

MINUTES

**MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on March 26, 1991, at 8:00 a.m.

ROLL CALL

Members Present:

Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Gene Thayer (R)
Thomas Towe (D)
Fred Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused:

Francis Koehnke (D)

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

EXECUTIVE ACTION ON SENATE BILL 454

Recommendation and Vote:

Senator Van Valkenburg moved SB 454 Do Pass.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON SENATE BILL 353

Recommendation and Vote:

Senator Harp moved to Table SB 353.

Senator Van Valkenburg said he opposed tabling the bill. He said he would amend the bill to three cents if the motion to table fails.

The motion to Table SB 353 was left open for Senators to vote as they returned from presenting bills in other committees. Action on the bill was continued later in the meeting.

EXECUTIVE ACTION ON SENATE BILL 338

Amendments, Discussion, and Votes:

Senator Doherty moved to adopt the proposed amendments and gray bill (Exhibits #1 and #2).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved SB 338 Do Pass As Amended.

The motion CARRIED with Senators Halligan and Van Valkenburg voting no.

EXECUTIVE ACTION ON SENATE BILL 446

Recommendation and Vote:

Senator Harp moved to Table SB 446.

Senators Gage, Halligan, Van Valkenburg, and Doherty voted no on the motion. The vote was left open until Senator Koehnke returned and could vote. (Final action is reflected in the minutes of March 27).

EXECUTIVE ACTION ON SENATE BILL 416

Senator Towe moved to amend the bill to reflect a one time credit of \$400. The motion CARRIED on a roll call vote (attached).

Recommendation and Vote:

Senator Towe moved SB 416 Do Pass As Amended.

The motion CARRIED on a roll call vote (attached).

HEARING ON SENATE BILL 468

Presentation and Opening Statement by Sponsor:

Senator Gage, District 5, said the bill was introduced at the request of the Taxation Committee and adds the language in the title that conforms the administration of the local government severance tax to the state severance tax. He reviewed the bill for the committee. The bill includes definitions of gross taxable value for the purpose of computing state severance tax and gross taxable value for the purpose of computing local government severance tax. One is the total sale value and the other is the sale value less royalty. The bill generally deals with "housekeeping" measures dealing with tertiary production, definitions, and changes in statutory language due to the change from net proceeds tax to flat tax.

Proponents' Testimony:

Denis Adams, Director, Department of Revenue, expressed support for the bill, saying it is a general clean-up of the statutes and necessary for the smooth operation of the severance tax provisions of the law.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Senator Gage closed.

HEARING ON HOUSE BILL 334

Presentation and Opening Statement by Sponsor:

Rep. Swysgood, District 73, said the bill revises the taxation of certain livestock and allows the livestock owner to pay taxes on a prorated basis for livestock moved interstate

during the tax year. It provides for a refund and broadens the definition of livestock as it applies to the per capita tax to include llamas, domestic bison, and ungulates. In 1989 a bill was passed that removed the average inventory tax on livestock. He said the bill will affect only the border county livestock owners who have land in both Montana and adjoining states and only cattle moved out of state after March 1. It allows the owners to prorate for the time the cattle are in Montana and allows a refund mechanism if the time is different than that for which the tax was paid. He presented a letter from the Beaverhead County Assessor in support of the bill (Exhibit #3).

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said the bill restores the migratory livestock tax to what it was. It represents no major change and the Association supports it.

Jim Hagenbarth, Hagenbarth Livestock and Montana Stockgrowers Association, presented his testimony in support of the bill (Exhibit #4).

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Halligan asked what happens if an animal dies.

Rep. Swysgood replied the taxes are paid March 1 and if the animal dies, the taxes are not refunded.

Senator Towe asked if the definition of livestock should be changed in the definitions section of the code as well as the per capita levy section.

Mr. Adams said the Department would check it to make sure the definitions are the same in all sections of the code.

Closing by Sponsor:

Rep. Swysgood closed by saying he had no problem with the definitions being changed. He said the two bills dealing with the livestock tax were different enough to stand on their own. The fiscal impact of this bill is minimal. The bill addresses an inequity in taxation of livestock and does not affect cattle within the borders of the state.

HEARING ON SENATE BILL 463Presentation and Opening Statement by Sponsor:

Senator Eck, District 40, sponsor, said this bill is an option to the local option tax. It imposes a 5% surtax on individual income tax and corporate income tax based on a formula devised by League of Cities and Towns and Montana Association of Counties several years ago. The money would be given back to cities and counties on a block grant basis. Twenty percent of the revenue must be used to provide property tax relief across the board. The rest can be allocated at the discretion of the local government unit. She said the state recognizes its responsibility to local governments and this bill addresses that issue. The provisions of I105 have really "hamstrung" counties as their expenses continue to rise, but they have no means of increasing their budgets.

Proponents' Testimony:

Alec Hanson, Montana League of Cities and Towns, said he appreciates Senator Eck's recognition of the serious problems facing municipalities in the state. He noted 20% of the tax base has been lost since I105 was passed. Six hundred employees, 15% of the total workforce has been lost over the last four years. Montana ranks at the bottom of states in shared revenue with local governments. He said at some point in the next biennium some cities in the state will cross the line between balanced budgets and seriously reducing services due to financial difficulties. He said the bill provides a new source of revenue for cities and towns which is desperately needed.

Gordon Morris, MACo, said the bill is worthy of serious consideration. It responds to concerns which have developed as a result of the passage of I105 and would raise over \$15 million for counties and cities and towns alike. This would mean \$1 million for Missoula and \$2 million to Billings over the biennium. He noted Section 14 of the bill particularly good.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said I105 spoke to tax reform in Montana. A surtax is not considered tax reform. He said he doubted the public would regard this bill as a meaningful response to I105.

Forrest Boles, President, Montana Chamber of Commerce, said they have long appreciated Senator Eck's support for tax reform in the state. However, he said, this bill does not represent tax reform and the Chamber opposes the bill.

Lorna Frank, Montana Farm Bureau, said this bill does not answer the voters' expressed desire for comprehensive tax reform. It only adds another tax the state.

Carol Mosher, Montana Stockgrowers and Montana Cattlemen, said the organizations she represents total tax reform and this bill is not the answer.

Questions From Committee Members:

Senator Gage asked about the effectiveness of I105.

Alec Hanson said I105 has had about a 30% effectiveness. He pointed out the provisions are killing cities and counties. Fortunately, education was pretty well liberated from the effects of I105 and can raise their levies.

Senator Gage said the bill does nothing more than lower levies. He wondered if Senator Eck had considered reducing taxable values rather than just lowering levies.

Senator Eck said she considered it, but there just isn't enough money to do it.

Senator Harp said this is the fourth surtax proposal he had seen. Altogether the four would total about 17%. He expressed concern about piggybacking them together.

Senator Eck said the people voted for a 40% surcharge in the past. Perhaps the bill should be stated as a referendum.

Senator Towe wondered about the origin of the formulas on pages 5, 6, and 7.

Gordon Morris said the review of the formulas proved them to be verbatim from the 1983 law.

Mr. Hanson said 55% of the people in Montana live in incorporated cities and towns. He said the cities and counties agree with the formula from the old block grant program. It is weighted in favor of those with low mill values.

In response to a question by Senator Doherty, Mr. Boles said he supports the tax reform coalition proposals. He doesn't like everything they propose, but generally supports their stand.

Senator Doherty asked why the coalition didn't get someone to introduce sales tax legislation.

Closing by Sponsor:

Senator Eck closed by saying she doesn't think comprehensive tax reform will come out of this legislation, rather, it will have to come by public initiative. Realistically, the legislature and state officials will not impose a sales tax. She urged the committee to look favorably upon the bill as a means of giving some support to cities and counties that are truly suffering under the effects of Il05 and desperately need some relief.

HEARING ON SENATE BILL 461Presentation and Opening Statement by Sponsor:

Senator Waterman, District 22, said this is a fairness measure. It provides for quarterly payment of estimated individual income taxes and establishes a penalty for not paying on a timely basis. There are over 292,000 Montanans who paid withholding in 1989. There are 28,000 people who should be filing estimated income taxes. In reality, only about 4,500 are filing because there is no penalty for non-payment in Montana. The bill puts parity in the Montana tax system by requiring everyone to "pay as we go". She submitted Exhibit #5 for comparison of other states' withholding and penalties and proposed amendments from the Department of Revenue. She said the one time revenue should be used for one time projects. There is a long list of needs to be met if the revenue becomes available.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said this bill has been around for a long time but never has made it through the legislative process.

John Hutchinson, Commissioner of Higher Education, said the university system needs are very great. However, he noted, even if they did not benefit, the revenue is very important to the state in a myriad of areas.

Roger Tippy, speaking as a self-employed taxpayer, said the bill mirrors the federal law which creates a problem with payments in both April and June. He asked the committee to consider amending the bill to address that concern.

Eric Feaver, Montana Education Association, agreed that this is a fairness issue. He encouraged the committee not to be reluctant to see this as a one time funding source for the university system.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Towe asked if the fiscal note assumption of 100% compliance netting \$8 million in proceeds is because the penalties are so severe.

Jeff Miller said the fiscal note is based on 100% compliance.

Senator Harp said the bill indicates this does not affect anyone with less than a \$500 liability. He asked what income level that would equate to.

Mr. Miller said the \$500 is the amount not covered by credits. Credits can be either payments made on withholding or payments made on estimates.

Senator Halligan asked if the \$500 was a quarterly or yearly figure.

Mr. Miller replied it the liability for the calendar year.

Senator Towe asked if this is the same penalty provision as the federal law.

Mr. Miller explained the bill tries to mirror the federal legislation as closely as possible.

In reply to a question by Senator Gage, Mr. Miller said there is an annualized income installment option which allows calculation of each payment.

Senator Eck asked Mr. Miller to respond to the concern raised by Mr. Tippy.

Mr. Miller said they have been in conformity with the federal law in a lot of other areas and it would be important to stay in conformity on this issue also. The problems are vastly increased when the deadlines are different.

Closing by Sponsor:

Senator Waterman closed said the bill is intended to mirror the federal legislation and remain as simple a procedure as possible. She said the June payment should stand alone. The provisions for compliance are adequately strict and the bill should stand the fairness test.

EXECUTIVE ACTION ON 353Motion:

The motion to Table failed on a roll call vote which was left open from earlier in the meeting (roll call vote attached).

Discussion:

Senator Van Valkenburg said a 25 cent increase is not going to pass. The tax should have parity with the rest of the western United States. He would propose a 3/5 increase in tobacco products which should go to the general fund instead of the university system.

Senator Towe responded the tax inevitably will go higher in other states as well. He said the bill is equally important as a health measure. Medicaid costs are high because of smoking. He suggested putting the revenue from the bill into medicaid funding. He said the tax could be reduced, but not to 3 cents. It should be at least at the national average which is higher than 3 cents.

Senator Eck strongly supported a 5 cent tax to be credited to medicaid reimbursement.

Senator Harp objected to earmarking any more funds in Montana. He said the state has more earmarked funds than any other state but Alabama.

Senator Brown supported raising taxes on cigarettes, but said it cannot be done immediately following an election in which the electorate turned down a tobacco tax. The 3 cent increase contravenes the voters decision and at least one session should pass before any legislation is adopted.

Amendments, Discussion, and Votes:

Senator Van Valkenburg moved to amend the bill on page 1, line 22, by striking 43 cents and inserting 21 cents; page 3, line 15, strike 25% and insert the decimal equivalent of 3/25ths increase over twelve and a half percent; strike sections 6, 7, and 8; and make any other changes necessary in the remaining sections to comply with the preceding amendments. He further proposed an amendment to add a new section to the bill which specifies the tax shall not apply to inventory on hand by wholesalers and establishing an effective date of July 1, 1991.

Senator Towe questioned what is being done with section 5.

Senator Van Valkenburg said sections 2 and 5 should also be stricken as they are only necessary if funds are being earmarked for the university system and research.

Steve Bender said excess funds from long range building go into the general fund. Twenty-nine percent go into the cash account.

The motion to amend CARRIED.

Recommendation and Vote:

Senator Towe moved SB 353 Do Pass As Amended.

Senator Van Valkenburg said, in answer to Senator Brown's concerns, that the Montana voters were prepared to vote for the cigarette tax when it was presented. The proponents went too far in asking for 25 cents and did not answer the claim that they were creating a new bureaucracy and increased spending. He said the taxpayers, while voting down a 25 cent increase, would not oppose a 3 cent increase.

Senator Brown replied you cannot vote a provision into law that the taxpayers have voted down without incurring some wrath in return. He said the 3 cent increase raises so little money, it would be better to wait until next session and enact a more meaningful increase.

Senator Van Valkenburg asked what the 3 cent increase would amount to in revenue.

Jerry Anderson replied it would bring in \$2.6 million for the biennium if sales remain the same. He felt it probable that sales would decrease.

Senator Van Valkenburg said, in his opinion, \$2.6 million was not "a little" sum of money.

The motion that SB 353 Do Pass As Amended CARRIED on a roll call vote (attached).

ADJOURNMENT

Adjournment At: 10:00 a.m.



SENATOR MIKE HALLIGAN, Chairman



JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 3/12

LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	✓		
SEN. ECK			
SEN. BROWN	✓		
SEN. DOHERTY	✓		
SEN. GAGE	✓		
SEN. HARP	✓		
SEN. KOEHNKE	✓		✓
SEN. THAYER	✓		
SEN. TOWE	✓		
SEN. VAN VALKENBURG	✓		
SEN. YELLOWTAIL			

Each day attach to minutes.

DATE 5/26/91

COMMITTEE ON

Taxation

VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

<u>STATE</u>	<u>THRESHOLD AMT.</u>	<u>PENALTIES</u>
Alabama	\$100 +	Yes
Alaska		
Arizona	Income Threshold	Yes
Arkansas	\$250 +	Yes
California	\$100 +	Yes
Colorado	\$1,000 +	Yes
Connecticut	Income Threshold	Yes
Delaware	\$100 +	Yes
District of Col.	\$100 +	Yes
Florida		
Georgia	Sales Tax	
Hawaii	Income Threshold	Yes
Idaho	\$40 +	Yes
Illinois	Permitted - Not Mandatory	
Indiana	\$250 +	Yes
Iowa	-0-	Yes
Kansas	\$50 +	Yes
Kentucky	\$200 +	Yes
Louisiana	\$40 +	Yes
Maine	\$200 + for singles & \$400 + for married	Yes
Maryland	\$500 +	Yes
Massachusetts	\$100 +	Yes
Michigan	\$200 +	Yes
Minnesota	\$500 +	Yes
Mississippi	\$500 +	Yes
Missouri	\$200 +	Yes
Montana	\$100 +	Yes
Nebraska	Mandatory - No Penalty	
Nevada	\$300 +	Yes
New Hampshire		
New Jersey	Sales Tax	
New Mexico	\$200 +	Yes
New York	\$100 +	Yes
North Carolina	Permitted - Not Mandatory	
North Dakota	\$100 +	Yes
Ohio	\$40 +	Yes
Oklahoma	\$200 +	Yes
Oregon	\$300 +	Yes
Pennsylvania	\$25 +	Yes
Rhode Island	\$500 +	Yes
South Carolina	\$2,500 +	Yes
South Dakota	\$100 +	Yes
Tennessee		
Texas	Sales Tax	
Utah	No Estimate	
Vermont	Sales Tax	
Virginia	Permitted - Not Mandatory	
Washington	\$125 +	Yes
West Virginia	\$150 +	Yes
Wisconsin		
Wyoming	Sales Tax	

Amendments to Senate Bill 461
1st. Reading Copy

Prepared by the Department of Revenue
March 25, 1991

As drafted the bill requires taxpayers to pay a certain amount of their income tax each year either by employer withholding or through the payment of estimated tax. The bill provides a 10 % "penalty" if a taxpayer does not pay sufficient estimated tax. However, there is no penalty for under-withholding. So that all taxpayers are treated equally it is necessary to impose a consistent penalty for under withholding.

1. Page 1

Following: line 16

Insert: "Section 1. Section 15-30-202, MCA, is amended to read: "15-30-202. Withholding of tax from wages. (1) Every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with the withholding tax tables which shall be prepared and issued by the department. Persons on active service as members of the regular armed forces of the United States, as defined in 10 U.S.C. 101(33), and members of the national guard and reserves participating in training as provided in 5 U.S.C. 5517(d) shall not be subject to the provisions of this section.

(2)(a) If any taxpayer subject to having tax withheld from his wages shall fail through employer withholding to pay the amount required by 15-30-241, there must be added to the amount under withheld a penalty equal to 10 %.

The bill as drafted does not specify that the additional amount due is to be considered as a penalty. For clarity, the department proposes that the amount due if the taxpayer fails to pay the proper amount of estimated tax be considered as a penalty.

2. Title, line 10.

Following: "OF"

Strike: "AN ADDITIONAL AMOUNT"

Insert: "A PENALTY"

3. Title, line 11.

Following: "QUARTER"

Insert: ", AND TO REQUIRE PAYMENT OF A PENALTY FOR FAILURE TO PAY THE PROPER AMOUNT OF EMPLOYER WITHHOLDING"

4. Title, line 11.
Following: "Amending"
Strike: "SECTION"
Insert: "SECTIONS 15-30-202 AND"
5. Page 5, line 16.
Following: "chapter"
Strike: "an amount"
Insert: "a penalty"
6. Page 5
Following: line 17 on line 18
Strike: "additional amount"
Insert: "penalty"
7. Page 5, line 22 and 23.
Following: Following the second "the" line 22, and the beginning of line 23.
Strike: "additional amount"
Insert: "penalty"
8. Page 6, line 2.
Following: "then"
Strike: "an additional amount"
Insert: "a penalty"

Amendments to House Bill No. 338
Third Reading Copy

Requested by Senator Doherty
For the Committee on Taxation

Prepared by Jeff Martin
March 22, 1991

1. Page 8, line 17.

Following: "THAT"

Insert: ":"

Strike: "BURNS WOOD,"

Following: "burns"

Insert: "

(a)(i) is specifically designed to burn"

Following: "pellets"

Strike: "._"

2. Page 8, line 18.

Following: "pellets,"

Insert: "pellets; and"

3. Page 8, line 20.

Following: "te"

Insert: "(ii)"

Strike: "AND"

4. Page 8, line 21.

Strike: "2.5"

Insert: "4.1"

5. Page 8, line 23.

Following: "stoves"

Insert: ", "

6. Page 8, line 25.

Following: "15-32-203"

Insert: "; or

(iii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department of health and environmental sciences pursuant to 15-32-203; or

(b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of health and environmental sciences pursuant to 15-32-203"

7. Page 10, line 11.

Following: "15-32-102"

Insert: "(5)(a)"

8. Page 10.

Following: line 17

Insert: "(3) A resident individual taxpayer who completes installation of an energy system that uses a low emission wood or biomass combustion device, as defined in 15-32-102(5)(b), in the taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of the system, including the installation costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30."

GRAY BILL--HB338--FOR DISCUSSION ONLY

1 HOUSE BILL NO. 338 INTRODUCED BY REAM, HALLIGAN BY REQUEST OF
2 THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
3 A BILL FOR AN ACT ENTITLED: "AN ACT AMENDING THE LAWS RELATING
4 TO TAX CREDIT FOR THE PURCHASE AND INSTALLATION OF LOW EMISSION
5 WOOD OR BIOMASS COMBUSTION DEVICES; INCREASING THE ALTERNATIVE
6 ENERGY TAX CREDIT FOR CERTAIN TAXPAYERS; REDEFINING A LOW
7 EMISSION WOOD OR BIOMASS COMBUSTION DEVICE; EXTENDING THE DATE
8 FOR CERTAIN TAXPAYERS FOR WHICH THE ALTERNATIVE ENERGY TAX CREDIT
9 MAY BE TAKEN TO DECEMBER 31, ~~1996~~ 1995; REDEFINING THE TAX-EXEMPT
10 STATUS OF LOW EMISSION WOOD OR BIOMASS COMBUSTION DEVICES;
11 REDEFINING THE INVESTMENTS THAT QUALIFY FOR VENTURE CAPITAL AND
12 OTHER INCENTIVES FOR BUSINESSES INVOLVED WITH NONFOSSIL FORMS OF
13 ENERGY GENERATION TO INCLUDE LOW EMISSION WOOD OR BIOMASS
14 COMBUSTION DEVICES; AMENDING SECTIONS 15-6-201, 15-32-102, 15-32-
15 201, AND 90-8-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE
16 AND AN APPLICABILITY DATE."
17

18 STATEMENT OF INTENT

19 A statement of intent is required for this bill because it
20 is anticipated that rulemaking proceedings will be required for
21 implementation.

22 Montana currently has nine communities that exceed the state
23 and federal ambient air quality standards for particulate matter
24 smaller than 10 microns in diameter (PM-10) and two communities
25 that exceed carbon monoxide standards. Several other communities
26 have PM-10 concentrations approaching the ambient standards.

27 It is the intention of the legislature that the tax credit
28 available for the cost of purchasing and installing a low
29 emission wood or biomass combustion device be restricted to only
30 the most efficient devices available on the market. While
31 replacing older wood stoves with newer low-emission wood stoves
32 may reduce ambient levels of PM-10, carbon monoxide, and other
33 pollutants, the legislature finds that the current tax incentives
34 do not encourage the improvements in efficiency and reductions in
35 pollutants that will be required in the future to improve air
36 quality.

37 While it restricts the availability of these tax incentives,
38 the legislature finds it appropriate to increase the amount of
39 the incentive available for those devices that qualify. This
40 action is intended to stimulate the availability of the more
41 efficient devices and further promote their use. Changes are also
42 being made, as appropriate, to preserve the application of other
43 incentives to the installation and production of these devices.

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

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

GRAY BILL--HB338--FOR DISCUSSION ONLY

1 (i) a truck canopy cover or topper weighing less than 300
2 pounds and having no accommodations attached. This property is
3 also exempt from taxation under 61-3-504(2) and 61-3-537.

4 (j) a bicycle, as defined in 61-1-123, used by the owner
5 for personal transportation purposes;

6 (k) motor homes, travel trailers, and campers;

7 (l) all watercraft;

8 (m) land, fixtures, buildings, and improvements owned by a
9 cooperative association or nonprofit corporation organized to
10 furnish potable water to its members or customers for uses other
11 than the irrigation of agricultural land;

12 (n) the right of entry that is a property right reserved in
13 land or received by mesne conveyance (exclusive of leasehold
14 interests), devise, or succession to enter land whose surface
15 title is held by another to explore, prospect, or dig for oil,
16 gas, coal, or minerals;

17 (o) property owned and used by a corporation or association
18 organized and operated exclusively for the care of the
19 developmentally disabled, mentally ill, or vocationally
20 handicapped as defined in 18-5-101, which is not operated for
21 gain or profit;

22 (p) all farm buildings with a market value of less than
23 \$500 and all agricultural implements and machinery with a market
24 value of less than \$100;

25 (q) property owned by a nonprofit corporation organized to
26 provide facilities primarily for training and practice for or
27 competition in international sports and athletic events and not
28 held or used for private or corporate gain or profit. For
29 purposes of this subsection (q), "nonprofit corporation" means an
30 organization exempt from taxation under section 501(c) of the
31 Internal Revenue Code and incorporated and admitted under the
32 Montana Nonprofit Corporation Act.

33 (r) provided the tools are owned by the taxpayer, the first
34 \$15,000 or less of market value of tools that are customarily
35 hand-held and that are used to:

36 (i) construct, repair, and maintain improvements to real
37 property; or

38 (ii) repair and maintain machinery, equipment, appliances,
39 or other personal property;

40 (s) harness, saddlery, and other tack equipment; and

41 (t) a title plant owned by a title insurer or a title
42 insurance producer, as those terms are defined in 33-25-105.

43 (2) (a) The term "institutions of purely public charity"
44 includes organizations owning and operating facilities for the
45 care of the retired or aged or chronically ill, which are not
46 operated for gain or profit.

47 (b) The terms "public art galleries" and "public
48 observatories" include only those art galleries and
49 observatories, whether of public or private ownership, that are
50 open to the public without charge at all reasonable hours and are

GRAY BILL--HB338--FOR DISCUSSION ONLY

used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) \$20,000 in the case of a single-family residential dwelling;

(b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 2. Section 15-32-102, MCA, is amended to read:

"15-32-102. Definitions. As used in this part, the following definitions apply:

(1) "Building" means a single or multiple dwelling, including a mobile home, or a building used for commercial, industrial, or agricultural purposes, which is enclosed with walls and a roof.

(2) "Capital investment" means any material or equipment purchased and installed in a building or land with or without improvements.

(3) "Energy conservation purpose" means one or more of the following results of an investment: reducing the waste or dissipation of energy or reducing the amount of energy required to accomplish a given quantity of work.

(4) "Passive solar system" means a direct thermal energy system that uses the structure of a building and its operable components to provide heating or cooling during the appropriate times of the year by using the climate resources available at the site. It includes only those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy and that are not standard components of a conventional building.

(5) "Low emission wood or biomass combustion device" means ~~a stove or furnace or a catalytic converter added to a stove or furnace which that:~~

~~(a) is specifically designed to burn~~ A NONCATALYTIC STOVE OR FURNACE THAT: BURNS WOOD, burns

(A)(I) IS SPECIFICALLY DESIGNED TO BURN wood pellets or other nonfossil biomass pellets; PELLETS; AND

~~(b) utilizes an automatic pellet feed system; and~~

~~(c)(II) AND which has an particulate emission rate of less than 6 2.5 4.1 grams per hour when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of health and environmental sciences pursuant to 15-32-203; OR~~

(III) HAS AN AIR-TO-FUEL RATIO OF 35 TO 1 OR GREATER WHEN TESTED IN CONFORMANCE WITH THE STANDARD METHOD FOR MEASURING THE

GRAY BILL--HB338--FOR DISCUSSION ONLY

AIR-TO-FUEL RATIO AND MINIMUM ACHIEVABLE BURN RATES FOR WOOD-FIRED APPLIANCES, AS ADOPTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES PURSUANT TO 15-32-203; OR

(B) BURNS WOOD OR OTHER NONFOSSIL BIOMASS AND HAS A PARTICULATE EMISSION RATE OF LESS THAN 4.1 GRAMS PER HOUR WHEN TESTED IN CONFORMANCE WITH THE STANDARD METHOD FOR MEASURING THE EMISSIONS AND EFFICIENCIES OF RESIDENTIAL WOOD STOVES, AS ADOPTED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES PURSUANT TO 15-32-203.

(6) "Recognized nonfossil forms of energy generation" means:

(a) a system for the utilization of solar energy including passive solar systems, wind, solid wastes, or the decomposition of organic wastes for capturing energy or converting energy sources into usable sources;

(b) a system for the production of electric power from solid wood wastes; or

~~(c) a low-emission wood or biomass combustion device; or~~
~~(d) a small system for the utilization of water power by means of an impoundment not over 20 acres in surface area."~~

Section 3. Section 15-32-201, MCA, is amended to read:

"15-32-201. Amount of credit -- to whom available. (1) A resident individual taxpayer who completes installation of an energy system using a recognized nonfossil form of energy generation, as defined in 15-32-102, in such taxpayer's principal dwelling prior to January 1, 1993, or who acquires title to a dwelling prior to January 1, 1993, that is to be used as the taxpayer's principal dwelling and is equipped with an energy system for which the credit allowed by this part has never been claimed, is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of such system, including installation costs, less grants received or, if the federal government provides for a tax credit substantially similar in kind (not in amount), then a tax credit in an amount equal to 5% of the first \$1,000 and 2 1/2% of the next \$3,000 of the cost of such system, including installation costs, less grants received, against the income tax liability imposed against such taxpayer pursuant to chapter 30.

(2) A resident individual taxpayer who completes installation of an energy system using a low emission wood or biomass combustion device, as defined in 15-32-102(5)(A), in the taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal to 20% of the first \$1,000 and 10% of the next \$3,000 of the cost of the system, including the installation costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30.

(3) A RESIDENT INDIVIDUAL TAXPAYER WHO COMPLETES INSTALLATION OF AN ENERGY SYSTEM THAT USES A LOW EMISSION WOOD OR BIOMASS COMBUSTION DEVICE, AS DEFINED IN 15-32-102(5)(B), IN THE

GRAY BILL--HB338--FOR DISCUSSION ONLY

1 TAXPAYER'S PRINCIPAL DWELLING PRIOR TO JANUARY 1, 1996, IS
2 ENTITLED TO CLAIM A TAX CREDIT IN AN AMOUNT EQUAL TO 10% OF THE
3 FIRST \$1,000 AND 5% OF THE NEXT \$3,000 OF THE COST OF THE SYSTEM,
4 INCLUDING THE INSTALLATION COSTS, AGAINST THE INCOME TAX
5 LIABILITY IMPOSED AGAINST THE TAXPAYER PURSUANT TO TITLE 15,
6 CHAPTER 30."

7 Section 4. Section 90-8-104, MCA, is amended to read:

8 "90-8-104. Definitions. As used in this chapter, unless the
9 context requires otherwise, the following definitions apply:

10 (1) "Board" means the board of investments provided for in
11 2-15-1808.

12 (2) "Capital base" means equity capital raised by a
13 certified Montana capital company for which tax credits were
14 claimed under this chapter.

15 (3) "Certified Montana capital company" means:

16 (a) a development credit corporation created pursuant to
17 Title 32, chapter 4; or

18 (b) a profit or nonprofit entity organized and existing
19 under the laws of Montana, created for the purpose of making
20 venture or risk capital available for qualified investments and
21 that has been certified by the board.

22 (4) "Montana business" means a business which is located or
23 principally based within Montana.

24 (5) "Qualified investment" means:

25 (a) a debt or equity financing of a Montana business that
26 meets both of the following criteria:

27 (i) the business is engaged in one or more of the following
28 activities:

29 (A) manufacturing;

30 (B) agricultural, fishery, or forestry production and
31 processing;

32 (C) mineral production and processing, except for
33 conventional oil and gas exploration;

34 (D) recognized nonfossil forms of energy generation or the
35 manufacture of low emission wood or biomass combustion devices as
36 defined in 15-32-102;

37 (E) transportation;

38 (F) research and development of products or processes
39 associated with any of the activities enumerated in (A) through
40 (E) above;

41 (G) wholesale or retail distribution activities for which
42 products produced in Montana comprise 50% or more of the gross
43 sales receipts;

44 (H) any activity conducted in the state for which 50% or
45 more of the gross receipts are derived from the sale of products
46 or services outside Montana; and

47 (I) tourism; and

48 (ii) the business is a small business as defined in rules
49 adopted by the board; or

50 (b) a debt or equity financing of a business outside

GRAY BILL--HB338--FOR DISCUSSION ONLY

1 Montana if such investment is likely to produce a qualified
2 investment in Montana, as long as such investment does not exceed
3 25% of the capital base of the capital company.

4 (6) "Qualified Montana capital company" means a certified
5 Montana capital company that has been designated a qualified
6 capital company under the provisions of 90-8-202 so that
7 investors in the company may receive the tax credits authorized
8 in 90-8-202."

9 NEW SECTION. Section 5. **Applicability.** [This act] applies
10 to taxable years beginning after December 31, 1991, and before
11 January 1, 1996.

12 NEW SECTION. Section 6. **Effective date.** [This act] is
13 effective on passage and approval.

14 -End-
15

SENATE TAXATION

EXHIBIT NO. 3

ON FILE

DATE

3/27/91

FILE

BILL NO. 433

ON HOUSE

SENATE TAXATION

DILLON, MONTANA 59725

DEPARTMENT OF REVENUE
BEAVERHEAD COUNTY ASSESSOR

TED SCHWINDEN, GOVERNOR

STATE OF MONTANA

(406) 683-5612



March 25, 1991

WRITTEN TESTIMONY IN FAVOR OF HB334

The passage of this bill would eliminate the discriminatory treatment of Montana livestock owners who move their cattle out of state after the March 1 assessment date. Under the current statutes, if the cattle are located in Montana on March 1, they are assessed and taxed for the full 12 months. An out of state producer moving cattle into the state after March 1st will be assessed on a pro-rated basis. In both cases the cattle may be here in Montana for only 6 months, but the Montana resident would pay taxes for 12 months (if they have situs on March 1 in Montana) while the out of state owner moving cattle into the state after March 1 would be pro-rated.

This bill also allows the County Assessor to tax for additional time if the original report is incorrect, and it also allows for a refund if the cattle actually have situs for a shorter time than initially reported.

For these reasons I support the passage of HB334.

Rick Hartz, Assessor
Beaverhead Co.

A handwritten signature in cursive script that reads "Rick Hartz".

3/27/91
EXHIBIT 117
3/27/91

Testimony presented before the Senate Taxation Committee on HB 334
March 26, 1991. Sponsor: Swysgood. by James F. Hagenbarth
For: Hagenbarth Livestock, P.O. Box 1128, Dillon, MT 59725
Montana Stockgrowers Association.

History

- Family ranching operation-been in Montana since 1863 and have been moving livestock across the Montana-Idaho border since the late 1880's.
- Based in Dillon, Montana which is our fall, winter and spring range-along with our calving facilities and hay base.
- Truck cattle 100 miles south to Spencer, Idaho where our summer range lies.
- Average inventory method of assessment worked well in determining an accurate assessment of livestock when they had a taxable situs in Montana.
- With the passage of HB 35 in the last session, average inventory was dropped at the request of the assessors and March 1st was made the only option. No mechanism was included to equitably tax livestock that moved interstate during the tax year.
- Legal opinions by the revenue staff gives examples of how livestock moved interstate under the current law are to be taxed.
 - cattle entering the state February 1st and leaving February 28th would be taxed for 11 months even though they had taxable situs of only 1 month.
 - Cattle entering the state January 30 and leaving in July would be taxed for 12 months since they were in the state on March 1st. These cattle had taxable situs for 6 months and are being taxed for 12.
 - Cattle entering the state on April 1st and leaving on May 1st would be taxed for 9 months even though they had taxable situs for only 1 month.
 - my livestock leave the state in May or June and return in November or December and have a taxable situs in the state for 6 to 7 months, but are being taxed for 12 months
- The financial impact on my operation in 1990 of the March 1st method of assessment compared to the average inventory method was an increase of my personal property and per capita tax on livestock of 93%- a dollar amount of 7,600.

- My taxes have nearly doubled, yet my demand upon public services in the county and state have not increased, the number of cattle I own and the time of taxable situs has not increased, and the tax burden of my fellow stockgrowers has not increased.
- Clearly the March 1st method of assessment has placed an unfair and inequitable tax burden on an interstate livestock operation.
- House Bill 334 will correct this inequity. This bill addresses a specific situation and offers a remedy that is easy to follow. The responsibility to achieve tax equity is placed upon the taxpayer who seeks this equity. The property tax portion of the bill is handled by the county assessor-the official who is obligated to assess property tax in this state. The per capita tax portion is addressed by the Department of Livestock-the department which is responsible for this per capita tax.
- House Bill 334 is clear, precise, and addresses the inequities that the current tax law places upon the owners of livestock which are moved interstate during the tax year.
- I ask your support for this legislation and thank you for the opportunity to comment.

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/29/91 Senate Bill No. 446 Time

NAME	YES	NO
SEN. HALLIGAN		X
SEN. BROWN	X	
SEN. ECK		X
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP	X	
SEN. YELLOWTAIL	X	
SEN. THAYER	X	
SEN. TOWE	X	
SEN. KOEHNKE		
SEN. DOHERTY		X

Bill Rogers
Secretary

Sen. Mike Halligan
Chairman

Motion: Sen. Harp to Table SB 446

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/26/91 Senators Bill No. 476 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN	X	
SEN. ECK		
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP		X
SEN. YELLOWTAIL		
SEN. THAYER	X	
SEN. TOWE	X	
SEN. KOEHNKE		
SEN. DOHERTY	X	

Bill Robinson
Secretary

Senator Mike Halligan
Chairman

Motion: by Senator Dan to amend SB 476
with a one time 7% credit
(corporate credit rate)

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/26/91 SB Bill No. 916 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN	X	
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG		X
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER	X	
SEN. TOWE	X	
SEN. KOEHNKE		
SEN. DOHERTY	X	

Will Morgan
Secretary

Senator Mark Halligan
Chairman

Motion: by Senator Brown that SB 916
Be Passed As Amended

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/26/41 Amended Bill No. 553 Time

NAME	YES	NO
SEN. HALLIGAN	X	
SEN. BROWN		X
SEN. ECK	X	
SEN. GAGE		X
SEN. VAN VALKENBURG	X	
SEN. HARP		X
SEN. YELLOWTAIL	X	
SEN. THAYER		X
SEN. TOWE	X	
SEN. KOEHNKE		
SEN. DOHERTY	X	

Secretary _____

Chairman _____

Motion: Sup Senator Van Valkenburg to amend
page 1, line 43, striking "43" inserting
"21" and p. 3 striking section
6, 7, 8 and after striking what
bring till into compliance. Further
to amend adding a new section to
the bill to avoid violation of constitution
an amend and official date

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/26/91 Senate Bill No. 353 Time

NAME	YES	NO
SEN. HALLIGAN		✓
SEN. BROWN	✓	
SEN. ECK		✓
SEN. GAGE	✓	
SEN. VAN VALKENBURG		✓
SEN. HARP	✓	
SEN. YELLOWTAIL		✓
SEN. THAYER	✓	
SEN. TOWE		✓
SEN. KOEHNKE		
SEN. DOHERTY		✓

Bill Rhyans
Secretary

Sen. Mike Halligan
Chairman

Motion: by Senator HARP to Talk. 35 353

ROLL CALL VOTE

SENATE COMMITTEE ON TAXATION

Date 3/26/91 Senate Bill No. 353 Time _____

NAME	YES	NO
SEN. HALLIGAN	x	
SEN. BROWN		x
SEN. ECK	x	
SEN. GAGE		x
SEN. VAN VALKENBURG	x	
SEN. HARP		x
SEN. YELLOWTAIL	x	
SEN. THAYER		x
SEN. TOWE	x	
SEN. KOEHNKE		
SEN. DOHERTY	x	

Bill Bryson
Secretary

Senator Mike Halligan
Chairman

Motion: by Senator Tame that SB 353
Do Pass As Amended

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 454 (first reading copy -- white), respectfully report that Senate Bill No. 454 do pass.

Signed: Mike Halligan
Mike Halligan, Chairman

Jan 3-26-91
Amd. Coord.

SB 2-54
Sec. of Senate

11:40

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
March 26, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 416 (second reading copy -- yellow), respectfully report that Senate Bill No. 416 be amended and as so amended do pass:

1. Page 3, line 9.

Following: "costs"

Insert: "-- limitations"

2. Page 3, line 13.

Following: "credit"

Strike: "in an amount equal to 70%"

Insert: "against the taxpayer's tax liability under chapter 30 for a portion"

3. Page 3, line 14.

Strike: "\$3,000"

Insert: "\$400"

Following: "\$3,000."

Insert: "The credit may not exceed the taxpayer's income tax liability for the taxable year."

4. Page 3.

Following: line 25

Insert: "(3) There is no carryback or carryforward of the credit permitted under this section, and the credit must be applied in the year the installation costs are incurred."

5. Page 4, lines 1 through 13.

Strike: section 3 in its entirety

Renumber: subsequent sections

6. Page 4, line 15.

Strike: "Sections"

Insert: "Section"

Strike: "and 3"

Strike: "are"

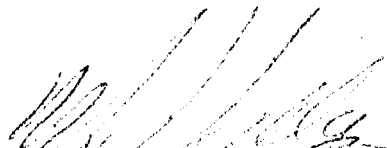
Insert: "is"

7. Page 4, line 18.

Strike: "sections"

Insert: "section"

Strike: "and 3"

Signed: 

Mike Halligan, Chairman

LB 326-9 JB 4/21 2:15
Amd. Coord. Sec. of Senate

6514303C.SLB

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
March 26, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 338 (third reading copy as amended -- blue), respectfully report that House Bill No. 338 be amended and as so amended be concurred in:

1. Page 8, line 17.

Following: "THAT"

Insert: ";

Strike: "BURNS WOOD,"

Following: "burns"

Insert: "

(a)(i) is specifically designed to burn"

Following: "pellets"

Strike: "L"

2. Page 8, line 18.

Following: "~~pellets;~~"

Insert: "pellets; and"

3. Page 8, line 20.

Following: "~~for~~"

Insert: "(ii)"

Strike: "AND"

4. Page 8, line 21.

Strike: "2.5"

Insert: "4.1"

5. Page 8, line 23.

Following: "stoves"

Insert: ";

6. Page 8, line 25.

Following: "15-32-203"

Insert: "; or

(iii) has an air-to-fuel ratio of 35 to 1 or greater when tested in conformance with the standard method for measuring the air-to-fuel ratio and minimum achievable burn rates for wood-fired appliances, as adopted by the department of health and environmental sciences pursuant to 15-32-203; or

(b) burns wood or other nonfossil biomass and has a particulate emission rate of less than 4.1 grams per hour

when tested in conformance with the standard method for measuring the emissions and efficiencies of residential wood stoves, as adopted by the department of health and environmental sciences pursuant to 15-32-203"

7. Page 10, line 11.
Following: "15-32-102"
Insert: "(5)(a)"

8. Page 10.
Following: line 17
Insert: "(3) A resident individual taxpayer who completes installation of an energy system that uses a low emission wood or biomass combustion device, as defined in 15-32-102(5)(b), in the taxpayer's principal dwelling prior to January 1, 1996, is entitled to claim a tax credit in an amount equal to 10% of the first \$1,000 and 5% of the next \$3,000 of the cost of the system, including the installation costs, against the income tax liability imposed against the taxpayer pursuant to Title 15, chapter 30."

Signed: _____

Mike Halligan, Chairman

191 3-26-91
And. Coord.

32 3-27 0:15
Sec. of Senate