

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 20, 1985

The forty-fifth meeting of the Taxation Committee was called to order in room 312-1 of the state capitol at 8:04 a.m. by Chairman Gerry Devlin.

ROLL CALL: All members were present. Also present were Dave Bohyer, Researcher for the Legislative Council, and Alice Omang, Secretary.

CONSIDERATION OF SENATE BILL 246: Senator Pinsoneault, District 27, stated that this was a house cleaning bill and addresses a state permanent revenue fund, which the legislative auditor says does not exist.

PROPOSERS: Dennis Hammer, representing the Department of State Lands, said that the question came up as to where they were to deposit the money taken in from gas and oil royalties - the current law says that one-half should go in the general fund and one-half in the permanent revenue fund, but nobody can find it. He indicated that this bill will remedy this situation.

There were no further proposers.

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 246: Representative Sands asked what lands they were talking about and about how much money.

Mr. Hammer replied that in 1983 to 1984, they had 45 total tracts for a total of 3,624 acres and about \$142,513.00.

Representative Ream asked if the land had been purchased by the highway trust fund.

Mr. Hammer responded that if the highway trust fund purchases the land if there is other revenue, it goes back into that fund.

Taxation Committee  
March 20, 1985  
Page Two

Chairman Devlin asked how much money did this amount to last year.

Mr. Hammer answered that in the last three or four years, they have been dealing with \$142,513.00.

There were no further questions, Senator Pinsoneault closed and the hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSITION OF SENATE BILL 246: Representative Williams moved that this bill BE CONCURRED IN. The motion carried unanimously.

CONSIDERATION OF SENATE BILL 55: Senator Towe stated that this bill deals with the separation of minerals from real property wherein the county sold the land and reserved royalty interest in the minerals. He described the defect in the law and how this bill would remedy this situation.

PROPOSERS: Judge A. B. Coate, from Forsyth, gave testimony in support of this bill. See Exhibit 1.

Edward McCaffree, from Forsyth, stated that they have lost or settled cases in Rosebud County amounting to \$905,000.00 and they have four cases pending and as of now the total loss would be in excess of \$3 million.

There were no further proposers.

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 55: Representative Williams noted that the applicability date is September 30, 1985, and he asked what would be the status of the suits that have been filed to date.

Judge Coate responded that they would not be affected.

Chairman Devlin asked about the change from five to three years that is on page 4.

Taxation Committee  
March 20, 1985  
Page Three

Judge Coate replied that when this bill was drafted, the Legislative Council thought that a five-year statute of limitations would be fair and he did not have any strong feelings about it.

Representative Asay asked what the difference would be if the county withheld 50% of the mineral rights as opposed to the royalty.

Judge Coate answered that it would have made no difference because the supreme court has determined that the tax title proceedings in 1920 and 1930 were invalid and usually this is because there is no record in the treasurer's office of notice being given to the land owner. He explained what happened with a lot of the land in eastern Montana was that the Northern Pacific Railroad owned it and then sold it but retained all the minerals and, in 1931, the Northern Pacific released its minerals and whoever was the title owner then got the minerals even if they had lost the land for taxes.

Representative Sands asked about the defenses.

Judge Coate responded that he thought the court will rule that all these defenses are gone and the legislature has no power to pass a bill to give these defenses some vitality and they will treat that as surplus, but that is only his opinion.

Representative Sands asked Senator Towe if he thought this was a necessary part of the bill.

Senator Towe replied that Judge Coate is exactly right and the last thing they want to do is to hurt somebody's appeal.

Representative Sands commented that it seemed to him that this was an invitation to litigation.

Senator Towe responded that the supreme court said in 1937, 1943 and 1949 that this does not have any validity no matter what the legislature says and he thinks they will do that again in 1986.

Taxation Committee  
March 20, 1985  
Page Four

There were no further questions and Senator Towe closed.  
The hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSITION OF SENATE BILL 55: Representative Asay moved that this bill BE CONCURRED IN. The motion carried un-animously.

CONSIDERATION OF SENATE BILL 249: Senator Boylan, District 39, Gallatin County, stated that this was an act to tax cigarettes sold in packages of more than twenty cigarettes on a per-cigarette basis. He explained that the industry has come out with a new type packaging where there is more than twenty cigarettes to a package and this is not an increase or a decrease in the tax.

PROPOSERS: Bonnie Tippy, representing R. J. Reynolds Company, gave a statement in support of this bill. See Exhibit 2.

Tucker Hill, representing Phillip-Morris, stated that he would reiterate what Ms. Tippy said and they see no loss of revenue and they think it is a fair bill.

Jerome Anderson, representing the Tobacco Institute of the United States, testified that they support this legislation so that the tobacco industry can market in Montana the same as is done in forty-seven other states.

Jim Madison, Administrator of the Miscellaneous Tax Division of the Department of Revenue, said he appears only for information purposes and basically they do not have any problems with the additional costs.

There were no further proposers.

OPPOSERS: There were none.

QUESTIONS ON SENATE BILL 249: Representative Williams asked why they could not tax cigarettes on a single-cigarette basis as they do in other states.

Mr. Anderson replied that the initial thought was to tax them on an individual basis, but the Department of

Taxation Committee  
March 20, 1985  
Page Five

Revenue did not want them set up that way so the legislation was drafted in this form.

Representative Williams asked the same question of Mr. Madison, who replied that the industry did not like it either and if you had a pack of two cigarettes that would require a separate inventory and a separate insignia and the same with a package of three, five, ten, whatever, it would cause more work and cost more.

There were questions on the stamping machine and hand stamping.

Chairman Devlin asked how much one of those stamping machines cost.

Mr. Madison responded that on a top-line Pitney-Bowes machine that opens up the carton, puts the insignia on and then reseals it, runs around \$40,000.00. He advised that this machine runs considerably more than the one that R. J. Reynolds is going to give to the wholesalers.

There were some questions on the taxing of liquor and cigars.

Senator Boylan informed the committee that they have become very dependent on the cigarette tax in the state of Montana and since the tax has been implemented, the state has received about \$265 million.

The hearing on this bill was closed.

CONSIDERATION OF SENATE BILL 401: Senator Boylan, District 39, Gallatin County, stated that this bill would create a tax deduction for a corporation that would make a donation of a computer or similar equipment to a nonprofit organization.

PROPOSERS: Barbara Agocs, Executive Director of United Way of Lewis and Clark County, offered testimony in support of this bill. See Exhibit 3.

Taxation Committee  
March 20, 1985  
Page Six

Cathy Ward, Executive Director of United Way in Lewis and Clark County, stated that the private sector has responded well in Lewis and Clark County, across the state of Montana and the national United Way has received more and more, but the needs have increased as well. She indicated that this bill will provide financial support as well as in-kind support and they urged the committee to pass this bill.

There were no further proponents.

OPPONENTS: There were none.

QUESTIONS ON SENATE BILL 401: Representative Raney asked if they could inflate the value of the gift.

Ms. Agocs responded that that could be a possibility, but then, she imagined that some things could be reduced in value and they could possibly do something such as the Salvation Army does and that value is determined by the I.R.S..

Representative Ream asked what does SB 262 do. Ms. Agocs replied that that bill would specifically allow corporations to give computers to the schools.

Representative Ream asked if a company has already depreciated equipment out, can they then turn around and contribute it and get a deduction.

Mr. Morrison from the Department of Revenue replied that he thought they could get a deduction from a contribution, but he would check it out.

There were no further questions.

Senator Boylan advised that people in the communities are more dependent on the United Way and he thought that whatever this committee could do to help these organizations should be done.

The hearing on this bill was closed.

CONSIDERATION OF SENATE BILL 334: Senator Crippen, District 45, Billings, testified that this bill pertains to the nongame-wildlife-checkoff program and he gave some background information on legislation that had preceded this bill. He informed the committee that this bill will allow a taxpayer to donate \$5.00, \$10.00 or any amount as a checkoff and if a person does not get a refund, he can send his taxes in and part of this money can be placed in this program. He read a statement from Senator Ed Smith in support of this bill. See Exhibit 4.

Janet Ellis, representing the Montana Audobon Council, Helena, offered testimony in support of this bill. See Exhibit 5.

Virginia Walton, Helena, said that she was in the room two years ago when the governor signed the nongame-wildlife-checkoff bill and she indicated that she was delighted to pay more for the fish and wildlife program.

Tony Schoonen, representing the Montana Wildlife Federation, gave a statement in support of this bill. See Exhibit 6. He also distributed to the committee Exhibit 7, which is testimony from Jim Flynn, Department of Fish, Wildlife and Parks.

Pat Pasini, Helena, informed the committee that she was a nurse at a rest home and often her work can be depressing and the way she refreshes herself is to go out and watch the birds and wildlife. She indicated that they do not get a refund, but they would like to contribute to this program.

Ann Humphrey, representing the Montana Audubon Council, gave testimony in support of this bill. See Exhibit 8. She also offered two letters in support of this bill. See Exhibits 9 and 10.

There were no further proponents.

OPPONENTS: There were none.

QUESTIONS ON SENATE BILL 334: Representative Sands asked if there was a revised fiscal note.

Taxation Committee  
March 20, 1985  
Page Eight

Senator Crippen responded that he did not know, but they put the new figures in the back of the bill.

Representative Switzer indicated that he figured they would have \$175,000.00 instead of \$150,000.00 and he notes that when public entities have this much more money, there is three times as much activity occurring.

Senator Crippen answered that they do not know how much this is going to make but as of now, they have fallen short and the legislature mandated this program and they are shooting for roughly \$80,000.00 at a minimum.

Chairman Devlin asked Mr. Schoonen to expand on his statement that with added funds they could modify farm management.

Mr. Schoonen replied that they could study nongame wildlife including varmints, gophers, and such animals that cause problems for landowners and then they can implement these findings into helping the farmers with better protection against these varmints.

Chairman Devlin asked Ms. Ellis if they were still getting money from the Fish, Wildlife and Parks.

Ms. Ellis responded that they were not as that was one of the compromises last session.

Chairman Devlin asked Senator Crippen if a report was to come back to the legislature on all of this.

Senator Crippen responded that it was his understanding that that report should come back to the legislature prior to the termination of the legislative session in 1987.

Ms. Ellis clarified that that report did come to the Subcommittee on Natural Resources Appropriation and they did look over the proposed program as well as the money.

Chairman Devlin asked if the report would come under this bill, to the Legislative Finance Committee, and Ms. Ellis answered, "Yes".



Taxation Committee  
March 20, 1985  
Page Nine

Chairman Devlin asked if there was any special reason for this report to go to the Legislative Finance Committee.

Ms. Ellis answered that one of the concerns was that the Department of Revenue did not know where to make their report and they made their report to the Senate Fish and Game Committee and they decided that that was inappropriate and it would be better if the fiscal analyst took a look at that. She indicated that the report she was talking about was for the Fish, Wildlife and Parks on what the money would be spent on and there were two reports.

There were no further questions.

Senator Crippen declared that the committee should understand that the legislature must appropriate the money from the nongame account to the nongame programs so they have control and they cannot add anything to this program without the consent of the legislature.

The hearing on this bill was closed.

EXECUTIVE SESSION:

DISPOSITION OF HOUSE BILL 607: Representative Asay moved to reconsider the action previously taken on this bill. He explained that he wished to strip the amendments previously attached to this bill and he would move some amendments approved by the governor.

Representative Raney exclaimed that he was in opposition of the motion as the original bill is just a disguised plan for the coal companies to get their foot in the door to remove the coal severance tax and he distributed to the committee Exhibit 11, which would show Mr. Mockler's position.

Representative Asay said that this committee should not impose their suppositions on an industry that is so vital to the state of Montana and the people of Montana are relying heavily on the continuation of a viable coal industry. He stated that the committee's purpose is to do whatever they can to continue to get the coal contracts that are necessary for them to continue their activity.

Taxation Committee  
March 20, 1985  
Page Ten

A vote was taken on the motion to reconsider this bill and the motion passed with Representative Keenan, Representative Cohen, Representative Ream and Representative Raney voting no.

Representative Asay moved to strip the amendments off this bill that were placed on it previously. .

Representative Iverson said that he thought it was a better bill with the amendments on it, but he would like to see the bill go through the process and would like to compromise.

Representative Raney noted that the coal companies have said that in no manner will this bill assist in coal sales and he asked what purpose would there be in going ahead with the bill.

Representative Iverson responded that any effort that they make will indicate that they are interested and this would be helping the whole business attitude of the way investors might look at Montana.

Representative Raney said that the purpose of the coal severance tax was to help with impact and environmental protection and to take care of Montana and it was not to enhance the development of coal fields, and he asked why would they want to lower the tax.

Representative Iverson answered that he was not sure that the 30% level is the most appropriate and it might increase production with a lower tax. He commented that this whole idea that 30% is somehow magical and has special meaning came from a process in establishing it. He advised that the process to establish that was not well thought out as they were led to believe - there were two bills - a Senate and House bill - and one was for 20% and the other for 25% and the 30% level was set in conference committee, which did not meet for very long - maybe, fifteen minutes - and these people in this committee thought this was such a wonderful level to set the tax at.

Representative Ream said that he would oppose stripping the amendments and he thinks that the bill is poorly

Taxation Committee  
March 20, 1985  
Page Eleven

conceived and poorly thought out, he thought many people were railroaded and he cannot go along with the bill.

A vote was taken on the motion to strip the amendments and the motion passed with Representative Cohen, Representative Keenan, Representative Raney and Representative Ream voting no.

Representative Asay moved to adopt the amendments as per Exhibit 12. He explained that amendment #2 represents the same amendment that Representative Gilbert had made previously.

Representative Williams advised that in section 6, this will insure that the legislature and the public will have sufficient information to determine whether the window of opportunity is working and the coal companies will keep their business information, such as prices and details of their contracts, confidential.

He further explained that this requires all producers to file quarterly statements with the number of tons produced to every purchaser during the quarter and the severance tax calculated on these tons and with this information the competitors would be able to calculate very easily the exact price of their contract to be able to underbid any company and this amendment was put in there for their protection.

Representative Raney again questioned how they would know this incentive worked.

Representative Asay replied that there will be a list of who purchased the coal, a list of incremental production by each mine and all this information will be available.

There was further discussion on this issue.

A vote was taken on the motion to adopt the amendments and the motion carried with Representative Raney voting no.

Representative Williams moved that this bill DO PASS AS AMENDED.

12

Taxation Committee  
March 20, 1985  
Page Twelve

Representative Keenan stated that the committee has heard that the window is not big enough or wide enough and that the coal companies can support this bill if the proposed amendments are included, but that the proposed changes do not go far enough and we have heard from Representative Marks that the legislature has a way of eliminating sunsets in two years. She exclaimed that what they are doing here is lowering the 30% coal tax under the auspices of a window of opportunity and she said that she did not buy it and she thinks the people of the state of Montana do not buy it and she wished the coal companies would stand at the end of the table and say, "I don't mind paying my fair share." She concluded by saying that she opposed this bill and she thinks it is just a joke.

Representative Cohen said that this was just a foot in the door and they can be certain that the coal companies will be back here in two years saying they will have to reduce the coal severance tax to 20% and then reduce it to 10%.

Representative Asay declared that he was getting a little tired of hearing how the coal companies should be willing to pay their fair share and he would ask anybody to stand up and tell him that the state of Montana has not been benefited in the last few years by this activity and he would ask them to tell them where they would be if they did not have this tremendous check written to the state from the coal companies every year and every community in this state has had a direct benefit from people working in the coal industry in the last seven years and every person in this state has a direct tax relief. He stated that he feels they have an exemplary example of responsible people taking their responsibilities and making the state benefit from this. He concluded that he would defy anyone to compare what has been done in the coal area to what was done in the Butte area.

Representative Harp said that it is time for government and business to work together and try to replace some of the 7,000 jobs that the state has lost in the last four or five years and the best thing is for people to work and prosper.

Taxation Committee  
March 20, 1985  
Page Thirteen

Representative Ellison said he was here when they voted on the coal severance tax and he voted for the 25% tax and it was argued at that time that they needed the coal tax high enough to make an orderly development of coal production. He noted that they feared environmental damage, which never materialized.

Representative Williams stated that he supports the bill as amended, that maybe it is too narrow and maybe it even has a few bars on it, but the industry will have 2½ years to either put up or shut up and this bill was geared to increase production.

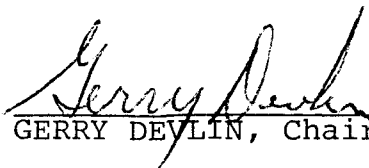
Representative Sands indicated that he served on the coal tax oversight committee and this bill will point them in the direction of a practical, logical, and economical tax analysis and he would support it.

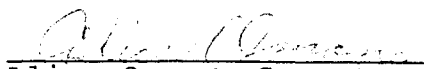
Representative Cohen said that the problems in Butte and Anaconda began when the companies came there, they continued throughout their stay and when the companies left, they left problems including tons and tons of arsenic.

Representative Harrington declared that nobody has fought harder than he has to try and maintain a level between business and industry and he hopes that this will do something to bring more economic growth into the state and it is a situation now where they will have to do something, but he may be wrong.

A vote was taken on the motion to DO PASS AS AMENDED. The vote was 15 voting for and 5 voting against. See Roll Call vote.

ADJOURNMENT: There being no further business, the meeting was adjourned at 11:03 a.m.

  
GERRY DEVLIN, Chairman

  
Alice Omang, Secretary

## DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 20, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN	X		
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

# DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 15, 1985

NAME	PRESENT	ABSENT	EXCUSED
DEVLIN, GERRY, Chrm.	X		
WILLIAMS, MEL, V. Chrm.	X		
ABRAMS, HUGH	X		
ASAY, TOM	X		
COHEN, BEN	X		
ELLISON, ORVAL	X		
GILBERT, BOB	X		
HANSON, MARIAN	X		
HARRINGTON, DAN	X		
HARP, JOHN	X		
IVERSON, DENNIS	X		
KEENAN, NANCY	X		
KOEHNKE, FRANCIS	X		
PATTERSON, JOHN			X
RANEY, BOB	X		
REAM, BOB	X		
SANDS, JACK	X		
SCHYE, TED	X		
SWITZER, DEAN	X		
ZABROCKI, CARL	X		

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE March 20, 1985 BILL NO. HB 607 TIME \_\_\_\_\_

NAME	AYE	NAY
DEVLIN, GERRY, Chrm.	✓	
WILLIAMS, MEL, V.Chrm.	✓	
ABRAMS, HUGH	✓	
ASAY, TOM	✓	
COHEN, BEN		✓
ELLISON, ORVAL	✓	
GILBERT, BOB		✓
HANSON, MARIAN	✓	
HARRINGTON, DAN	✓	
HARP, JOHN	✓	
IVERSON, DENNIS	✓	
KEENAN, NANCY		✓
KOEHNKE, FRANCIS	✓	
PATTERSON, JOHN	✓	
RANEY, BOB		✓
REAM, BOB		✓
SANDS, JACK	✓	
SCHYE, TED	✓	
SWITZER, DEAN	✓	
ZABROCKI, CARL	✓	

15

5

Alice Omang  
Secretary Alice Omang

Chairman Gerry Devlin

Motion: DO PASS, AS AMENDED



Exhibit 1  
SB 55  
3/20/85  
Judge Coate

MEMO

TO: HOUSE TAXATION COMMITTEE

SUBJECT: S.B. #55

FROM: A.B. COATE

BACKGROUND:

During the late 1920's and the 1930's, many landowners were unable to pay their real property taxes. The counties then proceeded to obtain title to the land by tax title. The land was then sold to third parties by the county, as soon as there was a market for it. The law, §7-3-2305 MCA, provided that when the county sold the land, it must retain a 6 1/4 percent "royalty interest." The third party purchasers quietly titled the land in the 1940's or 1950's and cut off all interests in the property except the county's royalty interest. Oil and gas has been discovered on the property and the county has received payment for its royalty interest.

PROBLEM:

Heirs of the original owner, who lost the land for taxes, are now bringing legal actions against the county to recover the county's royalty interest in the land. They have been winning and counties have had to pay out millions of dollars in judgments.

Most of the cases have turned on a defect in the tax title proceedings, e.g., no certificate showing notice of the tax title proceedings, to the original owner, in the County Treasurer's office.

Tax proceedings are strictly construed against the taxing authority, so there must be proof that each specific statutory proceeding was performed according to law. If it wasn't, the original owner's right of redemption is never cut off and an action can be commenced at anytime.

No one knows whether the county officials failed to give the proper notice when the proceedings were commenced or if the notice was given and some subsequent county official, in a "good house-

1 keeping" effort, destroyed them. However, that is immaterial as  
2 even if the original taxpayer had actual notice, he would still  
3 win his lawsuit upon the failure of the county to produce the  
4 records. Lowery vs. Garfield County, (1949) 122 M. 571, 208  
5 P.2d 478.

6 PROPOSED SOLUTION:

7 One method would be to enact an entire new procedure for the  
8 obtaining of tax title; however, that would not correct the  
9 problem that we are here concerned with. That method could avoid  
10 any future tax title problems however.

11 To resolve the immediate problem, Senate Bill #55 has been  
12 introduced for your consideration. The purpose of this Bill is to  
13 create a specific statute of limitations on royalty interests  
14 obtained by counties through tax titles. Our Court has held that  
15 statutes of limitations which preclude the landowner from  
16 exercising his right of redemption are unconstitutional.

17 In 1927 the Legislature enacted C85, L 1927, a one-year  
18 statute of limitations, to bring an action to attack the validity  
19 of tax title proceedings. Our Court held that the Legislation was  
20 unconstitutional. Small vs. Hull, (1934) 96 M 525, 535, 32 P.2d 4.  
21 In 1939, the Legislature attempted to validate existing tax titles.  
22 Our Court held that such legislation was unconstitutional.  
23 Kerr vs. Small, (1941) 112 M 490, 493, 117, P.2d 271. The  
24 Legislature in 1943 enacted C 100, Laws 1943, a short statute of  
25 limitations and the Court by a 3 to 2 decision declared the act  
26 unconstitutional. Lowery vs. Garfield County, (1949) 122 M 571,  
27 585, 208 P.2d 478. All of those Acts were concerned with the  
28 title to land acquired by tax title.

29 The Bill before you is concerned solely with "royalty interest."  
30 This Bill is not concerned with the land itself or the ownership  
31 of the other 93 3/4 percent of the mineral royalty. This Bill  
32 makes no attempt to cut off the right of redemption of the original

1 owner to that portion of the land. In most cases, the counties  
2 long ago - 35-40 years ago - sold the land and minerals to a third  
3 party. That party, generally, brought a quiet title action and  
4 ownership has been established judicially in everything other than  
5 the county's royalty interest.

6 In Montana, we recognize that minerals and royalty interests  
7 may be severed from the surface estate; however, unless there has  
8 been a severance, the minerals and royalty go with the surface and  
9 can be obtained by tax title N.P. Ry. vs. Musselshell County,  
10 74 M 81, 238 Pac. 872; Rist v. Toole County, 117 M 426, 159 P.2d  
11 340, 162 ALR 406.

12 A royalty interest is not a mineral interest; it is merely a  
13 right to share in production on the severance of the minerals and  
14 is personalty. Thompson on Real Property, Vol. 1A, §179, P. 129.  
15 Thus, it is a "rent" or "profit" arising out of a corporeal  
16 interest in property, the minerals, and is an incorporeal  
17 hereditment. Op cite P. 135. When the minerals are severed from  
18 the soil, they become personalty and are no longer treated as real  
19 property. Op cite P. 138; also see, 22 Rocky Mountain Law  
20 Review 523, "The Doctrine of Severance of Estates and the Effect  
21 of Tax Titles Thereon."

22 Therefore, once production of the minerals has been commenced,  
23 we have personalty rather than real property. There is no legal  
24 reason that the Legislature cannot enact a specific statute of  
25 limitations for royalty interest. The Legislature can, and has,  
26 enacted laws restricting ownership in other personalty - e.g., lost  
27 personal property; estrays; unclaimed bank deposits; motor vehicle  
28 registration; and etc.

29 The purpose of statute of limitations is to: prevent  
30 potential plaintiffs from sleeping on their rights, and to suppress  
31 stale claims after the facts concerning them have become obscured  
32 by lapse of time, defective memory, or death or removal of

witnesses.

Cassidy vs. Finley, 173 M 475, 568 P.2d 142.

This Bill does not propose to change any of the delinquent taxpayers' rights of redemption. It does not set a statute of limitations to tax title proceedings. It does not validate any prior acts of county officials. It will not change any legal proceedings filed prior to its effective date.

Actions for the recovery of damages, enforcement of contracts, recovery of land, and even for wrongfully death have statutes of limitations. Is there any logical reason why there shouldn't be one for royalty interests?

BEFORE THE TAXATION COMMITTEE  
MONTANA HOUSE OF REPRESENTATIVES

Exhibit 2  
SB 249  
3/20/85  
Bonnie Tippy

Senate Bill 249 by Boylan, )  
To Tax Cigarettes in Larger )  
Packs On a Per-Cigarette Basis )

STATEMENT IN SUPPORT --  
R.J. REYNOLDS CO.

I am Bonnie Tippy of Helena, representative of the R.J. Reynolds Company, cigarette manufacturers who decided two years ago to begin marketing cigarettes in packs of 25. In most states they simply started selling them this way. In a few states, cigarette tax laws were an obstacle because they taxed the cigarettes in units of 20 or 10. Under Montana's law, which taxes cigarettes in increments of 20, a pack of 25 would have to pay the same tax as two packs of 20 would pay. This bill would change this system so that the larger packs would be taxed at a rate equal to the rate per cigarette on the 20-packs. Thus, if the state tax remains 16 cents per pack of 20, the tax would be 20 cents on a pack of 25. Should the state tax on a pack of 20 become 24 cents, it would go to 32 cents -- rather than 48 cents -- on a pack of 25 under the bill.

Two aspects of the fiscal note warrant comment. First, there is no change in consumption or tax collections if the bill passes. Smokers would switch from packs of 20 to packs of 25 which would last them longer. If the bill is not enacted, however, Reynolds will not market its 25-pack brand under the tax disadvantage noted. The only outlets for 25-packs would probably be the smoke shops in Indian country. Second, the fiscal note presents the state's costs of acquiring two sets of tax insignia or decals. Remember that each pack of 25 sold has replaced one and one-quarter packs of 20 for which the state does not now have to buy decals. That savings should be offset against the stated cost of these decals.

The restriction in current law to taxing in increments of 20 serves no discernible purpose whatsoever. Eliminating this particular obstacle to marketing by giving SB249 your "be concurred in" recommendation will give cigarette consumers a wider selection.

DATED: March 20, 1985.

Exhibit 3  
SB 401  
3/20/85  
Agocs Barb

DATE: MARCH 20th, 1985 7:45 AM State Capitol Building

TO: House, Taxation Committee

Gerry Devlin, Chairman,  
House Taxation Committee

Hearing on Bill Number 401

Those giving testimony:

Barbara S. Agocs, Executive Director, United  
Way of Gallatin County - Bozeman

Cathy Ward, Executive Director, United  
Way of Lewis and Clark County - Helena

GOOD MORNING!!!!!!

It is a special occasion for me to address this important committee and I do so as a representative of United Way of America and state United Ways and in turn, the varied social service agencies (over 150 such agencies statewide) funded through private donations.

**PURPOSE:**

This testimony is expressed as a two-fold purpose in regard to the legislation being reviewed. There is a general purpose and a specific one....

**GENERAL PURPOSE:** There is an urgent necessity to create a climate to encourage and motivate the giving of the private sector to compensate for extensive cut backs in funding for social service agencies and further... to encourage such giving by individuals as well as corporate entities by providing the same advantages to individuals as those experienced by corporations....tax credits.

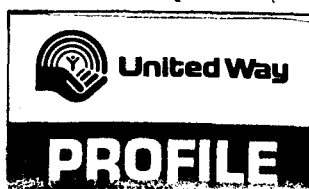
**SPECIFIC PURPOSE:** To provide legislation that specifies that an individual and/or corporate entity can provide "in-kind" equipment, services, supplies, etc. to any established non-profit organization holding proper state and federal credentials (501c tax status, etc.) and receive tax credit for the contribution.

In essence - this is an extension of previously passed legislation (Senate Bill 262) in which a corporation could donate a computer to a school and receive a tax credit (of greater benefit than a tax deduction as itemized)...The previously passed bill is commendable and yet could be viewed as discriminatory as to giver, gift and recipient. What is requested is an expansion of 262 to include provisions stated in the above paragraph - Specific Purpose.

**BACKGROUND:**

As Executive Director of United Way of Gallatin County and associated with national and state networks, I witness the financial difficulties and the challenge for survival experienced by social service agencies. Most of them are on the ragged edge financially. This perilous state is attributable to vastly diminished resources. Nationally, United Ways fund 15% of the total budget of member agencies. The financial crunch is augmented by an explosive demand for services...to the elderly, youth, families, the disabled, hungry, homeless...those in crisis, chemically addicted, etc. We are talking about people - who are real and many of them are middle class - formerly alien to need but currently victims of unemployment and a changing economy..

The "in-kind" gifts program in 1984, resulted in \$74,000,000 in value of products donated by corporations to non-profits and demonstrated an 11% increase in this fashion of giving. It is a growing method of giving and in touch with the current administration's charge regarding private initiatives.



House  
Testimony to ~~the~~ Taxation Committee

EXAMPLE: I recently responded to an ad for a second hand computer and software. The asking price of \$4,000 was well over what our cash flow could handle on a \$170,000 budget with 72-76% of the dollar going to fund the agencies.

If the bill before you were in place, I am confident that I could have negotiated to allow me to make some cash payment and have the remaining value donated and taken as a tax credit.

J & H Office equipment in Bozeman has provided a copier and free maintenance for almost two years. This is an exemplary demonstration of support and a generous contribution. More businesses and more individuals would have the incentive to provide such gestures - of vital importance to us - if the climate were established to encourage such contributions.

CLOSING REMARKS: It is difficult to adequately stress the importance of the measures contained in this bill. It would enhance the conditions and climate for giving by individuals and businesses and would provide the same benefits for individuals as well as businesses - those who extend their hands with something in them to help others.

Actually, what I am asking you to do today in support of this legislation, is larger than any specific law - it is an attitude of people and a measure to sustain an American tradition of voluntary giving. There is a keen need to accelerate this attitude of support and caring for others.

My thanks to Senator Paul Boylan for his efforts and to you for your service to Montana and its people.



UNITED WAY OF GALLATIN  
COUNTY

**Barbara S. Agocs**  
Executive Director

Box 508 Suite 1  
Bozeman, MT 59715 300 N. W. Hill  
(408) 567-2184

## WITNESS STATEMENT

Exhibit 4  
SB 334  
3/20/85  
Chippew

NAME Sen Ed Smith BILL NO. SB 334  
ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT? \_\_\_\_\_  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

I was instrumental in the providing amendments to the non-game species bill in the 1983 session.

Those amendments are in ~~the~~ Section 1  
sub-section 6 - A & B.

- (A) No money can be used for the purchase of any real property.
- (b) or in such a way to interfere with the production or management of private property.

As long as this legislation remains in this form I will continue to support it.

To me the funding changes do not interfere with this legislation.

Sen Ed Smith



NONGAME WILDLIFE FUNDING BILLExhibit 5  
SB 334  
3/20/85  
S. Ellis

Nongame wildlife is also known as "Watchable Wildlife" - those animals not usually hunted or fished. The Mountain Bluebird and Flying Squirrel are two examples of more than 600 nongame animals in Montana. Game, furbearers, predators and endangered species are excluded from the definition of nongame wildlife (87-5-102 MCA).

The 1973 Legislature set up a state-run nongame program in the Department of Fish, Wildlife & Parks. No reliable funding source was provided for this program.

The 1983 Legislature provided a more reliable funding source: they placed a check-off box on the Montana income tax form so that individuals can contribute money from their tax refund dollars to this important program.

HOW MUCH Last year 6,630 people contributed \$35,427 of their own money to fund the nongame program! This is a modest start but shows an incredible amount of support for this program.

SB 334 MAKES 3 CHANGES TO THE NONGAME PROGRAM FUNDING:1) ALLOWS ALL TAXPAYERS TO CONTRIBUTE TO THE NONGAME PROGRAM:

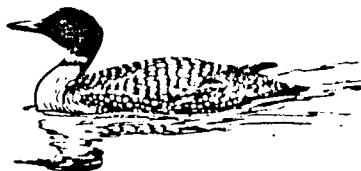
- Currently only people getting tax refunds can contribute to this program.
- Last year only 48% of the Montana taxpayers were eligible for refunds. That means that LESS THAN HALF OF THE CITIZENS IN THE STATE can contribute to this program via the tax form.
- SB 334 allows everyone to contribute to this program. If a person does not get a refund, they can add on their additional contribution to the taxes they owe.

2) ALLOWS PEOPLE TO CONTRIBUTE ANY AMOUNT TO THE NONGAME PROGRAM:

- Currently the check-off is set up to only allow contributions of \$2, \$5, or \$10.
- SB 334 allows people to "fill-in-the-blank" and add any amount to this program (if you get a \$13 refund you can contribute the entire sum to the program if you want to).

3) GIVES THE INTEREST COLLECTED FROM NONGAME DONATIONS TO THE NONGAME PROGRAM:

- Currently the nongame donations sit in an account for over a year before they can be spent by the Nongame Program.
- All of the interest accumulated from this fund currently goes into the General Fund.
- Because the Nongame Program is a donation program, we are asking that the interest be returned to Nongame.



## THE CURRENT NONGAME PROGRAM:

Six projects have been identified under the current nongame program:

- 1) Nongame Program Funding Development: This project will keep the check-off before the public eye and continue solicitation of funds.
- 2) Statewide Raptor Survey Route System: This project surveys 17 species of raptors as they migrate in the spring. Volunteers help run 46 survey routes.
- 3) Bluebird Conservation Project: This project promotes the placement of nest boxes by members of the public. Bluebirds have lost much of their native nesting sites. They are a bird that lives off insects.
- 4) Publication of Wildlife Brochures: This public information effort will provide valuable information to interested people. A state bird list as well as life history information will be made available.
- 5) Nature Trail Development/Enhancement: Interpretive signs will be placed at key locations throughout the state, such as Lewis & Clark Caverns.
- 6) Nongame Inventory on Selected Department Lands: This project will continue to identify species composition of wildlife communities on Department-owned areas.

## AND TO CLARIFY.....

- \*This is an entirely voluntary program.
- \*The donations do not reduce the General Fund. The donation is a donation - it reduces your refund or increases the amount of money that you pay to the state.
- \*The Department of Revenue deducts their administrative costs from the nongame program. The program hence does not cost the state money.
- \*The Legislature must approve of all programs that the nongame monies can be used for.

## THE NONGAME CHECK-OFF WILL READ:

Montana nongame wildlife funding. Check the appropriate blank if you wish to designate \_\_\$2, \_\_\$5, \_\_\$10 or \_\_\_\_\_ (specify an amount) to fund nongame wildlife programs in Montana. If a joint return, check the appropriate blank if your spouse wishes to designate \_\_\$2, \_\_\$5, \$10, or \_\_\_\_\_ (specify an amount) for the same purpose.

## A FINAL WORD.....

Proper management of nongame wildlife will also benefit game animals.

With a better understanding of what wildlife resources Montana has, the balance that exists today can be maintained as Montana continues to grow.

## WHAT IS A NONGAME ANIMAL ?

These animals are not nongame

### Game\*

Elk  
Ducks  
Geese  
Trout  
Bear  
Deer

### Furbearers

Mink  
Marten  
Fisher  
Otter  
Bobcat  
Canada Lynx  
Beaver  
Northern Swift Fox  
Wolverine

### Predators

Coyotes  
Skunks  
Weasils  
Civet Cats

### Endangered Species

Whooping Crane  
Black-footed Ferret  
Timber Wolf  
Peregrine Falcon

These animals are nongame

### Nongame\*

White Pelican  
Pika  
Grasshopper Mouse\*\*  
Raccoon  
Masked Shrew  
Snowshoe Hare\*\*  
Bison  
Big Brown Bat  
Western Big-eared Bat  
Woodpeckers  
Black-tailed Prairie Dog\*\*  
Sagebrush Lizard  
Golden Eagle\*\*\*  
Western Toad  
Yellow Perch  
Pumpkinseed  
Osprey  
Great Blue Heron  
Western Meadowlark  
Flying Squirrel  
White-tailed Cottontail  
Least Chipmunk  
Sagebrush Vole  
Great Horned Owl\*\*\*  
Painted Turtle

\*These are not complete lists of animals--they are only examples.

\*\*The Department of Livestock controls these animals when they become pests under 81-1-401 MCA.

\*\*\*These animals can be destroyed if they destroy livestock or poultry under 87-5-209 MCA.

Nongame Wildlife Tax Form Check-off

	<u>1982</u>	<u>1983</u>
No. filing income tax	368,500	365,600
No. getting refund	186,300	174,528
Per cent getting refund	51%	48%
No. contributing to nongame (only people with refunds eligible)	--	6,630
Per cent contributing to nongame (# contributing/ # getting refunds)	--	4%
Average contribution to nongame	--	\$5.34
Amount contributed to nongame	--	\$35,427
Amount \$ for Dept. of Revenue	--	\$8,850

# SAMPLES OF NONGAME WILDLIFE CHECK-OFFS ON INCOME TAX FORMS

States that allow contributions on refunds and taxes due:

## MINNESOTA

- 15 Surtax (multiply the amount on line 14 by 0.07 (7%)) . . . . . 15
- 16 Total 1982 income tax (add lines 14 and 15). . . . . 16
- 17 If you wish to donate \$1 or more to the Minnesota Nongame Wildlife Fund, fill in the amount here. This will reduce your refund or increase the amount you owe . . . . . 17
- 18 Total (add lines 16 and 17) . . . . . 18

## KANSAS

11. KANSAS NON-GAME WILDLIFE IMPROVEMENT PROGRAM. Check if you wish to donate, in addition to your tax liability, ( ) \$1, ( ) \$5, ( ) \$10 or ( ) \$_____ or designate ( ) \$1, ( ) \$5, ( ) \$10 or ( ) \$_____ of your tax refund for this program. If joint return, check if spouse wishes to donate or designate ( ) \$1, ( ) \$5, ( ) \$10 or ( ) \$_____. Enter total on line 11.		11	[W] Total Wildlife Contribution
For Office Use Only			

## IDAHO

47. Permanent Building Fund Tax (Read instructions carefully) . . . . .	48	
48. TOTAL TAX. LINE 46 PLUS LINE 47 . . . . .	49	
49. I wish to donate <input type="checkbox"/> None <input type="checkbox"/> \$1 <input type="checkbox"/> \$5 <input type="checkbox"/> \$10 or \$_____ to the Nongame Wildlife Fund . . . . .	50	
50. I wish to donate <input type="checkbox"/> None <input type="checkbox"/> \$5 <input type="checkbox"/> \$10 to the U.S. Olympic Fund. Enter any dollar amount up to \$10, if married filing jointly or up to \$5 for any other filing status . . . . .	51	

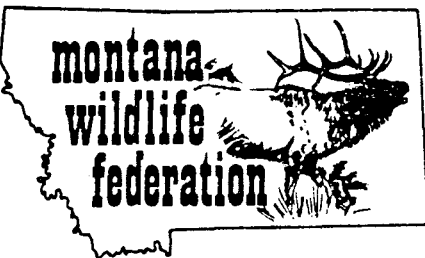
NOTE: Your donation will either REDUCE the amount of your refund or INCREASE the amount you have to pay

## ARIZONA

34. <input type="checkbox"/> BOTH (See instructions, Page 12) <input type="checkbox"/> OR Renter's Tax Credit—From Page 2, Part III, Line 27 . . . . .			
TO PAY	36a. If Line 35 is more than Line 32, Subtract Line 32 from Line 35 & Enter . . . . .	36a	Line 36a less 36b equals your REFUND
	36b. <input checked="" type="checkbox"/> Enter Voluntary Arizona Wildlife Contribution— <input type="checkbox"/> \$2, <input type="checkbox"/> \$5, <input type="checkbox"/> \$10, or \$_____ (See instructions, Page 13) . . . . .	36b	36.
TO PAY	37a. If Line 35 is smaller than Line 32, Subtract Line 35 from Line 32 & Enter . . . . .	37a	Line 37a plus 37b equals amount to PAY
	37b. <input checked="" type="checkbox"/> Enter Voluntary Arizona Wildlife Contribution (See instructions, Page 13) \$_____ . . . . .	37b	37.
Make Check Payable To: <b>AZ. DEPT. OF REVENUE</b>		EXTENSION ATTACHED <input type="checkbox"/>	NOTE: DO YOU NEED TAX FORM BOOKLET MAILED TO YOU NEXT YEAR? YES <input type="checkbox"/> NO <input type="checkbox"/>

\*With the passage of SB 334, Montana's nongame wildlife check-off will read:

Check the appropriate blank if you wish to designate \$5, \$10, or \_\_\_\_\_ (specify an amount) to fund nongame wildlife programs in Montana. If a joint return, check the appropriate blank if your spouse wishes to designate \$5, \$10, or \_\_\_\_\_ (specify an amount) for the same purpose.



EDUCATION - CONSERVATION

# Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION

Exhibit 6  
SB334  
3/20/85  
T. Schoonen

P.O. Box 3526  
Bozeman, MT 59715  
(406) 587-1713

SB334

Mr. Chairman, Members of the Committee:

My name is Tony Schoonen, here today representing the Montana Wildlife Federation in support of SB334.

Our organization is very proud of the fact that on a national scale, our state is known to have the finest wildlife populations to be found anywhere. The MWF also recognizes that of these populations, there are many more kinds of "watchable" populations than there are "hunnable" populations. We further realize that all kinds of wildlife live together in ways that make them interdependent upon each other and the land that they share with all of us.

It is unfortunate that so little is actually known about the over 100 mammals and 400 birds of our state, since much of our research and management practices have centered around a mere 3% of those animals -- the ones that are actually hunted or trapped. The other 97 percent, the nongame animals, deserve more recognition due to their obvious benefits and impacts to agriculture and "hunnable" wildlife alike.

In direct application to agriculture, the understanding of the cyclical population trends of these birds and mammals can be very important. If during a given year, for example, we can predict an inevitable population boom, we can begin to investigate ways to modify agricultural practices during those years -- including the planting of more tolerant crops, changing range

management schemes or implementing progressive population control methods. Furthermore, if such population booms would likely impact forage on deer and elk winter range, then wildlife experts would realize the need to harvest more of the "huntable" animals to prevent them from grazing on haystacks or starving to death.

In summary, studies conducted to better understand nongame animals would be beneficial to both sportsmen and landowners. The changes in the funding mechanism contained in SB334 addressing the current nongame program are acceptable and are a step toward providing adequate funding for such studies.

The MWF supports these changes and would urge this committee to give SB 334 a do-pass.

Exhibit 7  
SB 334  
3/20/85  
Tony Schoonen

SB 334

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

March 20, 1985

The department appears in support of Senate Bill 334.

The 1983 legislature passed a measure creating a checkoff on state income tax returns through which Montanans receiving a tax refund could voluntarily contribute a portion of their refund to support the state's nongame management program.

Three hundred sixty-six thousand tax forms for tax year 1983 were processed by the Department of Revenue. One hundred seventy-five thousand of these taxpayers were due a refund and were thus eligible to contribute to the program. Figures show that 6,630 Montanans or just under 4% of all taxpayers receiving refunds contributed. Total contributions were \$35,427. This averages about \$5 from each contributor. From those revenues must be subtracted administrative fees of approximately \$6,000 annually that the Department of Revenue will charge. Net income from the 1983 checkoff to the department was approximately \$30,000. We anticipate similar revenues in the next two to three years.

The nongame program's budget in years prior to the checkoff had been approximately \$58,000 annually. As you can see, the nongame checkoff program revenues did not match the program's previous level. Following legislative intent, we have not added the nongame revenue to our previous operation level, but rather have used the nongame revenue to replace license dollars and maintained the program size at current level.

Passage of SB 334 would allow the opportunity to fully supplant the license dollars being used for nongame activities. Our estimates are based on the fact that: (1) approximately two times as many people would be eligible to contribute to the program, assuming the limitations were removed, and (2) we see no reason to expect an increase in the average size of the contribution received.

Because managing nongame wildlife is one of our statutory responsibilities, and this funding source allows nonlicense buyers to support the program, we urge your passage of SB 334.



Exhibit 8  
SB 334  
3/20/85  
Ann Humphrey

Montana Audubon Council  
Testimony on SB 334  
19 March, 1985

Mr. Chairman and Members of the Committee, my name is Ann Humphrey and I am representing the Montana Audubon Council in support of SB 334. The Council is composed of over 2200 members statewide.

SB 334 is important because it will allow all Montana taxpayers to contribute to the Nongame fund. There are many Montanans who were unable to contribute to the program through the check-off system last year. Many of these people would like to contribute if the mechanism was simpler for them. By allowing people who have to pay taxes to contribute through the check-off, and changing the contribution blank SB 334 provides the opportunity for all Montana taxpayers to contribute to the Nongame fund.

I would like to present copies of two letters in support of changing the contribution blank to provide a "fill-in-the-blank" section (see attached sheets). Both of these people received refunds, one for \$13 and some odd cents, and one for \$8 and some odd cents. These people tried to donate their entire refunds. However, because the refunds were not amounts specified on the tax check-off, their refunds were returned to them. The revisions in SB 334 will allow these people to contribute their entire refunds.

We hope that you will provide the opportunity for all Montana taxpayers to contribute to the Nongame Fund, and support SB 334. Thank you.

Tanet Ellis  
c/o Mt. Aud. Council  
P.O. Box 924  
Helena, Mt. 59624

Chris Clawcy  
417 S. Yellowstone  
Livingston, Mt. 59047

Exhibit 9  
SB 334  
3/6/85  
Ann Humphrey

Dear Tanet:

I received your letter concerning some possible changes in the nongame-income tax check-off. I am very supportive of both of your proposals.

I am interested in supporting the program, however, under present law I must receive an income tax refund in order to do that. I seldom receive a refund from the state, therefore I am unable to contribute to the program.

I believe that I could write a check and send it in, if I don't receive a refund. I feel that anyone should be able to check off on the tax form that they want to contribute whether they receive a refund or not. If we must send a check, the fund is put on an equal basis with all privately supported conservation funds. The state is supporting the program therefore should make it as simple as possible for people to contribute.

Secondly, I believe that people should have the option of contributing any amount that they desire. Instead of just a 2, 5 or 10 dollar contribution, I feel that people should be able to contribute any amount that they wish. After all, we are all citizens of the state, we should allow

the people to fund the program (it's pure democracy).  
I have a friend who recently left the state and

now lives in Wisconsin. He was to receive a refund  
of about \$8 and some odd cents. He wanted to

contribute all of it to the program. However, the  
system did not allow for that and he received the

entire refund. His name is Jim Petersen and I am  
unable to contact him at this time.

I believe those two changes would be in the  
best interest of the state and I whole heartedly

support them. Good luck, and if you need some moral

support in the future, I am willing to sit in on the hearings.

Sincerely  
Chris Clancy  
6-10-1980

Exhibit 10

SB 334

3/20/85

A. Humphreys

2035 Ave. D

Billings, MT 59102

Jan. 26, 1985

Dear Janet,

Gebe Fitzgerald asked me to write & tell you what happened to us in connection with the Tongue Wildlife Program contribution.

We had the great sum of \$13.00 tax refund. My husband entered this amount in "Enter total amount." In line 62 he entered 00.

Several weeks later we received a check for \$13.00 tax refund. I am sure we should have contributed to it & checked that box.

Sincerely,  
V. Irene Bartlett

Exhibit 11  
HB 607  
3/20/85  
Rep. Raney

## Coal industry drops tax plan

HELENA (AP) — The coal industry has abandoned its effort to amend the governor's proposal for a coal severance tax credit on new production, a spokesman said Monday.

Jim Mockler of the Montana Coal Council said his organization will not oppose a Schwinden administration move to return the tax credit legislation to its original form when the House Taxation Committee takes up the bill Tuesday.

The measure had proposed a one-third tax rebate on new and renewed contracts signed during a 2½-year period, as long as current production is maintained. The Coal Council succeeded in removing the

production requirement and Gov. Ted Schwinden promised to veto the bill.

Mockler said his organization took that pledge to heart, deciding it should be "willing to accept what little's there" and not risk a veto of any tax credit.

"We thought we were making a better bill," he said of the amended version.

The industry will not give up on trying to get the 30 percent tax permanently lowered, even if the credit proposal passes, he said.

Coal companies still believe Montana's 30 percent tax is a "major detriment" to production and that the tax credit plan is too

limited to prove otherwise, Mockler said.

He said passage of the original bill will not help the state's chances of getting a contract for the sale of 2 million tons of coal per year to Northern States Power in Minnesota. A decision on the contract will probably be announced about May 1, he added.

Rep. Joe Quilici, who sponsored the bill, said he does not expect further attempts will be made to amend the proposal, either in the House or Senate. "The leadership on both sides should realize that the governor and I are just as interested in preserving the coal tax as anyone," the Butte Democrat said.

Raney

PROPOSED AMENDMENTS  
House Bill No. 607  
Introduced Copy

Exhibit 12  
HB 607  
3/20/85  
Rep. Asay

1. Page 6, line 23.

Following: "purchaser"

Insert: "and multiplying the total by 33 1/3%"

2. Page 9.

Following: line 16

Insert: "(4) Any coal mine operator or purchaser may, for the purpose of determining the eligibility of coal production for the new production incentive tax credit, file with the department a petition for a declaratory ruling as provided in 2-4-501. The department shall issue a ruling on the petition within 90 days of the date the petition was filed with the department.

3. Page 9, line 18.

Following: "information"

Strike: "confidential."

Insert: "open to public inspection -- certain exceptions.

(1) All information filed with the department in accordance with [section 5] is public record and open to public inspection, except the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)].

(2)"

4. Page 9, lines 19 through 23.

Following: "15-2-201," on line 19

Strike: "the returns" on line 19 through "department," on line 23

Insert: "the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)]"

Asay.  
(12)

NEW SECTION. Section 6. Returns and taxpayer information open to public inspection -- certain exceptions.  
(1) All information filed with the department in accordance with [section 5] is public record and open to public inspection, except the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)].

(2) Except during proceedings before the state tax appeal board pursuant to 15-2-201, the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)] are open to inspection only upon the order of the governor, under rules to be prescribed by the department, or upon order of a court of competent jurisdiction.

SB 334

~~Exhibit 11~~

SB 334

3/20/85

February 21, 1985

To the President of the Montana Senate

In compliance with the duty imposed upon the Department of Revenue by Section 87-5-121 of the Montana Code Annotated (1983), the Department submits its itemized costs of administering the nongame wildlife checkoff program during fiscal years 1984 and 1985.

FISCAL YEAR 1984

Program Development

Programming, testing, form design and rule drafting \$1,719.00

Return Preparation

Check returns prior to entering checkoff amounts  
in the computer (211,243 returns) 3,329.42

Automated Processing

Entering checkoff amounts into the computer  
(211,243 returns) 616.37

Computer disk space and reports 109.00

Administrative cost for fiscal year 1984 \$5,773.79

FISCAL YEAR 1985

(Actual Costs July 1, 1984 to December 31, 1984)

Return Preparation

Check returns prior to entering checkoff amounts in the  
computer (115,805) \$2,623.11

Automated Processing

Entering checkoff amounts into the computer  
(115,805 returns) 346.07

Computer disk space and reports 108.00



(Estimated Costs January 1, 1985 to June 30, 1985)

Return Preparation

Check returns prior to entering checkoff amounts in the computer (232,500 returns)	3,600.00
---	----------

Automated Processing

Entering checkoff amounts in the computer (232,500 returns)	4,200.00*
Computer disk space and reports	<u>120.00</u>

Anticipated administrative cost for fiscal year 1985 \$10,997.18

\*The cost of entering the wildlife checkoff amounts is 1.68¢ per return. This is an increase from .4¢ per return charged prior to January 1, 1985. The new amount was determined from a study of actual data entry costs.

John D. LaFaver  
Director  
Department of Revenue

# STANDING COMMITTEE REPORT

Page 1 of 2.

March 20, 1985

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 607

first reading copy ( white )  
color

AN ACT TO ALLOW A PRODUCTION INCENTIVE TAX CREDIT TO THE COAL  
SEVERANCE TAX ON INCREMENTAL PRODUCTION OF COAL MEETING CERTAIN  
REQUIREMENTS: LIMITING THE PERIOD DURING WHICH PRODUCTION MAY  
QUALIFY FOR THE CREDIT;

Respectfully report as follows: That HOUSE Bill No. 607

be amended as follows:

1. Page 6, line 23.

Following: "purchaser"

Insert: "and multiplying the total by 33 1/3%"

DO:PASS:

Chairman.

2. Page 9.

Following: line 16

Insert: "(4) Any coal mine operator or purchaser may, for the purpose of determining the eligibility of coal production for the new production incentive tax credit, file with the department a petition for a declaratory ruling as provided in 2-4-501. The department shall issue a ruling on the petition within 90 days of the date the petition was filed with the department.

3. Page 9, line 16.

Following: "information"

Strike: "confidential."

Insert: "open to public inspection -- certain exceptions.

(1) All information filed with the department in accordance with [section 5] is public record and open to public inspection, except the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)].

(2)"

4. Page 5, lines 19 through 23.

Following: "15-2-201," on line 19

Strike: "the returns" on line 19 through "department," on line 23

Insert: "the information required under [section 5(1)(b)] and the coal sales agreements specified in [section 5(2)(a) and (2)(b)]"

AND AS AMENDED  
DO PASS

# STANDING COMMITTEE REPORT

March 20, 19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 246

third reading copy ( blue color )

AN ACT REQUIRING INCOME FROM STATE LANDS NOT HELD IN TRUST TO  
BE CREDITED TO THE GENERAL FUND UNLESS OTHER DISPOSTION IS  
PROVIDED BY LAW;

Respectfully report as follows: That SENATE Bill No. 246

BE CONCURRED IN

~~DO PASS~~

# STANDING COMMITTEE REPORT

March 20, 19 35

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 55

third reading copy ( blue )  
color

AN ACT LIMITING THE TIME WITHIN WHICH AN ACTION MAY BE COMMENCED TO  
DETERMINE THE VALIDITY OF A ROYALTY OR MINERAL INTEREST OF A COUNTY  
IN LAND ACQUIRED BY TAX DEED;

Respectfully report as follows: That SENATE Bill No. 55

BE CONCURRED IN

~~DO PASS~~

## TAXATION

BILL NO. SB 246

SPONSOR SENATOR PINSONEAULT

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

CS-33

## TAXATION

BILL NO. SB 249

SPONSOR      SENATOR BOYLAN

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

## TAXATION

COMMITTEE

BILL NO. SB 334

DATE March 20, 1985

SPONSOR      SENATOR CRIPPEN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



## VISITORS' REGISTER

## TAXATION

COMMITTEE

BILL NO. SB 401

DATE March 20, 1985

SPONSOR            SENATOR BOYLAN

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

TAXATION

COMMITTEE

BILL NO. SB 55DATE March 20, 1985SPONSOR SENATOR TOWE

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Al Coate	Forsyth	X	
Ed Miller	Lenoir		
G. Morris	Macon		

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.