

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 23, 1985

The thirty-eighth meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 7:40 a.m. in Room 413-415 of the Capitol Building.

ROLL CALL: With Senator Neuman excused, all other members of the committee were present.

Senator Severson was recognized to discuss a flaw in our income tax system that ended exemptions for disabled people under 65. The federal government ended its exemption and left a tax credit, and while the state piggybacks on exemptions, it does not on tax credits. He presented a packet of information (Exhibit 1) prepared by Mr. Ken Morrison of the Department of Revenue. He suggested that a committee bill be enacted immediately and made retroactive so that it will help folks in filing returns this year.

Senator Towe agreed that the matter clearly needed to be corrected.

MOTION: Senator Severson moved that the committee request a bill to correct the problem of disabled people under 65 no longer being allowed tax exemptions under Montana law. The motion carried unanimously. Chairman Towe scheduled a hearing for this bill on February 23.

CONSIDERATION OF SB 432: The committee reviewed the amendments placed in the bill on February 21. Senator Eck said the purpose of the bill is simply to get useful information without increasing the cost.

MOTION: Senator Eck moved that SB 432 do pass as amended. With Senators Brown, Eck, Halligan, Lybeck, Mazurek and Towe voting yes; Senators Goodover, Hager, Hirsch, McCallum and Severson voting no; and Senator Neuman excused, the motion carried.

FURTHER CONSIDERATION OF SJR 17:

MOTION: Senator Halligan moved that SJR 17 be tabled. He said a study resolution was needed on this subject. Senator Towe agreed, saying this subject was separate from the work of the Revenue Oversight Committee and should be looked at during the interim. The motion carried unanimously.

FURTHER CONSIDERATION OF SB 288.

Senator Towe said if the committee did not subject this bill to regular transmittal deadline, it would look as if it were a revenue matter and therefore push it into the area of violation of the interstate commerce clause. He felt the committee should act on the bill at once. Mr. Lear said the information and numbers nationwide were not available to properly amend the bill.

Senator Eck said she thought the bill should be passed and the problems addressed in the House. She suggested a credit on the Made-in-Montana label.

Senator Halligan suggested a break in property taxes at the local level.

Senator Mazurek said it could be done with a credit on the volume level. He asked the committee to at least hold action until Monday morning.

Mr. Lear said he thought there was a serious rules problem in amending the bill in that way.

Senator Brown said this bill could be killed and a committee bill drafted, but Senator Eck objected to that.

Chairman Towe agreed to hold further consideration of the bill until Monday morning.

FURTHER CONSIDERATION OF SB 434:

PROPOSERS

No additional proposers were heard.

OPPOSERS

Janelle Fallan of the Montana Chamber of Commerce said she objected to the local government inconsistencies that would result from this legislation. She said the bill discriminates against a particular segment of the business community. She said a city could vote taxes on non-residents who would not have a chance to vote. She felt the phrase "entertainment enterprise" was not tightly defined. She concluded by saying that never in her four sessions lobbying had she heard so much testimony in favor of a sales tax.

Don Judge of the AFL-CIO testified against the bill saying taxes must be based broadly on ability to pay. He said income and corporate taxes were more equitable. He urged defeat of the sales tax portions of the bill and submitted alternatives and tax break information (Exhibit 2).

Mr. Phil Strobe, representing the Montana Innkeepers Association and the Montana Tavern Association, said this bill would hurt those industries. He said they are not responsible for local government problems. He said, "Local option taxes are offensive to me." He said they would be bringing in money for those with least political clout. He reiterated the argument of influencing people away from a particular community with bed and board taxes. He said one would need a checklist at every county line to understand taxation.

Mr. Strobe also addressed the Supreme Court case, which ended the room tax in Billings and West Yellowstone. He said the court voted 7-0 against the city's authority to levy the tax. The power to tax belongs to the Legislature alone and cannot be surrendered, he said.

He cited the cases of two of his membership who were against the tax. Mr. Herb Lubrick of the Copper King Inn in Butte; and Mr. Al Donahue of the Heritage Inn in Great Falls, who for years was opposed to the concept of a general sales tax but now believes one is necessary.

Mr. Roland Pratt, Executive Director of the Montana Restaurant Association, said they oppose the bill, but if it is passed it should be allowed only if other funding to local governments is curtailed.

Senator Eck closed saying if local government taxes are offensive, then one is also saying local governments don't deserve to survive. We are putting local governments in an untenable position, she said. Even a sales tax would be discriminatory, she said, as across-the-board taxes seldom occur. She said local option taxes are the best because people vote the tax on themselves. If this bill doesn't pass, she said, the Legislature will have to return some of the property tax base to local governments.

Senator Eck was excused for the remainder of the meeting.

CONSIDERATION OF SB 395: Senator Les Hirsch was recognized as chief sponsor of the bill. He said it does two things: first, it records severed mineral interests for a fee of 25 cents per acre in perpetuity. Second, it gives the surface owner a mechanism for reclaiming severed mineral interests that are not otherwise claimed. He said that recordation is important and if both matters could not be dealt with, at least that should be handled.

Vice Chairman Mazurek assumed the chair.

PROPOSERS

Senator Towe was recognized to testify on the bill. He said it has been before the legislature many times. It addresses the question of large amounts of property completely escaping the tax roles, property that is owned by the very largest corporations in the state, like Burlington Northern. He said the second problem is that much of the property not owned by corporations is so fractioned and diluted that the owners have no interest in the mineral rights and the surface owners cannot locate them to re-join surface and mineral ownership. he discussed the mechanism in the bill for reuniting ownerships.

Mr. George Ochensky of the Environmental Information Center said

the factionalized nature of mining property deeds is a nightmare that should be dealt with.

Mr. Dennis Hemmer of the Department of State Lands submitted Exhibit 3, which includes his written testimony and amendments.

Mr. Terry Murphy of the Montana Farmer's Union said it is their policy position that mineral interests should revert to the surface owner when the other owner cannot be located and that if the mineral interests are separately owned, they should share in the payment of the property taxes. He said if the mineral interest had no value there would not be so much protest to bills like this.

OPPONENTS

Mr. Ward Shanahan, representing the Montana Mining Association, submitted written testimony (Exhibit 4).

Mr. Bucky Harringer said that severed mineral interests have little value, as the 1-16 drilling success rate proves. He said when they do produce, they pay high severance taxes and net proceeds taxes. He said this bill would be unjust enrichment to the surface owner. He said the administrative work required by the bill would detract dollars from exploration and development.

Mr. Bob Virtz, representing his brothers and sisters, presented his testimony in writing (Exhibit 5) and added that the Legislature should never use the word "forever."

At the normal adjournment time of 9 a.m., Senator Keating rose to request continuation of the hearing as many more opponents wanted to speak. Chairman Towe also felt that was important.

Mr. Melvin Muri of Hysham, Montana said as an oil operator who buys and sells mineral rights he feels the bill would discourage investment in Montana. (Exhibit 6).

Mr. Terry Wisner, representing Montana Power Company, addressed present laws allowing development of oil leases with unidentified mineral interests. He submitted written testimony (Exhibit 7).

Ms. Karen Wynita of Shepherd, Montana opposed the bill and submitted her testimony in writing (Exhibit 8).

Mr. Darwin Vandergraff of the Montana Petroleum Association rose to oppose the bill.

Senator Tom Keating of Senate District 44 said he had been a petroleum landman for many years. He said the segregated mineral ownership is constitutional and the Legislature cannot neglect legitimate contracts between consenting people. He said the

February 23, 1985

Supreme Court case referred to by Senator Hirsch was a case of abandonment. He said the railroads had protected themselves and the Federal Land Bank of Spokane and the tribal lands are not addressed by the bill. He said the dual fee system was a conflict. He said many elderly people rely on this income and the fee would be unfair to them. He said it is untrue that mineral interests do not pay taxes.

Chairman Towe said Senator hirsch would have the right to close in Executive Session and adjourned the meeting at 9:10 a.m.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date February 23, 1985

Location -- Room 413-415

Name	Present	Absent	Excused
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Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman			✓
Senator Severson	✓		
Senator Towe	✓		

Taxation

DATE: January 23, 1985

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Exclusion of Disability Payments for Persons Under Age of 65

Prior to January 1, 1984, federal law (IRC 105d) allowed the exclusion of disability payments of up to \$100 per week (\$5,200 per year) by people under the age of 65. This exclusion was decreased dollar for dollar by the amount of gross income exceeding \$15,000.

Public Law 98-21 repealed the federal law excluding disability payments and allowed a credit for a portion of the disability (IRC section 22).

Since this income is now included in Federal Adjusted Gross income, it has become taxable to Montana.

A. Old law allows a maximum exclusion of \$5,200.00. It was limited to what you actually received or \$100.00 a week, which ever was less.

Assume: Disability Income = 8,000 Age = 62
 Social Security = 2,000 1 exemption

Old Federal Law

Income	=	8,000.00
Exclusion	=	(5,200.00)
Income	=	2,800.00
Exemption	=	(1,000.00)
Taxable Income	=	1,800.00
Federal Tax	=	-0-

Old Montana Law

Income	=	8,000.00
Exclusion	=	(5,200.00)
Income	=	2,800.00
Standard Ded.	=	(560.00)
		2,240.00
Exemption	=	(1,000.00)
Taxable Income	=	1,240.00
Montana Tax	=	24.80

- B. New law allows a credit against the taxpayer's federal tax liability.

The maximum credits are:

1. \$750.00 for single people and married people with only one spouse retired on permanent and total disability.
2. \$1,125.00 where both spouses are 65 or older and either one or both has retired on permanent and total disability.
3. \$562.50 for a married person who was on permanent and total disability who filed a separate return.

Single person

Age 62

Disability income = 8,000.00

Social Security = 2,000.00

New Federal Law

Income	=	8,000.00
Exemption	=	<u>(1,000.00)</u>
Taxable income	=	7,000.00
Tax	=	614.00
Disability tax credit	=	<u>(412.50)</u>
Net federal tax	=	201.50

New Montana Law

Taxable income	=	8,000.00
Standard Ded.	=	<u>(1,600.00)</u>
		6,400.00
Exemption	=	<u>(1,000.00)</u>
Taxable income	=	5,400.00
Montana tax	=	182.00

Montana does not have a disability credit such as the federal. The credit replaced the \$5,200.00 exclusion that was in effect in prior years.

Since the exclusion was replaced, Montana now taxes 100% of the disability income.

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXCLUDE CERTAIN DISABILITY BENEFITS FROM ADJUSTED GROSS INCOME IN COMPUTING STATE INCOME TAX LIABILITY; AMENDING SECTION 15-30-111, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE AND AN APPLICABILITY DATE."

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

Section 1. Section 15-30-111, MCA, is amended to read:

"15-30-111. Adjusted gross income. (1) Adjusted gross income shall be the taxpayer's federal income tax adjusted gross income as defined in section 62 of the Internal Revenue Code of 1954 or as that section may be labeled or amended and in addition shall include the following:

(a) interest received on obligations of another state or territory or county, municipality, district, or other political subdivision thereof;

(b) refunds received of federal income tax, to the extent the deduction of such tax resulted in a reduction of Montana income tax liability.

(2) Notwithstanding the provisions of the federal Internal Revenue Code of 1954 as labeled or amended, adjusted gross income does not include the following which are exempt from taxation under this chapter:

(a) all interest income from obligations of the United States government, the state of Montana, county, municipality, district, or other political subdivision thereof;

(b) interest income earned by a taxpayer age 65 or older in a taxable year up to and including \$800 for a taxpayer filing a separate return and \$1,600 for each joint return;

(c) all benefits received under the Federal Employees' Retirement Act not in excess of \$3,600;

(d) all benefits, not in excess of \$360, received as an annuity, pension, or endowment under any private or corporate retirement plan or system;

(e) all benefits paid under the teachers' retirement law which are specified as exempt from taxation by 19-4-706;

(f) all benefits paid under The Public Employees' Retirement System Act which are specified as exempt from taxation by 19-3-105;

(g) all benefits paid under the highway patrol retirement law which are specified as exempt from taxation by 19-6-705;

(h) all Montana income tax refunds or credits thereof;
(i) all benefits paid under 19-11-602, 19-11-604, and 19-11-605 to retired and disabled firefighters, their

surviving spouses and orphans;

(j) all benefits paid by first- or second-class cities for the policemen's retirement system provided for by Title 19, chapter 9;

(k) gain required to be recognized by a liquidating corporation under 15-31-113(1)(a)(ii);

(l) all tips covered by section 3402(k) of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1983, received by persons for services rendered by them to patrons of premises licensed to provide food, beverage, or lodging;

(3) In the case of a shareholder of a corporation with respect to which the election provided for under subchapter S. of the Internal Revenue Code of 1954, as amended, is in effect but with respect to which the election provided for under 15-31-202, as amended, is not in effect, adjusted gross income does not include any part of the corporation's undistributed taxable income, net operating loss, capital gains or other gains, profits, or losses required to be included in the shareholder's federal income tax adjusted gross income by reason of the said election under subchapter S. However, the shareholder's adjusted gross income shall include actual distributions from the corporation to the extent they would be treated as taxable dividends if the subchapter S. election were not in effect.

(4) A shareholder of a DISC that is exempt from the corporation license tax under 15-31-102(1)(1) shall include in his adjusted gross income the earnings and profits of the DISC in the same manner as provided by federal law (section 995, Internal Revenue Code) for all periods for which the DISC election is effective.

(5) A taxpayer who, in determining federal adjusted gross income, has reduced his business deductions by an amount for wages and salaries for which a federal tax credit was elected under section 44B of the Internal Revenue Code of 1954 or as that section may be labeled or amended is allowed to deduct the amount of such wages and salaries paid regardless of the credit taken. The deduction must be made in the year the wages and salaries were used to compute the credit. In the case of a partnership or small business corporation, the deduction must be made to determine the amount of income or loss of the partnership or small business corporation."

- (6) A taxpayer receiving retirement disability benefits who has not attained age 65 by the end of the taxable year and retired permanently and totally disabled may exclude from adjusted gross income up to \$100 per week received as wages or payments in lieu of wages for a period during which the employee is absent from work due to the disability. If the adjusted gross income before this exclusion and before application of the two-earner married couple deduction exceeds \$15,000, the excess reduces the exclusion by an equal amount. This limitation affects the amount of exclusion, but not the taxpayer's eligibility for the exclusion. If eligible, married individuals couples shall apply the exclusion separately, but the limitation for income exceeding \$15,000 shall be determined with respect to the spouses their combined adjusted gross income. For the purpose of this subsection, permanently and totally disabled means unable to engage in any substantial gainful activity by reason of any medically determined physical or mental impairment lasting or expected to last at least 12 months."

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date -- applicability. This act is effective on passage and approval and applies to taxable years beginning after December 31, ~~1984~~ 1983.

-End-

Disability Income Exclusion

Example of how exclusion and limitation are applied

A taxpayer under age 65 who was disabled for the entire year received \$6,000 in payments in lieu of wages. He had adjusted gross income of \$16,000. Assume that, before reduction, the taxpayer is entitled to an exclusion of \$5,200 for the year. Since the taxpayer's adjusted gross income exceeds \$15,000, his exclusion is reduced by the \$1,000 excess. Consequently, his maximum exclusion is \$4,200 (\$5,200 minus \$1,000).

TESTIMONY OF DON JUDGE ON SENATE BILL 434 BEFORE THE SENATE
TAXATION COMMITTEE, FEBRUARY 22, 1985

Mr. Chairman and members of the Committee, for the record I am Don Judge, representing the Montana State AFL-CIO regarding the provisions of Senate Bill 434.

Many of our members work for local governments; many more of them benefit from the services provided by government. We are well aware of the financial need of Montana's communities. We also recognize the need to replace revenues lost by federal budget cuts and through major tax loopholes that allow corporations to escape paying their fair share of the costs of running our governments. We believe that our system of taxation must be based on the principle of ability to pay.

The Montana State AFL-CIO has a long-standing convention position in opposition to a sales tax because this form of taxation ultimately hits the average wage-earners, the poor and those on fixed incomes the hardest.

The last time the sales tax appeared as an initiative on our ballot was in 1971, when it went down to overwhelming defeat, failing to carry a majority of votes in a single Montana county.

We continue to support the income and corporate taxes as the fairest forms of taxation, as long as they contain progressive tax schedules. Regressive measures such as the sales tax on any item should be rejected by this legislature. We urge your defeat of the sales tax portions of Senate

Exhibit 2 -- SB 434
February 23, 1985

we have options -

- 1) Create a meaningful local govt revenue sharing program
fund it by: closing certain tax loopholes
 - a) decoupling from Federal Accelerated Cost Recovery System
\$14-\$15 million/year
 - b) establish a cap on the federal income tax ~~credit~~ deduction
such a cap set at \$6,000 would affect less than
6% of taxpayers & raise approximately \$24 million in the
biennium
 - c) close property tax break loopholes for ~~tax~~ business properties
which have amounted to over \$320 million in taxable ~~valuation~~
~~tax~~ ~~value~~ deductions over 10 years - revenue generated would
depend upon closures and mill levies
 - d) revise capital gains tax to treat like ordinary income
would produce between \$40 and \$48 million per year -
modifying capital gains tax would vary this amount.
- 2) write president Reagan to urge continuation and perhaps
expansion of revenue sharing programs.

THE EROSION OF THE MONTANA PROPERTY TAX BASE: LOST VALUATION - WHO BENEFITS

Commercial-Industrial Property

	<u>Lost Taxable Valuation</u>
reduction in inventory rate 1975-1976	\$ 27,228,146
exemption of inventory property 1981	38,753,870
manual disparity cases	37,653,186
because commercial-industrial and residential real property are in the same property class they are supposed to be assessed and taxed similarly; however, the Dept of Revenue utilized valuation manuals from different years for resid and comm-indust. Businesses sued the state and a settlement was reached in order to equalize valuation disparities.	\$ 103,635,186

Financial

exemption of bank stock 1979	\$ 14,340,846
exemption of bank surplus 1979	7,467,607
in 1979 the state legislature exempted bank shares from property taxation. in order to recover revenues for local governments (not directly for school districts and state mills) the legislature started to return 80% of the financial corporate franchise tax to local governments. According to a 1983 Dept of Revenue Memo the 80% of finan.corp taxes going to local govts has ranged between \$500,000 to \$1,600,800 below the revenues generated by the bank shares tax	\$ 21,808,453

Railroad

Burlington Northern Settlement <u>4-P's</u>	\$ 24,779,340
the federal Staggers Act requires states to tax railroad property no differently than commercial- industrial property. Montana statutes treated RR property differently than commercial property. BN sued. A settlement was reached. The figure to the right was constructed from information detailed in the BN-DoR Agreement for 1980-1983. It is the difference between the taxable value attributable to BN with and then without the agreement and an annual average taken.	

Agriculture

reduction in rate on livestock 1980	\$ 52,052,600
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Oil

windfall profits tax deduction 1981	\$ 118,168,868
the 1981 Legislature allowed oil corporations and royalty owners to deduct the federal windfall profits tax from their gross proceeds in order to calculate their net proceeds for property tax purposes. In 1983 the allowable percentage was changed from 100% to 70% as proposed by the industry. The figure to the right is the average annual lost taxable value due to the 70% wpt deduction	

Residential

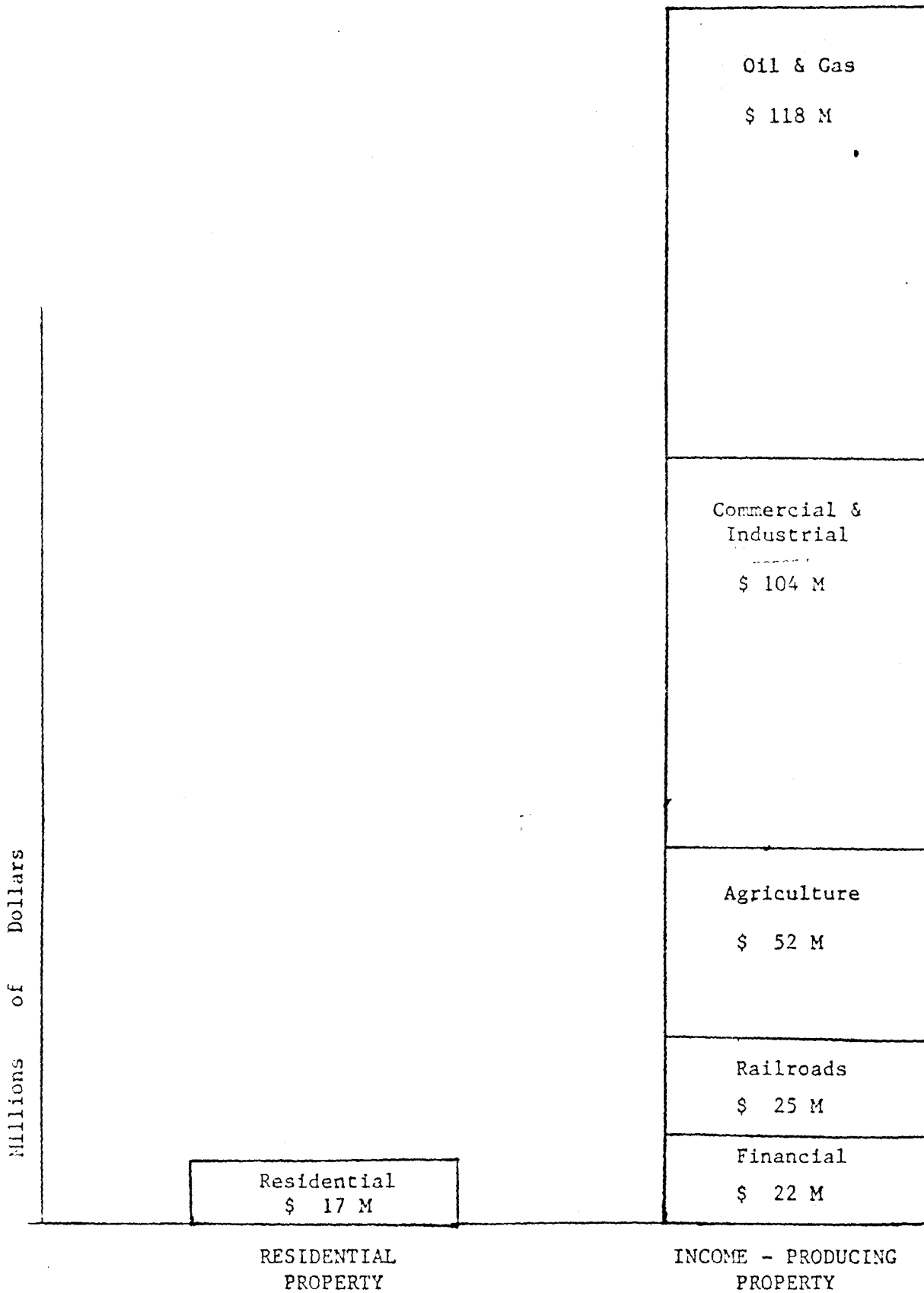
exemption of household goods	\$ 17,468,238
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<u>TOTAL LOST PROPERTY TAX VALUATION 1973-1983</u>	<u>\$ 337,912,701</u>
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Of the total tax base erosion only \$17,468,238 went to the residential owner. As the property tax base eroded, increased mill levies resulted to keep government services at the same level. The increased mill levies are very burdensome to those left in the tax base: those least organized and least able to hire lawyers and accountants - the residential owner. Further property tax erosion by special interests should be stopped and equity restored to the property tax base.

THE ERODING PROPERTY TAX BASE: WHO BENEFITS?

Annual Value of Major Property Tax Breaks Granted from 1973-1983



TESTIMONY ON SENATE BILL 395

BY DENNIS HEMMER, COMMISSIONER OF STATE LANDS

Section 1 of Senate Bill 395 makes a finding that fractionalized severed mineral interests impair the development of the state's minerals because not all of the owners of mineral interest can be identified or located. The purpose of the bill is to identify severed mineral interest owners and return unclaimed interests to the surface owner by adverse possession.

As written, Senate Bill 395 applies to state lands. The Department is of the opinion that the state should be exempted from this bill for several reasons.

First, severed state mineral interests are not and will not become fractionalized. Development of state owned minerals is therefore not impaired.

Second, Section 2-7-121 through 126, MCA, which was enacted in 1979, requires the Board of Land Commissioners to establish and maintain a central file and index of all state owned property except highway right-of-ways. It also requires all agencies to update this information. The public can determine state ownership with a phone call or a letter to the Helena office of the Department or to any of its field offices throughout the state. Another filing system and expenditure of public funds to allow the Department to make the required filings is therefore unnecessary.

Third, Article X, Section 11 of the Montana Constitution provides that no interest in state land can be disposed of unless the full market value of that interest is paid to the state. The adverse possession provision of Senate Bill 395, which authorizes the taking of state land without compensation, is therefore unconstitutional as applied to state lands. The Montana Supreme Court in 1973 held that an adverse possession statute cannot be applied to the state.

For all these reasons, the Department urges the committee to exempt state lands from Senate Bill 395. Attached are amendments that would accomplish the exemption. With these amendments, the Department does not oppose the bill.

DEPARTMENT OF STATE LANDS'
PROPOSED AMENDMENTS TO SENATE BILL 395

1. Page 3, line 4.
Following: "interest"
Strike: ", except the state of Montana,"
2. Page 4.
Following: Section 8
Insert: "NEW SECTION. Section 9. Applicability. This act is not applicable
to severed mineral interests owned by the state of Montana."

Statement of Ward Shanahan
for
Montana Mining Association

SB 395 Severed Mineral Interests.

The Association opposes the bill, for the following reasons:

1. The principal problem is attempt to fuse a tax to a bill intended to require identification and notification of "intent to hold" severed mineral interest. These latter purposes are laudable and necessary objectives. However the annual registration fee on a per acre basis destroys the bill's legal effect.
2. How can a severed mineral owner be properly "segregated" from the owner of an unsevered interest and held to "support general government" on the basis of an assumed value, when the owner of an unsevered interest is not? This is discriminatory. The surface (of farms and ranches) is taxed on productivity. This assessment does not include a presumed value for an unsevered interest. There is no fee charged to the owner of unsevered minerals. Therefore property of the same type is being treated differently under this act.
3. Annual registration is not only excessive it is burdensome for most ordinary people. Registration every twenty or even ten years is adequate to achieve the goal of identification of these interests, without making the administrative workload of the county excessive.
4. The elements of a proper bill are: (a) presumption of intent to abandon by failure to file within the statutory period (b) the right in the surface owner to assert the presumption of abandonment in a quiet title action (a right that does not exist now) (c) a reasonable fee for recording all "contiguous" mineral acres as a unit. "Contiguity" should be defined as "touching along any part of a side or end line, but not on a corner. If the mineral owner cannot show any activity during the period set forth in the statute (this would include a recorded lease, exploration or drilling) the interest would (after proper service of process in a quiet title action) be presumed abandoned and re-joined to the surface estate. (d) In addition if the surface owner had taken steps to lease, explore, drill or develop the minerals after the expiration of the statutory period, these facts would give rise to an additional cause of action in "adverse possession" if applications had been filed with appropriate state agencies for the necessary exploration or development permits, or other acts which the court felt were sufficient to bring home to the mineral owner the adverse claim of the owner of the surface estate or anyone holding through or under that person.

Ward A. Shanahan
P.O. Box 1715
Helena, Montana 59624
Tel: 442-8560

cc Gary Langley

COMMITTEE HEARING ON SB 395

CHAIRMAN TOWE
MEMBERS OF THE COMMITTEE

To give a brief history on my interest: In the 1909-10 Era, my father homesteaded on the south $\frac{1}{2}$ of Section 17, 11N, 61E in Wibaux County, Montana. After my parents were married, my mother acquired the NW $\frac{1}{4}$ of this section. At the time of my father's untimely death Nov. 28, 1919, my mother had both surface land and mineral rights to three-fourths of this section.

At the time of my mother's death in 1956, she had "willed" the "surface land" to my half-brother, Orren Lindstrom her youngest child, and the "mineral rights" to be equally divided among her (7) seven natural-born children. This half-brother only survived my mother by (11) eleven months, dying of Lukemia in 1957, resulting in the surface lands going to his widow. She has since re-married so the surface land is no longer in the family.

D. C. Virts of Glasgow, Montana, my brother who has been blind since 1969, and since has had to have both eyes removed, is one owner of one-seventh of these "mineral rights." He isn't able to protect his interest, or afford the yearly assessment on his acreage, proposed in this bill. Many Seniors on pensions are taxed to the limit now. Gulf Oil had a lease on these "mineral rights" which expired Aug. 17, 1984. Oil Leasers have records of the owners, so Section (1) isn't necessary.

I strongly object to the yearly registering and the cost of the same. Your proposal in Section (3), line 23, the word "forever" could be changed any time a future Legislature wanted to for more taxes. I'm defiantly against Section (8). I have other objections which I hope to enlarge on before this committee.

In my opinion, you members of this committee have a moral obligation to kill this entire bill.

- Exhibit 5 -- SB 395
February 23, 1985

Respectively
Robert D. Virts
561 Highland
Helena, Montana

February 22, 1985

824 West Park
Butte, MT 59701

Mr. J. D. Lynch
532 West Mercury
Butte, MT 59701

RE: Senate Bill #395

Dear Mr. Lynch:

I am a constituent of yours and currently employed by The Montana Power Company as the Assistant Manager of the Oil and Gas Lease Department.

For eight years prior to my current position, I was an independent petroleum landman living and working in Montana. I am the owner of a few severed mineral interests; I also own some surface acreage under which the minerals were previously severed.

The Montana Power Company is also the owner of some severed mineral interests but this bill does not represent a financial burden to the company as much as an administrative one. Another set of forms, more manpower and higher costs.

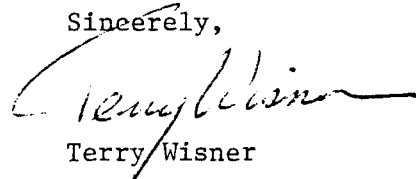
Of greater concern to me is my belief that this bill is motivated at least in part by a distorted view of who the typical owner of severed minerals really is. It is not a large corporation or some wealthy out-of-state speculator; it is your local farmer or rancher who sold out for one reason or another, probably upon retirement, and reserved a portion of the minerals under his land. If these minerals happen to be producing, he is likely realizing a decent income from them while also paying a hefty share in taxes. More likely, he is supplementing a fixed income with annual rentals under a nonproducing lease.

Another motivation underlying this bill is undoubtedly a desire for increased revenue. I believe that the increased administrative burden placed on county attorneys, clerk and recorders, and treasurers would outweigh any marginal revenues this bill might generate.

As an active landman, I am well aware of the sometimes obscure and fractionalized nature of mineral ownership. These situations will not be made any clearer, however, by conflicting registrations of ownership that will result from an already complex chain of title. I am also aware of the occasional difficulty in locating severed mineral owners, but we already have legislation on the books to deal with this problem. Trusts for unlocatable owners may now be established in order to lease their interests. If a legal presumption of death can be made, a public administrator may be appointed to terminate the interest at public sale.

In conclusion, I feel Senate Bill 395 is an ill-conceived, misguided piece of legislation which will not accomplish its objectives. It is a fundamental changing of the rules in the middle of the game and represents a discriminatory burden upon a certain class of property owners.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry Wisner", written over the printed name.

Terry Wisner

TW/jh

cc: Sen. Robert Brown
Sen. Pat Goodover
Sen. Thomas Hager
Sen. George McCallum
Sen. Elmer Severson
Sen. Tom Towe
Sen. Joseph Mazurek
Sen. Dorothy Eck
Sen. Mike Halligan
Sen. Les Hirsch
Sen. Ray Lybeck
Sen. Ted Neuman
Rep. Dan Harrington

NAME: Melvin Muri DATE: 1-23-85

ADDRESS: Hysham, Mont

PHONE: 342-5824

REPRESENTING WHOM? Self.

APPEARING ON WHICH PROPOSAL: 395

DO YOU: SUPPORT? AMEND? OPPOSE? ✓

COMMENT: opposed because this bill is just
another method to further increase the oil
community of the state of Montana,
as a Oil Operator who Deals in Mineral
Rights I am at present Bringing in Money to
the Ranching Industry which is Helping these
People Survive during at the time of high
interest Rates & poor Price for farm & Ranch Produce
If this tax is enacted I'm sure that my
Clients who are making these Investments will be
discouraged from making further Investments in
Montana.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

(This sheet to be used by those testifying on a bill.)

NAME: KAREN WYNIA DATE: 2/23/85
ADDRESS: P.O. Box 184, Shepherd, Mont 59079
PHONE: 406-373-5938
REPRESENTING WHOM? Myself & Ranchers
APPEARING ON WHICH PROPOSAL: Bill 395
DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒ Oppose

COMMENT :

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

My name is Karen Wynia. I am the daughter of a rancher from Hysham and my husband is associated with a feedlot. I have worked some in the oil and gas business and have some knowledge about what the effects of this bill would be.

My main concern is that this bill will have a punitive effect on the rancher/farmer who has sold his ranch and retired, keeping part of the mineral rights ^{for him self} when he sold the ranch. The sale price of the ranch was based on what the buyer was ^{receiving} ~~paying~~ in the way of land and of mineral rights. For the State to require a 25¢ annual registration fee to keep those mineral rights active, or to require a 50¢ one-time fee on 20,000 acres will have a drastic effect on many people who tried to keep part of an asset for their declining years hoping to have some lease bonuses along the way, or in some cases, selling off another portion to raise needed capital.

It's true that through the years there have been fractionalized minerals passed on to heirs of farmers and ranchers. Many of those people have left the farming/ranching business because it was ^{not} ~~not~~ possible for them to make a living at it. However, they may have been able to hold on to a fraction of the minerals. These people are not sophisticated about legal processes, and for the legislature to enact this bill would be to impose taxes on an asset that may never be able to produce any income.

Another concern I have, after having spent time researching records in courthouses, is the ^{volume of} ~~voluminous~~ paperwork this bill would create, both for the owners of severed mineral interests and for the clerk and recorders. The costs of administration and staff would appear to outweigh the taxes brought in. The additional paperwork creates the possibilities of misquoted legal descriptions.

I also feel that an "ownership privilege" tax on severed mineral owners is discriminatory in that there is no tax on undivided mineral owners proposed in this bill.... and that if this legislation is passed, ~~then it would follow that there will be a general tax on mineral rights~~ ^{it would follow that there will be a general tax on mineral rights} and this is at a time when farmers and ranchers are struggling to survive under the burdens they already have.

It would be devastating on the farmers/ranchers because it is at
Thank you.

Jack suggested "Yes" or "No" answers to avoid trapping yourself if they decide to ask questions.

STANDING COMMITTEE REPORT

February 23,

1985

MR. PRESIDENT

We, your committee on

Taxation

having had under consideration

Senate Bill

No. 432

first

reading copy (white)
color

EXPANDING THE CONTENTS OF DEPARTMENT OF REVENUE'S BIENNIAL REPORT

Respectfully report as follows: That

Senate Bill

No. 432

be amended as follows:

1. Page 1, line 22.

Following: "report"

Insert: "or supplements to the report"

2. Page 2, line 19.

Following: "identify"

Strike: "the"

Insert: "any known"

3. Page 2, line 22.

Following: "shall"

Insert: "outline the available data necessary to"

4. Page 2, lines 23 and 24.

Following: "treatment" on line 23

Strike: through "measured" on line 24

5. Page 3, line 1.

Following: "data"

Insert: ", if available,"

6. Page 3, line 16.

Following: "report"

Insert: "or supplements to the report"

7. Page 3, line 20.

Following: "report"

Insert: "or supplements to the report"

AND AS AMENDED

DO PASS

XXXXXXXXXX

Senator Thomas E. Towe,

Chairman.

ROLL CALL VOTE

SENATE TAXATION COMMITTEE 49 th Legislative Session -- 1985

Time 7:50 am Date February 23, 1985 Room 413-415

Motion: that SB432 do pass as amended

Name	Yes	No	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover		✓	
Senator Hager		✓	
Senator Halligan	✓		
Senator Hirsch		✓	
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum		✓	
Senator Neuman			✓
Senator Severson		✓	
Senator Towe	✓		