

SB 1

INTRODUCED BY ANDERSON, JR.  
BEACH-WIBAUX PLANT IMPACT ASSISTANCE INTERSTATE  
COMPACT  
BY REQUEST OF COAL TAX OVERSIGHT SUBCOMMITTEE

1/02	FISCAL NOTE REQUESTED		
1/05	INTRODUCED		
1/05	REFERRED TO TAXATION		
1/08	FISCAL NOTE RECEIVED		
1/10	HEARING		
1/16	COMMITTEE REPORT--BILL PASSED AS AMENDED		
1/20	REREFERRED TO RULES		
1/21	COMMITTEE REPORT RULED THIS BILL WAS NOT AN APPROPRIATIONS BILL		
1/23	2ND READING PASSED AS AMENDED	49	0
1/26	3RD READING PASSED	48	1
	TRANSMITTED TO HOUSE		
2/04	REFERRED TO TAXATION		
3/05	HEARING		
4/06	TABLED IN COMMITTEE		

1                                 SENATE    BILL NO.  1

2    INTRODUCED BY   ANDERSON

3                                 BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

4  
5    A BILL FOR AN ACT ENTITLED: "AN ACT CREATING A BEACH-WIBAUX  
6    PLANT IMPACT ASSISTANCE INTERSTATE COMPACT; CREATING AN  
7    INTERSTATE COMMISSION TO ADMINISTER THE COMPACT; AND  
8    AUTHORIZING USE OF A PORTION OF THE COAL SEVERANCE TAX  
9    PROCEEDS."

10  
11   BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12                 Section 1. Definitions. Unless the context requires  
13    otherwise, the following definitions apply in this compact:

14                 (1) "Commission" means the Beach-Wibaux plant impact  
15    assistance interstate compact commission.

16                 (2) "Compact" means the Beach-Wibaux plant impact  
17    assistance interstate compact.

18                 (3) "Fund" means the Beach-Wibaux plant impact  
19    assistance fund.

20                 (4) "Party states" means the states of North Dakota  
21    and Montana.

22                 (5) "Plant" means a coal gasification plant and  
23    related mining and other facilities to be constructed and  
24    operated in the Beach, North Dakota-Wibaux, Montana area by  
25    the Tenneco Company or its legal successor in interest.

1                 Section 2. Policy purpose. The states of North Dakota  
2    and Montana recognize that the development of the natural  
3    resources of both states must be accomplished in a manner  
4    which best benefits and protects the health, safety, and  
5    economic well-being of the citizens of both states. The  
6    party states recognize that social and economic impacts may  
7    occur in the areas in both states where the development of  
8    natural resources is taking place and that these impacts  
9    accrue to both states without regard to the existence of  
10   political boundaries. It is further recognized that the  
11   protection of the health, safety, and economic well-being of  
12   the citizens of the party states can be accomplished through  
13   the cooperation of the party states in providing the  
14   necessary assistance to the areas in the party states  
15   affected by the development of natural resources.

16                 The party states recognize that the construction and  
17    operation of a coal gasification facility in Montana near  
18    the Beach, North Dakota-Wibaux, Montana area will cause  
19    significant social and economic impacts in that area which  
20    are beyond the financial capacities of the affected local  
21    governmental entities in both states to mitigate.

22                 It is the purpose of this compact to provide the means  
23    for a cooperative effort between the party states to ensure  
24    the existence of financial support to the areas in both  
25    states necessary to mitigate the resulting impacts from the



1 Beach-Wibaux coal gasification plant.

2 Section 3. Entry into force -- termination. (1) This  
3 compact is effective when the party states have enacted the  
4 compact by appropriate legislation in substantially similar  
5 form and when the necessary permits for siting of the plant  
6 have been approved and issued under the North Dakota Energy  
7 Conversion and Transmission Facility Siting Act or the  
8 Montana Major Facility Siting Act.

9 (2) This compact is terminated when unanimously agreed  
10 to by the party states or when the plant has permanently  
11 ceased operations. In the event of termination, all rights  
12 established under this compact continue unimpaired. The  
13 unobligated moneys and assets of the fund at termination  
14 must be paid over to the party states in proportion to the  
15 coal mined for the plant in each respective state.

16 Section 4. Beach-Wibaux plant impact assistance  
17 interstate compact commission. (1) There is hereby created  
18 an interstate administrative agency to be known as the  
19 Beach-Wibaux plant impact assistance interstate compact  
20 commission. The commission must be composed of the director  
21 of the North Dakota energy development impact office; the  
22 chairman of the Montana coal board; one Montana resident,  
23 residing in the area impacted by the plant, appointed by the  
24 governor of Montana; one North Dakota resident, residing in  
25 the area impacted by the plant, appointed by the governor of

1 North Dakota; one person from Montana appointed by the  
2 chairman of the Montana legislative council; and one person  
3 from North Dakota appointed by the chairman of the North  
4 Dakota legislative council. The governors and chairmen of  
5 the legislative councils of each party state shall appoint  
6 their party state's respective commission members for terms  
7 and conditions and in a manner as each party state may  
8 choose. The commission members appointed by the party states  
9 shall unanimously choose an additional member, who shall  
10 serve a term of 2 years and who shall, when present, act as  
11 chairman of the commission. The additional member may be  
12 removed as a member of the commission by a vote of three of  
13 the other commission members. There may be no alternates or  
14 proxies for commission members.

15 (2) Each commission member is entitled to one vote on  
16 any subject matter before the commission. No action of the  
17 commission is binding unless a majority of the total  
18 membership cast affirmative votes.

19 (3) The commission shall meet at least once each six  
20 months and shall also meet upon the call of the chairman or  
21 upon the call of two or more members. Meetings of the  
22 commission may be held in any place in either state the  
23 commission determines to be reasonably convenient for the  
24 attendance of persons required or entitled to attend and  
25 where adequate accommodations can be found. The commission

1 shall afford reasonable public notice and opportunity for  
2 comment at each meeting. All meetings of the commission must  
3 be open to the public. All commission actions and decisions  
4 must be appropriately recorded.

5 (4) Each party state is responsible for the payment of  
6 the compensation and necessary expenses of its respective  
7 commission members. All other expenses resulting from  
8 administration of the compact must be allocated to and borne  
9 one-half by each party state. The commission shall submit to  
10 the governor or designated officer of each party state a  
11 budget of its estimated expenditures for the relevant period  
12 and as required by the laws of each party state for  
13 presentation to the legislative assembly of each party  
14 state. The commission budget report must contain specific  
15 recommendations of the amounts to be appropriated by each  
16 party state.

17 (5) The commission shall keep accurate records and  
18 accounts of all receipts and disbursements. The commission  
19 shall engage an independent certified public accountant who  
20 shall annually audit all receipts and disbursements of  
21 commission funds and submit an audit report to the  
22 commission. The commission shall forward copies of the audit  
23 report to the legislative assemblies of each party state.  
24 The accounts of the commission must be open at any  
25 reasonable time for inspection by the party states.

1 (6) The commission shall adopt and publish bylaws and  
2 administrative rules as are necessary for the performance of  
3 its powers and duties under this compact. The commission  
4 shall file copies of any bylaws and rules adopted with the  
5 North Dakota energy development impact office and the  
6 Montana coal board.

7 (7) The commission is a legal entity separate and  
8 distinct from the party states. The commission is capable of  
9 action in its own behalf and is liable for its own actions.  
10 Liabilities of the commission are not liabilities of the  
11 party states. Commission members are not personally liable  
12 for actions taken by them in their official capacity. The  
13 commission may sue and be sued in its official capacity in  
14 any federal court of the party states and may accept for any  
15 of its purposes and functions donations, grants of money,  
16 equipment, supplies, materials, and services from any person  
17 or the federal government.

18 (8) The commission may employ a staff to carry out its  
19 duties and functions and may contract with any person for  
20 the purpose of providing expert consulting services.  
21 Employees of the commission shall participate in the federal  
22 social security system. The commission may establish  
23 additional employee benefit programs to afford terms and  
24 conditions of employment similar to those provided to  
25 employees of the party states.

1 Section 5. Impact assistance program. (1) There is  
2 hereby created the Beach-Wibaux plant impact assistance  
3 fund, to be administered under this compact by the  
4 commission.

5 (a) Each party state shall contribute to the fund an  
6 amount equal to 8% of the coal severance tax revenue for  
7 coal mined in that state for the plant, using the lesser of  
8 the coal severance tax rates of the party states.

9 (b) The commission may seek loans and grants from the  
10 party states' respective agencies charged with providing  
11 financial assistance to coal development impact areas. This  
12 money must be deposited in the fund. The loans may be repaid  
13 out of any money in the fund available for that purpose. The  
14 commission shall issue evidences of indebtedness as may be  
15 required to secure the loans. The commission shall provide  
16 financial assistance under this compact, using money  
17 received from a party state's coal impact agency only in the  
18 state from which the money is received.

19 (2) The commission shall develop a program for  
20 providing loans from the fund to the counties, cities,  
21 school districts, or other appropriate political  
22 subdivisions in the party states affected by the development  
23 and operation of the plant. The commission shall prescribe  
24 the terms and conditions of the loans. An entity receiving a  
25 loan from the fund shall execute a warrant as evidence of

1 the loan. The warrant must bear interest at a rate  
2 determined by the commission and is payable from any money  
3 available to the governing entity for repayment of  
4 indebtedness. The warrants must be negotiable. The  
5 commission shall deposit any proceeds from the sale of the  
6 warrants in the fund. The proceeds are not subject to  
7 taxation by the party states or by any political subdivision  
8 of the party states.

9 (3) The North Dakota state investment board and the  
10 Montana board of investments shall invest the idle or  
11 surplus money in the fund, in proportion to coal mined in  
12 the respective states for the plant, as required by the laws  
13 of each state. Upon determination by a majority vote of the  
14 commission that the balance in the fund, after repayment of  
15 any loans made under the provisions of subsection (1)(b),  
16 such repayment to be made from funds contributed under  
17 subsection (1)(a) by the state to which the loan is being  
18 repaid, exceeds the amount needed for grants and loans  
19 authorized under subsections (4) and (5), an amount equal to  
20 the determined excess shall revert to the party states in  
21 proportion to the coal mined in each state for the plant.

22 (4) The commission shall develop a plan for providing  
23 financial grants from the fund for services and facilities  
24 to the counties, cities, school districts, and other  
25 appropriate political subdivisions in the party states

1 affected by the development and operation of the plant or by  
 2 the closing of the plant. The commission shall make grants  
 3 to counties, cities, school districts, and other political  
 4 subdivisions in the party states according to procedures and  
 5 criteria established by rule.

6 (5) The grants and loans from the fund are to be  
 7 provided for the purpose of mitigating impacts affecting  
 8 governmental services and directly necessitated by the  
 9 construction and operation of the plant or by the closing of  
 10 the plant. All loan and grant applications and presentations  
 11 to the commission must be made by an appointed or elected  
 12 governmental official with authority to represent the  
 13 political subdivision seeking the grant. The commission  
 14 shall not provide loans or grants from the fund for the  
 15 purpose of providing marriage or guidance counseling  
 16 services, programs to alleviate other sociological impacts,  
 17 or services or facilities to meet secondary impacts.

18 Section 6. Amendment -- statutory construction --  
 19 limitation of authority. (1) This compact may be amended by  
 20 the party states in the same manner as is required to ratify  
 21 the compact.

22 (2) Nothing in this compact may be construed to  
 23 abrogate or limit the applicability of any act of Congress  
 24 or diminish or otherwise impair the jurisdiction of any  
 25 federal agency expressly conferred thereon by the Congress.

1 (3) Nothing in this compact may be construed to grant  
 2 any authority not expressly provided.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB001, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

The proposed legislation would create a Beach-Wibaux Plant Impact Assistance Interstate Compact and establish an interstate commission to administer the compact which would be funded from a portion of the coal severance tax.

ASSUMPTIONS:

- A. The Beach-Wibaux Plant Impact Assistance Interstate Compact Commission will not be established until the proposed plant has received a siting certificate from either Montana or North Dakota according to Section 3(1) of the bill.
- B. The applicant does not contemplate filing for such a certificate for at least five years. Another two to three years is necessary to process an application prior to issuing a certificate.

FISCAL IMPACT:

There will be no fiscal impact during the 1989 biennium.

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

There will be no fiscal impact during the 1989 biennium.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

There may be long-range expenditure implications of an unknown magnitude to the coal severance tax should the Beach-Wibaux plant receive a siting certificate from either North Dakota or Montana. It does not appear that this will occur within the next five to eight years. The future fiscal effects would depend on how much coal for the plant is mined in Montana.

TECHNICAL OR MECHANICAL DEFECTS IN PROPOSED LEGISLATION OR CONFLICTS WITH EXISTING LEGISLATION:

N/A

David L. Hunter DATE 1/8/87  
DAVID L. HUNTER, BUDGET DIRECTOR  
Office of Budget and Program Planning

John H. Anderson, Jr. DATE 1/9/87  
JOHN H. ANDERSON, JR., PRIMARY SPONSOR  
Fiscal Note for SB001, as introduced.

APPROVED BY COMMITTEE  
ON TAXATION

1                   SENATE BILL NO. 1  
2                   INTRODUCED BY ANDERSON  
3                   BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE  
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1           Section 2. Policy purpose. The states of North Dakota  
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21 of the North Dakota energy development impact office; the  
22 chairman of the Montana coal board; one TWO Montana  
23 resident;--residing-in-the-area-impacted-by--the--plant COAL  
24 BOARD MEMBERS, appointed by the governor of Montana, ONE OF  
25 WHOM RESIDES IN THE AREA IMPACTED BY THE PLANT, IF POSSIBLE,

1 OR IN ANOTHER COAL IMPACT AREA OF THE STATE; one North  
2 Dakota resident, residing in the area impacted by the plant,  
3 appointed by the governor of North Dakota; ~~one-person-from~~  
4 ~~Montana-appointed-by-the-chairman-of-the-Montana-legislative~~  
5 ~~council;~~ and one person from North Dakota appointed by the  
6 chairman of the North Dakota legislative council. The  
7 governors and chairmen of the legislative councils of each  
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19 any subject matter before the commission. No action of the  
20 commission is binding unless a majority of the total  
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23 months and shall also meet upon the call of the chairman or  
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 12 one-half by each party state. The commission shall submit to  
 13 the governor or designated officer of each party state a  
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 16 presentation to the legislative assembly of each party  
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 18 recommendations of the amounts to be appropriated by each  
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 22 shall engage an independent certified public accountant who  
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2 INTRODUCED BY ANDERSON

3 BY REQUEST OF THE COAL TAX OVERSIGHT SUBCOMMITTEE

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4 compact by appropriate legislation in substantially similar  
5 form and when the necessary permits for siting of the plant  
6 have been approved and issued under the North Dakota Energy  
7 Conversion and Transmission Facility Siting Act or the  
8 Montana Major Facility Siting Act.

9 (2) This compact is terminated when unanimously agreed  
10 to by the party states or when the plant has permanently  
11 ceased operations. In the event of termination, all rights  
12 established under this compact continue unimpaired. The  
13 unobligated moneys and assets of the fund at termination  
14 must be paid over to the party states in proportion to the  
15 coal mined for the plant in each respective state.

16 Section 4. Beach-Wibaux plant impact assistance  
17 interstate compact commission. (1) There is hereby created  
18 an interstate administrative agency to be known as the  
19 Beach-Wibaux plant impact assistance interstate compact  
20 commission. The commission must be composed of the director  
21 of the North Dakota energy development impact office; the  
22 chairman of the Montana coal board; one TWO Montana  
23 resident, residing in the area impacted by the plant COAL  
24 BOARD MEMBERS, appointed by the governor of Montana, ONE OF  
25 WHOM RESIDES IN THE AREA IMPACTED BY THE PLANT, IF POSSIBLE,

1 OR IN ANOTHER COAL IMPACT AREA OF THE STATE; one North  
2 Dakota resident, residing in the area impacted by the plant,  
3 appointed by the governor of North Dakota; ~~one person from~~  
4 ~~Montana appointed by the chairman of the Montana legislative~~  
5 ~~council;~~ and one person from North Dakota appointed by the  
6 chairman of the North Dakota legislative council. The  
7 governors and chairmen of the legislative councils of each  
8 party state shall appoint their party state's respective  
9 commission members for terms and conditions and in a manner  
10 as each party state may choose. The commission members  
11 appointed by the party states shall unanimously choose an  
12 additional member, who shall serve a term of 2 years and who  
13 shall, when present, act as chairman of the commission. The  
14 additional member may be removed as a member of the  
15 commission by a vote of three of the other commission  
16 members. There may be no alternates or proxies for  
17 commission members.

18 (2) Each commission member is entitled to one vote on  
19 any subject matter before the commission. No action of the  
20 commission is binding unless a majority of the total  
21 membership cast affirmative votes.

22 (3) The commission shall meet at least once each six  
23 months and shall also meet upon the call of the chairman or  
24 upon the call of two or more members. Meetings of the  
25 commission may be held in any place in either state the

1 commission determines to be reasonably convenient for the  
 2 attendance of persons required or entitled to attend and  
 3 where adequate accommodations can be found. The commission  
 4 shall afford reasonable public notice and opportunity for  
 5 comment at each meeting. All meetings of the commission must  
 6 be open to the public. All commission actions and decisions  
 7 must be appropriately recorded.

8 (4) Each party state is responsible for the payment of  
 9 the compensation and necessary expenses of its respective  
 10 commission members. All other expenses resulting from  
 11 administration of the compact must be allocated to and borne  
 12 one-half by each party state. The commission shall submit to  
 13 the governor or designated officer of each party state a  
 14 budget of its estimated expenditures for the relevant period  
 15 and as required by the laws of each party state for  
 16 presentation to the legislative assembly of each party  
 17 state. The commission budget report must contain specific  
 18 recommendations of the amounts to be appropriated by each  
 19 party state.

20 (5) The commission shall keep accurate records and  
 21 accounts of all receipts and disbursements. The commission  
 22 shall engage an independent certified public accountant who  
 23 shall annually audit all receipts and disbursements of  
 24 commission funds and submit an audit report to the  
 25 commission. The commission shall forward copies of the audit

1 report to the legislative assemblies of each party state.  
 2 The accounts of the commission must be open at any  
 3 reasonable time for inspection by the party states.

4 (6) The commission shall adopt and publish bylaws and  
 5 administrative rules as are necessary for the performance of  
 6 its powers and duties under this compact. The commission  
 7 shall file copies of any bylaws and rules adopted with the  
 8 North Dakota energy development impact office and the  
 9 Montana coal board.

10 (7) The commission is a legal entity separate and  
 11 distinct from the party states. The commission is capable of  
 12 action in its own behalf and is liable for its own actions.  
 13 Liabilities of the commission are not liabilities of the  
 14 party states. Commission members are not personally liable  
 15 for actions taken by them in their official capacity. The  
 16 commission may sue and be sued in its official capacity in  
 17 any federal court of the party states and may accept for any  
 18 of its purposes and functions donations, grants of money,  
 19 equipment, supplies, materials, and services from any person  
 20 or the federal government.

21 (8) The commission may employ a staff to carry out its  
 22 duties and functions and may contract with any person for  
 23 the purpose of providing expert consulting services.  
 24 Employees of the commission shall participate in the federal  
 25 social security system. The commission may establish

1 additional employee benefit programs to afford terms and  
2 conditions of employment similar to those provided to  
3 employees of the party states.

4 Section 5. Impact assistance program. (1) There is  
5 hereby created the Beach-Wibaux plant impact assistance  
6 fund, to be administered under this compact by the  
7 commission.

8 (a) Each party state shall, UPON AN APPROPRIATION BY  
9 ITS LEGISLATURE, contribute to the fund an amount equal to  
10 8% of the coal severance tax revenue for coal mined in that  
11 state for the plant, using the lesser of the coal severance  
12 tax rates of the party states.

13 (b) The commission may seek loans and grants from the  
14 party states' respective agencies charged with providing  
15 financial assistance to coal development impact areas. This  
16 money must be deposited in the fund. The loans may be repaid  
17 out of any money in the fund available for that purpose. The  
18 commission shall issue evidences of indebtedness as may be  
19 required to secure the loans. The commission shall provide  
20 financial assistance under this compact, using money  
21 received from a party state's coal impact agency only in the  
22 state from which the money is received.

23 (2) The commission shall develop a program for  
24 providing loans from the fund to the counties, cities,  
25 school districts, or other appropriate political

1 subdivisions in the party states affected by the development  
2 and operation of the plant. The commission shall prescribe  
3 the terms and conditions of the loans. An entity receiving a  
4 loan from the fund shall execute a warrant as evidence of  
5 the loan. The warrant must bear interest at a rate  
6 determined by the commission and is payable from any money  
7 available to the governing entity for repayment of  
8 indebtedness. The warrants must be negotiable. The  
9 commission shall deposit any proceeds from the sale of the  
10 warrants in the fund. The proceeds are not subject to  
11 taxation by the party states or by any political subdivision  
12 of the party states.

13 (3) The North Dakota state investment board and the  
14 Montana board of investments shall invest the idle or  
15 surplus money in the fund, in proportion to coal mined in  
16 the respective states for the plant, as required by the laws  
17 of each state. Upon determination by a majority vote of the  
18 commission that the balance in the fund, after repayment of  
19 any loans made under the provisions of subsection (1)(b),  
20 such repayment to be made from funds contributed under  
21 subsection (1)(a) by the state to which the loan is being  
22 repaid, exceeds the amount needed for grants and loans  
23 authorized under subsections (4) and (5), an amount equal to  
24 the determined excess shall revert to the party states in  
25 proportion to the coal mined in each state for the plant.



1           (4) The commission shall develop a plan for providing  
 2 financial grants from the fund for services and facilities  
 3 to the counties, cities, school districts, and other  
 4 appropriate political subdivisions in the party states  
 5 affected by the development and operation of the plant or by  
 6 the closing of the plant. The commission shall make grants  
 7 to counties, cities, school districts, and other political  
 8 subdivisions in the party states according to procedures and  
 9 criteria established by rule.

10           (5) The grants and loans from the fund are to be  
 11 provided for the purpose of mitigating impacts affecting  
 12 governmental services and directly necessitated by the  
 13 construction and operation of the plant or by the closing of  
 14 the plant. All loan and grant applications and presentations  
 15 to the commission must be made by an appointed or elected  
 16 governmental official with authority to represent the  
 17 political subdivision seeking the grant. The commission  
 18 shall not provide loans or grants from the fund for the  
 19 purpose of providing marriage or guidance counseling  
 20 services, programs to alleviate other sociological impacts,  
 21 or services or facilities to meet secondary impacts.

22           Section 6. Amendment -- statutory construction --  
 23 limitation of authority. (1) This compact may be amended by  
 24 the party states in the same manner as is required to ratify  
 25 the compact.

1           (2) Nothing in this compact may be construed to  
 2 abrogate or limit the applicability of any act of Congress  
 3 or diminish or otherwise impair the jurisdiction of any  
 4 federal agency expressly conferred thereon by the Congress.

5           (3) Nothing in this compact may be construed to grant  
 6 any authority not expressly provided.

-End-