

MINUTES

MONTANA SENATE 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Mike Halligan, on January 28, 1993,
at 8:05 a.m.

ROLL CALL

Members Present:

Sen. Mike Halligan, Chair (D)
Sen. Dorothy Eck, Vice Chair (D)
Sen. Steve Doherty (D)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John Harp (R)
Sen. Spook Stang (D)
Sen. Tom Towe (D)
Sen. Bill Yellowtail (D)

Members Excused: Sen. Bob Brown (R) and Sen. Fred Van Valkenburg
(D)

Members Absent: None.

Staff Present: Jeff Martin, Legislative Council
Bonnie Stark, Committee Secretary

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

Committee Business Summary:

Hearing: SB 195, SB 206
Executive Action: SB 144, SB 170, SB 175, SB 206

HEARING ON SB 195

Opening Statement by Sponsor:

Senator Tom Hager, representing Senate District 48, presented Senate Bill 195, which is an act revising the definition of distributor for the purposes of a local option motor fuel tax. Senator Hager said Senate Bill 195 relates to some problems discovered in the Local Option Fuel Tax bill passed about 10 years ago. When some counties were preparing to run an election on the Local Option Fuel Tax, they discovered that a distributor operating out of a county with the Local Option Fuel Tax would have to charge that money to all their accounts. However, a neighboring county that didn't have the Local Option

Fuel Tax would not have to charge the tax in the county that did apply the Local Option Fuel Tax.

Proponents' Testimony:

Bruce McCandless, Assistant City Administrator for the City of Billings, said the City of Billings endorses the concept of this legislation and urges a Do Pass recommendation on Senate Bill 195.

Opponents' Testimony:

Bill Nooney, President of High Noon Petroleum of Missoula and President of the Montana Petroleum Marketers Association, feels Senate Bill 195 is unworkable because of the entities who are left out. Mr. Nooney said some commercial accounts and contractors buy direct from the refiner and sell retail. If a 2-cent local option tax is assessed, they could resell a load of fuel, split the tax with the purchaser, and not remit anything to the state. Mr. Nooney also said that not all distributors or jobbers are licensed and bonded to collect and remit taxes to the state. Mr. Nooney opposes Senate Bill 195 because it does not appear to cure the problem.

Informational Testimony:

None.

Questions From Committee Members and Responses:

Senator Stang and Senator Towe questioned Bill Salisbury, Administrator of the Administration Division of the Department of Transportation (DOT), if Senate Bill 127, heard in this Committee on January 15, 1993, which deals with unlicensed distributors, would solve the problems addressed by Mr. Nooney. Mr. Salisbury said SB 127 would require licensed distributors to report to the DOT and the Local Option Fuel Tax could be implemented through that process.

Closing by Sponsor:

Senator Hager reminded the committee that the Local Option Fuel Tax has to be voted on by the individual counties.

HEARING ON SB 206

Opening Statement by Sponsor:

Senator Betty Bruski-Maus, representing Senate District 12, presented Senate Bill 206, which is an act clarifying that average daily production of 60,000 cubic feet or less from a natural gas well is exempt from the 7 percent Severance Tax Surtax. Senator Bruski-Maus said the purpose of Senate Bill 206

is to properly identify stripper gas in the Surtax code so that production of 60,000 cubic feet or less from a natural gas well would be exempt from the 7 percent Surtax. Senator Bruski-Maus said that when the 7 percent Surtax bill was passed, the Legislature intended to exempt stripper production. The Department of Revenue determined that the definition for stripper gas was not properly defined in the code. Senate Bill 206 is presented to correct that error.

Informational Testimony:

Senator Towe stated that when the 7 percent Surtax was approved by the Legislature, it was his understanding that natural gas stripper wells were to be exempt. Senate Bill 206 will correct that error in the 7 percent Surtax.

Proponents' Testimony:

Doug Abelin of Northern Montana Oil & Gas Association of Shelby, supports Senate Bill 206, stating its passage will clarify the intention of the Surtax exemption. Mr. Abelin presented a written statement, attached to these minutes as Exhibit No. 1.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

Senator Halligan asked about expected refunds. Doug Abelin replied that one-quarter of the state severance tax has been paid. In the event of taxes already paid, credit would be carried forward to the next quarter. If a business has gone broke since paying any severance tax which should have been exempt, there would be a need for a rebate to that business.

Closing by Sponsor:

Senator Bruski-Maus urged a Do Pass recommendation on Senate Bill 206.

EXECUTIVE ACTION ON SB 206

Motion:

Senator Eck moved Senate Bill 206 Do Pass.

Discussion:

None.

Vote:

Motion to Do Pass Senate Bill 206 carried on oral vote.

EXECUTIVE ACTION ON SB 175**Discussion:**

Senator Grosfield spoke with the owner of the travertine mine in Livingston. The owner estimated the tax he has paid was between \$200 and \$300. He says that he has paid RITT taxes for a number of years.

Don Hoffman, Natural Resource Division of the Department of Revenue, said the Department interprets the mineral product that is mined and saved as travertine to be taxed and not the overburden. The Department generally waits until there is an actual sale and applies the tax at the point of sales.

Motion to Amend:

Senator Eck moved to amend Senate Bill 175, page 1, line 22, following "extracted", to add, "and sold". After discussion, Senator Eck withdrew her amendment motion.

Discussion:

Don Hoffman said that another alternative is that taxing travertine could be handled by regulation. Department regulations address net proceeds of different mines and the points at which different products will be valued for taxing purposes. Most of the products covered under this tax fall into a fully-integrated operation and the Department has to establish a point of valuation in the mining and manufacturing process.

Senator Gage reported talking with the travertine mine owner who estimated he sold approximately 300 Ton a year.

Motion:

Senator Grosfield moved Senate Bill 175 Do Pass.

Vote:

Motion passed on oral vote.

EXECUTIVE ACTION ON SB 144**Motion:**

Senator Gage moved that Senate Bill 144 Do Pass.

Substitute Motion:

Senator Eck moved that Senate Bill 144 Do Not Pass.

Discussion:

None.

Vote on Substitute Motion:

Motion to Do Not Pass Senate Bill 144 carried on oral vote with Senators Gage, Grosfield, and Harp voting "no".

DISCUSSION ON SB 148

Senator Halligan asked Senator Gage about his reaction to the concerns expressed by the Environmental Information Center and others of the Oil and Gas Board's ability to handle the amount of revenue that may be allocated to them if Senate Bill 148 passes. Senator Gage said if the Board had a source of revenue they can depend on, as a result of Senate Bill 148, they could do more long-range planning and take care of damage problems as they arise.

Senator Gage, responding to questions from Senator Towe about using funds allocated to grants for paying for damage problems which arise, explained that the grant process is prioritized and reserved for specific projects and is not available for handling damage, or other, problems which may arise.

To answer questions by Senator Towe, John Tubbs, Department of Natural Resources (DNR), said currently there is \$50,000 being deposited in the Oil and Gas Production Mitigation Account annually; all the interest flows through the various accounts; currently, in the Reclamation and Development Grants Account, the Board of Oil and Gas has the top two grants totalling \$513,000, and there are two other oil and gas grants to counties recommended for funding that would bring the total grant figure up above \$700,000.

Senator Halligan asked John Tubbs what would happen to the funds if the Board of Oil and Gas were not given the \$500,000 allocated in this biennium, and Mr. Tubbs said the funds would go to two other reclamation grants requested which would be further down on the list of projects.

John Tubbs, responding to questions by Senator Grosfield, said that the type of applications the DNR has received from the Oil and Gas Board have been for reclaiming wells that were developed before 1954.

Senator Halligan asked Senator Gage if there were any assurances, through rules, By-Laws or statutes, that the Board would use damage mitigation funds for actual projects and not for hiring additional staff. Senator Gage said it is his understanding that there is currently an assessment of up to .2% Oil and Gas Conservation Tax for purposes of funding the Board.

Senator Towe suggested putting in a Committee Resolution indicating it is the sense of the Legislature that the funding for reclamation of old abandoned wells not identified with anyone to plug them should be the responsibility of the RIT, and the RIT interest monies grant program should be used as much as possible for that purpose.

Motion:

Senator Halligan moved to amend Senate Bill 148 to change 25% to 12.5% into the Damage Mitigation Account. After further discussion, Senator Halligan withdrew his motion.

No executive action was taken on Senate Bill 148.

EXECUTIVE ACTION ON SB 170

Motion:

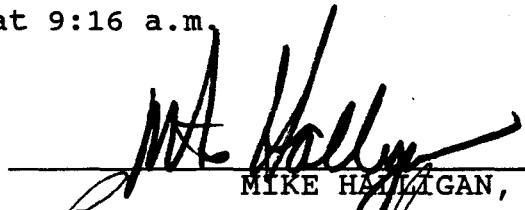
Senator Towe moved that Senate Bill 170 be tabled with the condition that Senator Halligan will speak with Senator Jergeson and inform him we are tabling this bill to accommodate him and will reconsider it whenever he requests.


Vote:

Motion to table Senate Bill 170 passed on oral vote.

ADJOURNMENT

Adjournment: Meeting adjourned at 9:16 a.m.


MIKE HALLIGAN, Chair


BONNIE STARK, Secretary

MH/bjs

ROLL CALL

SENATE COMMITTEE TAXATION

DATE 1-28-93

NAME	PRESENT	ABSENT	EXCUSED
Sen. Halligan, Chair	✓		
Sen. Eck, Vice Chair	✓		
Sen. Brown			✓
Sen. Doherty	✓		
Sen. Gage	✓		
Sen. Grosfield	✓		
Sen. Harp	✓		
Sen. Stang	✓		
Sen. Towe	✓		
Sen. Van Valkenburg			✓
Sen. Yellowtail	✓		

FC8

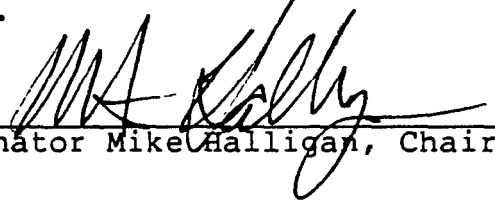
Attach to each day's minutes

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 28, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 206 (first reading copy -- white), respectfully report that Senate Bill No. 206 do pass.

Signed: 

Senator Mike Halligan, Chair


SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 28, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 175 (first reading copy -- white), respectfully report that Senate Bill No. 175 do pass.

Signed: _____


Senator Mike Halligan, Chair

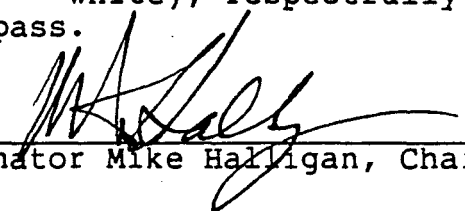
ADVERSE

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
January 28, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 144 (first reading copy -- white), respectfully report that Senate Bill No. 144 do not pass.

Signed: 

Senator Mike Halligan, Chair

Northern Montana Oil & Gas Association

P.O. Box 621
Shelby, Montana 59474
Phone 434-5401

SB 206
INFORMATION ON 7% SURTAX BILL;
SPONSOR: SEN. BETTY BRUSKI-MAUS
MONDAY: JANUARY 25th 1993

SENATE TAXATION

EXHIBIT NO. 1

DATE 1-28-93

BILL NO. SB 206

7% SURTAX BILL:

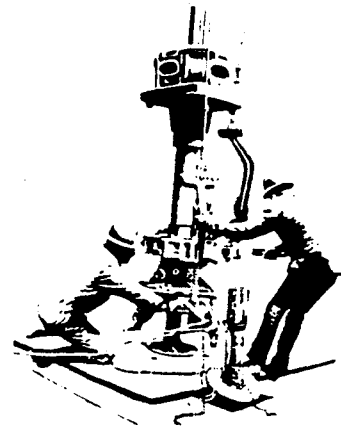
AN ACT CLARIFYING THAT AVERAGE daily production of 60,000 cubic feet or less from a natural gas well is exempt from the 7 percent severance tax surtax; amending section 15-36-126, MCA; and providing an immediate effective date and a retroactive applicability date.

All production other than "stripper" wells, 10 Barrels per day or less, or 60,000 cubic feet or less of natural gas per day, are defined, and are meant to be exempt from the 7% surtax.

When the original bill was passed the legislature intended to exempt "STRIPPER" production from the 7% surtax. But after the session, Revenue determined that the definition for "STRIPPER", gas was not actually properly defined, and therefore it was disallowed.

This bill now identifies "STRIPPER" gas, refers to it properly in the code and allows for a retroactive applicability. The act is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to natural gas production occurring after June 30, 1992.

As State Severance, & Local Government Severance tax have different dates for applicability, it also allows for the method of payment, and directs it to be deposited to the credit of the state general fund.



DATE 1-28-93

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 195, 206

Name	Representing	Bill No.	Check One	
			Support	Oppose
Donna Alexander	MT. Petroleum Marketers	SB 195		X
Bill Nooney	" " "	SB 195		X
Doug Abelin	NORTHERN MONT. OIL & GAS	SB 206	X	
Bruce McCandless	CITY OF BILLINGS	SB 195	X	
Tom Hagen	SB 48		X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

AMENDMENTS TO SENATE BILL NO. 148
FIRST READING
January 20, 1993

1. Page 8, line 9.

Following: "1993."

Insert: "NEW SECTION. Section 5 Coordination instruction.

If Senate Bill No. 144 [LC0575] is passed and approved,
then [this act] is void.

EXPLANATION OF AMENDMENTS TO SENATE BILL NO. 148

The proposed amendment will:

1. Void this act if Senate Bill No. 144 is passed and approved. That bill will accomplish the same goal as this bill.