUE 89-90</u>	<u>COAL REVENUE 90-91</u>	<u>LOSS</u>	<u>MILLS TO REPLACE</u>
GENERAL	48,424.24	29,850.56	18,573.68	14.85 MILLS
TRANSPORTATION	9,694.44	202.20	9,492.24	7.59 MILLS
DEBT SERVICE	2,972.58	62.00	2,910.58	2.33 MILLS
TOTALS			<u>30,976.50</u>	<u>24.77 MILLS</u>

**SAVAGE SCHOOLS LOST A COMBINED TOTAL OF \$58,744.11 WITH A REPLACEMENT COST OF 42.13 MILLS FROM THE 89-90 FISCAL YR. TO THE 90-91 FISCAL YR..**

## A HISTORICAL PERSPECTIVE OF THE COAL FLAT TAX BY SAVAGE SCHOOL

### SUMMER 89

#### GROSS PROCEEDS TO FLAT TAX AS WE THOUGHT WE KNEW IT COMING INTO HB28 DURING THE 89 SPECIAL SESSION

- A. Oil & gas, and coal would be taxed at a flat rate applied to their production.
- B. The change from Gross Proceeds Tax to Flat Tax would help the industries as their rate of taxes would no longer vary depending on the needs of local taxing jurisdictions and state levy requirements.
- C. The industries would be better able to predict their cost of operating because the tax rate would be the same at any location within the state.
- D. The rates for the Flat Tax were established as close as possible to insure the replacement of revenues received by the local taxing jurisdiction from the old Gross Proceeds Tax the year prior to the change.
- E. Revenues received by the local taxing jurisdiction would be based on production and revenues received under Gross Proceeds i.e. increases in production would result in corresponding increases in revenue for local taxing jurisdictions, decreases in production would result in corresponding decreases in revenue for the local taxing jurisdiction.

### SPRING 90

#### COAL FLAT TAX REVENUES PROJECTION BY THE OFFICE OF PUBLIC INSTRUCTION DO NOT MATCH OUR EXPECTATIONS

- A. As reported to us by O.P.I. we were to receive Coal Flat Tax revenues amounting to about one-half of the amount we received during the current year under Coal Gross Proceeds.
- B. We found the problem not to be related to a decrease in production but to the new law providing for collection of the Coal Flat Tax at the county level with no provision for redistribution beyond the county.
- C. The results of non-redistribution of coal flat tax revenue left local taxing jurisdictions in three counties Richland (-\$111,739.), Big Horn (-\$511,151.), and Musselshell (-\$7,502.) with shortfalls in revenue, while Rosebud County (+\$928,267.) received a windfall (surplus) above the amount needed to replace their coal gross proceeds tax revenues.
- D. We tried during the Special Session "90" last summer to convince Governor Stevens that our problem, although small compared to the stripper well problem, should be included in the session with no luck. Representative Steppler drafted an amendment to H.B. 28 similar to our new bill but we backed off with the assurance of cooperation among the coal counties working towards a possible solution prior to this session.

- E. We have meet with the coal counties and their officials several times prior to this regular session. Our bill carried by Representative Steppler reflects the concerns voiced in discussions with coal producing counties.
- F. We feel we have made every effort to satisfy the needs of all coal producing counties with our bill and understand any reservations Rosebud County might have in the redistribution of the \$928,267. windfall.
- G. Our bill as drafted would do the following:
1. Direct the Department of Revenue to establish Unit Values for each mine and the local taxing jurisdiction in which they are located. Unit Value being (base year production tons X price) divided by (taxes paid through gross proceeds) similar to unit value for oil and gas.
  2. Direct the Department of Revenue to determine revenue requirements based on production and unit value to meet the needs of the local taxing jurisdiction.
  3. The Flat Tax would be collected by the county treasurer and distributed until the required amounts for the local tax jurisdictions were met, then any revenue above this amount would be sent to the state.
  4. The State would redistribute the revenue and any interest earned based on the amount required to meet the needs determined by unit value and production for the local tax jurisdiction .
  5. Any amount remaining after unit value and production requirements of all local tax jurisdictions are met would be returned to the county of origin for redistribution therein.
  6. New mines would not be included in the unit value redistribution system.

#### NEED FOR CHANGE

- A. The effects on Savage School are significant as our tax base in the high school dropped from \$2,744,719. to \$1,600,154. and our tax base in the elementary school dropped from \$2,324,346. to \$1,250,390. This loss of tax base coupled with the short fall of \$58,744.11 in replacement coal tax revenues added a total of 42.13 mills to our district tax payers.
- B. The fairness of the conversion to Flat Tax from Gross Proceeds is contingent upon a redistribution of taxes collected to replace revenues received from Gross Proceed taxes prior to the change. The Coal Flat Tax needs a unit value system similar to oil and gas.
- C. The bill will only effect the four counties now producing coal, but it does have a major effect on the local tax jurisdictions in three of the four counties.



Comparison of Allocation of Coal Flat Tax Revenues  
Coal Gross Proceeds v. Current Law v. Unit Value  
(1988 Production/FY 1990 Revenues)

Muskegon County -- Roundup Elem & HS  
(PM Coal Mine)

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue
University	6	416	211	416	(205)
County	6	6,620	3,356	6,620	(3,264)
Schools:					
County-wide HS	30.09	2,084	1,057	2,084	(1,026)
District HS	32.47	1,629	826	1,629	(803)
County-wide Elem	39.08	2,713	1,375	2,713	(1,338)
District Elem	35.00	1,751	867	1,751	(883)
Special Districts	0	0	0	0	0
Total	239.19	15,214	7,712	15,214	(7,502)

Richland County -- Savage Elem & HS  
(Kettle River Mine)

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue
University	6	416	211	416	(205)
County	6	6,620	3,356	6,620	(3,264)
Schools:					
County-wide HS	30.09	2,084	1,057	2,084	(1,026)
District HS	32.47	1,629	826	1,629	(803)
County-wide Elem	39.08	2,713	1,375	2,713	(1,338)
District Elem	35.00	1,751	867	1,751	(883)
Special Districts	0	0	0	0	0
Total	239.19	15,214	7,712	15,214	(7,502)

Rosebud County -- Colstrip Elem & HS  
(Western Energy and Feedco Mines)

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue
University	6	364,669	365,121	364,669	60,252
County	7.13	367,367	439,970	367,367	72,603
Schools:					
County-wide HS	16.94	962,370	1,152,564	962,370	190,194
District HS	9.01	457,812	546,289	457,812	90,476
County-wide Elem	32.05	1,626,509	1,950,353	1,626,509	323,843
District Elem	12.67	755,567	904,891	755,567	149,323
Special Districts	6	241,023	284,598	241,023	43,574
Total	64.10	4,777,518	5,645,765	4,777,518	868,247

Save + after redistribution

Comparison of Allocation of Coal Flat Tax Revenue  
Coal Gross Proceeds v. Current Law v. Unit Value  
(1988 Production/FY 1990 Revenues)

Comparison of Local Government Coal Tax Amounts  
Coal Gross Proceeds v. 5% Flat Tax  
(1988 Production)

County	Elmer, SD	Company	Gross Proceeds Total Tax	Total Flat Tax	Difference (Flat-GP)
Big Horn					
	Decker		6,522,893	6,517,920	(304,973)
	Spring Ck.		1,074,662	1,026,817	(48,045)
	Subtotal		7,597,555	7,544,737	(353,016)
Harbin		Westmoreland	520,493	362,360	(158,132)
Haskell					
	PM Coal		15,214	7,712	(7,502)
McIntosh		Knife River	216,564	105,145	(111,739)
Rosebud					
	Feedsody		937,470	1,162,324	224,854
	Western E		3,780,026	4,463,441	683,362
	Subtotal		4,717,516	5,625,765	908,267
Grand Total			13,367,864	13,665,739	297,875

Amount returned  
to Rosebud County after  
re-distribution.  
∴ Rosebud County would  
have 100% replacement of Glass  
proceeds + \$ 297,875.

SENATE JOURNAL

EXHIBIT NO. 5

DATE 9/6/91

BILL NO. HB 861

Senator Halligan  
State Capitol  
Helena, Montana 59620

Dear Representatives:

I am requesting your assistance in passing HB 68.  
I feel this bill will greatly assist a lot of programs here  
at Savage High School.

One of these areas, which I teach in, is Industrial  
Arts. I feel that this program is a backbone structure to  
future economic programs in Montana. If this bill is voted  
down, it may result in the possible elimination of both Home  
Economics and Industrial Arts programs here at Savage High  
School.

Thank you very much for your consideration on this  
matter.

Sincerely,

*Norman Krause*

Norman Krause

# SENATE JOURNAL

EXHIBIT NO. 5

DATE 4/16/91

BILL NO. HB 868

## COAL GROSS PROCEEDS

HB 868

CV 1990 (per sev tax returns)

05-Mar-91

COMPANY	COUNTY	TONS SOLD	CONTRACT SALES PRICE	TAX RATE	TAX PAID	UNIT VALUE	DISTRIBUTION AMOUNT	SCHOOL DISTRICT	EXCESS/(LESS) TAX PAID TO UNIT VALUE
						SECTION 1 (1)	SECTION 2 (4)		SECTION 2 (6)
						(A)	(B)	(C) COL (B) X TONS	(D) COL (A) - (C)
Decker Coal Company	Big Horn	9,277.082	103,275.693	5.0%	5,163.785	0.6308	5,851.983	1	(\$688.199)
Spring Creek Coal Co	Big Horn	7,133.285	31,895.595	5.0%	1,594.780	0.2285	1,629.956	1	(\$35.176)
Westmoreland Resources	Big Horn	1,787.506	9,744.225	5.0%	487.211	0.3940	704.277	17H	(\$217.066)
County Total		18,197.873	144,915.513		7,245.776		8,186.216		(940.441)
P M Coal Company	Musselshell	15,769	275,859	5.0%	6,896	0.9874	15,570	55	(\$8,674)
Knife River Coal Mining	Richland	234,579	2,200,448	5.0%	110,022	0.9646	226,275	7	(\$116,253)
Peabody Coal Company	Rosebud	3,602,851	26,883,560	5.0%	1,344,178	0.2467	888,823	19	\$455,355
Western Energy	Rosebud	12,968,382	88,414,692	5.0%	4,420,735	0.2342	3,037,195	19A	\$1,383,540
County Total		16,571,233	115,298,252		5,764,913		3,926,018		1,838,894
Totals		35,019,454	262,690,072		13,127,607		12,354,080		
						AMOUNT MAILED TO DEPARTMENT			
						TOTAL UNDISTRIBUTED			
						DIFFERENCE TO BE PAID TO ROSEBUD COUNTY			
						\$1,838,894			
						(\$1,065,367)			
						\$773,527			

4/6/91

HB 868

HB 868

SUB-7 OF 15-83-703 WHICH DEALS WITH THE DISTRIBUTION OF GROSS PROCEEDS TAX ON COAL FROM MINES WHICH BEGIN PRODUCTION AFTER 12-31-88, PROVIDED THAT THIS TAX WILL NOT BE DISTRIBUTED TO THE STATEWIDE EQUALIZATION MILLS OF 80-9-360 & THE 1990 MILLS FOR COUNTY EQUALIZATION WILL BE USED. THIS IS NOT THE SITUATION WITH REGARD TO NEW OIL & GAS NET PROCEEDS TAXES & IT IS MY OPINION THAT NEW COAL MINE TAX DISTRIBUTIONS SHOULD INCLUDE THE STATEWIDE & COUNTY EQUALIZATION MILLS.

X

UNDER 15-83-703- 6(a) SHOULD WE ADD LANGUAGE THAT SAYS IF THEY HAVE BEEN NOTIFIED THAT THERE ARE ANY SHORTAGES? WHY REQUIRE THE FUNDS TO COME TO THE STATE WHEN THERE ARE NO SHORTAGES & THE STATE THEN JUST TURNS AROUND & SENDS THE MONEY BACK. THE STATE WILL BE ABLE TO DETERMINE IF THERE ARE GOING TO BE ANY SHORTAGES VERY SOON AFTER THEY RECEIVE THE ANNUAL REPORTS ON MARCH 31.

X

IN THE OIL & GAS BILL WE PROVIDED THAT UNIT VALUES WOULD BE ADJUSTED BY ANY AUDIT CHANGES. SHOULD WE DO THIS WITH COAL?

DEL CASE



OFFICE OF PUBLIC INSTRUCTION

Nancy Keenan  
Superintendent

STATE CAPITOL  
HELENA, MONTANA 59620  
(406) 444-3095

March 28, 1991

Senator Del Gage  
Seat #10  
Montana State Senate

Dear Senator Gage:

Following our conversation of this morning about legislation affecting the distribution of the local government severance tax and the coal gross proceeds taxes, I talked to Don Hoffman at the Department of Revenue. He said that the department is still auditing calendar 1988 coal production and that it would be a good idea to provide for adjustments in unit values to reflect any audit changes. The statute of limitations on these audits is five years, so no changes will be made after the five year period expires, but until then the department should have the ability to adjust unit values upon the completion of an audit.

I also talked to Bruce McGinnis of the legal staff at the Department of Revenue. He said that the amendments that he drafted for Senate Bill 373 contain a coordination clause with House Bill 793 (Hanson) using her language for distribution of the flat taxes. I will make sure that similar coordinating language is drafted for Senate Bill 466.

Sincerely,

*Madalyn Quinlan*  
Madalyn Quinlan

# Office of Legislative Fiscal Analyst

## General Fund Summary

### 1993 Biennium (In Millions)

02/01/91 05:37 PM

Ending Fund Balance (6/30/93)		\$98.524 *
Revenue Adjustments		
Medicaid Reimbursements (MDC)		(2.060)
Medicaid Adjustments		(10.560)
Supplemental Adjustments		(5.840)**
HB 2 Subcommittee Action		(15.715)
Current Level	(3.860)	
Budget Modifications	(11.855)	
Revenue Bills		
HB 66	Bee Inspection Fees	0.014
SB 26	In-State Investment	0.525
SB 83	DFWP Interest	(0.060)
SB 119	Cigarette Tax	0.000
Pay Plan		0.000
Miscellaneous Appropriations		0.000
Foundation Program (Over 0/0)		<u>0.000</u>
Ending Fund Balance		<u><b>\$64.828</b></u>

\* Includes \$4.5 million feed bill.

\*\* In addition to amount included in HB 3, as introduced.

This summary reflects subcommittee action on HB 2 and supplementals through January 31, 1991. The fiscal impact of tax bills and miscellaneous appropriation bills is included in this summary after committee action in the first house is completed.

SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 832 (third reading copy -- blue), respectfully report that House Bill No. 832 be amended and as so amended be concurred in:

1. Page 3, line 21.

Following: "county"

Strike: "L"

Strike: "proportionally to the"

Following: "counties"

Strike: "L"

2. Page 3, line 25.


Following: "90-6-307"

Insert: ", in direct proportion to the fiscal and economic impacts determined in the plan,"

3. Page 3, line 25 through page 4, line 1.

Strike: "if" on page 3, line 25 through "or," on page 4, line 1.

Signed: \_\_\_\_\_

  
Mike Halligan, Chairman

4-8-91  
And. Coord.

SB 4-8 2:10  
Sec. of Senate

SENATE  
HB 832

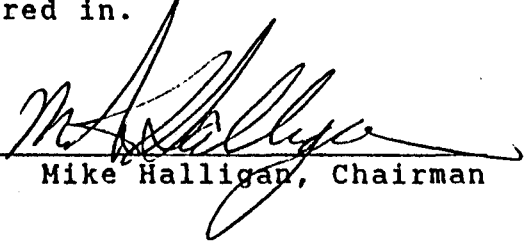
SENATE STANDING COMMITTEE REPORT

Page 1 of 1  
April 8, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 699 (third reading copy -- blue), respectfully report that House Bill No. 699 be concurred in.

Signed: \_\_\_\_\_

  
Mike Halligan, Chairman

4-8-91  
And. Coord.

SB 4-8 2:10  
Sec. of Senate