

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN CHASE HIBBARD**, on February 14, 1995,
at 8:00 a.m.

ROLL CALL

Members Present:

Rep. Chase Hibbard, Chairman (R)
Rep. Marian W. Hanson, Vice Chairman (Majority) (R)
Rep. Robert R. "Bob" Ream, Vice Chairman (Minority) (D)
Rep. Peggy Arnott (R)
Rep. John C. Bohlinger (R)
Rep. Jim Elliott (D)
Rep. Daniel C. Fuchs (R)
Rep. Hal Harper (D)
Rep. Rick Jore (R)
Rep. Judy Murdock (R)
Rep. Thomas E. Nelson (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. John "Sam" Rose (R)
Rep. William M. "Bill" Ryan (D)
Rep. Roger Somerville (R)
Rep. Robert R. Story, Jr. (R)
Rep. Emily Swanson (D)
Rep. Jack Wells (R)
Rep. Kenneth Wennemar (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Council
Donna Grace, Committee Secretary

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

Committee Business Summary:

Hearing: HB 413
HB 449

Executive Action: HB 363 - Tabled

{Tape: 1; Side: A.}

HEARING ON HB 413

Opening Statement by Sponsor:

REP. JAY STOVALL, House District 16, Billings, said that HB 413 would clarify provisions of the Hard-Rock Mining Impact Act and provide definitions. He explained that the Act was passed in 1981 and provides a mechanism to mitigate the impacts of a large-scale mining development to local governments. In the 14 years the Act has been in existence it has been frequently used. Sections 1 and 2 of the bill would clarify that the large-scale mineral developer would be responsible only for the impacts created by the mine's employees. The industry has requested this change because they do not want to be held responsible for secondary impacts such as people who might work at the local grocery stores, taverns, or government agencies. The second part of the bill deals with the prepayment mechanism. Under current law, 20% of the taxable valuation of a large-scale mineral development can be allocated to a municipality. Unfortunately, the current law does not allow the company to deduct that tax from the share paid to the county, thus there is a situation of double taxation and the developer is required to pay 120% of the tax burden.

Proponents' Testimony:

John Fitzpatrick, Director of Community and Governmental Affairs, Pegasus Gold Corporation, spoke on behalf of the Montana Mining Association, who was responsible for drafting the bill. He said Montana lacks a coherent economic development policy, mostly due to the legacy of the state, which is based on the natural resource industries. When they come to the Legislature, there is a constant tug of war between those who want economic development and those who are concerned with the environment and conservation. One of the assumptions is that there are both good and bad developers. He referred to a bill which was passed by the Legislature to provide financial assistance for Butte in its efforts to attract Micron, a company expecting to employ 3,500 people. No discussion was involved over the need to place constraints on Micron to mitigate the large impacts on the city where the business would be located so that all public services would be funded. That situation contrasts dramatically with the situation faced by the hard-rock mining industry in the state where, under state law, any facility that employs 75 or more people, must go through a planning process to ensure that all public services are essentially held harmless for costs imposed by the development on local governments. Mr. Fitzpatrick said that the Mining Association supported the concept in 1981 and it still supports the concept but they believe that some additional "sideboards" must be placed on the legislation to protect the industry from additional costs. He said they are asking that the statute be clearly defined to limit the industry's responsibility

to those employees and their families that they have control over, the people associated with the mining industry or contractors and sub-contractors that might enter a community to build a mine. They are asking that they not be held responsible for the secondary impacts associated with the development. One of the problems in dealing with secondary impacts is that they are difficult to identify. He said the Hard-Rock Mining Act has a unique provision that allows the tax base to be shared between the county and the municipality. The idea of tax base sharing is simple. There will be a mine that is almost always located in a rural area and the tax base would accrue to the county and the school districts in that particular location. Under tax base sharing, a portion of the tax base can be assigned to the municipality so they can pay any increased costs that might be experienced. If there is no tax base sharing, all the tax base stays in the county. If there is tax base sharing 100% of the tax base goes to the county and up to 20% can be assigned to a municipality and the two taxes are added together and the developer must pay 120% of the taxable valuation. EXHIBIT 1. The bill proposes that when there is tax base sharing, the amount of taxable valuation assigned to the municipality should be deducted from the amount received by the county.

Dennis Burr, Montana Taxpayers Association, went on record in support of the bill.

Opponents' Testimony:

Vicky Hyatt, Chairman of the Stillwater County Commission, spoke in opposition to the bill. Her testimony is attached as EXHIBIT 2.

Ellen Woodbury, representing the Park County Commissioners, testified in opposition to the amendments to the Hard-Rock Mining Impact Act. HB 413 would erode a local government's ability to effectively negotiate with mining companies. These amendments would have a major effect on Park County in relation to the proposed New World Mine. Most of the mine workers would live outside the mine area and, according to the current population projections, a majority of the immigrating workers would be secondary workers. The change in definition would result in Park County residents paying for impacts resulting from the mine but not by mine employees. If section 3 of the bill is amended, the effect would be to shift the increased costs to local taxpayers and, as a result, local governing bodies would be forced to reject tax prepayments because they could not assure 100% tax crediting and would be forced to require contributions and grants from the mining companies to mitigate the impacts. The mining company would then have no opportunity to recoup any part of its original expenses. The Act as written provides a maximum amount of flexibility for the local governments and mining companies. In the development of the impact plan, all costs and revenues are considered and if it is determined that the mine will have no impact on local services, no payments are required. The purpose

of the Act is to ensure that all residents, including the mine employees, have the needed government services available to them and allows local governments, citizens and the mining companies to work together cooperatively.

John Beaudry, Planning Director for Stillwater County, said he had served in this position throughout the planning and implementation process for the Stillwater Mining Company. His testimony is attached as EXHIBIT 3.

Blake Wordal, Lewis and Clark County Commissioner, said he would join Stillwater and Park Counties in opposition to HB 413. He said the major concerns with the Seven-Up Pete project near Lincoln are the secondary impacts. He said that, although the mine is only in the permitting process, the community is already experiencing impacts. He said the developer, Phelps-Dodge, has been extremely good to work with in determining these impacts.

{Tape: 1; Side: B.}

Richard Parks, Northern Plains Resource Council, said the Council has affiliates in a number of communities affected by hard rock mines in Stillwater, Park and Sweetgrass County. Northern Plains was heavily involved in drafting the original legislation and this is a classic case of "if it's not broke, don't fix it." He emphasized that all affected taxing jurisdictions in a community are a part of the negotiating process and have an opportunity under existing law to engage in the process. There is no justification for changing the process because it is working well.

Jim Foster, Montana Rural Education Association, testified in behalf of 160 rural school districts in opposition to the bill, primarily because the language in the proposal is narrow and restrictive. It does not clearly articulate the potential impacts that mining developments have on the public schools. He also expressed a concern that mines have a high impact but short duration in a community and the current law is working well and provides for a negotiation process for all parties involved. The process should remain in place and he urged the committee to vote do not pass.

Carol Ferguson, Administrative Officer, Hard-Rock Mining Impact Board, said she was appearing before the Committee as a representative of Chairman Jim McCauley. She advised that the Board had not met since the introduction of HB 413 nor since the appointment of two new members. The information being presented is a matter of consensus of the Acting Chairman of the Board, the carry-over members and the immediate past Chairman of the Board but it is not a formal policy statement adopted by the Board.

Ms. Ferguson read her testimony into the record. EXHIBIT 4. She also provided an outline of how the Hard-Rock Mining Impact Act and the Tax Base Sharing Act work (EXHIBIT 5) and an analysis of HB 413 and its effects on the Hard-Rock Mining Impact Act, the

Property Tax Base Sharing Act, and the impact planning process (EXHIBIT 6). In summary she said it appears to the Board that the bill would have an adverse effect on all affected parties.

Ms. Ferguson said Mr. Fitzpatrick's remarks regarding economic development were reasonable on one level but ignore the fact that it is the mineral development and the people who move into an area because of the mineral development that create the increased costs. The plan identifies the costs and, if they are not paid as a result of revenues generated from the mineral development or met by the mineral developer directly, the costs will fall on the existing local taxpayers which means residential, small businesses, small industries and farmers and ranchers who represent the base of the economic structure. The purpose of the impact act when originally passed in 1981 was to protect the existing taxpayers from having to subsidize large-scale mineral developments.

Jim Barrett, Cooke City, said he would echo what had been presented by the previous proponents and point out that for five years his community had been trying to deal with the potential impact of a large mining development. One of the things that has given them some hope is that Montana had the foresight to establish the impact plan process. In the Cooke City situation, the principal immigrants will be people who do not work at the mine and the amendments contained in HB 413 would create effects that would be untenable to the community. On behalf of the citizens of Cooke City, **Mr. Barrett** requested that the Committee oppose this bill.

Michael Keating, Montana School Boards Association, went on record in opposition to HB 413. He said he was a part of the 1981 Legislature when representatives of industry, communities and local government entities showed a lot of good faith in developing the Act which has proved to be rational, workable and fair. He said he had not heard any testimony from the industry that would suggest that the Act is not working as written and he felt there was some potential for "mischief" in the proposed modifications. Of prime importance to the school districts is the potential loss of significant financial assistance that now help to account for the so-called secondary impacts of mining operations and, for that reason, he urged the Committee to defeat the bill.

Richard Webb, Superintendent, Sweetgrass County High School, Big Timber, testified that he would speak against HB 413. **Mr. Webb** provided a copy of a page from the Stillwater Mining Company Impact Plan illustrating what the impact will be on the schools in Big Timber as a result of the proposed mining operation. The population of Big Timber is presently 1,600 and the mining development will triple the population of Big Timber. They are looking at a school expansion program at a cost of several million dollars that would not be necessary if the mine were not locating in the community. The impact act, as it was written, will assist in mitigating these impacts. The changes proposed in

HB 413 would eliminate the ability to negotiate the numbers and determine how the impacts will be handled in the community. Speaking for his district, he encouraged the Committee to vote against this bill.

Jim Jensen, Montana Environmental Information Center, advised that the Legislature, in 1979, asked the Environmental Quality Council to conduct an interim study which produced a report and a recommendation which in 1981 resulted in the introduction and passage of the Hard-Rock Mining Impact Act. In 1983 substantial amendments were made at the recommendation of the mining industry. The act was the product of a lot of hard work on the part of the Legislature. He urged the Committee's opposition to the bill.

Other Testimony:

CHAIRMAN HIBBARD advised that he had received, and granted, a request from Jim Richard to speak on the bill.

Jim Richard, said he wished to speak in a neutral position because he was the consultant for the Stillwater Mining Company and had prepared the information for the impact plan for the Company's East Boulder Platinum Mine. He is also under contract with Sanders County in its negotiations with a developer, and with Park County in its negotiations with the Cooke City mine. **Mr. Richard** said he had been involved with all legislation amending the Act since 1985. **Mr. Richard** said that secondary employment is not a substantial part of the impact plan. The jobs, with the exceptions of teachers or police officers, are usually low-paying, unskilled jobs and they are difficult to identify. The secondary employees are included not only in calculating costs, but also in calculating additional revenues such as taxes, fees and the additional ANB they bring to the schools. He emphasized that the secondary employment is important. He then presented a chart illustrating the prepayment/tax crediting feature included in the Act. **Mr. Richard** explained a problem which had arisen, not with the Act itself, but with school budgets and finance in relation to the impact plan for a community. EXHIBIT 7.

{Tape: 2; Side: A.}

He said the key problem lies in the fact that part of the state subsidies occurs with the guaranteed tax base and is based on how a district's taxable value per ANB measures against the state average determines who will get aid from the state based on the guaranteed tax base. When a mining company comes in, the taxable value increases, the district with a frozen mill levy is able to generate more money and decreases the guaranteed tax base. In Sweetgrass County, the mining company puts both the high school and elementary districts in a situation where they can never get above the line. For any other development, other than a hard-rock mining development, this would not be a consideration. The

Hard-rock Mining Impact Act singles out hard-rock mining companies so that they are obligated to keep the existing taxpayers held harmless and, because of that, there is a problem. **Mr. Richard**, said the Stillwater Mining Company, with the endorsement of the Hard-Rock Mining Impact Board, would like to find a resolution to the problem. A proposed bill has been drafted to remedy the situation by authorizing a revision for calculating the guaranteed tax base ratio of certain school districts. EXHIBIT 8. **Mr. Richard** requested that the Committee consider introducing the legislation as a Committee bill. The philosophy of state school funding conflicts with the philosophy of the Hard-Rock Mining Impact Act. The legislation would be a major change in policy and would shift school financing to the State of Montana from the mining firm; however, there would still be a net benefit to the State of Montana education fund. This would apply only in a very small number of cases. He said he would appreciate the Committee's support in resolving the conflict.

Questions From Committee Members and Responses:

CHAIRMAN HIBBARD said it was unusual for the Committee to receive a request for a committee bill in the course of a hearing. In view of the fact that this is a very complicated issue, he encouraged questions from the Committee.

REP. SOMERVILLE asked how much revenue would be generated for Stillwater County schools by the mine. **Mr. Richard** said that additional taxes the mine would generate, at the current rate, for the high school would be \$233,000 in year six which they expect to be the plateau. In addition, they would generate money through the state aid to education fund. \$381,000 would be generated for the elementary schools.

REP. SOMERVILLE asked how much tax would be generated for the county each year. **Mr. Richard** said he did not have the exact figure but estimated it would be around \$1 million.

REP. SWANSON said she understood that the factors dealt with in an impact plan were all negotiable. **Ms. Ferguson** said that was true because the local government units work with the mineral developer in putting together the impact plan in an effort to estimate what the needs will be for the immigrating population and the mine itself. They consider what is currently available, what the additional costs will be, what the revenues will be, the timing of the immigration and the timing of the revenue flow. In the plan the developer must commit to pay for all increased capital and net operating costs and there are several mechanisms, established in the impact plan, to accomplish this. She said tax prepayments are used for costs that are ordinarily paid for with tax revenue. Costs associated with fees could be paid for with grants. If there is a major facility construction, such as a school, the law offers the opportunity for facility impact bonds. After the bond is issued, the governing body of the local

government unit levies a special tax on the property of the mineral development to retire the principal and interest of the bond.

REP. SWANSON asked if the facility impact bond was used at the discretion of the developer. **Ms. Ferguson** said it was one of the issues that could be negotiated. She said the Hard-Rock Mining Impact Board has never been confronted with a matter of contention between a developer and a local government unit about how a service should be paid for.

REP. SWANSON said the bill talks about repayment of the prepayment and she asked for an explanation. **Ms. Ferguson** explained that taxes are usually prepaid for net operating costs in the early years of the development. In later years, when the mine is in production and the taxable valuation has gone up, as a result of the mine itself and any secondary economic growth, the revenue exceeds the costs, and the local government begins to make tax credits to the developer. She said a formula is included in the plan by which the local government calculates what its budget needs are, what its reserve requirements are, and whether they can provide a tax credit or not. If the development produces less revenue than anticipated, the local government unit will have less capability to make the tax credit. If mineral prices are up, or there is an expansion, there will be more taxable valuation and more potential for tax crediting. She emphasized that as long as there is a formula in the plan for calculating and providing tax credits, the local government units and the mining development work it out according to the realities of the situation throughout the life of the mine.

REP. SWANSON then asked if the amendment proposed to the bill means that the flexibility for working the prepayment out would no longer be available. **Ms. Ferguson** said the interpretation was correct and the consequence for the local government unit would be that they would not guarantee tax credits so they would have to require grants.

REP. SWANSON asked for confirmation that there were three major issues in the bill. The first would be to eliminate consideration of secondary impacts, the second would force repayment of prepaid tax and the third would change the level of taxation on the development. **Ms. Ferguson** said there was a fourth possibility that if the change to section 2(b) were strictly construed it could mean that impact caused by the mineral development itself, such as an access road, could be eliminated because it is not a factor related to the immigrating population.

REP. ELLIOTT asked if tax crediting is negotiable now. **Ms. Ferguson** said the plan provides a formula for tax crediting and it will be provided as long as the mill levies are sufficient to give a credit without increasing local mill levies. It is the formula that is negotiable. **REP. ELLIOTT** asked what would happen

if the developer would insist on total tax crediting in the plan. **Ms. Ferguson** replied that if the developer insisted on total tax crediting, the local government would have to ascertain if it could accede to that request and, if they couldn't agree, it would have to be brought before the Board. The assumption is that every effort will be made throughout the life of the mine to provide tax credits in full.

REP. ELLIOTT spoke of his experience with mines in his district, with people coming in, who do not get jobs and eventually go on welfare. He asked if this was one of the reasons the secondary immigration language was in the bill. **Ms. Ferguson** said it was a major part because it addresses one of the negative aspects of a mineral development coming into a community.

{Tape: 2; Side: B.}

Ms. Ferguson pointed out a technical problem with the bill on page 6, subsection 5. The underlined language refers to a "municipal, county, or state" government. She said the language would be irrelevant because a state government would never receive tax prepayment and, by definition in the Impact Act, municipalities and counties are included in the definition of local government units.

REP. STORY asked Mr. Beaudry to explain how net cost is calculated. **Mr. Beaudry** said the impact plan becomes the agreement between the units of local government and the mining company. Prior to each budget they request the payment that was identified in the plan. The payment is made by the mining company and goes into the treasury and is then allocated through the budget process. The expenditures are then made to meet the needs that were also identified in the impact plan. He said that in his county it has included major highway construction, a new high school in Absarokee, upgrade of facilities in Absarokee and Columbus, purchase of additional road equipment, law enforcement vehicles and additional employees. **REP. STORY** asked if all the costs were paid for by the mine or if some were assumed by revenue from secondary sources. **Mr. Beaudry** said secondary revenues were included in mitigation of the various impacts. He said there were federal and state monies included in the road project and the mining company contributed approximately 20% of the cost based on the estimated volume of traffic.

REP. STORY said he did know a little about guaranteed tax base. He asked Mr. Richard if, under his proposal, a school district with \$100,000 of guaranteed tax base based on the student population and taxable valuation of the district, would have that figure frozen. **Mr. Richard** replied that it would be frozen because the taxable valuation would not be increased as a result of the mine.

REP. MURDOCK asked what the percent of secondary impact was in the Stillwater impact plan. **Mr. Beaudry** said it worked out to be 28%.

REP. HANSON asked Mr. Fitzpatrick if the impacts from this bill would be as severe as the proponents have indicated. **Mr. Fitzpatrick** said he did not think the bill would have any adverse effect on local communities. The bill is basically about whether a private business should be assessed for decisions made by other people. The principal concept of the bill is focused on secondary impacts. The secondary impacts could be associated with the mineral development but could also be the result of things that are going on simultaneously such as people moving into an area for its recreational values. He said the mining companies are willing to assume responsibility for the mine workers and their families as well as contractors and sub-contractors and their families. They do not believe it is their obligation to provide for every person who comes to the community looking for a job.

REP. WELLS asked if impact plans are required for other industries coming into a community. **Mr. Richard** replied that they are not. The hard-rock mining industry is treated differently because the act was written specifically to deal with mines.

REP. REAM said the fiscal note indicates there will be no fiscal impact under this proposed legislation. Most of the hearing today has involved the fiscal impacts that could occur. He asked if the proposed legislation would apply to existing mines that already have an approved plan. **Mr. Fitzpatrick** said the fiscal note was prepared by the state and focuses on the cost to the state and they do not have the capacity to get into finances in the individual counties. If there is a concern that approved impact plans would be in jeopardy as a result of this legislation, the bill could be amended to exclude plans now being implemented. The language would then apply to mines that have not yet made tax prepayments.

{Tape: 3; Side: A.}

REP. ELLIOTT said the original bill was sponsored by Rep. Orval Ellison and was supported by both Republicans and Democrats, as well as the mining industry. He asked Mr. Fitzpatrick what happened. **Mr. Fitzpatrick** said they still support the Act but at the time it was enacted, the mining industry thought it was paying for its impacts and they did not anticipate that they would be expected to be responsible for the secondary impacts.

REP. ELLIOTT asked if the mining industry had supported the secondary impact language at the time of the enactment. **Ms. Ferguson** said at that time Rep. Ellison, who introduced the bill, made it very clear that he intended that the entire scope of immigrating population would be included. It was very clear when

it came before the Committee. The mining industry, local governments, citizens' groups and both parties in the Legislature supported the original act.

REP. JORE said he understood that the Impact Act caused the mining companies and the local governments to get together to negotiate and there would be benefits for each side. He asked Mr. Fitzpatrick to explain what the benefit would be to the mining industry. **Mr. Fitzpatrick** said one benefit is that the company will be assured that the services needed by the mine and its employees will be available. Adverse effects that might have been described in an environmental impact statement will have been addressed in other forms so that they will not become major issues.

REP. HANSON asked if the industry had actually supported the legislation referred to by Ms. Ferguson. **Mr. Fitzpatrick** said Ms. Ferguson had used the phrase "caused by the industry" and his understanding of the word "cause" meant that it was the result of the mine's decision-making. She also assumed that the mine could "cause immigration substantially greater than those employed at the mine." This could happen but the mines, if they employ 100 people, should not be responsible for immigration in excess of 300, using the standard multiplier that every mine employee would be responsible for two additional people and the mines are willing to accept that responsibility.

Closing by Sponsor:

REP. STOVALL said he now understands how complicated this legislation is and he thanked Committee Members for the good questions. He reiterated that the bill is intended to clarify the definition of secondary impacts and to ensure that the developer is only responsible for the impacts directly related to the mine's employees. The bill also clarifies the double taxation problem. Both of these provisions make good business sense. He asked for the Committee's favorable consideration.

HEARING ON HB 449

Opening Statement by Sponsor:

REP. EMILY SWANSON, House District 30, Bozeman, said HB 449 would add a service that would allow the Auditor's Office to assist counties collect delinquent personal property tax. The service would be optional. The way the process would allow the Auditor to withhold delinquent tax from any money that might be due the taxpayer from the state, such as an income tax refund.

Proponents' Testimony:

Tom Crosser, Deputy for Fiscal Control and Management Auditor's Office, said one of his responsibilities is bad debt collection.

He said that if someone is scheduled to receive a payment generated through the Auditor's Office, that person owes a bad debt, the money can be withheld from the payment. They do this for state agencies but, without this legislation, the Auditor's Office cannot provide the service to local governments. In 1994 the Auditor's Office recovered \$2.2 million dollars and they were able to lower the charge for recovery to 7.4%. The bill would allow the Auditor's Office to approach counties and try to sell their service. The service, because it is self-funded, relies on customers for support. Approximately \$9.4 million in personal property taxes are delinquent in the State of Montana. Based on the historic collection rate for debts assigned to them, they can collect about 5% of the amount referred. A secondary benefit of the bill would allow the Auditor's Office to locate individuals who owe money and give the counties current addresses and there would be no charge for this service.

Cort Harrington, Montana County Treasurers Association, spoke in favor of the bill as long as it would not include property tax. The bill would benefit both the county and the state.

Neal Peterson, Bureau Chief, DOR, said the Department supports this program; however, they would propose some technical amendments to the bill. EXHIBIT 9.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

REP. BOHLINGER asked if the Auditor's Office intended to reduce their collection rate if they obtained more customers. **Mr. Crosser** said the amount they intend to collect is small and wouldn't affect the rates. However, if the base of customers is expanded, it might preclude them having to raise rates in the future.

{Tape: 3; Side: B.}

REP. BOHLINGER said he did not think 5% was a very good recovery rate. **Mr. Crosser** said that is the recovery rate for state agencies and represents money that is very difficult to collect. However, he felt that 5% was better than nothing at all. **REP. BOHLINGER** asked how much of the \$9.4 million in delinquent personal property tax they could expect to collect. **Mr. Crosser** said that would be difficult to determine because he did not know how many counties would participate.

REP. ROSE said he thought it was the responsibility of the Department of Revenue to collect. **Mr. Peterson** said it was the DOR's responsibility to collect delinquent taxes and they make every effort to do that. One of the processes they use is the refund offset process and they will retain that as one of their

ROSE then asked why the system
erson replied that they run their
claims for refunds before they send
or offset. If the DOR sent it all to
uld lose their priority. REP. ROSE
olved between the two agencies. Mr.
the DOR uses is entirely automated.
ovement in the process. REP. ROSE
oblem convincing the counties to use
Crosser said it would be a benefit
r to the Auditor's Office. The
within the DOR and it wasn't
tor until 1991. The reason it was
Auditor's payment process, the
gives them an advantage to collect
not just income tax refunds. If
support, income tax, unemployment
ec., the first priority is for child support and
state income tax is second. For this reason, the county may not
want to turn their debts over for collection.

REP. SOMERVILLE asked why the Auditor's Office felt it was a
better collector of taxes than the county. Mr. Crosser said they
are not better, they just have an additional tool that agencies
can use.

CHAIRMAN HIBBARD asked if the system was limited to individuals
who might be receiving a warrant. Mr. Crosser said it is not
totally limited to that because they do have internal collection
efforts as well where they have collection technicians who trace
debtors throughout the state. Generally the bulk of debt
collection, approximately two-thirds, is through the offset
process.

Closing by Sponsor

REP. SWANSON said there was an additional technical amendment
brought forth by the Auditor's Office which would be discussed
during executive action. She asked for the Committee's favorable
consideration.

EXECUTIVE ACTION ON HB 363

Motion: REP. SWANSON MOVED THAT HB 363 DO PASS.

Discussion:

CHAIRMAN HIBBARD distributed copies of a letter signed by Russell
J. Ritter, Director of Corporate and Government Relations,
Washington Corporations, which was requested by the Committee
during the hearing. The letter outlines the position of his

company relative to the large trucks they license in Montana.
EXHIBIT 10.

Motion:

REP. SWANSON MOVED THE AMENDMENTS TO HB 363.

Discussion:

Mr. Heiman explained there was often a great discrepancy between the manufacturer's suggested retail price and the acquisition price of a large truck and the amendment would allow a ratio for the valuation not to exceed 110% of the acquisition cost.

REP. SWANSON said this was the amendment the inter-state truckers were concerned about and it also referenced in the letter from Mr. Ritter. She said the amendment had been discussed with the truckers and they are now satisfied with the bill.

REP. STORY said one of the other concerns of the trucking industry was that they were to be dropped from Class 8 property and they wanted equal consideration.

REP. SWANSON said she had asked the DOR to give her an explanation of what affect the rate change would have on inter-state carriers with and without the amendments. She had also asked what the additional tax impact would be.

CHAIRMAN HIBBARD instructed the Committee to deal with the Swanson amendment before considering the information from the DOR on the additional concerns of the trucking industry.

Vote:

On a voice vote, the amendments were adopted, 16 - 1.

Discussion:

Mary Whittinghill, Administrator of the Property Assessment Division, DOR, provided an illustration comparing the licensure of Class 8 trucks under the current system with the proposed system with amendments. EXHIBIT 11. Under HB 363, with the amendment, the truckers would receive approximately a 2% reduction. If they are, in addition, tied to Class 8, they would receive an additional 3% reduction.

{Tape: 4; Side: A.}

REP. SWANSON said she had been asked if the truckers would be treated fairly if the bill was passed with the amendment and it is not tied to Class 8 property. Ms. Whittinghill said the amendment that was worked out with the interstate truckers represents a fair tax drop from where they are now without dropping them from Class 8 property.

REP. BOHLINGER asked why he should vote for a bill that would increase the costs in his county by \$127,000. Ms. Whittinghill explained that the figure relates to what was reported for new car tax. Under the current system, there is a 1.5% new car tax and the dealers were not always reporting the manufacturer's suggested retail price and, it could be that the dealers in Yellowstone County were reporting prices below the manufacturer's suggested retail price. Under this bill, the dealers will not provide this information for taxation because it will be on record with the Department of Justice and this would eliminate any disparity. She also clarified that 65% of the \$127,000 would affect the state education fund and only 35% would affect local government revenues.

REP. SOMERVILLE said he understood that under the bill, taxes would be based on the manufacturer's suggested retail price, however, he didn't think anyone ever paid the "sticker price" when buying a new automobile. He said there should be a mechanism to establish a standard manufacturer's suggested retail price. He commented that in property tax the effort is to move to actual valuation and with vehicles the system is moving in the other direction.

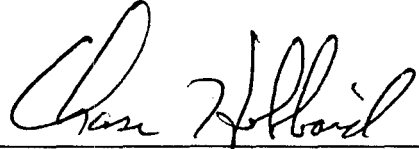
REP. STORY said he thought the problem could be solved by taxing on a percentage, perhaps 90%, of the suggested retail price.

Substitute Motion/Vote:

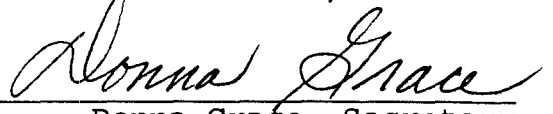
REP. ROSE MOVED TO TABLE HB 363. The motion passed 12 - 8.

ADJOURNMENT

Adjournment: 11:45 a.m.



CHASE HIBBARD, Chairman



Donna Grace, Secretary

CH/dg

HOUSE OF REPRESENTATIVES

Taxation

ROLL CALL

DATE Feb. 14, 1995

NAME	PRESENT	ABSENT	EXCUSED
Rep. Chase Hibbard, Chairman	✓		
Rep. Marian Hanson, Vice Chairman, Majority	✓		
Rep. Bob Ream, Vice Chairman, Minority	✓		
Rep. Peggy Arnott			✓
Rep. John Bohlinger			✓
Rep. Jim Elliott	✓		
Rep. Daniel Fuchs			
Rep. Hal Harper	✓		
Rep. Rick Jore	✓		
Rep. Judy Rice Murdock	✓		
Rep. Tom Nelson	✓		✓
Rep. Scott Orr	✓		
Rep. Bob Raney	✓		
Rep. Sam Rose	✓		
Rep. Bill Ryan	✓		
Rep. Roger Somerville	✓		
Rep. Robert Story	✓		
Rep. Emily Swanson	✓		
Rep. Jack Wells	✓		
Rep. Ken Wennemar	✓		

2/14/95

HB 363 Proxy

I VOTE NO ON AMENDMENTS
AND THE BILL.

Sf Du

Kopy

2/14/95

On House Bill 363, I
vote with Rep. Marion Hanson.

No

Rep. Sam Wilson

PROPOSED TAX BASE SHARING ACT CHANGES

EXHIBIT 1
DATE 2/14/95
HB HB 412

A. TAX BASE SHARING ACT UNDER CURRENT LAW

With no tax base sharing:

Taxable Value of Mine (100%)	X	County Mill Levy	=	Local Tax Obligation of Mineral Developer
---------------------------------	---	---------------------	---	--

With tax base sharing:

Taxable Value of Mine (100%)	X	County Mill Levy		<u>PLUS</u>
Taxable Value of Mine (20%)	X	Municipality Mill Levy	=	Local Tax Obligation of Mineral Developer

Under current law a mine subject to tax base sharing is taxed as if the mine was located within the city limits of the municipality.

B. TAX BASE SHARING ACT UNDER PROPOSED LAW

With no tax base sharing:

THERE WOULD BE NO CHANGE

With tax base sharing:

Taxable Value of Mine (80%)	X	County Mill Levy		<u>PLUS</u>
Taxable Value of Mine (20%)	X	Municipality Mill Levy	=	Local Tax Obligation of Mineral Developer

Under the proposed changes, the municipality and the county would share the total taxable value. Municipalities would be able to tax up to 20 percent of the taxable value and counties would be able to tax the remaining 80 percent. Typically, mineral developments provide excess taxable valuation to counties. Taxable value is based on buildings, equipment, land, and the gross proceeds of the development.

TESTIMONY PRESENTED TO HOUSE TAXATION COMMITTEE - HB 413

Chairman Hibbard, committee members, good morning. My name is Vicki Hyatt, and I am chairman of the Stillwater County Commission. I'm here today to oppose House Bill 413, a measure we believe would severely undermine the body of hard rock mining impact legislation which has worked so well in our county.

Local governments in Stillwater County were the first entities in Montana to develop an impact plan addressing the specific concerns of local government and of a company planning to bring a sizable influx of people into an county ill-equipped to handle such a population increase. I think the plan that was ultimately agreed upon would have to be classified as an overall success. Because there is a lag time between when property tax revenues are generated and when the needs must be addressed, the company helped financially to provide upfront costs for things such as law enforcement, sewer expansion, school building needs, and the list goes on. The bottom line is: the process worked.

House Bill 413 undermines this process in several ways. Both Section 1 and Section 2 immediately strike an very real concern from the plate of negotiable items which has been and should be addressed. The fact is: far more people move into an area when a mine opens than are directly employed at the mine. There are those who move in to open service industries. Others move in hoping to get a job at the mine, aren't hired, and stay on, often ending up on the welfare rolls. There are others who get a job at the mine, are fired and again, end up on welfare. Some communities in which large-scale mining developments are located are able to absorb the population increase resulting from the development. Other communities are not. That's why the planning process which concentrates decision-making at the local level functions best. Let's not limit the ability of the process to work by removing from consideration a very real issue.

Section 4 of this bill is unacceptable because it changes the rules after the fact. When our county's Hard Rock Mining Plan was developed, we looked at what type of government services would be needed to accommodate a population increase of approximately one-fifth, analyzed the revenue which would likely be derived from the added taxable valuation increase due to the mine development or expansion, and then negotiated means to offset the difference between costs and revenues. Those discussions were based on the county's ability to assess its mill levy against the total taxable value of the mining operation. Part 2 (a) of Section 4 which exempts the tax base sharing portion of the mine value from county taxation is a significant revenue loss for our county, and thus negates the the very precepts on which our plan was built. It is not fair to change the rules in the middle of the game, and it would be devastating for our county to experience a taxable valuation decrease of this proportion.

Finally, I'd like to stress that the success of the hard rock mining impact planning process is in the ability to fashion a solution uniquely developed to fit each local circumstance. In communities able to absorb a population influx, the plans are simple or non-existent. In communities such as ours where there was little room to grow without sizeable infrastructure improvements, the plans are more comprehensive.

In what seems like a fitting comparison on Valentine's Day, some mining companies and communities are like the ill-fated "opposites attract" couple. They really don't belong together because their interests are so different, yet there is an unmistakable attraction which brings the two into a relationship or even marriage.

Stillwater County would have never recruited an industry which was intending to employ 400-600 people. We didn't have the schools, we didn't have the housing, the roads and bridges were poor, our unemployment rate was low and the level of government services were barely adequate to handle the population we had. If given a choice, the mining company would have probably

Stillwater County Planning Office

P. O. Box 881
Columbus, Montana 59019
Phone 406-322-4439
Fax 406-322-4698



Planning for the Future

House Taxation Committee
Capitol Station
Helena, MT 59620

February 14, 1995

RE: OPPOSE HB 413

Members of House Taxation Committee:

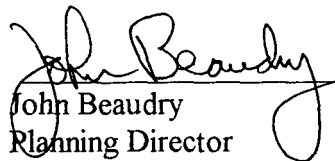
I am opposed to changes to the Hard Rock Mining Impact and Property Tax Base Sharing Acts as presented in HB 413 for the following reasons.

- The opening "whereas" on page 1, lines 9 and 10 indicates experience with implementation and enforcement of impact statutes has disclosed deficiencies in the statutes and the need for clarification of the intent. After almost ten years experience with implementation of hard rock mining statutes in Stillwater County, the failure to adequately address the housing issue is the most significant deficiency in the hard rock mining statutes rather than the need to clarify the intent as stated in HB 413.
- The second "whereas" on page 1, lines 12 and 13 asserts "enforcement of taxable valuation allocation under the hard-rock mining impact property tax base sharing program results in multiple taxation". The "multiple taxation" is the same for all property valuation within a municipality.
- The proposed language in Section 1, page 1, lines 19 through 21 of HB413 would reduce the scope of impact analysis to primary impacts only. If this language is accepted, then language to limit revenue estimates to revenues derived from the large scale mineral development only will be necessary.
- Proposed changes contained in Section 2 (1)(b) on page 2, lines 13 through 16 of HB 413 do not include estimated housing needs of persons coming into the impacted area. Based on the experience in Stillwater County, this is the primary deficiency in the hard rock mining statutes.

- Proposed changes expressed in Section 3 (5) on page 5, lines 28, 29 and on line 1 of page 6 may not always be achievable under the current taxation system, terms agreed on in impact plans or when mineral developments do not reach projected levels.
- Proposed changes to 90-6-404 MCA allocation of taxable valuation for local taxation purposes, contained in Section 4(2)(a) on page 6, lines 18 through 23 of HB 413, represent a significant departure from the long standing methods of county taxation of properties located in municipalities. These proposed changes will have a significant fiscal impact to counties involved with hard-rock mining impact property tax base sharing. Using current figures, this would be a loss of \$36,530.00 annually in Stillwater County and adversely impact at least 15 county departments including hospital maintenance, fire control, law enforcement, district court, justice court, county attorney, commissioners, clerk & recorder, treasurer, planning, sanitarian, mental health, library, bridges, and civil defense.
- It is not clear in Section 5 on page 7, line 8 of HB413 whether the effective date will affect repayment formulas and previously agreed upon allocations of taxable valuation contained in previously approved impact plans.

Stillwater County and the other affected local governments in our community went through a lengthy planning process with Stillwater Mining Company and we are still involved in the implementation process. This process has worked well in Stillwater County and will continue to work if mineral developers and the affected units of local government are allowed to negotiate the terms of an impact plan. However, one sided legislative initiatives like HB413 can upset the current balance achieved in the Hard Rock Mining Impact Act after a decade of cooperative effort. I hope you will vote no on HB 413.

Sincerely,


John Beaudry
Planning Director

OPPOSE HB 413!



MONTANA DEPARTMENT OF COMMERCE

Local Government Assistance Division
1424 9th Avenue PO Box 200501
Helena, MT 59620-0501

EXHIBIT 4
DATE 2/14/95
HB 413

Phone: (406) 444-3757
FAX: (406) 444-4482
TDD: (406) 444-2978

February 14, 1995

Representative Chase Hibbard, Chairman
House Taxation Committee
Montana State Legislature
Helena, MT 59620

Re: The Hard-Rock Mining Impact Act, the Property Tax Base
Sharing Act, and HB 413

Dear Chairman Hibbard and Members of the Committee:

Under the Hard-Rock Mining Impact Act and the companion Property Tax Base Sharing Act, each new large-scale mineral developer and the affected local government units prepare and implement a local government impact plan for the impact area. Through the impact plan, they provide for the local government services and facilities needed by the mineral developer and by the people who move into the area as a result of the mineral development. At the same time, they ensure that the local taxpayers will not be burdened with increased local government costs as a result of the new mineral development.

The Hard-Rock Mining Impact Board administers the Impact Act and certain portions of the Tax Base Sharing Act. In its quasi-judicial capacity, the Board adjudicates disputes that may arise between mineral developers and affected local government units over their proposed impact plans or over their compliance with commitments in approved impact plans.

The Hard-Rock Mining Impact Board is a five-member, quasi-judicial citizen board appointed by the Governor according to specific statutory criteria designed to ensure a balanced representation of interests, perspectives, and geographic areas. The Board is not an advocate for any of the parties to whom the Impact Act provides protection or benefit, or on whom the Act imposes responsibilities. Rather, in its administrative and quasi-judicial capacities, the Board serves as an advocate for the legally consistent and equitable interpretation and implementation of the Impact Act. As a matter of policy and practice, the Board actively encourages large-scale mineral developers and affected local government units to work together cooperatively to fulfill the purposes and requirements of the Impact and Tax Base Sharing Acts.

The Board has not met since the appointment in January of its two new members or since the introduction of HB 413. Therefore, it has not had an opportunity to take a formal position on HB 413.

"Working Together to Make It Work"

House Taxation Committee -- HB 413
Representative Chase Hibbard, Chairman
February 14, 1995
Page 2

The attached analysis and expression of concern is being presented to you at the request of the Board's acting Chairman, Jim McCauley of Boulder. It represents the consensus view of the Board's three carry-over members, including Mr. McCauley, and its immediate past chairman, former member Mike Manuel of Fairfield.

If the committee has questions with which the Board or I may be of any assistance, please let us know.

Sincerely,

Carol L. Ferguson

Carol L. Ferguson
Administrative Officer
Hard-Rock Mining Impact Board/DOC
P.O. Box 200501
Helena, MT 59620
(406)444-4478

ATTACHMENTS: 1. Summary of Existing Statutes
2. Analysis of HB 413

**THE HARD-ROCK MINING IMPACT PLAN
AND
THE PROPERTY TAX BASE SHARING ACT**

◇ *What is property tax base sharing?* Tax base sharing means that the taxable valuation of the mineral development will be allocated among the affected counties and incorporated cities and towns, the affected high school districts, and the affected elementary school districts identified in the plan.

◇ *What is an affected county, city or town, or school district?* An affected county, city or town, or school district is one in which the mine is located or one that will incur increased costs as a result of the mineral development, as shown in an impact plan.

◇ *What triggers tax base sharing?* Tax base sharing is triggered when the impact plan identifies a jurisdictional revenue disparity. A jurisdictional revenue disparity exists when the plan indicates that, over time, increased costs resulting from the mineral development will exceed increased revenues resulting from the mineral development in one or more affected counties, municipalities, high school districts, or elementary school districts in which the mine is *not* located. A disparity might also exist when the mineral development is located in more than one county, high school district or elementary school district, if, over time, increased costs are expected to exceed increased revenues in any of these jurisdictions.

◇ *Does tax base sharing involve special purpose districts that are affected local government units under an impact plan?* Tax base sharing does not involve special districts. Taxable valuation is not allocated to special districts in which the mine is not located. A special district in which the mineral development is located continues to apply its mill levy to the full taxable valuation of the mineral development.

◇ *Does tax base sharing apply to statewide mill levies?* No, tax base sharing does not apply to statewide mill levies. Statewide levies continue to be applied to the entire taxable valuation of the mineral development.

◇ *Who allocates the taxable valuation?* The County Assessor allocates the mineral development taxable valuation for the Department of Revenue. The allocation is reflected in the mineral developer's assessment notices and tax bills.

◇ *How is the taxable valuation apportioned?* A statutory formula specifies how the mineral development taxable valuation is to be apportioned among the affected local government units. The formula is illustrated on the reverse page in I and II-A. Alternatively, the impact plan may modify part of the statutory formula, as described in I and II-B.

◇ *Can the allocation formula be changed after the plan is approved?* The allocation formula may change as a result of the required annual employee survey, as provided by the impact plan itself, or as provided by an amendment to the plan.

◇ *Can tax base sharing be terminated?* Yes, if requested to do so by the mineral developer or an affected local government unit, the HRMI Board may direct the Department of Revenue to terminate tax base sharing if the Board determines that a jurisdictional revenue disparity no longer exists. Tax base sharing will end automatically when the mine ceases operations.

**SUMMARY: THE HARD-ROCK MINING IMPACT ACT (1981)
AND THE PROPERTY TAX BASE SHARING ACT (1983)**

The dual purposes of Hard-Rock Mining Impact Act are (1) to enable local government units to provide services and facilities when and where they are needed as a result of new large-scale hard-rock mineral developments in Montana, and (2) to ensure that Montana's local property taxpayers are not burdened with increased local government costs resulting from the mineral development. As required by the Impact Act, the large-scale mineral developer prepares a local government impact plan in cooperation with the affected local government units. The impact plan identifies the increased need for local government services and facilities that will result from the mineral development and the increased capital, operating and net operating costs and revenues that will result from the mineral development. The mineral developer commits to pay all increased capital and net operating costs resulting from the mineral development, as identified in the impact plan.

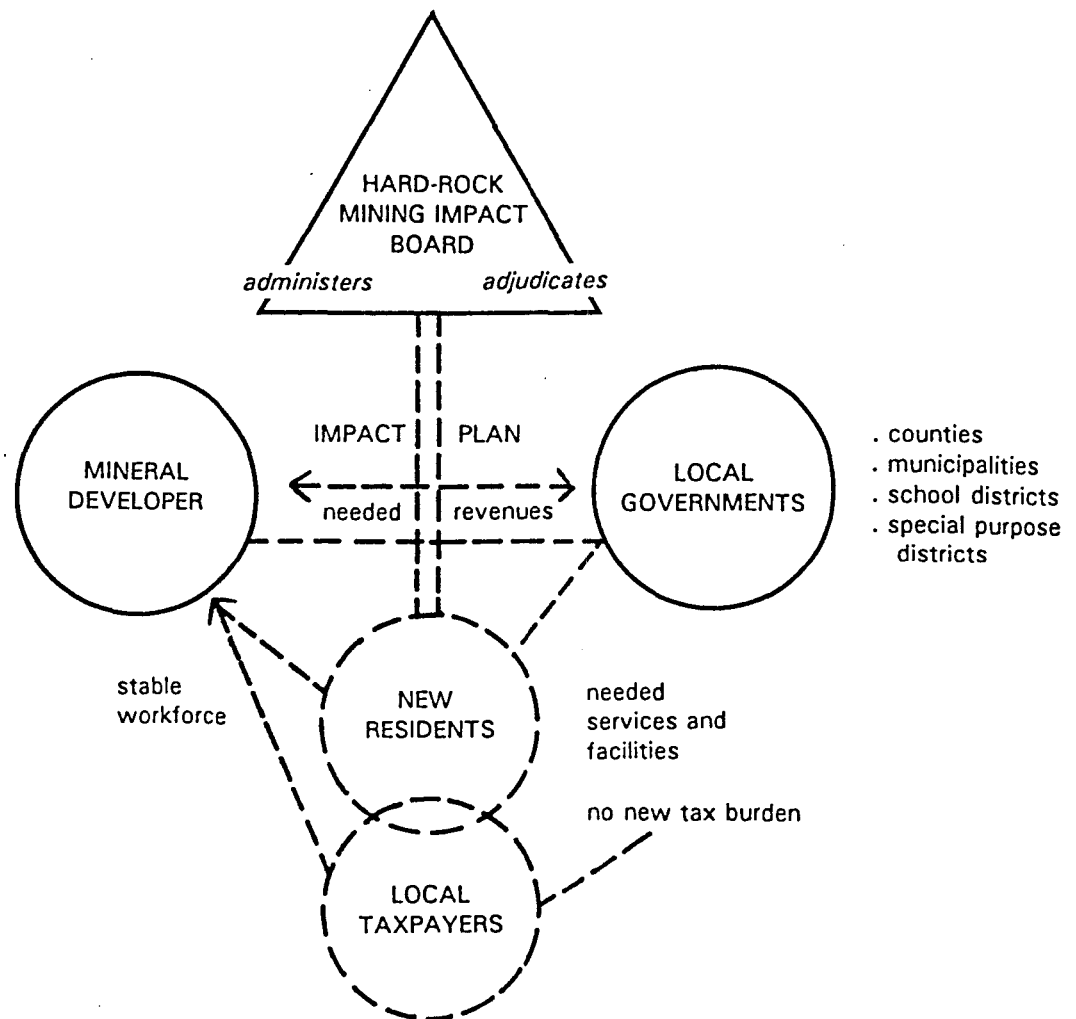
The developer may meet the identified capital and net operating costs from property tax prepayments, facility impact bonds, or grants and contributions. Facility impact bonds are used when, as a result of the mineral development, substantial capital expenditures are required for public facilities, such as schools or water or sewer systems. Grants are used primarily for services not normally financed through property taxes or in instances where tax prepayments and tax crediting would not be feasible or cost-effective. For services that are normally financed through property tax revenue, tax prepayments may be used to meet the net operating costs. Net operating costs are the amount by which increased operating costs resulting from the mineral development exceed increased revenues resulting from the mineral development. As taxable valuation increases as a result of the mineral development, the increased property tax revenues meet the increased property tax-supported costs. At the point when mine-related revenues would begin to exceed mine-related costs, local government units begin to provide tax credits to the developer for the property taxes it prepaid in earlier years.

When the proposed plan has been completed to the developer's satisfaction, the developer formally submits it to the affected local government units for their evaluation during a 90-day review period. During the review period, if the governing body of an affected local government unit disputes any part of the plan, the governing body may file its objection with the Hard-Rock Mining Impact Board. If the affected parties cannot resolve matters by negotiation, the Board adjudicates the disputed issues.

Increased local government costs resulting from the mineral development may exceed increased revenues resulting from the mineral development in counties, municipalities or school districts in which the mine is not located. In that situation, the Property Tax Base Sharing Act requires that the taxable valuation of the mineral development must be allocated among the counties and municipalities, high school districts, and elementary school districts affected by the mineral development. The allocation reflects either the percentage of mineral development employees or students who reside in each affected local government unit, or it corresponds to the proportion of increased costs incurred by each affected local government unit. Tax base sharing enables the developer to prepay property taxes to meet increased tax-financed costs, which creates an opportunity to recover prepayments through tax credits.

HARD-ROCK MINING IMPACT ACT AND IMPACT PLAN

- The developer of each new large-scale hard-rock mineral development prepares a local government impact plan in cooperation with the affected units of local government. Through the impact plan, the developer identifies and pays the increased costs for local government services and facilities needed as a result of the mineral development. Affected local governments review the proposed plan and the county holds a public hearing on it before it is approved. The governing body may negotiate with the developer to change the proposed plan and may ask the Board to adjudicate disputed issues. Together, the local government units and the developer implement the approved impact plan.
- The impact plan may trigger tax base sharing under the Property Tax Base Sharing Act and may include provisions related to that Act. The plan may also affect distribution of metal mines license tax revenue.
- The Hard-Rock Mining Impact Board administers the Impact Act and parts of the Tax Base Sharing Act and adjudicates disputes about impact plans.



- As a condition of the statutes under which the mine receives its operating permit, the mineral developer must comply with the Impact Act and with its commitments in the impact plan.

**ANALYSIS OF HB 413 AND ITS EFFECTS ON
THE HARD-ROCK MINING IMPACT ACT,
THE PROPERTY TAX BASE SHARING ACT,
AND THE IMPACT PLANNING PROCESS**

The Hard-Rock Mining Impact and Property Tax Base Sharing Acts were formulated to provide a constructive framework within which mineral developers, affected local government units, and local citizens work together, through their impact plan, to identify, provide, and pay for local government services and facilities needed as a result of new large-scale mineral developments. The intent of the Acts is to spare local taxpayers the burden of increased costs resulting from the large-scale development. The operating premise is that *those involved at the local level are best able to make decisions appropriate to their own circumstances.*

HB 413 would disrupt the carefully evolved balances in these two laws, would eliminate key areas of flexibility, and would impose constraints that *deprive mineral developers and local governments of their decision-making authority.* By creating difficulties for mineral developers, local governments and local taxpayers, HB 413 accentuates the potential for conflict and places the mineral developer in a no-win situation between conflicting interests of local government units. In doing so, it also increases the likelihood that the Hard-Rock Mining Impact Board will be called upon to adjudicate disputes.

HB 413 raises at least four specific substantive issues and, in one section, interjects an element of confusion with superfluous or inapplicable language.

1. HB 413 eliminates mineral developer and local government flexibility to define immigrating population. Sections 1 and 2 of the bill would limit the definition of people moving into an impact area as a result of the mineral development to include only mineral development employees and their dependents. This would eliminate the existing flexibility that allows the affected local government units and mineral developer to define for their own impact plan the people moving into the impact area as a result of the mineral development. The definition and projection of the immigrating population, along with projections of where immigrants are expected to live, are basic to identifying the increased local government service and facility needs and the increased capital and net operating costs that will result from the mineral development. Under the Impact Act, the developer is required to pay all increased operating and net operating costs, as identified in the plan.

The impact plan *identifies* the increased costs resulting from the mineral development; it doesn't *create* them. If all increased capital and net operating costs resulting from the mineral development are not paid by the mineral developer, as currently required, or from revenues generated as a result of the mineral development, as currently provided by impact plans, then *these costs will be borne by the existing local taxpayers*, who would, in effect, be subsidizing the mineral developer.

(i.e. municipalities), school districts, and specific special purpose districts. Because municipalities and counties are local government units, both by common understanding and by specific definition in the Impact Act, no purpose is served by the insertion of language that sets them apart from "local governments" and, at the same time, includes them in a provision applicable to local governments which already includes them.

4. HB 413 requires crediting in full of all tax prepayments regardless of circumstances that could shift the increased cost over time to other local taxpayers. Section 3 of the bill would amend the tax prepayment and tax crediting section of the Impact Act, section 90-6-309(5), MCA, by *requiring* the repayment of the entire amount of all prepaid taxes, regardless of the effect over time on local mill levies or local taxpayers. As you know, the basic purpose the Impact Act is to ensure that all increased capital and net operating costs resulting from the mineral development are paid by the mineral developer or, as has been the practice of impact plans, from revenues generated as a result of the mineral development. The ability of the local government unit to provide tax credits without shifting the increased costs over time to other local taxpayers *depends on the taxable valuation and mine life of the mineral development.*

If local government units must commit to credit all prepaid taxes in full, regardless of circumstances and consequences, they might be forced to reject tax prepayments as the method of payment in any situation in which they doubt the projected taxable valuation of the mineral development or the future ability of the local government unit to credit the full amount. That is, local governments may feel compelled to require grants where they would otherwise have accepted tax prepayments. Under the current statute, the developer and local government unit can agree in the plan to a formula for calculating tax credits that ensures that the increased costs will not be shifted over time to other local taxpayers. Each fiscal year throughout the life of the mine the local government unit makes whatever credits are indicated by the formula, until either the prepayment is credited in full or the mine is no longer in production. Limiting the acceptability of tax prepayments deprives mineral developers of the opportunity to tax credits that might otherwise have been available to them, even if they represented a partial and not a full crediting of the prepaid amount.

For instance, given a mineral development's projected taxable valuation, the anticipated effect of tax base sharing, and the projected life of the mine, a mineral developer and a local government unit might anticipate that the local government would be able to credit back approximately three-fifths of the tax prepayments it receives, without shifting the cost to the non-developer local taxpayers. At the same time, both would recognize that the local government might be enabled to credit the full amount of the prepayment if increased metals prices or an expansion of the mine resulted in an increase in the mineral development's taxable valuation, if the mine continued in production for longer than originally projected, or if an amendment to the tax base sharing formula allocated more valuation to that local government unit, all of which are possible scenarios. However, when it enters into commitments in the impact plan, a local government unit cannot count on any of these circumstances occurring, any more than the mineral developer can be assured that its taxable

TABLE 2.1 IMPACT EMPLOYMENT AND POPULATION PROJECTIONS

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6-on
Mineral Employment	255	350	430	505	570	600
In-migrating Mineral Employ.	180	245	300	355	400	420
In-migrating Secondary Employ.	10	15	25	40	45	50
Total In-migrating Employment	190	260	325	395	445	470
In-migrating (impact) Population	750	1,025	1,275	1,540	1,735	1,830
In-migrating Elementary Students	105	140	175	215	235	250
In-migrating High School Students	50	70	85	100	115	120
Housing Units	190	260	325	395	445	470

Assumptions:

1. Stillwater Mining Company's personnel build-up would occur over a 6-year period as shown for mineral employment.
2. Of the total mineral employment, an average of 30% either would be hired locally or would commute from outside of the county; 70% of the mineral employees would move into the area from outside.
3. The number of in-migrating secondary employees will range from 5 to 12% of the in-migrating mineral employees.
4. Based on current demographic data from the Stillwater mine, in-migrating mineral employees average 3.0 dependents per employee.
5. In-migrating secondary employees will average 2.0 dependents per employee.
6. The in-migrating population is the sum of in-migrating employees with dependents, and in-migrating secondary employees with dependents.
7. Based on Stillwater mine data, mineral employees average .56 elementary students per employee. It is assumed that in-migrating secondary employees average .28 elementary students per employee.
8. Based on Stillwater mine data, mineral employees average .27 high school students per employee. It is assumed that in-migrating secondary employees average .14 high school students per employee.

EXHIBIT 8
DATE 2/14/95
HB 413

HOUSE BILL NO. ***

INTRODUCED BY *****

BY REQUEST OF THE HOUSE TAXATION COMMITTEE

A BILL FOR AN ACT ENTITLED: AN ACT AMENDING THE HARD-ROCK MINING ACT BY AUTHORIZING A REVISION IN CALCULATING THE GUARANTEED TAX BASE RATIO OF CERTAIN SCHOOL DISTRICTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE ON MONTANA:

Section 1. Section 90-6-309, MCA, is amended to read:

90-6-309. Tax prepayment -- large-scale mineral development.

(1) After permission to commence operation is granted by the appropriate government agency, and upon request of the governing body of a county in which a facility is to be located, a person intending to construct or locate a large-scale mineral development in this state shall prepay property taxes as specified in the impact plan. This prepayment shall exclude the 6-mill university levy established under 20-25-423 and may exclude the mandatory county levies for the school BASE funding program established under 20-9-331 and 20-9-333.

(2) The person who is to prepay under this section is not obligated to prepay the entire amount established in subsection (1) at one time. Upon request of the governing body of an affected local government unit, the person shall prepay the amount shown to be needed from time to time as determined by the board.

(3) The person who is to prepay shall guarantee to the hard-rock mining impact board, through an appropriate financial institution, as may be required by the board, that property tax prepayments will be paid as needed for expenditures created by the impacts of the large-scale mineral development.

(4) When the mineral development facilities are completed and assessed by the department of revenue, they are subject during the first 3 years and thereafter to taxation as all other property similarly situated, except that in each year after the start of production, the local government unit that received a property tax prepayment shall provide the repayment of prepaid taxes in accordance with subsection (5).

(5) a local government unit that received all or a portion of the property tax prepayment under this section shall provide for tax crediting as specified in the impact plan. The tax credit allowed in any year may not, however, exceed the tax obligation of the developer for that year, and the time period for tax crediting is limited to the productive life of the mining operations.

(6) (a) The impact plan may provide that, for affected elementary and high school districts receiving guaranteed tax base aid under 20-9-367, the taxable valuation of a large-scale mineral development be excluded from the calculation of the district's guaranteed tax base ratio as provided by 20-9-366 through 20-9-369. The impact plan must specify the time period that the exclusion will be in effect.

(b) Each year that the provisions of subsection (6)(a) are to be implemented, the school district shall notify the office of public instruction of the implementation.

treasurer and must be deposited to the credit of the state special revenue fund for state equalization aid to the public schools of Montana.

(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, the state treasurer shall distribute each fiscal year from the state equalization aid levy to the municipality the amount, if any, equal to the product of the incremental taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year. The reduced school levy for a fiscal year is the difference between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year.

History: En. Sec. 50, Ch. 11, Sp. L. June 1989; amd. Sec. 30, Ch. 767, L. 1991.

20-9-361. State and county equalization revenue — statutory appropriation. Revenue received in support of state and county equalization under the provisions of 20-9-331, 20-9-333, and 20-9-343 is statutorily appropriated, as provided in 17-7-502, to:

(1) the superintendent of public instruction to be used for county equalization and state equalization aid for the public schools, as provided by law, and must be accounted for in accordance with generally accepted accounting principles; and

(2) counties as provided in 20-9-360(2).

History: En. Sec. 51, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 729, L. 1991.

20-9-362 through 20-9-365 reserved.

20-9-366. Definitions. As used in 20-9-366 through 20-9-369, the following definitions apply:

(1) "County retirement mill value per elementary ANB" or "county retirement mill value per high school ANB" means the sum of the taxable valuation in the previous year of all property in the county divided by 1,000, with the quotient divided by the total county elementary ANB count or the total county high school ANB count used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(2) (a) "District guaranteed tax base ratio" for guaranteed tax base funding for the BASE budget of an eligible district means the taxable valuation in the previous year of all property in the district divided by the sum of the district's current year direct state aid and 40% of the special education allowable cost payment.

(b) "District mill value per ANB", for school facility entitlement purposes, means the taxable valuation in the previous year of all property in the district divided by 1,000, with the quotient divided by the ANB count of the district used to calculate the district's current year total per-ANB entitlement amount.

(3) (a) "Statewide mill value per elementary ANB" or "statewide mill value per high school ANB", for school facility entitlement and retirement

guaranteed tax base purposes, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 121% and divided by 1,000, with the quotient divided by the total state elementary ANB count or the total state high school ANB amount used to calculate the elementary school districts' and high school districts' current year total per-ANB entitlement amounts.

(b) "Statewide elementary guaranteed tax base ratio" or "statewide high school guaranteed tax base ratio", for guaranteed tax base funding for the BASE budget of an eligible district, means the sum of the taxable valuation in the previous year of all property in the state, multiplied by 175% and divided by the total sum of either the state elementary school districts' or the high school districts' current year total direct state aid and 40% of special education allowable cost amounts.

History: En. Sec. 60, Ch. 11, Sp. L. June 1989; amd. Sec. 4, Ch. 3, Sp. L. May 1990; amd. Sec. 7, Ch. 711, L. 1991; amd. Sec. 1, Ch. 790, L. 1991; amd. Sec. 30, Ch. 633, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 633 in definitions of county retirement mill value per elementary ANB, district mill value per ANB, and statewide mill value per elementary ANB, after "year", substituted "total per-ANB entitlement" for "foundation program"; inserted definition of district guaranteed tax base ratio; in definition of district mill value per ANB, after defined term, inserted "for school facility entitlement purposes"; deleted definition of permissive amount that read: "'Permissive amount' means that portion of a district's general fund budget in excess of the foundation

program amount for the district, as provided in 20-9-316 through 20-9-321, but not exceeding 35% of the district's foundation program amount, and which excess is authorized under the provisions of 20-9-145 and 20-9-353"; in definition of statewide mill value per elementary ANB, near beginning before "and retirement", substituted "school facility entitlement" for "permissive"; and inserted definition of statewide elementary guaranteed tax base ratio. Amendment effective July 1, 1993.

20-9-367. Eligibility to receive guaranteed tax base aid. (1) If the district guaranteed tax base ratio of any elementary or high school district is less than the corresponding statewide elementary or high school guaranteed tax base ratio, the district may receive guaranteed tax base aid based on the number of mills levied in the district in support of up to 40% of the basic entitlement, up to 40% of the total per-ANB entitlement, and up to 40% of the special education allowable cost payment budgeted within the general fund budget.

(2) If the county retirement mill value per elementary ANB or the county retirement mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or high school ANB, the county may receive guaranteed tax base aid based on the number of mills levied in the county in support of the retirement fund budgets of the respective elementary or high school districts in the county.

(3) For the purposes of 20-9-370 and 20-9-371, if the district mill value per elementary ANB or the district mill value per high school ANB is less than the corresponding statewide mill value per elementary ANB or statewide mill value per high school ANB, the district may receive guaranteed tax base aid based on the number of mills levied in support of the debt service fund.

History: En. Sec. 61, Ch. 11, Sp. L. June 1989; amd. Sec. 8, Ch. 711, L. 1991; amd. Sec. 32, Ch. 767, L. 1991; amd. Sec. 31, Ch. 633, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 633 in (1), near beginning, substituted "guaranteed tax base ratio" for "mill value per ANB", near middle, after "statewide", substituted "elementary or high school guaranteed tax base ratio" for "district mill value per elementary ANB or high school ANB", and near end, before "general fund", substituted "up to 40% of the basic entitlement, up to 40% of the total

per-ANB entitlement, and up to 40% of the special education allowable cost payment budgeted within the" for "its permissive amount of the"; in (2), after "statewide", deleted "county"; inserted (3) relating to district qualification for guaranteed tax base aid for debt service; and made minor changes in style. Amendment effective July 1, 1993.

20-9-368. Amount of guaranteed tax base aid — reversion. (1) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the elementary school districts in the county is the difference between the county mill value per elementary ANB and the statewide mill value per elementary ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the elementary districts in the county.

(2) The amount of guaranteed tax base aid per ANB that a county may receive in support of the retirement fund budgets of the high school districts in the county is the difference between the county mill value per high school ANB and the statewide mill value per high school ANB, multiplied by the number of mills levied in support of the retirement fund budgets for the high school districts in the county.

(3) The amount of guaranteed tax base aid that a district may receive in support of up to 40% of the basic entitlement, up to 40% of the total per-ANB entitlement budgeted within the general fund budget, and up to 40% of the special education payment is calculated in the following manner:

(a) multiply the sum of the district's direct state aid and 40% of the special education allowable cost payment by the corresponding statewide guaranteed tax base ratio;

(b) subtract the taxable valuation of the district from the product obtained in subsection (3)(a); and

(c) divide the remainder by 1,000 to determine the equivalent to the dollar amount of guaranteed tax base aid for each mill levied.

(4) Guaranteed tax base aid provided to any county or district under this section is earmarked to finance the fund or portion of the fund for which it is provided. If a county or district receives more guaranteed tax base aid than it is entitled to, the excess must be returned to the state as required by 20-9-344.

History: En. Sec. 62, Ch. 11, Sp. L. June 1989; amd. Sec. 9, Ch. 711, L. 1991; amd. Sec. 23, Ch. 767, L. 1991; amd. Sec. 32, Ch. 633, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 633 in (1) and (2), before "mill", deleted "county"; in (3), near beginning after "aid", deleted "per-ANB", after "support of" substituted "up to 40% of the basic entitlement, up to 40% of the total per-ANB entitlement budgeted within the" for "its permissive amount of the", after "budget" inserted "and up to 40% of the special education payment", and after "is" substituted language in (a) through (c) relating to calculation of guaranteed tax base aid for former language

that read: "the difference between the district mill value per ANB and the corresponding statewide district mill value per ANB, multiplied by the number of mills levied in support of the district's permissive amount of the general fund budget"; in (4) deleted former second sentence that read: "If the actual expenditures from the fund or portion of the fund for which guaranteed tax base aid is earmarked are less than the amount budgeted, the guaranteed tax base aid reverts in proportion to the amount budgeted but not expended";

and made minor changes in style. Amendment effective July 1, 1993.

20-9-369. Duties of superintendent of public instruction and department of revenue. (1) The superintendent of public instruction shall administer the distribution of guaranteed tax base aid by:

(a) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide and district guaranteed tax base ratios and, by May 1 of each year, with the final statewide and district guaranteed tax base ratios, for use in calculating the guaranteed tax base aid available for the ensuing school fiscal year;

(b) providing each school district and county superintendent, by March 1 of each year, with the preliminary statewide, county, and district mill values per ANB and, by May 1 of each year, with the final statewide, county, and district mill values per ANB, for use in calculating the guaranteed tax base aid available to counties and districts for the ensuing school fiscal year;

(c) requiring each county and district that qualifies and applies for guaranteed tax base aid to report to the county superintendent all budget and accounting information required to administer the guaranteed tax base aid;

(d) keeping a record of the complete data concerning appropriations available for guaranteed tax base aid and the entitlements for the aid of the counties and districts that qualify;

(e) distributing the guaranteed tax base aid entitlement to each qualified county or district from the appropriations for that purpose.

(2) The superintendent shall adopt rules necessary to implement 20-9-366 through 20-9-369.

(3) The department of revenue shall provide the superintendent of public instruction by December 1 of each year a final determination of the taxable value of property within each school district and county of the state reported to the department of revenue based on information delivered to the county clerk and recorder as required in 15-10-305.

(4) For the purposes of implementing 20-9-366 through 20-9-368 and this section for the school fiscal year beginning July 1, 1993, the superintendent of public instruction shall estimate the direct state aid for a district for the school fiscal year beginning July 1, 1993, in order to calculate the district and statewide guaranteed tax base ratios for that school fiscal year. For succeeding school fiscal years, the superintendent of public instruction shall calculate the district and statewide guaranteed tax base ratios by applying the prior year's direct state aid payment.

History: En. Sec. 63, Ch. 11, Sp. L. June 1989; amd. Sec. 2, Ch. 790, L. 1991; amd. Sec. 34, Ch. 633, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 633 in (1)(a), in two places, substituted "guaranteed tax base ratios" for "county mill values per ANB" and after "preliminary statewide" inserted "and district"; inserted (1)(b) requiring Superintendent to provide District and County Superintendent preliminary and final statewide,

county, and district mill values per ANB to calculate guaranteed tax base aid; inserted (4) requiring Superintendent to estimate direct state aid for the school fiscal year beginning July 1, 1993, to calculate guaranteed tax base ratios and to use prior year's state aid payment for succeeding years; and made minor changes in style. Amendment effective July 1, 1993.

20-9-370. Definitions. As used in this title, unless the context clearly indicates otherwise, the following definitions apply:

Amendments to House Bill 449
Introduction Reading Copy

Prepared by Department of Revenue
2/13/95 2:50pm

REASON FOR AMENDMENT: This amendment reinstates the department of revenue's authority to offset tax refunds against taxes to the state. The department has this power now.

1. Page 3, line 23.
Following: "~~department~~"
Strike: "state auditor"
Insert: "department of revenue"

2. Page 3, line 24.
Following: "~~department~~"
Strike: "agencies. The state auditor"
Insert: "the state. The department of revenue"

3. Page 3, line 25.
Following: "~~department~~"
Strike: "state auditor"
Insert: "department"

4. Page 3, line 28.
Following: "~~department~~"
Strike: "state auditor"
Insert: "department"

5. Page 3, line 30.
Following: "Act."
Strike: "A request for a review pursuant to this subsection must be in writing and delivered to the state auditor's office."

6. Page 4, line 2.
Following: "~~department~~"
Strike: "state auditor"
Insert: "department"

EXHIBIT 10
DATE 2/14/95
HB 363

WASHINGTON CORPORATIONS

101 INTERNATIONAL WAY
POST OFFICE BOX 8182
MISSOULA, MONTANA 59807
TELEPHONE: (406) 523-1300
FAX: (406) 721-4794



February 10, 1995

Representative Chase Hibbard, Chairman
& Members of The House Taxation Committee

RE: House Bill 363

Committee Members:

Preliminary figures from three of our companies licensing large trucks in Montana indicate a serious fiscal impact if HB 363 is adopted as originally introduced. That total figure could reach a yearly increase of nearly \$53,000.00.

If the sponsor amendments and suggestions of Representative Raney were adopted, we would be happy to reconsider our position.

Lastly, I am a little concerned that somebody from the trucking industry was not a part of the committee whose task it was to rewrite this legislation.

Sincerely,

A handwritten signature in dark ink, appearing to read "Russell J. Ritter", is written over a large, stylized, cursive flourish that extends to the left and right.

Russell J. Ritter
Director of Corporate & Government Relations

tb

CLASS 8 TRUCKS – VALUATION/TAXES

CURRENT SYSTEM VS PROPOSED

5-YEAR TAXATION

EXHIBIT 11
DATE 2/14/95
HB 363

Assumptions:

1. In using current system to project for 5 years, assume State average mill levy and depreciation schedule stays the same.
2. Acquired cost is average retail value per 1995 Blue Book.

PROPOSED SYSTEM w/AMENDMENTS

1995 FORD (Model LTS8000)

TAX YEAR	MSRP	DEPRECIATION %	2% TAX RATE	TAX
1995	38500	91%	2%	700.70
1996	38500	82%	2%	631.40
1997	38500	72%	2%	554.40
1998	38500	63%	2%	485.10
1999	38500	53%	2%	408.10
TOTAL				\$2,779.70

CURRENT SYSTEM

1995 FORD (Model LTS8000)

TAX YEAR	1995 ACQUIRED COST	DEPRECIATION %	CLASS 8 TAX RATE	AVERAGE MILL LEVY	TAX
1995	35000	80%	9%	0.407467	1026.82
1996	35000	41%	9%	0.407467	526.24
1997	35000	37%	9%	0.407467	474.90
1998	35000	32%	9%	0.407467	410.73
1999	35000	30%	9%	0.407467	385.06
TOTAL					\$2,823.75

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 413
 DATE 2/14/95 SPONSOR(S) Rep. Stovall

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Ellen Woodburny	Park County	413	X	
Henry E Burgess	Blackfoot Heritage	413	X	
Vicki Zhyatt	Stillwater Co.	413	X	
Blake Wordal	Lewis & Clark Co.	413	X	
Richard Paulus	MPRC	413	X	
Jim Barrett	Cooke City	413	X	
Michael Keady	MOBA	413	X	
John Beaudry	Stillwater County	413	X	
Jim Foster	MREA	413	X	
Richard L. Webb	Sweet Grass CO H.S. Big Timber	413	X	
Jim Jensen	MEIC	413	X	
Carol Peterson	Jim McCauley	413	X	
John Fitzpatrick	mt mining Assoc	413		X

Bob Williams mt mining Assoc 413 X
 PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation

COMMITTEE

BILL NO. HB449DATE 2/14/95

SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Tom Crosser	St. Audin	449		✓
Cort Harrington	Mont County Treasurers	449		✓
Celia Sheen	Assoc. Secret Exec. Hous. Prod.	413 44	✓	
Dennis Burn	MONTAX	413		✓

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