

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

March 29, 1985 A.M.

The fifty-fifth meeting of the Taxation Committee was called to order at 7:03 a.m. in room 312-1 of the capitol building by Chairman Gerry Devlin.

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

EXECUTIVE SESSION:

DISPOSITION OF SENATE BILL 33: Representative Williams moved that this bill BE CONCURRED IN. Representative Harp distributed copies of proposed amendments (Exhibit 1) to the committee and made a motion that these amendments be adopted.

Representative Williams indicated that he would oppose the amendments.

Representative Harp stated that he thought there was a bond between timber and agriculture and that they need to combine those two classes.

There was some discussion on the motion and a vote was taken and the motion passed with Representative Keenan and Representative Williams voting no.

Mr. Bohyer pointed out a technical amendment that was needed on page 4, line 8, which would strike "for the revaluation cycle beginning January 1, 1986" and on page 4, line 9, following "1986", insert the words "and ending December 31, 1990, or the date the revaluation conducted for 15-7-111 takes effect". He explained the need for this amendment.

Representative Switzer moved the amendment and the motion passed unanimously.

Representative Harp moved that this bill BE CONCURRED IN, AS AMENDED. The motion carried unanimously.

Taxation Committee  
March 29, 1985 A.M.  
Page Two

DISPOSITION OF HOUSE BILL 857: Representative Keenan moved that this bill DO PASS. She also moved that the bill be amended on page 1, line 6, following "tax to" by striking "the state and" and on page 1, line 18, following "tax" by deleting "the transfer of" and on page 1, line 20, following "tax to" by striking "the state and to" and on page 6, line 18, by striking line 18 in its entirety and renumber subsequent subsections and on page 6, line 19, by striking "10%" and inserting "20%" and on page 6, line 20, by striking "56 2/3%" and insert "80%". The motion carried with Representative Switzer, Representative Asay and Representative Ellison voting no.

Representative Keenan moved that the bill DO PASS AS AMENDED. Representative Asay moved the adoption of proposed amendments in Exhibit 2. A roll call vote was taken and the motion failed with 7 voting aye and 10 voting no.

Representative Sands expressed his opinion that he thought this was a terrible bill and he thought this tax was unfair and was an opportunist tax.

Representative Asay stated that they are still talking about an economy that is in a lot of trouble and if they can find someone who is able to buy a home, he shouldn't have to be taxed and he gets a little tired of hitting someone again and again.

Representative Switzer commented that this is a tax that is applied from the side instead of head-on and avoids the title of a general tax increase.

Representative Ellison noted that when they passed the realty transfer act, they contended that they just needed this information for their appraisals and he thought that putting a tax on this now changes the whole thing.

Representative Cohen asserted that this is not going to have an impact on the sale of a home, but it would put some money into those area where these transfers are taking place and they need this help.

Taxation Committee  
March 29, 1985 A.M.  
Page Three

Representative Iverson suggested that there is no such thing as a little tax except when it is first put on and everyone knows there will be a bill to raise it each time the session meets.

A vote was taken on the DO PASS AS AMENDED motion and it failed 9 to 10. See Roll Call Vote.

Chairman Devlin said that they would reverse the vote to a DO NOT PASS AS AMENDED.

DISPOSITION OF HOUSE BILL 908: Representative Keenan moved DO PASS. She distributed Exhibits 3 and 4 to the committee. Representative Keenan moved on page 1, line 20, to change "5¼" to "5½". The motion carried with Representative Switzer, Representative Asay, Representative Patterson and Representative Devlin voting no.

Representative Gilbert made a substitute motion to TABLE this bill. The motion carried with a vote of 10 to 9. See Roll Call Vote.

DISPOSITION OF HOUSE BILL 926: There was some discussion on this bill and Representative Keenan concluded that this is an issue that has to be debated on the floor. She moved that this bill DO PASS as it was originally introduced. The motion failed with 9 voting aye and 11 voting no. See Roll Call Vote.

Chairman Devlin reversed the vote and the recommendation was a DO NOT PASS.

RECONSIDERATION OF SENATE BILL 67: Representative Harp moved that they reconsider their action on this bill. After some discussion, a vote was taken and the motion carried with Representative Zabrocki, Representative Ream, Representative Raney and Representative Cohen voting no.

Representative Keenan moved that this bill DO NOT PASS. Mr. Bohyer noted that there was a conflict with HB 693 if they both passed. Representative Harp moved to amend the bill to take care of the codification, using the substance of HB 693.

Taxation Committee  
March 29, 1985 A.M.  
Page Four

Representative Raney made a substitute motion that if both of these bills pass, the codification should use the language in SB 67. The motion failed with 8 voting aye and 11 voting no. See Roll Call Vote.

Chairman Devlin reversed the codification to the other bill with no objection.

Representative Keenan moved that the bill DO NOT PASS AS AMENDED. The motion failed with 9 voting aye and 11 voting no. See Roll Call Vote.

Chairman Devlin reversed the vote to a DO PASS.

DISPOSITION OF SENATE BILL 436: Representative Keenan moved that this bill BE CONCURRED IN. She indicated that this was a needy instead of greedy bill.

Representative Harp moved the amendments that had been proposed to this bill that would restore it to the original bill. The motion carried unanimously.

Representative Keenan made a motion that this bill BE CONCURRED IN AS AMENDED. The motion carried with Representative Hanson and Representative Zabrocki voting no.

DISPOSITION OF SENATE BILL 390: Representative Harp distributed proposed amendments (Exhibit 5) to this bill. He explained the amendments and made a motion that they be adopted. The motion carried with Representative Switzer voting no.

Representative Williams moved to amend the bill on page 5, line 21, following "proceeds" by inserting "without deduction for excise taxes." The motion carried with Representative Asay, Representative Abrams, Representative Harp, Representative Devlin, Representative Zabrocki and Representative Switzer voting no.

Representative Williams moved that this bill be amended on page 7, line 12 by striking "7" and inserting "8.1" There was some discussion and a vote was taken on the motion and it failed by a vote of 8 ayes and 12 noes.

Taxation Committee  
March 29, 1985 A.M.  
Page Five

Representative Williams moved to amend the bill on page 2, lines 3 through 5, following "lease" on line 3, by striking "through production" on line 5 and inserting "executed after (the effective date of this act)."

Representative Harp commented that they are after new production and with this amendment, they are not going to get new production.

There was considerable discussion on this amendment along with some confusion and the committee agreed to let Mr. Hill explain the consequences of this amendment.

Tucker Hill, representing Project 85, informed the committee that there were hearings with himself, the commissioners and Mike Stephens, they spent an hour with Don Garrity, who is the lawyer representing the oil and gas companies, and they came to an agreement that this addressed an issue that was far superior to the one they were proposing and the one they were proposing would not really do what they thought it would do and he thought that this may be the easiest way to resolve the controversy.

Representative Keenan asked what do the amendments do. Mr. Hill responded that, as he understands it, it would allow each lease across the state to be released if this bill would pass and it would not really, in essence, define new production.

Representative Harp asked with the new production or with a new hole going down in the ground, would they be under the new stabilizing tax.

Mr. Hill replied that it would depend on the lease - if they have 1,000 acres and it is being held by production, which means that one well could be holding it, and if a new well were drilled, that new well would be under the existing tax system.

Representative Abrams asked if they could question Mike Stephen, who said that they still have some loopholes

Taxation Committee  
March 29, 1985 A.M.  
Page Six

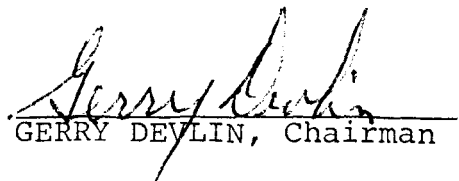
but it does try to address new production and they were interested in stimulating new wells on new leases, so that was the purpose of the amendment. He indicated that the problem with the existing language is that it appears that it grandfathered some production because you could go back five years and, in discussing this with Tucker Hill, they think that most of those loop-holes have been taken care of other than shutin natural gas, which has not been hooked up and may be thirty miles from an existing pipeline and they are sitting there and based on the economics of the situation, they are not hooked up and, therefore, they could be drilled and ready to produce before July 1, 1985, and then hooked up and become new production even though they are three or four years old. He said they could not figure out how to handle that loophole.

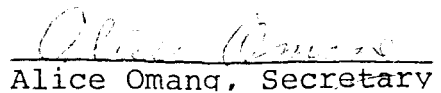
He continued that an existing well on 1,000 acres right now would be called old production under this bill, so after July 1, 1985, anything that was drilled and started up in production would still be old production. He said that the problem is that anyone on that 1,000 acres could get together with the owner of the land and negotiate a new lease and push out that portion of the land that has an existing well on it and drill on the new one and that would be new production. He said that this was the purpose of this amendment - to try and solve that loophole. He would recommend that the committee stay with the original language and assess in a couple years what has happened and what violations have occurred.

Representative Williams withdrew his motion. Representative Harp moved that the bill BE CONCURRED IN. The motion passed with a vote of 13 ayes and 7 noes. See Roll Call Vote.

DISPOSITION OF HOUSE BILL 882: Representative Harp moved to TABLE this bill. A vote was taken and the motion passed 12 to 7. See Roll Call Vote.

ADJOURNMENT: There being no further business, the meeting adjourned at 8:50 a.m.

  
GERRY DEVLIN, Chairman

  
Alice Omanq, Secretary

# DAILY ROLL CALL

HOUSE TAXATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date March 29, 1985

NAME	PRESENT	ABSENT	EXCUSED
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	✓		

# STANDING COMMITTEE REPORT

Page 1 of 3

March 29, 19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 33

third reading copy ( blue )  
color

AN ACT PROVIDING FOR ESTABLISHMENT OF AGRICULTURAL LAND VALUES  
FOR THE REVALUATION CYCLE BEGINNING JANUARY 1, 1986;

Respectfully report as follows: That SENATE Bill No. 33

be amended as follows:

1. Title, line 14.  
Following: "LAND"  
Insert: "AND TIMBERLAND"

2. Title, line 16.  
Following: "MCA;"  
Insert: "REPEALING SECTIONS 42.20.113 THROUGH 42.20.116 OF  
THE ADMINISTRATIVE RULES OF MONTANA; REQUIRING THE  
ADOPTION OF NEW RULES"

3. Title, line 16.  
Following: "PROVIDING"  
Strike: "A DELAYED"  
Insert: "AN IMMEDIATE"

DO PASS

(continued)



4. Title, line 17.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

5. Page 4, lines 5 and 6.

Following: "(4)" on line 5 for the first time

Strike: "(a) Except as provided in subsections (4)(b) and (4)(c)."

Insert: "For the revaluation beginning January 1, 1986,"

6. Page 4, line 6.

Following: "shall"

Insert: ": (a)"

7. Page 4, lines 8 and 9.

Following: "1984," on line 8

Strike: "for the revaluation cycle beginning January 1, 1986."

(b) Irrigated" on line 10.

Insert: "except that irrigated"

8. Page 4, line 11.

Following: line 10

Strike: "TAKE"

Insert: "Be revised, taking"

9. Page 4.

Strike: lines 14 through 17 in their entirety

Following: line 17

Insert: "(b) for the appraisal of timberlands, adopt new rules which must contain the same provisions as were contained in sections 42.20.111, 42.20.112, and 42.20.121 through 42.20.132, ARM, as those sections read on May 12, 1983."

NEW SECTION. Section 2. Repealer. Rules 42.20.113 through 42.20.116, Administrative Rules of Montana, are repealed."

Renumber: subsequent section

(continued)

10. Page 4, line 13.

Following: "date"

Insert: "-- applicability date"

11. Page 4, line 19.

Following: "effective"

Insert: "on passage and approval and applies to taxable years beginning on or after"

AND AS AMENDED  
BE CONCURRED IN

# STANDING COMMITTEE REPORT

Page 1 of 2.

March 29, 1935

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 857

first reading copy ( white )  
color

AN ACT IMPOSING A TAX ON CERTAIN TRANSFERS OF REAL PROPERTY;  
PROVIDING FOR DISTRIBUTION OF THE PROCEEDS OF THE TAX TO THE  
STATE AND LOCAL JURISDICTIONS;

Respectfully report as follows: That HOUSE Bill No. 857

be amended as follows:

1. Title, line 6.

Following: "TAX TO"

Strike: "THE STATE AND"

2. Page 1, line 18.

Following: "tax"

Strike: "on the privilege of transferring"

Insert: "the transfer of"

3. Page 1, line 20.

Following: "tax to"

Strike: "the state and to"

XXXX  
DO PASS

(continued)

4. Page 6, line 7.

Following: "the"

Strike: "privilege of transferring"

Insert: "~~the~~ transfer of"

5. Page 6, line 18.

Strike: line 18 in its entirety

Re-number: subsequent subsections

6. Page 6, line 19.

~~Following: "103"~~

Strike: "103"

Insert: "103"

7. Page 6, line 20.

~~Following: "56 2/3"~~

Strike: "56 2/3"

Insert: "203"

AND AS AMENDED

~~XXXXXX~~

DO NOT PASS

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. H.B.#857 TIME 7:00 a.m.

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		✓

Secretary Alice Omang

Chairman Gerry Devlin

Motion: To adopt Representative Asay's Amendment  
on HB#857

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. H.B. # 857 TIME 7:00 a.m.

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	✓	

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Do Pass As Amended HB# 857

# STANDING COMMITTEE REPORT

March 29,

19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration HOUSE Bill No. 926

first reading copy ( white )  
color

AN ACT CREATING THE MONTANA INFRASTRUCTURE TRUST FUND: CHANGING  
THE REPORTING AND TAX PAYMENT PERIOD FOR WITHHOLDING TAXES,  
COAL SEVERANCE TAXES, AND OIL AND GAS SEVERANCE TAXES;

Respectfully report as follows: That HOUSE Bill No. 926

DO NOT PASS

DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. H.B. #926 TIME 7 a.m.

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		✓

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Do Pass H.B. #926

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



# STANDING COMMITTEE REPORT

March 29, 19 35

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 67

third reading copy ( blue )  
color

AN ACT EXEMPTING ALL SEWAGE DISPOSAL SYSTEMS AND DOMESTIC WATER  
SUPPLY SYSTEMS OF ALL DWELLINGS ON AGRICULTURAL LAND AND ALL  
DOWN-HOLE EQUIPMENT ON OIL AND GAS WELLS FROM PROPERTY SUBJECT  
TO TAXATION;

Respectfully report as follows: That SENATE Bill No. 67

be amended as follows:

1. Page 3.

Following: line 10

insert: "Section 6. Coordination instruction. If House  
Bill No. 593, including the section of that bill amending  
19-6-207, is passed and approved, section 1 of this act, to  
be codified in Title 15, chapter 6, part 2, is void."

AND AS AMENDED  
BE CONCURRED IN

~~DO PASS~~

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. SB#67 TIME 7:00 a.m.

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	✓	

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Do Not Pass SB#67

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. SB #67 TIME 7a.m.

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		✓

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Rep. Raney moved to amend to codify as per SB #67.

# STANDING COMMITTEE REPORT

March 29, 1935

Page 1 of 2.

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 436

third reading copy (blue color)

AN ACT TO REVISE THE DEDUCTION FOR HOUSEHOLD AND DEPENDENT CARE  
EXPENSES IN COMPUTING NET INCOME FOR INCOME TAX PURPOSES;

Respectfully report as follows: That SENATE Bill No. 436

be amended as follows:

1. Page 3, line 30.  
Following: "\$4,698"  
Strike: "\$9,000"  
Insert: "\$4,800"

2. Page 4, line 5.  
Following: "\$2,469"  
Strike: "\$4,500"  
Insert: "\$2,400"

3. Page 4, line 7.  
Following: "\$3,498"  
Strike: "\$6,750"  
Insert: "\$3,600"

DO:PASS:

(continued)

SB 436

4. Page 4, line 9.  
Following: "\$4,800"  
Strike: "\$9,000"  
Insert: "\$4,800"

5. Page 4, line 12.  
Following: "\$34,000"  
Strike: "\$26,000"  
Insert: "\$18,000"

6. Page 4, line 16.  
Following: "\$34,800"  
Strike: "\$26,000"  
Insert: "\$18,000"

AND AS AMENDED  
HE CONCURRED IN

# STANDING COMMITTEE REPORT

Page 1 of 4.

March 29, 19 85

MR. SPEAKER:

We, your committee on TAXATION

having had under consideration SENATE Bill No. 390

third reading copy ( blue )  
color

ESTABLISH A UNIFORM RATE OF TAX FOR "NEW PRODUCTION" OF OIL AND  
NATURAL GAS;

Respectfully report as follows: That SENATE Bill No. 390

be amended as follows:

1. Title, line 12.

Following: "1"

Insert: "PROVIDING FOR QUARTERLY PAYMENT OF NEW PRODUCTION  
TAXES; REVISING THE DEFINITION OF "TAXABLE VALUATION"  
AS IT APPLIES TO THE CLASSIFICATION OF COUNTIES;"

2. Title, line 13.

Following: "SECTIONS"

Insert: "7-1-2111,"

3. Title, line 14.

Following: "7-15-2327,"

Insert: "15-15-103,"

DO PASS

(continued)

4. Page 5, line 21.

Following: "proceeds"

Insert: ", without deduction for excise taxes,"

5. Page 7, line 14.

Following: "~~10%~~"

Strike: "~~11%~~"

Insert: "~~12%~~"

6. Page 30.

Following: line 20

Insert: "Section 18. Section 7-1-2111, MCA, is amended to read:

"7-1-2111. Classification of counties. (1) For the purpose of regulating the compensation and salaries of all county officers, not otherwise provided for, and for fixing the penalties of officers' bonds, the several counties of this state shall be classified according to that percentage of the true and full valuation of the property therein upon which the tax levy is made, as follows:

(a) first class - all counties having such a taxable valuation of \$50 million or over;

(b) second class - all counties having such a taxable valuation of more than \$30 million and less than \$50 million;

(c) third class - all counties having such a taxable valuation of more than \$20 million and less than \$30 million;

(d) fourth class - all counties having such a taxable valuation of more than \$15 million and less than \$20 million;

(e) fifth class - all counties having such a taxable valuation of more than \$10 million and less than \$15 million;

(f) sixth class - all counties having such a taxable valuation of more than \$5 million and less than \$10 million;

(g) seventh class - all counties having such a taxable valuation of less than \$5 million.

(2) As used in this section, taxable valuation means the taxable value of taxable property in the county as of the time of determination plus;

(continued)

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less; and

(b) the amount of new production taxes levied, as provided in 15-23-607, divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%."

Section 19. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. All taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on new production as provided in Title 15, Chapter 23, part 6, and payable under [section 20], shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty."

NEW SECTION. Section 20. Payment of new production taxes.

(1) Taxes levied and assessed on new production under the provisions of Title 15, chapter 23, part 6, must be paid to the county treasurer in quarterly installments. The payments must be made on or before 5 p.m. on the last day of the months of November, February, May, and August.

(2) Unless one-quarter of such taxes are paid on or before 5 p.m. on the last day of the months of November, February, May, and August of each year, any amount so payable is delinquent.

(3) All such delinquent taxes must draw interest at the rate payable on delinquencies under 15-16-102.

(continued)

Chairman.



(4) There must also be added to the delinquent taxes a penalty at the same rate as provided for delinquencies under 15-16-102."

Renumber: subsequent sections

7. Page 30, line 24.

Following: "SECTION 11."

Insert: "Section 20 is intended to be codified as an integral part of Title 15, chapter 16, part 1, and the provisions of Title 15, chapter 16, part 1, apply to section 20."

8. Page 31, line 5.

Following: "10"

Strike: "18"

Insert: "21"

9. Page 31, line 6.

Following: "SECTIONS"

Strike: "19"

Insert: "22"

Following: "AND"

Strike: "20"

Insert: "23"

10. Page 31, line 8.

Following: "11"

Strike: "19"

Insert: "22"

AND AS AMENDED  
BE CONCURRED IN

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. SB# 390 TIME 7 a.m

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		✓

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Be Concurred In

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. H.B# 882 TIME 7a.m

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	✓	

Secretary Alice Omang

Chairman Gerry Devlin

Motion: Table H.B# 882

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

# ROLL CALL VOTE

HOUSE COMMITTEE TAXATION

DATE 3-29-1985 BILL NO. H.B# 908 TIME 7a.m.

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		✓
	16	9

Secretary Alice Omang

Chairman Gerry Devlin

Motion: To Table H.B# 908

Exhibit 1  
SB 33  
3/29/88  
Rep. Harp

PROPOSED AMENDMENTS  
Senate Bill 33  
Third Reading (Blue) Copy

1. Title, line 14.

Following: "LAND"

Insert: "AND TIMBERLAND"

2. Title, line 16.

Following: "MCA;"

Insert: "REPEALING SECTIONS 42.20.113 THROUGH 42.20.116 OF  
THE ADMINISTRATIVE RULES OF MONTANA;"

3. Title, line 16.

Following: "PROVIDING"

Strike: "A DELAYED"

Insert: "AN IMMEDIATE"

4. Title, line 17.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

2. Page 4, line 5.

Following: "(4)"

Insert: "For the revaluation cycle beginning January 1,  
1986,"

3. Page 4, lines 5 and 6.

Following: "(4)" on line 5

Strike: "(a) Except as provided in subsections (4)(b) and  
(4)(c),"

4. Page 4, line 6.

Following: "shall"

Insert: "(a):"

4. Page 4, lines 8 and 9.

Following: "1984," on line 8

Strike: "for the revaluation cycle beginning January 1,  
1986."

(b) Irrigated"

Insert: "except that irrigated"

5. Page 4, line 11.

Following: line 10

Strike: "TAKE"

Insert: "be revised, taking"

11

6. Page 4.

Strike: lines 14 through 17 in their entirety

Following: line 17

Insert: "(b) for the appraisal of timberlands, adopt new rules which shall contain the same provisions as were contained in sections 42.20.111, 42.20.112, and 42.20.121 through 42.20.132, ARM, as those sections read on May 12, 1983.

NEW SECTION. Section 2. Repealer. Rules 42.20.113 through 42.20.116, Administrative Rules of Montana, are repealed."

Renumber: subsequent section

7. Page 4, line 18.

Following: "date"

Insert: "-- applicability date"

8. Page 4, line 19.

Following: "effective"

Insert: "on passage and approval and applies to taxable years beginning on and after"

*For W&S 3/*

PROPOSED AMENDMENTS, House Bill No. 857, Introduced Copy

1. Title, line 4.  
Following: "IMPOSING A"  
Insert: "SALES"
2. Title, line 6.  
Following: "PROCEEDS OF THE"  
Insert: "SALES"
3. Page 1, line 18.  
Following: "impose a"  
Insert: "sales"
4. Page 1, line 19.  
Following: "proceeds of the"  
Insert: "sales"
5. Page 3, line 14.  
Following: "and the"  
Insert: "sales"
6. Page 4, line 7.  
Following: "of the"  
Insert: "sales"
7. Page 4, line 10.  
Following: "and"  
Insert: "sales"
8. Page 5, line 20.  
Following: "to"  
Insert: "sales"
9. Page 5, line 21.  
Following: "of"  
Insert: "sales"
10. Page 6, line 4.  
Following: "of"  
Insert: "sales"  
Following: "A"  
Insert: "sales"
11. Page 6, line 9.  
Following: "of"  
Insert: "sales"
12. Page 6, line 11.  
Following: the first "the"  
Insert: "sales"
12. Page 6, line 13.  
Following: "of"  
Insert: "sales"
13. Page 6, line 16.  
Following: "of the"  
Insert: "sales"

*Exh. b, t 2*

*HB 857*

*3/29/85*

*Rep. Asay*

DEPARTMENT OF REVENUE

Exh. b. 1 3  
HB 908-  
3/29/85  
Keenan



TED SCHWINDEN, GOVERNOR

MITCHELL BUILDING

STATE OF MONTANA

HELENA, MONTANA 59620

MEMORANDUM

TO: Dan Bucks, Deputy Director

FROM: David W. Woodgerd, Tax Counsel *[Signature]*  
Legal Bureau

DATE: March 22, 1985

SUBJECT: Graduated Rate Tax Bill - HB #908  
Cadby Letter to Rep. Keenan

I know of no authority which would support John Cadby's belief that a graduated scale in lieu of a flat rate would make the corporation license tax an income tax rather than a franchise tax. I have discussed it with George Bennett, counsel for the Montana Banker's Association. He also was unaware of any authority.

As far as I can tell, this issue has never been raised. This is probably because there does not appear to be any reason to differentiate between an income tax and a franchise tax based upon the rate of tax. The distinction between these two types of taxes is the difference in the subject of the tax. The measure of the tax is not relevant. This was made clear in the *Schwinden v. Burlington Northern* decision.

Although there are no cases directly on point, Minnesota has a judicially determined franchise tax on corporations measured by net income which utilizes a two-tiered rate. Other states also have graduated rates which apply to their corporate franchise taxes.

It is my opinion that the chances that a court would consider a graduated rate to be an indicia of an income tax as opposed to a franchise tax are so slim, no corporation would even give a second thought to litigating this issue.

If you would like any further research, please let me know.

DWW/ilb  
cc: Jerry Foster

*[Handwritten signature]*  
3



Exhibit 4  
HB 908  
3/29/

Rep Keenan

**MONTANA  
BANKERS  
ASSOCIATION**

1 N. Last Chance Gulch  
Helena, MT. 59601  
(406)443-4121

March 19, 1985

Rep. Nancy Keenan  
House of Representatives  
Montana State Capitol  
Capitol Station  
Helena, Mt 59620

RE: MONTANA SUPREME COURT RULINGS

Dear Rep. Keenan:

Enclosed are the two Supreme Court rulings referred to in my testimony regarding HB 908.

In the 1982 decision the Montana Supreme Court ruled the corporation license tax was an income tax and therefore in violation of the federal law which only allows the states to impose a non-discriminatory franchise tax on interest income from federal bonds and securities. In 1984 they reversed that decision and said it was in fact a license tax and therefore in compliance with federal law.

We fear a graduated scale in lieu of a flat tax would make the corporation license tax an income tax and thereby jeopardize the 1984 decision. If a corporation was successful in such a challenge, it would result in a loss of approximately \$5 million or more to the State of Montana.

There isn't any doubt some corporation will challenge the legality of HB 908 if it should pass. We have spent ten years trying to get a decision as was rendered in 1984 and would not like to see it jeopardized even though it would save the banks and other corporations a substantial sum of money.

If you wish any additional information, please advise.

Respectfully yours,

  
JOHN T. CADBY  
Executive Vice President

JTC/sh

Enclosures (2)

*Keenan* (4)

Exhibit 5  
SB 390  
3/29/85  
Rep. Harp

PROPOSED AMENDMENTS  
Senate Bill No. 390  
Third Reading (Blue) Copy

1. Title, line 12.

Following: ";

Insert: "PROVIDING FOR QUARTERLY PAYMENT OF NEW PRODUCTION  
TAXES; REVISING THE DEFINITION OF "TAXABLE VALUATION"  
AS IT APPLIES TO THE CLASSIFICATION OF COUNTIES;"

2. Title, line 13.

Following: "SECTIONS"

Insert: "7-1-2111,"

3. Title, line 14.

Following: "7-16-2327,"

Insert: "15-16-102,"

4. Page 7, line 14.

Following: "~~10%~~"

Strike: "11%"

Insert: "12%"

5. Page 30.

Following: line 20

Insert: "Section 18. Section 7-1-2111, MCA, is amended to  
read:

"7-1-2111. Classification of counties. (1) For  
the purpose of regulating the compensation and salaries  
of all county officers, not otherwise provided for, and  
for fixing the penalties of officers, bonds, the  
several counties of this state shall be classified  
according to that percentage of the true and full  
valuation of the property therein upon which the tax  
levy is made, as follows:

(a) first class - all counties having such a  
taxable valuation of \$50 million or over;

(b) second class - all counties having such a  
taxable valuation of more than \$30 million and less  
than \$50 million;

(c) third class - all counties having such a  
taxable valuation of more than \$20 million and less  
than \$30 million;

(d) fourth class - all counties having such a  
taxable valuation of more than \$15 million and less  
than \$20 million;

(e) fifth class - all counties having such a  
taxable valuation of more than \$10 million and less  
than \$15 million;

(f) sixth class - all counties having such a  
taxable valuation of more than \$5 million and less than  
\$10 million;

(g) seventh class - all counties having such a  
taxable valuation of less than \$5 million.

(2) As used in this section, taxable valuation means the taxable value of taxable property in the county as of the time of determination plus:

(a) that portion of the taxable value of the county on December 31, 1981, attributable to automobiles and trucks having a rated capacity of three-quarters of a ton or less; and

(b) the amount of new production taxes levied, as provided in 15-23-607, divided by the appropriate tax rates described in 15-23-607(2)(a) or (2)(b) and multiplied by 60%."

Section 19. Section 15-16-102, MCA, is amended to read:

"15-16-102. Time for payment -- penalty for delinquency. All taxes levied and assessed in the state of Montana, except assessments made for special improvements in cities and towns payable under 15-16-103 and assessments made on new production as provided in Title 15, chapter 23, part 6, and payable under [section 20], shall be payable as follows:

(1) One-half of the amount of such taxes shall be payable on or before 5 p.m. on November 30 of each year and one-half on or before 5 p.m. on May 31 of each year.

(2) Unless one-half of such taxes are paid on or before 5 p.m. on November 30 of each year, then such amount so payable shall become delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty.

(3) All taxes due and not paid on or before 5 p.m. on May 31 of each year shall be delinquent and shall draw interest at the rate of 5/6 of 1% per month from and after such delinquency until paid and 2% shall be added to the delinquent taxes as a penalty."

NEW SECTION. Section 20. Payment of new production taxes.

(1) Taxes levied and assessed on new production under the provisions of Title 15, chapter 23, part 6, must be paid to the county treasurer in quarterly installments. The payments must be made on or before 5 p.m. on the last day of the months of November, February, May, and August.

(2) Unless one-quarter of such taxes are paid on or before 5 p.m. on the last day of the months of November, February, May, and August of each year, any amount so payable is delinquent.

(3) All such delinquent taxes must draw interest at the rate payable on delinquencies under 15-16-102.

(4) There must also be added to the delinquent taxes a penalty at the same rate as provided for delinquencies under 15-16-102."

Renumber: subsequent sections

6. Page 30, line 24.

Following: "SECTION 11."

Insert: "Section 20 is intended to be codified as an  
integral part of Title 15, chapter 16, part 1, and the  
provisions of Title 15, chapter 16, part 1, apply to  
section 20.

7. Page 31, line 5.

Following: "~~10~~"

Strike: "18"

Insert: "21"

8. Page 31, line 6.

Following: "SECTIONS"

Strike: "19"

Insert: "22"

Following: "AND"

Strike: "20"

Insert: "23"

9. Page 31, line 8.

Following: "~~11~~"

Strike: "19"

Insert: "22"