

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON TAXATION**

Call to Order: By **CHAIRMAN BOB DEPRATU**, on January 24, 2001 at 8:00 A.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. Bob DePratu, Chairman (R)
Sen. Alvin Ellis Jr., Vice Chairman (R)
Sen. John C. Bohlinger (R)
Sen. Mack Cole (R)
Sen. Pete Ekegren (R)
Sen. Jon Ellingson (D)
Sen. Bill Glaser (R)
Sen. Dan Harrington (D)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Lee Heiman, Legislative Branch
Deb Thompson, Committee Secretary

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

Committee Business Summary:

Hearing(s) & Date(s) Posted: Senate Bill 43, 1/29/2001;
Senate Bill 143, 1/29/2001
Executive Action: Senate Bill 162 as amended
Senate Bill 173 Hold

HEARING ON SENATE BILL 134

Sponsor: SENATOR KEN MILLER, SD 11, Laurel

Proponents: Jim Mockler, Montana Coal Council; Ken Morrison, PPL; Kelly Mader, Kennecot Energy (not present)

Opponents: Patrick Judge, MEIC; Vernon Bertelson; Matthew Leo, Mont-Perc; Suzzane Davis, Northern Plains Resource Council

Opening Statement by Sponsor: SENATOR MILLER described coal production in Montana and the need for a lower tax rate on new electrical generation powered by coal. He pointed out other coal producing states, such as Virginia, encourage value added production, however Montana sells the coal outright. Only new incentives will help Montana build this industry to create good paying jobs in mining and the generation plant. A sustainable industry will attract high tech jobs. He pointed out that the use of coal in power production was clean and cheaper to produce than hydro-electric and was not dependant on the amount of snow. *{Tape : 1; Side : A; Approx. Time Counter : 0 - 4}*

Proponents' Testimony: Jim Mockler, Montana Coal Council, described the history of the council. He said a 1970 study done by Northern Plains Power forecasted population growth. He stressed that an added tax was a deterrent to production. The report has pointed to a shift in production to the state of Wyoming where production exceeded 400 million tons. This tax policy basically told the industry they were not welcome in Montana. Senate Bill 134 would be an encouragement to welcome back the power industry and add value to the product. This would employ people in Montana. *{Tape : 1; Side : A; Approx. Time Counter : 4 - 6.7}*

Ken Morrison, spoke in favor of the bill. He said this bill encouraged further power generation. There is no impact on the general fund. This would impact existing and new production.

Opponents' Testimony: Patrick Judge, Montana Environmental Information Center, opposed the bill. He described MEIC as being formed in 1973 with the goal of protecting and restoring Montana to its natural environment. He pointed out that this bill would give incentive to new power generation which was not needed by Montana, since Montana exports 47% of power elsewhere. The incentive is already provided by high market prices. This is not the best strategy. Instead there is a need to diversify to alternative resources that have a proven environmental benefit. He stressed the climate changes and 97% of the world climate scientists have determined that a drastic reduction in the use of fossil fuels is needed to slow the global warming trend. Melting ice caps and reduced snow coverage is already occurring. The growing season has been extended two weeks in Missoula since 1950. Fuel emissions have contributed to this growing problem.

Vernon Bertelson, spoke in opposition to the bill. He noted that Montana had one of the largest coal resources in the nation and

it was not wise to export materials without leaving something for Montana. **{Tape : 1; Side : A; Approx. Time Counter : 11.8 - 13.6}**

Matthew Leo, Mont-Perc a consumer advocacy group, asked if the bill really did what it was intended to do. He pointed out that 50% was exported from the state. He asked if this was a tax break on existing facilities or was the bill just an incentive for more plant production.

Suzzane Davis, Northern Plains Resource Council, spoke against the bill. She said the concerns were for a loss of local government revenue if extended to all coal power plants. **{Tape : 1; Side : A; Approx. Time Counter : 15.7 - 16.5}**

Questions from Committee Members and Responses: SENATOR ELLINGSON asked **SENATOR MILLER** if there should be a requirement to have the electric production sold in Montana. **SENATOR MILLER** replied that it would be a benefit if a lot of the power was sold to California. Electricity is a commodity and Montana is the exporter. Local businesses want a secure power source, generated in Montana. It is cheaper to buy power in Montana. It costs about three cents to ship it out of state. He said it is an incentive to build additional power generating plants since it generates revenue and tax dollars. It will help us and California. Montana will benefit greatly.

SENATOR ELLINGSON asked about an amendment to require preference to Montana customers. **SENATOR MILLER** replied that it would be possible but there really should be no restrictions as it would defeat the purpose of the bill. He pointed out the incentive sent a message that will also pay high wages in a safe industry.

SENATOR BOHLINGER pointed out the proposal seemed to increase jobs, expands the tax base and added value to a Montana product. He asked if a tax on new coal production at ten percent was comparable to Wyoming. **Jim Mockler** replied that it was a different collection procedure. Now, collections per ton of coal are about twice that of Wyoming. Montana pays about one dollar compared to Wyoming at fifty cents. **{Tape : 1; Side : A; Approx. Time Counter : 24.6 - 26.7}**

SENATOR BOHLINGER asked **Mr. Judge** to comment about the cleanliness of the Colstrip project. He pointed out the reclamation job at Colstrip was commendable. **Mr. Judge** replied that the carbon dioxide issues were of primary concern. Providing offsets by creating carbon sinks such as planting trees, would be his recommendation.

SENATOR BOHLINGER asked **Ms. Davis** to comment. He pointed out they were both members of the Northern Plains Resource Council. He noted the real efforts made in Colstrip in regards to planting trees, shrubs and flowers. **Ms. Davis** replied that the Northern Plains Resource Council was concerned on the prospective loss of revenue to local governments facing environmental impacts, since a portion of the coal tax did provide revenue. *{Tape : 1; Side : A; Approx. Time Counter : 26.7 - 30}*

SENATOR BOHLINGER pointed out that the bill did not reference any rollback in taxes on current production. **SENATOR MILLER** said the bill addressed new generation. This also allowed the plants the opportunity to recoup some of those expensive pieces of equipment that provided environmental technology. That is why the bill addresses only new generation.

SENATOR GLASER asked **Mr. Judge** about power being exported out of the state. He asked how much of this power being generated in the state of Montana belongs to the state of Montana. **Mr. Judge** replied that the state of Montana did not own the water. He pointed out the waters of the state are constitutionally preserved for the people of the state of Montana and our rivers have been used without charge to produce electricity. The environmental costs of electric generation are borne by Montanans, including social costs. He pointed out the bill would reduce the tax. **SENATOR GLASER** asked how much of the water and power was controlled and generated on behalf of the federal government. **Mr. Judge** replied there were 13 dams sold to PPL and he was not sure which the federal government owned.

SENATOR GLASER asked about whether Montana was an exporter or an importer. **Mr. Morrison** replied there were 5,000 megawatts of production in Montana. PPL has production of about 1,200 megawatts. He said they had a commitment to Montana Power to furnish power to meet their needs. During peak times, PPL capability does not always meet their needs, so they often acquire additional power. **SENATOR GLASER** pointed out that meant they were buying power from either the federal government or from outside the state, from the grid, paying market price and selling it at a controlled price. **Mr. Morrison** replied when they did not have adequate power to meet the contract obligations with Montana Power, they must go out in the market place and purchase power at the regional market prices. **SENATOR GLASER** pointed out there were huge federal dams that were big generators of power. The power that we as Montanan's say is ours, in excess, is the federal governments power. **Mr. Morrison** replied there were many other producers of power in the state, besides Montana Power and PPL Montana, as well as the federal government and other Colstrip owners. **SENATOR GLASER** asked if it was true that the city of Los

Angeles was one of those owners. **Mr. Morrison** replied that he could not confirm that, however some of the owners were Avista, Pacific Corp of Portland, Puget, Montana Power and PPL of Montana. **{Tape : 1; Side : B; Approx. Time Counter : 0 - 10.1}**

SENATOR COLE asked **Ms. Davis** about their organization's criticism of coal development. **Ms. Davis** said that she had never visited the reclamation projects at Colstrip.

SENATOR ELLIS asked **Mr. Judge** to respond to the fact that the power industry produced enough power to have a 45% reserve since 1981. Now there was lower production and there is a 5% reserve and that is why there is a power crisis, despite the power prices currently. He asked **Mr. Judge** to provide the committee with information as to how much the Montana electrical industry provided in taxes for state and local government over the last twenty years. **Mr. Judge** said he did not have that information but would be happy to get it for the committee. **{Tape : 1; Side : B; Approx. Time Counter : 10.1 - 14.9}**

SENATOR STONINGTON pointed out to **Mr. Morrison** that PPL owned a fair amount of generation in the state. This bill was intended to create incentive for new generation in the state. She asked if new generation were to come on line and old generation was still taxed at 15%, three times the rate of new generation, would that put PPL at a competitive disadvantage. **Mr. Morrison** pointed out this was not a direct tax on them. It would influence how they had to buy their coal, as there would be two different prices. **SENATOR STONINGTON** asked about generation capacity and the market place. She said she understood that part of the problem in Montana was transmission. If this was true what probability did this incentive have for a company to come in and build a new plant that had no where to send its electricity because of the transition lines. **Mr. Morrison** said there was concern about generation but the current transmission lines coming out of Colstrip have availability on them. He said there may be come opportunity to move power on those lines but power generation needs improved power capabilities. **{Tape : 1; Side : B; Approx. Time Counter : 14.9 - 19.3}**

SENATOR STONINGTON asked what incentive was there for new power plants if new transmission lines could not be built when the power was not needed in the state. **Mr. Morrison** replied there was a lot of issues raised but they were in a regional market in Montana. If there is a shortage in the region, prices are influenced for all of us. There has been discussion about trying to improve opportunities for regional power. PPL Montana currently has projects going in Arizona and Washington to provide

additional power to the region. There are various ways to look at the transmission situation and find opportunities. **{Tape : 1; Side : B; Approx. Time Counter : 18.9 - 21.3}**

SENATOR HARRINGTON said he could understand building new facilities but wanted to point out another problem with economic development. There is a serious problem with Columbia Falls shut down because they are selling their power. MRI is shut down in Butte and the cement plant and industries all across the state that are not functioning. This bill does not specify that some of this power be available to Montana. Many of these industries are being shut down because of the price of power and may not recover. He asked what we could do to maintain what we have right now. **SENATOR MILLER** said it was a good question but he was a believer in free market. By creating enough power and a stable power source that in itself will help Montana. **SENATOR HARRINGTON** pointed out that with the energy shortage we seem to be moving the other direction where we are shutting down businesses. How do we try not to be just an exporter and not benefit ourselves. **SENATOR MILLER** said we are helping ourselves in a lot of ways and one is the value added issue. It would be different if we were just shipping out coal and making a big hole with no tax revenues, but this is not the case. This will give incentives so that we build our facility here rather than in another state and put an added value on that coal. There are transition taxes, income taxes, equipment taxes, personal property taxes and others that are generated. There is a huge benefit for Eastern Montana. **{Tape : 1; Side : B; Approx. Time Counter : 21.3 - 30}**

Closing by Sponsor: SENATOR MILLER closed. He informed the committee that another proponent, Mr. Kelly Mader from Kennecot Energy, wanted to go on record. Their company is very interested in building energy generation in Montana. Other issues brought up in the diversity of generation was that of wind and solar but we cannot produce enough wind and solar to take care of our needs. Coal generation is a good, viable source that is cheap here in Montana and one of the things that can take care of the base. One of the concerns that people are talking about is gas fired plants. It is fine as a piece of the puzzle and that is what PPL is talking about in Arizona and Washington where there are high population areas. Why that works good is, as **Mr. Morrison** mentioned, is the transmission lines are difficult during peak hours. If you can have some peak generation, closer to the populations it would work better. We still need this base generation. Also the question came up if we build it can be get it out of here. There is some limitations but that is another piece of the puzzle. There is a lot of transmission lines in place that can be added to without building new ones. He pointed

out the difficult issue of people on fixed incomes having to deal with the high cost of power. This would help that situation. The last concern is the interstate commerce issue. There is a lot of this type of taxation in several states that goes on. This may not be an interstate commerce factor because it is in an emergency status, at least for California. For those purposes, there are some exemptions under the interstate commerce to address the emergency needs in the nation. If this were ever tested in Court, that is what would decide this. **{Tape : 2; Side : A; Approx. Time Counter : 0 - 6.8}**

HEARING ON SENATE BILL 43

Sponsor: SENATOR SAM KITZENBURG, SD 48, Eastern Montana

Proponents: Ken Morrison, PPL Montana; Webb Brown, Montana Chamber of Commerce; Mary Whittinghill, Montana Taxpayers Association; Mike Strand, Montana Independant Telecommunication Systems; Geoff Feiss, Montana Telecommunication Association; Barry Stang, MMCA; SENATOR PETE EKEGREN, SD 44

Opponents: None

Opening Statement by Sponsor: SENATOR KITZENBURG, presented SB 43 He described the Legislature as dealing with the three "E's", Energy, Economic Development and Education. He felt this bill provided a solution, as far as economic development was concerned. This would provide better paying jobs for Montana, better economic growth and a better business climate. **EXHIBIT (tas19a01) EXHIBIT (tas19a02)** He discussed the past Sessions and his attempts to bring this bill forward. He said six years ago, Jim Tutweiler from the Chamber of Commerce, helped do a survey of surrounding states to see what advantages they have as far as their taxes, to perhaps encourage a more competitive playing field in Montana. If they are doing something right, maybe we could copy it. Mr. Tutweiler had reported back that the surrounding states had two advantages. Most of them had a sales tax so they could take reductions and replace their reductions and they had Investment Tax Credit, especially in Idaho which was working extremely well. He had asked Mr. Tutweiler for additional information. Last Session, it became an "and-or" situation between this and the reduction of the Business Equipment Tax. He pointed out this idea worked very well in Idaho. He said there were a lot of factors that came into play. At one time, Billings and Boise, Idaho were the same size. Now Boise is three times the size of Billings. This is one of the factors that put Boise in that competitive position. He noted that Pat Kiem, who lobbies for Burlington Northern, said

their company utilized the Investment Tax Credit to make an investment in Idaho. It was the deciding factor to make their investment in Idaho. He pointed out four good reasons the Investment Tax Credit was important to pass. First, if this is enacted this bill would seriously impact Montana's business climate by encouraging businesses to expand. It would encourage businesses to purchase more production equipment and ultimately to generate more economic activity in the form of good paying jobs. It would put Montana on a more competitive position. We would be able to compete with Idaho. Right now, chances are that business would go to Idaho. Secondly, by focusing on equipment tax, the Investment Tax Credit would target a work category that could be expected to produce high paying jobs. Montana still lags, in terms of per capita income, which suggests that our growth is not focused on activities that generate higher wages. Third, the mechanics of this bill do not take away from the tax base of cities and counties. It is a bill where something positive has to occur, the purchase of equipment, used to further economic activity, before there is a triggered reduction in tax revenue. You have to spend that money before you get that credit. Fourth, this bill is available to all. It is available to new businesses as well as existing businesses. It is available to small businesses as well as large businesses. One way to expand the economy in Montana is to offer an incentive for small businesses to expand their businesses. He pointed out the fiscal note only emphasized what it would cost and did not figure what it would generate and counteract. The Budget Office said they would take a second look. They had asked Idaho for additional data but had not researched this. He asked the committee to consider the multiplying fact when you create jobs. He pointed out this bill was really revenue neutral when considering the rippling effect, and will stimulate the economy in Montana. **{Tape : 2; Side : A; Approx. Time Counter : 6.8 - 22.3}**

Proponents' Testimony: Ken Morrison, representing PPL Montana, spoke in favor of the bill. He said they actively supported programs that expand business development. They provided funding to the Department of Commerce for business development, resources to develop a new web site to help locate new business here as well as providing funding for training for economic development staff throughout the state and money for travel to various trade organizations. He suggested the committee look at Section 3, Subsection 3c and consider changing the effective date from December 31, 2001 to December 31, 2000. The effect would be to provide a more immediate incentive for job expansion. **{Tape : 2; Side : A; Approx. Time Counter : 22.3 - 23.2}**

Webb Brown, representing the Montana Chamber of Commerce, said this was an answer that would spur greater economic activity in Montana. He said the sponsors fiscal note was very positive. Idaho should be looked at, as this has been one of the tools used to increase the economic activity in that state. The possibility of small businesses as well as large, new as well as existing, to be able to expand and increase their investment in the state and in their business would further advance Montana's economy.

Mary Whittinghill, Montana Taxpayer Association, supported the bill. She said this would spur economic development. There were two very different fiscal notes presented and the committee should look at both and make a reasonable assessment.

Mike Strand, Executive Vice President and General Council for Montana Independent Telecommunications Systems, a trade association that represents telephone cooperative and independent telephone companies spoke as a proponent. He looked into the marketplace in Montana to boost the development of advanced telecommunications infrastructure and services in Montana and the development of high tech economy. They created Midst, LLC, that provided consulting and management services for high tech ventures. They created I-Connect Montana. He discussed why other high tech companies were not locating in Montana. If a company wanted to establish a presence in Montana, they had to send somebody here on an airline, stay in a hotel, look around the Billings area to find a building suitable for their equipment. Then they had to look at the costs and time involved in refurbishing that building, so that it would have temperature controls and security, humidity controls and controlled power - sometimes AC sometimes DC. After substantial time and effort, they spent a year and several hundred thousand dollars, just to have a presence in one of the smallest markets in the United States. It was just not worth it. He described a business built (called "Fiber Hotel") to address this problem that has all the amenities described and all a company has to do is plug in their equipment. Now they are renting space in the Grand Towers building and it has been very popular. This business is expanding in other cities in Montana. They are continuing to increase employment, high paying positions, and building these systems. This kind of incentive, provided by SB 43, would help make the investment decision go forward in Montana. **{Tape : 2; Side : A; Approx. Time Counter : 23.2 - 30.6}**

Geoff Feiss, Montana Telecommunications Association, described the money being invested in a variety of locations in Montana. The debate about the stimulation of business by using tax credits is ongoing. The companies that he represents, invest every dollar they earn in Montana. They employ the highest state of

the art technologies and pay employees well with benefits. A dollar saved with taxes, in the form of a tax credit, is a \$1 invested elsewhere. They dollars are invested back into the state. **{Tape : 2; Side : B; Approx. Time Counter : 0 - 1.3}**

Barry Stang, lobbyist for the Montana Motor Carriers Association and former state Senator, spoke for the bill. He described the trucking industry in Montana and how it worked. They have experienced a shortage of drivers in Montana in the last two years. The reason for the shortage is there is no longer businesses that manufacture things in Montana. Most business that are here are going out of business. The drivers hired and trained here, move to other states because they like to come home one or two days a week or one or two days a month to see their families. A good example is the proposed closure of Pyramid Lumber in Seeley Lake Montana. Pyramid Lumber produced 50 truckloads a week of lumber that is transported out of Montana. That is 100 loads every two weeks. The trucking firms in Missoula are able to get their drivers home 100 times every two weeks to come back to Montana to see their families so that they can continue to live here and continue to work here. With the loss of that, that is 100 less times that those drivers can come home. That increases the chance that those drivers are going to go to work for a firm in another state because they will be able to come home and see their families. The Montana Motor Carriers supports any bill that encourages growth in the economy in Montana, growth in manufacturing in Montana and growth of new jobs in Montana, so that we can continue to keep our truckers living in Montana and working in Montana. **{Tape : 2; Side : B; Approx. Time Counter : 1.3 - 3.8}**

SENATOR PETE EKEGREN, SD 44, Choteau, spoke as a proponent to the bill. He described his experience in the implement business. For years there was a federal investment credit of 7%. Farmers set up their buying schedule based on this investment credit. They traded more often, their equipment was better and the business always prospered with the investment credit. John Deere prospered. When the federal government took away the investment credit, business dropped off by 25-35%. Investment credit stimulates business at the local level and all the way back to the manufacturer. **{Tape : 2; Side : B; Approx. Time Counter : 3.8 - 6.6}**

Opponents' Testimony: None

Questions from Committee Members and Responses: **SENATOR ELLINGSON** asked **Terry Johnson** to discuss the impacts of the fiscal note. He asked what the benefit would be from the traditional economic activity and also revenues that would be generated in the state.

The sponsor's fiscal note, concluded there would be \$580 million dollars invested subject to the 3% tax credit in any given year. He asked if there was any way to evaluate how much of that investment would be made or is being made now on an annual basis by Montana businesses and individuals, separating that out from the investment that would be induced by the 3% tax credit. He wanted information about what we would be giving up if there was a credit that would be an investment any way. How much is gained by new investment that is made only as a result of this kind of an incentive. **Mr. Johnson** said their agency had not spent the time on the issue. He pointed out with these types of proposals, the Department of Revenue or the Office of Budget and Program Planning don't get into the process of trying to estimate impacts of bills from a dynamic sense. They do not take into account the positive impacts of legislation. **{Tape : 2; Side : B; Approx. Time Counter : 6.6 - 11.4}**

Closing by Sponsor: SENATOR KITZENBURG closed. He pointed out they would not continue this in Idaho if they had losses. There is a new plan, by Mr. Phil Brooks, called In-Plan. It is a new program that you can run on scenarios. He recommended plugging this into the formulas to see what scenarios could be derived. He asked the committee to seriously consider the bill as it would have a beneficial impact on the economy of Montana. **{Tape : 2; Side : B; Approx. Time Counter : 11.4 - 14.9}**

EXECUTIVE ACTION ON SENATE BILL 162

SENATOR COLE MOVED SB 162 AS AMENDED. **Mr. Heiman** explained these amendments had been approved by the committee in a prior meeting. The question was called. The motion **PASSED** 7-0. Senators GLASER and Stonington were not present.

EXECUTIVE ACTION ON SENATE BILL 192

SENATOR ELLIS MOVED THE BILL. **Mr. Heiman** explained the amendments. **EXHIBIT (tas19a03) SENATOR ELLIS MOVED THE AMENDMENTS.** The amendments **PASSED** Unanimously. **SENATOR ELLINGSON MOVED THE BILL AS AMENDED.** The question was called. The motion **PASSED** Unanimously.

EXECUTIVE ACTION ON SENATE BILL 173

SENATOR ELLIS MOVED THE BILL AND THE AMENDMENTS. He said the amendments were provided by the Department of Revenue.

EXHIBIT (tas19a04) Lee Heiman said there were amendments passed out during the hearing that removed the repealers. There were two amendments that were technical. Technical amendment one changed the date to start the indexing. Technical amendment two changed the method in which retirement phase-out was handled. That is now handled in this Department of Revenue handout in exhibit 4. **SENATOR ELLIS** said these amendments are in line with the Revenue and Taxation Committee recommendations. **Mr. Heiman** discussed what needed to be segregated out. There are three questions to answer. One is the repealers. The second question is a simple date error. The third error is the discussion of whether the bill says that for retirement income of \$60,000 for the phase out but it should be \$30,000 for singles and \$60,000 for joint. The question was called on **SENATOR ELLIS'S** amendment. The motion **PASSED** 7-0. **SENATOR ELLIS** said that if there is one pensioner in a joint filing, you phase out the 4,700 dollar exemption at the \$30,000 level just as you did with the single filing. If there are two pensioners on a joint filing, the phase out starts at \$60,000 which makes it consistent with former law. That is what the Department's complex amendments do. **SENATOR ELLIS MOVED THOSE AMENDMENTS.** The question was called. The motion **PASSED** unanimously.

CHAIRMAN DEPRATU said we would hold the executive action on this bill to this point.

ADJOURNMENT

Adjournment: 9:55 A.M.

SEN. BOB DEPRATU, Chairman

DEB THOMPSON, Secretary

BD/DT

EXHIBIT (tas19aad)