96TH CONGRESS 2d Session } HOUSE OF REPRESENTATIVES { REPT. 96-1527 Part 1

LIMITATION ON COAL SEVERANCE TAXES

DECEMBER 4, 1980.—Ordered to be printed

Mr. STAGGERS, from the Committee on Interstate and Foreign Commerce, submitted the following

REPORT

together with

MINORITY AND DISSENTING VIEWS

[To accompany H.R. 6625]

[Including cost estimate of the Congressional Budget Office]

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H.R. 6625) to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural resources through removing excessive burdens on production of coal, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

Purpose and Summary of the Legislation

This bill amends the Powerplant and Industrial Fuel Use Act of 1978 for the purpose of furthering the objectives of our national energy policy of conserving oil and natural resources by removing excessive burdens on the production of coal. It provides a limitation of 12½ percent on the sum of all severance taxes and fees, in respect of any fiscal year, a State or any political subdivision may levy upon or collect from any taxpayer on coal destined for shipment in interstate commerce for use in any powerplant or major fuel-burning installation.

Committee Findings

Based upon a full consideration of the record, the Committee finds:

1. Increased coal utilization is necessary to reduce petroleum imports, reduce export of dollars and improve the national balance of trade deficit;
2. Increasing coal severance tax rates reduce coal production;
3. Excessive coal severance tax rates frustrate national energy policy;
4. The Surface Mining Control and Reclamation Act State reclamation laws and other laws are presently adequate to meet the environmental costs of coal production;
5. Certain State coal severance tax rates in excess of 12½ percent are resulting in revenues being paid to those States far in excess of the direct and indirect impact costs attributable to the coal production while unreasonably increasing energy costs, including electric utility rates to out-of-State consumers;
6. A State tax unfairly skewed to elicit revenues from out-of-State residents who are denied a voting voice in determining such tax may polarize the Nation and promote fractiousness and regional divisiveness; and
7. A 12½ percent limit on coal severance tax rates is adequate, fair and reasonable.

Background and Need for Legislation

A. General Comments

Since the oil embargo in 1973, the United States has attempted to reduce its dependence on imported petroleum. Continued vulnerability to future interruptions has caused the misallocation of vital and limited national resources, the diversion of national priorities and increased threat to National security. The Iranian oil reductions in the Spring of 1979 resulted in gas lines, curtailed manufactures, and unemployment generally. The massive export of dollars to pay for our petroleum imports has substantially added to, if not precipitated, domestic inflation and the weakness of the dollar in overseas markets. The Congressional Budget Office (CBO) has estimated that, in a worse case scenario similar in gravity to the 1973 oil embargo, the loss of each barrel of oil could result in a loss in gross national product of about $200 in current dollars or as much as $350 by 1984. The Director of the CBO, Dr. Alice M. Rivlin, testified such conditions would mean a total sustained impact of one million jobs lost.

A key part of the solution must be increased utilization of domestic resources. That means coal. President Carter's first National Energy Plan, announced April 20, 1977, called for the conversion of existing electric utility powerplants and major fuel-burning installations to switch from oil to coal and for new plants to be built so as to utilize coal as the primary energy source. That resulted in the enactment of the Powerplant and Industrial Fuel Use Act of 1978. In announcing the second National Energy Plan on May 7, 1979, President Carter declared:

> Coal, the nation's most abundant fossil energy resource, should be used in place of oil and gas wherever economically and environmentally feasible. Programs that increase the use of coal as a substitute for oil will receive the highest priority.

In response, to both Presidential calls for action, the Congress acted. Previously, it had passed the Energy Supply and Environmental Coordination Act of 1974, and later the Powerplant and Industrial Fuel Use of 1978. These two statutes established the coal conversion program. More recently, in June of 1980, the Energy Security Act was enacted. This latest piece of coal legislation established an $88 billion program to make liquid and gaseous fuels from coal and oil shale. These major legislative actions demonstrate a clear national commitment to the development of coal as a vital resource necessary to reduce our dependence as a Nation on imported foreign oil.

The United States has the world's richest deposit of an important energy resource—coal. Our national coal reserves are more abundant than the oil reserves of the entire Middle East. As our domestic oil reserves are exhausted, coal must increasingly sustain our nation's energy security and self-sufficiency.

Despite this national goal of reducing oil imports by the increased use of coal, we find the use of coal is being impeded and that one of the reasons is that certain States are imposing severance taxes that are restricting the use of coal. These States, Montana and Wyoming, together hold 40 percent of all U.S. coal reserves and 68 percent of the low sulphur (the value of which has been significantly enhanced by environmental legislation passed by the Congress in the 1970's).

In 1975, after the Arab embargo and after the first Federal coal conversion legislation, Montana increased its coal severance tax from 34 cents per ton to approximately 30 percent of value. Wyoming subsequently increased its State severance and local *ad valorem* taxes to a combined total of approximately 17½ percent. These severance taxes are higher than taxes on any energy reserve in any other State (with the possible exception of North Dakota's 89 cents per ton tax on lignite, which is estimated to equal about 20 percent). The cost of these severance taxes is borne principally by consumers in other States who have no voting voice in deciding the rates they must pay.

Montana and Wyoming export the bulk of their coal to other States. In 1978, 53 utilities in 21 States bought Montana and Wyoming coal, with 82 percent of the demand originating out-of-state. Severance tax revenues in 1978 were $33.6 million in Montana and $66.6 million in Wyoming, for a total of about $100 million. By 1987, 68 utilities in 27 States will buy Montana and Wyoming coal, paying a conservative estimate of $360 million to the two States. In 1987, 92.4 percent of the total demand, it is estimated, will originate out-of-state.

Montana's and Wyoming's severance taxes are passed on to electricity consumers. Coal contracts routinely provide for the pass-through of severance tax increases (and decreases); fuel adjustment clauses allow utilities to pass on to the consumer their full costs for fuel, which includes severance taxes.

Montana's 30 percent tax and Wyoming's 17½ percent tax are many times higher than necessary to cover State direct and indirect costs to support coal production. A study of such costs presented to the Subcommittee by the National Economic Research Associates estimated the total at less than 10 cents per ton or 2½ percent of value. This compares with the well over $1.00 per ton earned by the Montana and Wyoming taxes. The Congressional Budget Office showed Montana and Wyoming amassing the largest surpluses of coal revenues over costs in the Nation. According to the CBO, in 1990, Montana's coal budget surplus will be $84.8 million and Wyoming's will be $328.2 million.

Unlike oil, coal is purchased pursuant to long-term contracts with a specific mine or coal producer. Boilers are designed to meet the specifications of the particular coal being acquired. Transportation facilities are constructed or expanded on the basis of the long-term coal purchase agreements. Thus, substantial capital investments are made at the site of production and at the point of consumption, as well as numerous locations between the two. As a result of such investment, it is not possible to change suppliers as freely as may be done in the case of oil or similar fuels. The ability to seek a lower price and, therefore, to change suppliers is lost once the investments are made. This factor together with the imposition of excessive severance taxes works to discourage investments in coal. New contracts for Montana coal have dropped off precipitiously. Prior to July 1975, when the tax was passed, utilities signed 20 contracts for almost 800 million tons of Montana coal. Over one-half (11) of these were for periods of 20 years or more. In the three years after the tax was passed, only four contracts were signed—for periods of 14 months, 22 months, 6 years, and 6 years with a 5-year option. These contracts are also for very small amounts. Only one long-term contract has been signed since the tax was passed: a 25-year contract with Houston Lighting and Power in June of 1978, to begin deliveries in 1980.

The decline in the growth rate of Montana coal is illustrated by the following figures:

MONTANA COAL PRODUCTION, 1970–79

	Tons (thousands)	Annual percent change
Before imposition of the 30 percent severance tax:		
1970	1,280	
1971	7,299	
1972	7,931	+8.7
1973	10,541	+32.9
1974	13,675	+29.7
1975	22,087	+61.5
After imposition of the 30 percent severance tax:		
1976	26,181	+18.5
1977	27,393	+4.6
1978	26,679	−2.6
1979 (January–July 31)	17,083	[1] +11.8

[1] 5.1 percent over 1977.

Source: 1970–78: State of Montana, Workmen's Compensation Division of the Department of Natural Resources and Conservation. 1979: Montana Coal Council. The 1979 January-July 31 percentage increases shown is thein crease in January-July 31 production during the comparable 7-mo periods in 1977 and 1978.

It was argued during Committee consideration of this bill that Montana's severance tax on coal is, in fact, lower than the severance tax of oil-producing States when the fuels taxed are compared on the basis of cents per Btu. The Committee concurs in the statement of Dr. Irwin Stelzer who testified before the Subcommittee on Energy and Power that:

> As an economist, I must agree with Representative Gramm who pointed out earlier the fallacy of using the Btu as a unit of value in comparing state severance tax rates. *Ad valorem* taxes, as the name implies, are taxed on the value of a good or service, and that value is generally measured in price. The price of a commodity reflects all of the elements of cost and value entailed in its use. People don't buy Btus; if they did, they could fill their automobiles with coal. Coal is worth so much less per Btu than liquid fuels that Congress is enacting an enormous subsidy to permit conversion of solid coals to liquid fuels. If all we needed were Btus, why convert one form of Btu to another? Further, the economic impact of a tax depends on its relation to the price, not some physical characteristic, of the fuel.

The States of Montana and Wyoming already reap large benefits from coal production. The Federal Government provides substantial aid to cover State costs related to coal production from Federal lands within these States. (discussed, *infra*) The Surface Mining Control and Reclamation Act, State reclamation laws and other laws, require coal companies to undertake and pay for exhaustive reclamation and protection of air and water quality, at an average cost of $5,000 per acre.

There is nothing to prevent other States from hiking their severance taxes to Montana and Wyoming levels. As Montana continues to collect so much in severance taxes that it must allocate State surpluses to a trust fund, other State governments will be increasingly tempted to do the same. The Subcommittee on Energy and Power heard testimony that the States of Colorado and New Mexico were considering increasing coal surcharges. In Wyoming, a bill proposed before the State legislature would have increased Wyoming's 17½ percent severance tax by an additional 4 percent.

The Committee finds that placing an upper limitation on those severance taxes, as they may affect interstate commerce, is necessary and in the public interest. This limitation will promote the interstate use of a domestic resource, will result in decreased use of imported petroleum and will, therefore, reduce the export of dollars and the Nation's balance of trade deficit. The Committee also finds that the limitation of 12½ percent on severance taxes will not prevent the proper and adequate environmental restorative actions from being taken and will more than adequately compensate States for the economic costs of production.

The Committee does not object to severance taxes generally and does not intend to underestimate the cost impact of mining activities, but rather to state that the increased cost of coal resulting from unforeseen and excessive severance taxes, imposed without regard to the impact upon national policy or fairness to out-of-state consumers, constitutes an exploitation of those consumers and with respect to future coal production is contrary to national policy.

B. REGIONALISM

The amounts of money being collected under the severance taxes will become quite large, resulting in budget surpluses unrelated to State revenue requirements. Montana's revenues from its severance tax, for example, have become so huge that starting in 1980, 50 percent of the proceeds have to be transferred to a trust fund for the future. Representative Ron Marlenee supplied the Committee with the following table:

COAL SEVERANCE TAX AND ITS COMPONENT PARTS

Fund	Fiscal year— 1979	1980	1981
Trust fund for future generations	$10,700,000	$23,600,000	$40,300,000
Alternative energy grants for research, and demonstration programs in solar, wind, biomass and other areas	800,000	1,500,000	2,000,000
Local impact account to mitigate social, environmental problems (Coal Board)	5,400,000	9,000,000	7,100,000
Educational trust	3,100,000	8,900,000	8,000,000
State equalization aid State school foundation	3,200,000	5,200,000	4,000,000
County land planning	300,000	500,045	400,000
Renewable resources, water projects, dams and irrigation projects	800,000	1,300,000	1,000,000
Parks and cultural projects	800,000	2,200,000	2,000,000
State libraries (new in fiscal year 1980)		400,000	400,000
General funds	12,800,000	20,100,000	15,300,000

As can be observed, in 2 years the surplus produced by such taxes will quadruple. Moreover, much of the funds are to be used for general State revenue needs which are unrelated to coal production or use. This serves to transfer the State revenue burden to the citizens of other States. The existence of this type of practice will only result in dividing the nation and generating regionalism.

Retaliation based on regionalism is being suggested. Representative James Oberstar testified:

> The founders of the Constitution intended that we should have uniformity in this country and not allow certain States to exploit others for the purpose of expanding the economic horizons of this country and for the purpose of avoiding the fragmentation that occurred in the European countries.
>
> This is the very kind of practice which leads to fragmentation, which leads to States exploiting others. There are some 26 States which depend on coal derived from Montana and Wyoming, and those States are frankly exploiting their unique position to the disadvantage of other consumers in other States.
>
> *   *   *   *   *
>
> It is simply exploitation in a time of national vulnerability and consumers in other States who don't have the say on how that tax is being levied are peing asked to pay it.

Similar comments have been voiced by others.

C. TAX AND OTHER RECEIPTS

Witnesses for the States of Montana and Wyoming pointed out the debilitating long-range effects of increased coal production within their States. They pointed as an example to the extensive environmental and societal damage which resulted from coal production in Appalachia. They argued, quite correctly, for the need to provide against a repetition of such harm elsewhere in the United States and particularly in their States. Because of the vastness of their coal reserves, their States will bear a disproportionate share of the burdens. Therefore, these witnesses asserted a need to provide money to pay for the environmental and social costs of production. The best way to collect money to amortize these costs is to do so at the time of production when the costs can be most easily passed on to the coal user. Thus, coal severance taxes, modeled after the Montana code, were offered as the logical means for collecting the funds necessary to protect against environmental degradation and increased social costs for adequate housing, schools and recreational and other facilities.

This argument ignores the vast amount of money the Federal government now provides to mineral-producing specifically to provide assistance to areas "socially or economically impacted by the development of minerals". By Federal statute, 50 percent of the revenues collected by the Federal government on Federal lands is directly rebated to the State in which the resource is located. Section 191 of Title 30, United States Code, provides in part:

> All money received from sales, bonuses, royalties, and rentals of the public lands under the provisions of this chapter * * * shall be paid into the Treasury of the United States; 50 per centum thereof shall be paid by the Secretary of the Treasury as soon as practicable after March 31 and September 30 of each year to the State other than Alaska within the boundaries of which the leased lands or deposits are or were located; said moneys paid to any of such States on or after January 1, 1976, to be used by such State and its subdivisions, as the legislature of the State may direct giving priority to those subdivisions of the State socially or economically impacted by development of minerals leased under this chapter, for (i) planning, (ii) construction and maintenance of public facilities, and (iii) provisions of public service; and excepting those from Alaska, 40 per centum thereof shall be paid into, reserved, and appropriated, as part of the reclamation fund created by the Act of Congress known as the Reclamation Act, approved June 17, 1902. * * *

In other words, the State in which the resource is produced immediately receives one-half of the royalties collected by the United States. These frequently amount to one-sixth of the production or its monetary equivalent. Furthermore, of the 50 percent remaining to the United States, an additional 40 percent is indirectly returned to the affected States through the Reclamation Fund. Ultimately, of the many millions of dollars that Federal taxpayers are entitled to receive to reduce Federal budget deficits, 90 percent is returned to the State of production to meet the social and economic costs of that production.

On August 12, 1980, the Subcommittee on Energy and Power requested data from the Department of Interior to show how much money the Federal government returns to the States as their one-half rebate associated with coal production. The Department's reply was received October 14, 1980. Unfortunately, according to the Department, "the data were not readily accessible from any one source." That which was supplied proved to be inconsistent with other data submitted by the Department at the same time. The data seem to have been drawn from different sources within the Department. The two separate sets of production and royalty data are inconsistent with each other but are consistent within the same set. Thus, trends can be observed. For example, the stated production within States decreased in those States as severance tax rates have increased. The Subcommittee is following up on these differences in data with the Department to seek a clarification.

The sums involved can be substantial and, as the value of the coal produced increases, will become even more significant. Because of the problem of data accuracy described above, we cannot rely on coal data. However, the same rules apply with respect to oil and gas leasing programs on Federal lands. In the case of oil and gas, consider the amounts rebated to the States under this program. In 1979, the United States collected total receipts of $392.1 million. Of this sum, $196.6 million was immediately distributed to the States where the production occurred. In the case of Montana, that amounted to $7.1 million; in the case of Wyoming, $68.4 million. Additionally, the money indirectly distributed or available for distribution to Montana amounted to $5.7 million and to Wyoming, $57.8 million. Of the $392.1 million in gross receipts, the U.S. Treasury received a total of $39.1 million or 10 percent. Furthermore, the cost to the Federal taxpayer for running these programs amounted to $5.3 million, none of which was recovered from the States deriving the financial benefits thereof. It must be pointed out, however, that the equivalent sums for coal are at the present time significantly less because of lower production. The Committee does believe these amounts will increase as production and the value of production grow.

In addition, in section 601 of the Powerplant and Industrial Fuel Use Act of 1978, Congress authorized an energy impact assistance program. That section provides assistance to areas impacted by increased coal or uranium production. It was specifically included in the legislation because of the expected increased social and environmental costs arising from increased coal production.

Finally, besides these Federal assistance programs now given to States with production from Federal leases, the Federal Government has waived its rights of sovereign immunity with respect to State taxation of production from Federal lands. Thus, the States are given the right to tax that production in the same manner and to the same extent as if Federal lands were not involved.

D. COMMERCE CLAUSE

A number of witnesses raised questions as to the constitutionality of a Federal law limiting or otherwise restricting a State tax law. They expressed concern that this tax was a prerogative of the several States which could not be restricted by the exercise of Federal jurisdiction.

Whatever powers may be reserved, the Commerce clause of the Constitution, Article I, Section 8, nevertheless provides "the Congress shall have power * * * to regulate Commerce with foreign nations, and among the several States, and with the Indian tribes * * *"

The bill, H.R. 6625, relies upon this Constitutional power of Congress to regulate interstate commerce. The bill relates to coal "destined for shipment in interstate commerce." It further relates to the implementation of the Powerplant and Industrial Fuel Use Act of 1978, which was an exercise of Federal jurisdiction in reliance of the Commerce clause. The impact of State severance taxes on interstate commerce in the case of coal production is clear. As has been pointed out elsewhere in this report, there is a direct correlation between increasing severance taxes and decreasing coal production. Thus, the taxes which the bill is seeking to moderate do directly affect commerce and are within the purview of the Commerce clause.

The Commerce clause gives Congress broad and far-reaching authority to regulate all activities affecting interstate commerce. In interpreting the scope of the clause, the Supreme Court has held:

> the fundamental principle is that (Congress) * * * power to regulate commerce is the power to enact "all appropriate legislation" for "its protection and advancement" * * * That power is plenary and may be exerted to protect interstate commerce "no matter what the source of the dangers which threaten it."

NLRB v. *Jones and Laughlin Steel Corporation*, 301 U.S. 1, at 36–37 (1936). The Court went on to identify those covered activities to include any which "have such a close and substantial relationship to interstate commerce that their control is essential or appropriate to protect that commerce from burdens and obstructions." Once Congress chooses to act under the Commerce clause, it "cannot be denied the power to exercise that control." *Id.* at 37. This decision merely reiterates the well-established principle of Federal supremacy with respect to such commerce.

The power of Congress under the Commerce clause includes the authority to limit or prohibit State taxation affecting interstate commerce. For more than a hundred years, Congress has exercised such authority, and its exercise of that power consistently has been upheld by the courts. For example, in 1871, Congress enacted a law prohibiting any State from levying pilot charges on steamships required by Federal law to carry federally licensed pilots, a law which is now codified at 46 U.S.C. 215. This statute's preclusion of such State charges was upheld by the Supreme Court almost a century ago. *Spraigue* v. *Thompson*, 118 U.S. 90, 96 (1885).

In another sphere, Congress has acted to prohibit States from imposing any net income taxes on persons who do not possess certain minimum contacts with the taxing State. 15 U.S.C. 382. The power of Congress to prohibit such State taxation was upheld in three separate court challenges to this statute. See, *International Shoe Co.* v. *Cocreham*, 246 La. 244, 164 So.2d 314, *cert. denied, sub nom. Mouton* v. *International Shoe Co.*, 370 U.S. 902 (1964); *State* v. *State Tax Commission*, 382 S.W. 2d 645 (Mo. 1964); *Smith, Klein & French Laboratories*

v. *State Tax Commission*, 241 Or. 50, 403 P.2d 375 (1965). In one of those actions, *International Shoe Co.* v. *Cocreham*, the Supreme Court of Louisiana, after reviewing the United States Supreme Court's decisions in this area, concluded:

> of the many matters presented to the Supreme Court concerning the unconstitutionality of state taxation of activities in interstate commerce, there is none in which the Court has ever suggested that Congress has not retained plenary power to regulate the activity by prohibiting the imposition of a state tax when its determines such tax to unduly burden the free flow of such commerce.

164 So.2d at 319.

Two more recent occasions on which Congress has acted to prohibit State taxation are especially worthy of note in the present context. In both instances, Congress determined that certain State taxation would impede the effectuation of national policy and acted to prohibit such taxation in order to ensure the effectiveness of its policy. In 1973, Congress enacted the Airport Development Acceleration Act, Public Law 93–44, which was designed to encourage the growth of air transportation in the United States. As a part of this Federal program, a flat prohibition as placed on the imposition by any State of taxes, fees, or head charges on persons traveling in air commerce; this prohibition was imposed as a consequence of a Congressional finding that such charges "inhibit the growth of the air transportation system. * * *" S. Rept. 93–12, (1973), reprinted in 1973 U.S. Code Cong. & Admin. News, p. 1451. Shortly after the statute's enactment, the Supreme Court of Pennsylvania struck down that State's head tax on air travellers, saying that the Air Development Acceleration Act,

> * * * enacted pursuant to Congress' constitutional authority to regulate interstate commerce, has undeniably preempted any state, or local, intervention in the field of airport head taxes. * * * The Act renders constitutionally invalid and impermissible existing state or local head taxes.

Allegheny Airlines Inc. v. *Philadelphia*, 453 Pa. 181, 309 A.2d 157, 159 (1973).

Even more recently, Congress passed the Securities Acts Amendments of 1975, Public Law 94–29, which contain a prohibition on the imposition by a State of taxes on certain transfers of shares of stock made through a registered agent with facilities located in the State. This statute is codified at 15 U.S.C. Section 78bb(d). In its report on this legislation the Senate Banking, Housing, and Urban Affairs Committee noted that it had received testimony during hearings "that the imposition of state transfer taxes may be impeding the development of a national system of processing securities transactions." S. Rept. 94–75, p. 60 (1975). The Committee concluded that:

> [P]rohibition of state transfer taxes which * * * impede such development is clearly in the public interest. * * * This provision is designed to facilitate the development of a national system for handling securities transactions. * * *

Id. Like the other examples of legislation already discussed, the constitutionality of this prohibition is beyond question. *Cf. Boston Stock Exchange* v. *State Tax Commission*, 429 U.S. 318, 321 n. 4 (1977).

Thus, Congress has acted in the past to prohibit States from imposing taxes or fees in such different areas of interstate commerce as steamship pilotage, air travel, and securities, and the courts have consistently upheld Congress' exercise of its power to do so. Since Congress has the power to prohibit State taxation, it is implicit that it has the power of Congress to limit Sate taxation.

Like the examples of legislation discussed above, the bill, H.R. 6625, addresses State taxation in the context of a broad legislative concern, in this instance, the effectuation of the Nation's energy policy. Congress has, over the past five years, enacted a series of statutes designed to encourage the Nation's use of coal as a substitute for scarcer and more expensive fuels. The statement of purpose contained in the Powerplant and Industrial Fuel Use Act of 1978, which this bill would amend, is representative of this legislative program:

> The purpose of this Act * * * (is) to encourage and foster the greater use of coal and other alternative fuels, in lieu of natural gas and petroleum, as a primary energy source.

Under such circumstance, there is ample precedent for the Congressional limitation on State severance taxes on coal as contained in the reported bill. Congress' power to enact such legislation is clear, and the contribution such a prohibition would make to the effectuation of our national energy program makes passage of this legislation especially appropriate.

The Committee, in considering this legislation, asked the Library of Congress what Constitutional authority existed to regulate the imposition of State severance taxes. The opinion of the American Law Division of the Library was provided to all Members of the Committee in advance of considering the bill and is included in this report. The Committee agrees with, and adopts the conclusion of, that opinion:

> It would appear from the cited precedents that the Congress could, under the Commerce clause of the U.S. Constitution, limit the power of the various States to levy taxes on the severance of natural resources from the ground.

Report of the Committee on Government Operations

Pursuant to clause 2(b) of Rule X of the Rules of the House of Representatives, the Committee states that no report has been received from the Committee on Government Operations respecting oversight findings and recommendations on this matter.

The Subcommittee on Oversight and Investigations of the Committee has conducted no oversight investigations into this matter.

Effect of Legislation on Inflation

Pursuant to clause 2(l) (4) of Rule XI of the Rules of the House of Representatives, the Committee states that the reported bill will have no inflationary impact.

Agency Views

At the time of the filing of this report, the Committee had not received the views of any government agency or department regarding the reported bill.

Cost Estimate

In compliance with the provisions of clause 7(a) of Rule XIII of the Rules of the House of Representatives, the Committee states that the bill will not result in any direct cost or revenue loss to the Federal Government.

Report From the Congressional Budget Office

The Committee received the following report from the Congressional Budget Office:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., November 18, 1980.

Hon. Harley O. Staggers,
Chairman, Committee on Interstate and Foreign Commerce, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 6625, a bill to amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural resources through removing excessive burdens on production of coal, as ordered reported by the House Committee on Interstate and Foreign Commerce, September 16, 1980.

The bill limits severance taxes levied by state or local governments on coal and coal production facilities to a total of 12.5 percent of the value of the coal produced during each fiscal year. The limitation applies only to coal destined for shipment in interstate commerce for use in major fuel-burning installations. Since the Federal Government does not share in revenues collected by states through coal severance taxes, the bill will not result in any direct cost or revenue loss to the Federal Government.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Committee Consideration

The bill (H.R. 6625) was introduced by Mr. Sharp (for himself, Mr. Gramm, Mr. Blanchard, Mr. Breaux, Mr. Cavanaugh, Mr. Clay, Mr. Davis of Michigan, Mr. Ford of Michigan, Mr. Frenzel, Mr. Garcia, Mr. Hagedorn, Mr. Huckaby, Mr. Leach of Louisiana, Mr. Leland, Mr. Loeffler, Mr. Luken, Mr. Oberstar, Mr. Pickle, Mr. Smith of Iowa, and Mr. Vento) on February 26, 1980. Additional cosponsors included Mr. Annunzio, Mr. Baldus, Mr. Benjamin, Mr. Corcoran, Mr. Fithian, Mr. Hamilton, Mr. Hyde, Mr. Jacobs, Mr. Murphy of

Illinois, Mr. Tauke, Mr. Yates, Mr. Brademas, Mr. Harkin, Mr. Bowen, Mr. Hance, Mr. Kastenmeier, Mr. Gibbons, Mr. Nedzi, Mr. Stenholm, Mr. Carr, Mr. Bailey, Mr. Montgomery, Mr. Leath of Texas, Mr. Traxler, Mr. Nolan, Mr. Brodhead, Mr. Railsback, Mr. Fuqua, Mr. Nowak, Mrs. Chisholm, Mrs. Fenwick, Mr. Florio, Mr. Ottinger, Mr. Wolpe and Mr. Roe.

In addition a similar bill (H.R. 6654) was introduced by Mr. Devine (for himself, Mr. Tayolr, and Mr. Hopkins) on February 27, 1980. Additional cosponsors of that bill include Mr. Collins of Texas, Mr. Hinson, Mr. Tauke, Mr. Petri, Mr. Bedell, Mr. Horton, Mr. Ashley, Mr. Vander Jagt, Mr. Benjamin, Mr. Bowen, Mr. Lott, Mr. Grassley, Mr. Frost, Mr. Cleveland, Mr. Erdahl, Mr. Evans of Georgia, Mr. Hubbard, Mr. Leach of Iowa, Mr. Lundine, Mr. Montgomery, Mr. O'Brien, Mr. Pursell, Mr. Sawyer, Mr. Sebelius, Mr. Stangeland, Mrs. Fenwick and Mr. Roe.

Both bills were referred to the Committee on Interstate and Foreign Commerce.

The Subcommittee on Energy and Power conducted public hearings on H.R. 6625 and H.R. 6654 on March 21 and June 5, 1980. It received testimony from witnesses, including eight Members of the House and four Members of the U.S. Senate. It also received testimony from the Governor of the State of Wyoming, the Honorable Ed Herschler, and from a former Attorney General of the United States, the Honorable William P. Rogers. Other witnesses included representatives from utility companies, a major domestic steel producer and other coal consumers. Witnesses from coal-producing companies (with one exception) declined to appear to give testimony.

The Subcommittee met in open markup session on September 4, 1980, to consider the bill, H.R. 6625. Six amendments were offered; four were ruled nongermane to the bill and two were withdrawn. The Subcommittee then ordered the bill be reported to the full Committee on Interstate and Foreign Commerce on a vote of 7 to 4. On September 16, 1980, the Committee met to consider the bill and, a quorum being present, by record vote of 15–9 ordered the bill, H.R. 6625, reported to the House without amendment.

Text of the Bill

[H.R. 6625, 96th Congress, 2d session]

A BILL To amend the Powerplant and Industrial Fuel Use Act of 1978 to further the objectives of national energy policy of conserving oil and natural resources through removing excessive burdens on production of coal

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds that, in order to alleviate the national energy emergency, reduce national dependence on petroleum imports, encourage the highest and best use of domestic petroleum and natural gas, and enhance interstate commerce by promoting increased reliance on our national reserves of coal for the generation of electricity and power, it is necessary to remove excessive burdens on production of coal used in powerplants and major fuel-burning installations.

SEC. 2. (a) The Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 et seq.) is amended by adding immediately following section 807 the following new section:

"SEC. 808. COAL FOR POWERPLANT AND INDUSTRIAL CONVERSION.

"(a) LIMITATION.—Notwithstanding any other provision of State or Federal law, with respect to any coal which is destined for shipment in interstate commerce for use in any powerplant or major fuel-burning installation, the sum of all severance taxes or fees, in respect of any fiscal year, levied upon or collected from any taxpayer, by a State or any political subdivision thereof on such coal or on any improvements or other rights, property, or assets produced, owned, or utilized in connection with the production of such coal shall not exceed a total of 12½ percent of the value of such coal produced during such fiscal year at the time it has been extracted and prepared for transportation free on board the production site, exclusive of all State and local taxes and fees.

"(b) SEVERANCE TAXES OR FEES DEFINED.—For purposes of subsection (a), 'severance taxes or fees' includes any tax or fee, by whatever name called, levied, or collected upon coal or upon any improvements or other rights, property, or assets produced, owned, or utilized in connection with the production of coal except for income, sales, property, or other similar taxes or fees of general application which are not disproportionately imposed thereon.".

(b) The table of sections for such Act is amended by inserting after the item relating to section 807 the following new item:

"Sec. 808. Coal for powerplant and industrial conversion.".

SECTION-BY-SECTION ANALYSIS OF THE BILL

Section 1. This section finds that it is necessary to remove excessive burdens on the production of coal used in powerplants and major fuel-burning installations.

Section 2. This section amends the Powerplant and Industrial Fuel Use Act of 1978 by limiting to 12½ percent the sum of all severance taxes or fees with respect to any coal which is destined for shipment in interstate commerce for use in any powerplant or major fuel-burning installation. Severance taxes are defined to include any tax or fee, by whatsoever name called, levied, or collected, upon coal or upon any improvements or other rights, property, or assets, produced, owned or utilized in connection with the production of coal. Thus, a State cannot circumvent this legslation by remaning a tax or by disportionately increasing other taxes which are not normally considered severance taxes.

It is expected that the determination whether a particular volume of coal is "destined for shipment in interstate commerce for use in any powerplant and major fuel burning installations" will be made by reference to the contracts, shipping orders, or other forms of sale between an entity producing coal in Montana or Wyoming and its purchasers.

The bill applies to the sum of all severance taxes or fees, in respect of any fiscal year, levied upon or collected from any taxpayer. It is to be understood that the 12½ percent limitation applies in reference to the act of severance. Thus, a state would not be permitted to avoid the requirement of this legislation by imposing various severance taxes or fees on different taxpayers in respect of the same severed coal in such a way that, while the aggregate imposed on any particular taxpayer is within the 12½ percent limit, the aggregate imposed on the different taxpayers combined exceeds such limitation. It is also understood that in the event there should be a difference between the amount of taxes or fees "levied" and the amount "collected", it is the amount levied (i.e., imposed) which would control in measuring severance taxes and fees against the 12½ percent limit.

The tax limit imposed by the bill is measured as a percentage of the "value" of coal produced. The value is determined at the time the coal has been extracted and prepared for transportation free on board the production site but exclusive of all state and local taxes and fees. It is intended that "value" have its common commercial meaning. The method of determination of value under the bill is not intended to restrict, in any way, the states' methods of imposing or measuring severance taxes other than for purposes of computing compliance with the bill's 12½ percent limitation.

Constitutional Authority for Federal Limitation on State Severance Taxes

The United States Constitution grants the Federal Government certain enumerated powers under which it may act. If powers are not granted to the Federal Government, they are reserved to the States. The question may be raised whether, in its exercise of its enumerated powers, the United States Government may limit the amount of severance taxes imposed by the various States on the removal of natural resources. This report examines the constitutional issues raised by such a Federal limitation.

The probable source of Federal authority to regulate the imposition of State severance taxes would be Article I, Section 8, Clause 3 of the U.S. Constitution, the Commerce Clause, which reserves to the United States the power "To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes." The issue must be raised, however, whether this permits the Congress to legislatively limit the power of the States to impose severance taxes.

The severance of natural resources has been held by the Supreme Court to be an intrastate action, rather than a part of interstate commerce. See *e.g.*, *Heisler* v. *Thomas Colliery Co.*, 260 U.S. 245 (1922). Consequently, the enacting states were not held to be in violation of the constitutional prohibition against state restrictions on interstate commerce. However, the status of the severance as an intrastate action does not dispose of the issue of Federal legislative authority.

The Supreme Court has held that intrastate actions may still have an effect on interstate commerce which justifies congressional regulation. For example, in *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241 (1964), the Supreme Court held that hotels and motels "affected" interstate commerce, even though their specific activities all occurred within the State in which they were located. In *Katzenbach* v. *McClung*, 379 U.S. 294 (1964), the Court even applied this doctrine to an out-of-the-way restaurant in Birmingham which catered to a local clientele but which had spent 46 percent of its previous year's out-go on meat from a local supplier who had procured it from out-of-State. Speaking for the Court, Justice Clark stated:

> [T]he power of Congress to promote interstate commerce also includes the power to regulate the local incidents thereof, including local activities in both the States of origin and destination, which might have a substantial and harmful effect upon that commerce. 379 U.S. at 258 (1964).

See also *Wickard* v. *Filburn*, 317 U.S. 111 (1942), upholding Federal regulation of the production of crops and foodstuffs not intended for sale by the producer, and *United States* v. *Wrightwood Dairy Co.*, 315 U.S. 110 (1942) upholding Federal fixing of minimum prices to be paid to milk producers in Chicago.

It would appear, from this discussion, that the fact that severance taxes are intrastate activities does not preclude their regulation under the Commerce Clause, if Congress finds that the total effect of these taxes levied in separate states is to effect interstate commerce. While, of course, it is impossible to state whether such an effect exists in actuality, it would appear that the variations in State severance taxes could result in distortions of interstate natural resources exploration activities.

The question might also be raised whether Congress can limit State taxing powers in the exercise of its powers under the Commerce Clause of the U.S. Constitution. The Supreme Court seems to have laid to rest any questions in this regard in its decision in *Arizona Public Service Co.* v. *Snead*, 441 U.S. 141 (1979). *Arizona Public Service Co.* concerned a 1976 limitation placed by Congress on state taxation of the interstate transmission of electrical energy. A section of the Tax Reform Act of 1976, Public Law 94–455 section 2121(a), 94th Cong., 2d Sess. (1976), prohibits states from imposing taxes with respect to the generation or transmission of electricity, which discriminate against out-of-State manufacturers, producers, wholesalers, retailers, or consumers of that electricity. See 15 U.S.C. section 391. The Supreme Court found that the Congress was well within its powers under the Commerce Clause in regulating such taxes, stating:

> The appellees also argue that if the federal statute is construed to invalidate the New Mexico tax, it exceeds the permissible bounds of congressional action under the Commerce Clause. In view of the broad power of Congress to regulate interstate commerce, this argument must be rejected. See *Wickard* v. *Filburn*, 317 U.S. 111; *Katzenbach* v. *McClung*, 379 U.S. 294. Here, the Congress had a rational basis for finding that the New Mexico tax interfered with interstate commerce, and selected a reasonable method to eliminate that interference. The legislation thus was within the constitutional power of Congress to enact. See *Heart of Atlanta Motel, Inc.* v. *United States*, 379 U.S. 241, 258–259; *United States* v. *Wrightwood Dairy Co.*, 315 U.S. 110, 119. 441 U.S. at 150 (1979).

Therefore, while no definitive answer can be given on this issue, other than by a court of appropriate jurisdiction, it would appear from the cited precedents that the Congress could, under the Commerce Clause of the U.S. Constitution, limit the power of the various States to levy taxes on the severance of natural resources from the ground.

HOWARD M. ZARITSKY,
Legislative Attorney,
American Law Division, March 13, 1980.

CHANGES IN EXISTING LAW MADE BY THE BILL AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978

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TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Powerplant and Industrial Fuel Use Act of 1978".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS

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TITLE VIII—MISCELLANEOUS PROVISIONS

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TITLE VIII—MISCELLANEOUS PROVISIONS

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SEC. 808. COAL FOR POWERPLANT AND INDUSTRIAL CONVERSION.

(a) LIMITATION.—Notwithstanding any other provision of State or Federal law, with respect to any coal which is destined for shipment in interstate commerce for use in any powerplant or major fuel-burning installation, the sum of all severance taxes or fees, in respect of any fiscal year, levied upon or collected from any taxpayer, by a State or any political subdivision thereof on such coal or on any improve-

ments or other rights, property, or assets produced, owned, or utilized in connection with the production of such coal shall not exceed a total of 12½ percent of the value of such coal produced during such fiscal year at the time it has been extracted and prepared for transportation free on board the production site, exclusive of all State and local taxes and fees.

(b) Severance Taxes or Fees Defined.—For purposes of subsection (a), "severance taxes or fees" includes any tax or fee, by whatever name called, levied, or collected upon coal or upon any improvements or other rights, property, or assets produced, owned, or utilized in connection with the production of coal except for income, sales, property, or other similar taxes or fees of general application which are not disproportionately imposed thereon.

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MINORITY VIEWS

H.R. 6625—SEVERANCE TAX LIMITATION ON COAL

H.R. 6625 is a dangerous proposal which flies in the face of two centuries of constitutional law regarding federal/state relations. It should be soundly defeated.

H.R. 6625 places a 12½ percent limitation on state severance taxes on coal. At the present time, this 12½ percent limitation would affect only two states—Montana and Wyoming which have severance taxes of 30 percent and 17 percent respectively. Although the objective of restraining coal tax increases is laudable, this legislation would threaten regional, as well as state-federal harmony. Moreover, this bill would create a precedent for federal intervention into the most basic of the states' activities.

Under the constitution, certain fundamental rights have been reserved to the states. One of these rights is the power of the state to tax within its borders. In limiting this power to tax, this legislation seriously calls into question the fundamental relationship between the federal and state governments under our constitution. If this severance tax limitation were to become law, and were subsequently upheld by the courts, nothing less than the independence and sovereignty of the states would be forfeited. If the federal government can place a limitation on state severance taxes, what would prevent the federal government from placing similar limitations on the authority of the state to tax property within its borders or the income of its citizens? Clearly, fundamental policy questions are raised by this legislation which is disguised as an energy bill.

This legislation also represents federal hypocrisy at its worst. In the past five years, federal tax revenues have doubled, but rather than focusing on efforts to reduce this ever-increasing federal tax take, which will run over $600 billion next year, this Committee seems more intent upon placing arbitrary limitations on the state's right to tax within its own borders. The real threat to consumers is not the relatively small severance taxes of Montana and Wyoming; it is the ever-encroaching federal government which is constantly tugging at the purse strings of every American.

We should reject this regulatory legislation and put an end to one more attempt by the federal government to run roughshod over the rights of the states and its citizens.

JAMES M. COLLINS.
TIM LEE CARTER.
CARLOS J. MOORHEAD.
DAVE STOCKMAN.

DISSENTING VIEWS OF REPRESENTATIVE WIRTH

H.R. 6625 came before the Committee with a worthy goal, one which is shared by both the sponsors and the opponents of the legislation: to promote increased reliance upon domestic energy resources and to aid in reducing the nation's dangerous dependence on foreign oil. Many of us who represent Western states with abundant unexploited coal resources have worked to promote federal initiatives to speed their development, and state governments in our region have adopted their own policies and programs to achieve that objective. Well-managed development is, after all, in our states' economic interests, as well as the national interest.

But this legislation brings with it not only questions of national energy policy. It raises other fundamental issues—not basic Constitutional issues, as some have argued, but issues of balance within the parameters of federal-state relationships and relationships among the states established by the Constitution. H.R. 6625 is an exercise of the federal government's Commerce Clause authority as a means of regulating the states' activities in a field which has heretofore been exclusively their province.

Such a broad expansion of federal authority should only be undertaken if state policies are in clear and serious conflict with an overriding national goal.

THE "RIGHT" TO TAX

A number of witnesses before the Energy and Power Subcommittee during hearings on this legislation questioned Congress' Constitutional authority to impose federal limits on state mineral resources taxation. They argued that a state's right to impose taxes on resources within its borders was a "sovereign right," upon which the federal government has no authority to infringe, regardless of the consequences of state tax policy.

In my view, neither the Constitution nor the relevant case law provides the states with such a guarantee, and my opposition to this legislation does not arise from a belief that state taxation policies are, or should be, inviolable or immune from federal interference. The courts have held that Congress may not abrogate state tax policies simply because they intrude upon interstate commerce (*General Motors* v. *Washington* (1964), 377 U.S. 436, *Norton Co.* v. *Dept. of Revenue* (1951), 340 U.S. 354). But it is clear that where such state actions frustrate critical national policies through interstate commerce, federal intervention is justified and would be upheld.

H.R. 6625, however, simply fails to meet that test, whether one views the overriding national policy goal Congress seeks to promote as the expansion of domestic coal consumption or the protection of the citizens of one state from excessive taxation by the government of another. In addition, the legislation promotes an inequitable and discriminatory federal policy toward state energy resources taxation, both among coal producing states and among states producing other fossil fuels. The legislation is aimed at rolling back through federal interevention the coal severance taxes of two Western states, Montana and Wyoming, an action whose effect does nothing discernable at the present time to promote any national policy.

1. There is no evidence that the current state coal severance taxes levied by Montana and Wyoming have impeded the development of these states' coal resources or restrained the growth of powerplant or industrial coal use.

Each state's coal production has shown strong growth throughout the past decade, even following the imposition of the coal severance tax rates which this legislation seeks to repeal. Montana, for example, whose nominal 30 percent severance tax rate was imposed in 1975, continues to experience rapid growth in coal production. The only pause in expansion during the past ten years occurred in 1978, when a nationwide coal strike depressed production across the country:

Montana coal production

Calendar year:	*Gross tons*
1971	6, 983, 186
1972	8, 224, 118
1973	10, 678, 058
1974	14, 116, 625
1975	22, 160, 236
1976	26, 347, 923
1977	27, 340, 005
1978	26, 516, 481
1979	32, 545, 071

(Source: Montana Department of Revenue.)

Despite its tax rates, the state's coal production has more than quadrupled since the 1973 oil embargo.

Nor has the Montana tax discouraged coal conversion by the state's primary potential customers, Midwestern and Texas powerplants and industrial facilities. Immediately after the imposition of the new tax, for example, Detroit Edison signed a 26-year, 200-million-ton contract with Montana mines, estimating that Montana coal prices, over the life of the contract and including both the tax and rising transportation costs, would remain 40 percent below comparable Eastern coal prices—saving $1 billion for Detroit Edison customers.

Finally, Western coal remains the cheapest in the nation, even when coal severance taxes are added into the delivered price. Even with an effective 10½ percent tax rate, Wyoming coal, for example, is priced far below its Eastern competitors:

	Coal prices per ton including State tax		
	1970	1979	Percent increase
Wyoming	$5.24	$8.52	63
Illinois, Kentucky, Ohio average	7.50	21.00	300

Source: State coal associations.

Under these conditions, it is hard to give credence to arguments that current Western state coal severance tax rates present a substantial impediment to increased reliance on domestic coal resources.

2. Current state coal severance taxes have relatively little impact on electricity consumers in other regions.

Midwestern and Texas utilities are the primary consumers of Montana and Wyoming coal. It was frequently argued during the Committee's consideration of H.R. 6625 that these states' nominal 30 percent and 10½ percent coal severance taxes constitute a heavy tax upon the average residential utility customer in consuming areas—a burden imposed by "foreign" legislators. Congress, it was argued, must protect consumers from this onerous form of "taxation without representation."

In actuality, the impact of the current Montana and Wyoming coal severance taxes on consumers is minimal—far less than the average 5 percent utility sales tax Midwestern states and Texas have imposed upon their own citizens:

Utility	Average annual residential consumer electricity cost	Coal Severance tax	Percent
Minnesota Power & Light	$335.93	$4.04	1.1
Wisconsin Power & Light	374.73	3.96	1.1
Montana Power	234.80	2.50	1.1
Northern States Power	303.34	2.76	.9
Commonwealth Edison	340.99	1.54	.5
Detroit Edison	327.14	1.24	.4
Interstate Power	384.98	.91	.2

Source: Securities and Exchange Commission from 10-K.

Federal intervention is again difficult to justify when its benefits to consumers in these areas is minimal, and when H.R. 6625 includes no provisions mandating that coal cost reductions to utilities be matched by equivalent reductions in consumer utility charges.

3. H.R. 6625 creates inequitable federal policies toward state energy resource taxation in general, and state coal severance taxation in particular.

(a) *Inequities among coal producing states.*—H.R. 6625 sets an arbitrary 12.5 percent ceiling on the severance taxes states may charge on coal mined within their borders. Such a mechanism is simplistic. By focusing on the simple percentage of minemouth price, the legislation discriminates against Western states with low-cost coal. Eastern and Midwestern coal producing states, whose coal may be priced at levels three times higher than their Western counterparts, may raise substantially greater revenues under such a ceiling than Montana, Wyoming, Colorado and others.

(b) *Inequities among energy producing states.*—If the federal government's goal is to limit the impact of state policies on energy consumers, legislation which imposes ceilings on coal severance taxes while ignoring severance taxes on other resources, oil and gas in particular, does little to promote such a national policy. Once again, it discriminates among states on a resource basis, and takes no cognizance of comparable severance tax rates or state resource-derived revenues.

In 1979, the Texas Railroad Commission conducted an across-the-board study of state energy severance taxes, and found that Montana and Wyoming coal severance taxes were equal to or lower than oil severance taxes imposed by other states on a per million Btu basis—the most useful basis on which such taxes can be compared because of varying prices among resources:

State and resource	Rate per million Btu's (cents)	Revenues (millions)	Percent of State revenues
Montana, coal	8.68	$66.7	11.6
Wyoming, coal	8.26	69.7	12.1
Texas, oil	8.46	1,020.0	18.9
Louisiana, oil	16.63	495.0	29.0

Finally, at the same time that it seeks to promote rapid development of Western coal resources, H.R. 6625 would deprive Western states of revenues which are critical to dealing with the social and economic impacts of such development. While Colorado, for example, currently imposes state coal severance taxes aggregating only three percent, rapid energy development in the Northwestern portion of the state will require more than $1 billion in investment in new state capital equipment and services—from education to transportation to housing to water—between now and 1985. Coal severance taxes in Western States are currently earmarked to meet those needs.

This legislation does not clearly promote any national policy, either on resource development or energy pricing equity. To expand federal authority into the field of energy resource taxation without a clearly demonstrated necessity and demonstrable benefits, at the cost of depriving the Western states of increasingly critical revenues, is neither good federal energy policy nor a reasonable extension of our Commerce Clause powers.

H.R. 6625 does not deserve the support of the Committee or of the House.

TIMOTHY E. WIRTH.

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