

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on April 7, 1993, at
9:00 A.M.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

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

Committee Business Summary:

Hearing: SB 424
Executive Action: SB 359 Be Concurred In, SB 374 Tabled,
SB 379 Be Concurred In As Amended,
SB 426 Be Not Concurred In,
SB 428 Be Concurred In, SB 435 Tabled,
SB 431 Tabled, SB 438 Be Concurred In As
Amended, SB 427 Be Concurred In,
SB 424 Be Concurred In As Amended

HEARING ON SB 424**Opening Statement by Sponsor:**

SEN. CHET BLAYLOCK, Senate District 43, Laurel, said SB 424 is the result of the Duffield study on state school lands (**EXHIBIT A**). SB 424 will transfer the authority to set grazing rates from the Legislature to the Board of Land Commissioners. The formula used to separate the rates is based on animal units (A.U.M.) of \$4.17. The average received on state leases is \$4.24. The study shows that people who have private leases are paying \$15 per A.U.M. in comparison to state leases. He informed the Committee that one horse is one A.U.M., a cow and a calf are one A.U.M., and five sheep or five goats are considered one A.U.M. The study takes into consideration the difference between state school lands and private lands. With privately leased lands, the lessee receives services from the lessor. The Duffield study took into account the services rendered on private leases and then determined the average for state leases should be set at \$7.60. The Legislature adopted a bid system for leasing state school lands, but only 8% of those lands are subject to the bid process. He said the system needs to be changed so full market value is the base for the leases. Sections 16 and 36 of every township are set aside for educational investments in the children of Montana. The state should have a system of return on that investment that more adequately addresses the needs of the educational system.

Proponents' Testimony:

Mark O'Keefe, State Auditor, and Commissioner of Insurance and Securities, said two educational groups brought a lawsuit against the state and won their case, because they weren't receiving full market value for the school children. He referred to a report done by John North from the Department of State Lands at the request of the Governor, that indicates the State Land Board already has the authority to raise grazing and crop fees. Currently, the cabin and recreational fees cannot be changed. SB 424 will allow the state to receive full market value for cabin sites and recreational fees, and grazing and crop fees. The statutes set the minimum fees that can be charged by the Board, but it does not indicate the Board can raise those fees. He read an opinion from the Attorney General, dated 1983, which states "the Board of Land Commissioners, in establishing state grazing lease fees, not only has the authority to negotiate leases in excess of the four mills established by statutes, but in the licensed constitutional sources, and it is then the absolute duty to achieve fair market value on each grazing lease that is negotiated". He encouraged passage of SB 424 so the Department of State Lands can study the fees for cabin sites, recreation, and outfitters use fees to help fund the Board's mandated responsibilities.

Eric Feaver, Montana Education Association (MEA), said MEA supports HB 424. He said the problems have been around longer than the Duffield study which only came out in 1991. SB 424 invites the Legislature to direct the Board of Land Commissioners to do their constitutional duty and give them the backbone to collect the money needed for the school trust fund to help educate the children of Montana.

SEN. KEN MESAROS, Senate District 21, Cascade, said he supports SB 424. He submitted proposed amendments with **SEN. BLAYLOCK'S** approval. He said SB 424 requires that all leases be adjusted as of effective date, and be phased-in over a period of 10 years. He said the fiscal note should be changed to reflect the addition of an Advisory Board. **EXHIBIT 1**

Dennis Casey, private citizen, said, as a former Commissioner for Department of State Lands, he has had a life long interest in the grazing rates. He said there are two safeguards in the bill: 1) the fees and rates will be established after the rulemaking process; and 2) the Advisory Council will work closely with the Land Board. He urged support for SB 424.

Leo Berry, attorney, said his interest in SB 424 goes back to his first job when he worked with former governor, Ted Schwinden, who was the Land Commissioner, and later as Commissioner of State Lands for five years. He said Montana has a resource in its grazing lands that many states do not have any longer. The original land grants of Sections 16 and 36 were granted to the state trust which serves common schools. The original intent of the trust was to sell the lands and place them into monetary trust, but most of the western states sold their land for little or nothing. When Montana became a state, Congress placed an obligation on the state to obtain full market value for those lands with a minimum price of \$10 an acre. The obligation to receive full market value remained in the Enabling Act and the Constitution. He agreed with Dennis Casey who stated the state lands should stay under the control of the State Land Board because they meet monthly and deal with the issues on a regular basis.

Garth Jacobson, attorney representing Secretary of the State's Office, expressed support for SB 424. He said the comments and concerns he has heard in regard to the Duffield study are changes that may occur in the future. He felt this bill is the tool that will take care of those concerns. The Duffield study is a starting point and will provide research material for the advisory board in decisions on full market value for rental rates of state lands. He said there are three alternatives: 1) the Land Board could proceed with the rate increases; 2) wait to see if there are barriers to the statutory rates, and let the courts decide the rates; or 3) wait and have further studies done on the rates, which could also end up in litigation.

George Schunk, representing the Attorney General's Office, said the constitutional Enabling Act is clear when it states it is the responsibility of the trustees serving on the Land Board to make sure they receive full market value for the land.

Madalyn Quinlan, Office of Public Instruction (OPI), said the State Superintendent supports SB 424. The Board of Land Commissioners and the Department of State Lands is charged with managing the largest farming and ranching operation in the state, consisting of 5.2 million acres. SB 424 will enable the Land Commissioners to fulfill their constitutional obligations and make beneficial decisions to generate funding for schools. She said SB 424 is a crucial part of the effort to raise the major revenue to support the schools in the coming biennium.

REP. DON LARSON, House District 65, Seeley Lake, said it is proper policy that the Land Board manage the 5.2 million acres. He urged support for SB 424.

Jim Peterson, Executive Vice President of Montana Stockgrowers Association, presented testimony in support of the bill **EXHIBITS 2, 3, and 4.**

REP. ALVIN ELLIS, House District 84, Red Lodge, representing himself as a landowner and a lessee of 6½ sections of state lands, said the amendments are critical and he hoped the Committee would review and adopt them. He said it is also critical for the lessees to deal with the weed control on state leased land.

George Paul, Montana's Farmers Union Association, said the Association supports SB 424 for two reasons: 1) they don't want to see any further polarization between the agricultural industry, the rural community, and the education communities across Montana; and 2) they hope this process will be a fair and equitable one. He said the agricultural community is concerned that the funding mechanism is adequate and fair for them and the schools.

Opponents' Testimony:

Tim Tanberg, President of Montana State Leaseholders Association, presented written testimony in support of the bill. **EXHIBIT 5**

Sam Hofman, private citizen, presented written testimony in support of the bill. **EXHIBIT 6**

Rick Miller, private citizen, it is fair that the state receive a fair market value for the land. The assessment should be equitable for the state and the people that use the land. His concern is the appraisal and assessment of cabin sites. There are three sites that he knows of which are similar in land, size, ground and timber and each of these sites are appraised differently anywhere from \$13,000 to \$30,000.

Dan Meissner, representing Cabin Site Leaseholders, said in an eight year span his cabin site lease went from \$125 a year to \$1,000, increasing by \$1,040 in seven years. He said State Lands is receiving full market value, but the problem is with the assessment value of the property. He said a privately owned cabin site in the same area has lower taxes than the rate on a leased cabin site which is only available for six months out of the year.

Merwin & Carol Works, Farm co-owners & operators, distributed written testimony in opposition to SB 424. EXHIBIT 7

Questions From Committee Members and Responses:

REP. KELLER asked about the composition of the advisory board. SEN. BLAYLOCK said the appointments will be made by the Governor with the concurrence of the majority of the Land Commissioners. The members will be balanced between users and beneficiaries of the land.

REP. DOLEZAL asked SEN. BLAYLOCK if he was agreed with the amendments presented by SEN. MESAROS. SEN. BLAYLOCK said he supports the amendments, but asked if John North from Department of State Lands would review them.

REP. DRISCOLL asked Mr. North if the Land Board will take into consideration the loss of the use fee dollars. Mr. North said the Board will take into consideration the full market value compared to what a private owner would receive for leasing.

Closing by Sponsor:

SEN. BLAYLOCK closed by urging the Committee to read the summary of the Duffield Study. SB 424 doesn't dictate using the Duffield study, only to use it as a management tool. This bill is a step in the right direction. He felt the study offered good information as a basis for the bill.

EXECUTIVE ACTION ON SB 359

Motion/Vote: REP. ELLIOTT MOVED SB 359 BE CONCURRED IN. Motion carried unanimously.

EXECUTIVE ACTION ON SB 374

Motion: REP. DOLEZAL MOVED SB 374 BE CONCURRED IN.

Discussion: REP. DOLEZAL said SB 374 is a tax incentive, but it is different because production has to be in place before the incentive can be utilized.

REP. HIBBARD wanted to know if the ethanol plant in Ringling is on an equal footing with the American Ethanol Company? REP. DOLEZAL replied that SB 374 will give \$3 million to each ethanol plant. He said if the Ringling plant performs the same roll as the American plant they will receive the same benefits.

REP. ELLIOTT said he opposes this bill because it will cut taxes to create jobs, where the administration is raising taxes to create jobs. He said tax incentives do not necessarily create jobs or bring people into the state.

REP. RANEY said he has supported the ethanol concept since 1985, but he is against giving the American plant \$3 million when they say they are such a giant that they can make it with no problem. He wondered why the Legislature should take \$3 million of the taxpayers money to help a company when they can make it on their own.

REP. McCAFFREE said he is concerned if the state subsidizes this company they will buy Canadian grain if there is no Montana grain available.

CHAIRMAN GILBERT said Montana grain might be available, but the company will probably want to buy the cheapest grain.

REP. KELLER said he will support the bill. It has new improvements and it is a clean air bill. He said this will help reduce the nation's reliance on foreign oil.

REP. ELLIOTT said the nation is based on the free market concept, and if there is a need for the product, the need will be met. He didn't feel the government should be involved in providing subsidies.

REP. DOLEZAL said the Department of Transportation will audit on the company to make sure it is using Montana products. He said the American Company won't be on line until 1995, so it would give the Legislature time to come back and adjust if there aren't enough Montana products.

Motion: Motion that SB 374 Be Concurred In failed 9 - 11.
EXHIBIT 8

Motion/Vote: REP. ELLIOTT MADE A SUBSTITUTE MOTION TO TABLE SB 374. The motion carried 11 - 9 on a reverse vote. **EXHIBIT 8**

EXECUTIVE ACTION ON SB 379

Motion/: REP. ELLIOTT MOVED SB 379 BE CONCURRED IN.

Motion/Vote: REP. ELLIOTT moved to adopt the amendments prepared by Lee Heiman, Legislative Council. EXHIBIT 9 Motion carried unanimously.

Motion/Vote: REP. ELLIOTT MOVED SB 379 BE CONCURRED IN AS AMENDED. Motion carried 18 - 2 on a roll call vote with REPS. McCAFFREE AND CHAIRMAN GILBERT voting no. EXHIBIT 10

EXECUTIVE ACTION ON SB 426

Motion: REP. DRISCOLL MOVED SB 426 BE NOT CONCURRED IN.

Discussion: REP. ELLIOTT said if SB 426 does not pass, bonds cannot be sold for SIDS and RSIDS.

REP. McCAFFREE said this is a relief bill for developers and bond salesmen.

REP. HIBBARD said if this bill is defeated and there is a problem, the Legislature will be back in two years to find something that would be more satisfactory.

REP. DRISCOLL spoke to his motion. He said this was probably the best subdivision bill of the session the people need to come forward with something that works because the counties can still place money into the revolving funds with no but to the taxpayers guarantee that they will get their money back.

REP. HARPER informed the Committee of a resolution prepared by SEN. SUE BARTLETT that will submit this issue to the Revenue Oversight Committee for review.

Motion/Vote: The question was called. Roll call vote was taken. Motion carried 15 - 5 on a roll call vote. EXHIBIT 11

EXECUTIVE ACTION ON SB 428

Motion: REP. FELAND MOVED SB 428 BE CONCURRED IN.

Discussion: CHAIRMAN GILBERT said SB 428 will provide that certain lottery winnings are subject to state withholding tax. The withholding tax would apply to any payments made on lottery

prizes dating from the date of passage and approval of SB 428 regardless of when the prize was initially won. The original prize amount must be in excess of \$5,000.

REP. RANEY said if a person wins \$1,000,000, they do not receive the million dollars, they receive the interest. He said it is not appropriate to pay a tax on interest received when the state already has the million dollars.

Motion/Vote: Motion carried 18 - 2 with REPS. DRISCOLL AND RANEY voting no.

EXECUTIVE ACTION ON SB 435

Motion: REP. DRISCOLL MOVED SB 435 BE NOT CONCURRED IN.

Motion/Vote: REP. TUNBY MADE A SUBSTITUTE MOTION THAT SB 435 BE TABLED. Motion carried 18 - 2 with REPS. HARPER AND RANEY voting no.

EXECUTIVE ACTION ON SB 431

Motion: REP. ORR MOVED SB 431 BE NOT CONCURRED IN.

Discussion: REP. ORR said the bill is an expensive and cumbersome method of attempting to tax propane fuel used in vehicles under 12,000 GVW.

REP. RANEY said he supports the bill. A lot of Montanans converted their vehicles to propane to burn clean fuel and to save engine wear. He said people have converted to propane on their one-half tons and three-quarter ton pickups and they usually have campers on them. A minimum purchase of \$112 is required before they have to buy a permit to fill their trucks and campers.

REP. DRISCOLL asked REP. RANEY if there is a federal tax on the propane. REP. RANEY if a permit is purchased the federal tax is assessed.

REP. DRISCOLL asked if the \$112 goes to the state. CHAIRMAN GILBERT said it does. The permit fee is assessed in lieu of paying fuel tax by the gallon which requires licensing and bonding of every dealer in the state. A permit based on miles driven and gallons purchased per year, was deemed a more workable solution.

Motion/Vote: REP. ORR MADE A SUBSTITUTE MOTION THAT SB 431 BE TABLED. Motion carried 16 - 4 with REPS. RANEY, HARPER, McCAFFREE AND REAM voting no.

EXECUTIVE ACTION ON SB 438

Motion: REP. ELLIOTT MOVED SB 438 BE CONCURRED IN.

Motion: REP. ELLIOTT MOVED TO ADOPT THE AMENDMENTS AS PER EXHIBIT 12.

Discussion: Lee Heiman, Legislative Council explained the amendments. He said these are clerical amendments and make no substantive changes.

Vote: Motion carried unanimously.

Motion/Vote: REP. ELLIOTT MOVED SB 438 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 427

Motion: REP. REAM MOVED THE COMMITTEE RECONSIDER ITS ACTION ON SB 427 BY TAKING IT FROM THE TABLE.

Discussion: REP. REAM said SB 427 clarifies whether an SID revolving fund can be included in the county tax base, or whether it is retired when the SID is paid. He said the cities and counties that are currently including the revolving fund in their base, will not change their process. If the bill is killed they will continue doing it their way. He felt it would take a separate bill or a court case to reverse their actions.

Motion/Vote: Motion carried unanimously.

Motion/Vote: REP. REAM MOVED SB 427 BE CONCURRED IN. Motion carried 14 - 6 on a roll call vote. EXHIBIT 13

EXECUTIVE ACTION ON SB 424

Motion: REP. HARPER MOVED SB 424 BE CONCURRED IN.

Motion: REP. HARPER moved the adoption of the amendments.
EXHIBIT 1

Motion/Vote: REP. ELLIOTT moved to segregate amendment #14.
Motion carried unanimously.

Motion: REP. DRISCOLL moved to segregate amendment #7. The Committee discussed voting on the rest of the amendments and working on amendment #7 separately.

Motion/Vote: REP. HARPER moved to adopt amendments #1 - #6, #8 - #13, #15 and #16 (excluding #7). Motion carried 19 - 1 with CHAIRMAN GILBERT voting no.

REP. ANDERSON moved to adopt amendment #7. EXHIBIT 1

Discussion: REP. ELLIOTT said the DSL wants this provision left in the bill because they can reject the bid if it is the only bid and not at full market value.

Vote: Motion to adopts #7 failed 10 - 10.

Motion/Vote: REP. HARPER MOVED SB 424 BE CONCURRED IN AS AMENDED. Motion carried 14 - 6 on a roll call vote. EXHIBITS 14 & 15

ADJOURNMENT

Adjournment: The meeting adjourned at 12:30 p.m.


BOB GILBERT, Chairman


Jill ROHYANS, Secretary

These minutes were written by Claudia Johnson and edited and proofed for content by Jill Rohyans.

BG/jdr/cj

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

4/7/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. McCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

Economic Analysis
of the Values of Surface Uses
of State Lands

SUMMARY REPORT

John Duffield
Bruce Anderson
Chris Neher

The original is stored at the Historical Society at 225
North Roberts Street, Helena, MT 59620-1201. The phone number
is 444-2694.

Report for Montana Department of State Lands
February 1993

Bioeconomics, Inc.
250 Station Drive
Missoula, MT 59801

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 359 (third reading copy -- blue) be concurred in .

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. L. Nelson

Committee Vote:
Yes 30, No 1.

781249SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 359 (third reading copy -- blue) be concurred in.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. L. Nelson

Committee Vote:
Yes , No .

781249SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 8, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that Senate Bill 379 (third reading copy -- blue) be concurred in as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Elliott

And, that such amendments read:

1. Title, line 7.
Following: "15-2-306,"
Insert: "15-7-102,"

2. Page 15.

Following: line 17

Insert: "Section 8. Section 15-7-102, MCA, is amended to read:

"15-7-102. Notice of classification and appraisal to owners -- appeals. (1) It ~~shall be~~ is the duty of the department of revenue, through its agent as specified in subsection (2), to cause to be mailed to each owner and purchaser under contract for deed a notice of the classification of the land owned or being purchased ~~by him~~ and the appraisal of the improvements on the land only if one or more of the following changes pertaining to the land or improvements have been made since the last notice:

(a) change in ownership;
(b) change in classification;
(c) change in valuation; or
(d) addition or subtraction of personal property affixed to the land.

(2) (a) The county assessor shall assign each assessment to the correct owner or purchaser under contract for deed and mail the notice of classification and appraisal on a standardized form, adopted by the department, containing sufficient information in a comprehensible manner designed to fully inform the taxpayer as to the classification and appraisal of ~~his~~ the property and of changes over the prior tax year.

Committee Vote:
Yes 16, No 2.

790750SC.Hpf

(b) The notice must advise the taxpayer that in order to be eligible for a refund of taxes from an appeal of the classification or appraisal, the taxpayer is required to pay the taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is dissatisfied with the appraisal as it reflects the market value of the property as determined by the department or with the classification of his land or improvements, ~~he~~ the owner may submit ~~his~~ an objection in writing to the department's agent. In an objection to the appraisal of the property, the department may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. The department shall give reasonable notice to the taxpayer of the time and place of hearing and hear any testimony or other evidence that the taxpayer may desire to produce at that time and afford the opportunity to other interested persons to produce evidence at the hearing. After the hearing, the department shall determine the true and correct appraisal and classification of the land or improvements and notify the taxpayer of its determination. In the notification, the department ~~must~~ shall state its reasons for revising the classification or appraisal. When the proper appraisal and classification have been determined, the land ~~shall~~ must be classified and the improvements appraised in the manner ordered by the department.

(4) Whether a hearing as provided in subsection (3) is held or not, the department or its agent may not adjust an appraisal or classification upon taxpayer's objection unless:

(a) the taxpayer has submitted ~~his~~ an objection in writing; and

(b) the department or its agent has stated its reason in writing for making the adjustment.

(5) A taxpayer's written objection to a classification or appraisal and the department's notification to the taxpayer of its determination and the reason for that determination are public records. Each county appraiser shall make the records available for inspection during regular office hours.

(6) If any property owner feels aggrieved at the classification and/or the appraisal made by the department, ~~he shall have the owner has~~ the owner has the right to appeal to the county tax appeal board and then to the state tax appeal board, whose findings ~~shall be~~ are final subject to the right of review in the courts. The property owner may appeal the base valuation and the classification determination. A county tax appeal board or the state tax appeal board may consider the actual selling price of the property, independent appraisals of the property, and other relevant information presented by the taxpayer as evidence of the market value of the property. If the county tax appeal board or

April 8, 1993
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the state tax appeal board determines that an adjustment should be made, the department shall adjust the base value of the property in accordance with the board's order.""
Renumber: subsequent sections

-END-

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate

Signed: _____

Bob Gilbert
Bob Gilbert, Chair

Bill 426 (third reading copy -- blue) be not concurred in

Committee Vote:

Yes 15, No 5.

781359SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 428 (third reading copy -- blue) be concurred in.

Signed: _____

Bob Gilbert

Bob Gilbert, Chair

Carried by: Rep. Feland

Committee Vote:
Yes 15, No 2.

781250SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 8, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 438 (third reading copy -- blue) be concurred in as amended.

Signed: _____

Bob Gilbert, Chair

Carried by: Rep. _____

Ellitt

And, that such amendments read:

1. Page 2, line 13.

Following: "property"

Insert: "-- refund"

Following: "."

Insert: "(1)"

2. Page 2, line 17.

Strike: "of the"

Insert: "that the remaining"

3. Page 2, lines 17 and 18.

Strike: "that the personal property is located in the state"

Strike: "during"

Insert: "in"

4. Page 2, line 19.

Following: "bears"

Insert: "bears"

5. Page 2.

Following: line 21

Insert: "(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613."

-END-

Committee Vote:

Yes _____, No _____.

790747SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 427 (third reading copy -- blue) be concurred in .

Signed: _____

Bob Gilbert

Bob Gilbert, Chair

Carried by: Rep. Driscoll

Committee Vote:
Yes 12, No .

781251SC.Hpf

HOUSE STANDING COMMITTEE REPORT

April 7, 1993

Page 1 of 3

Mr. Speaker: We, the committee on Taxation report that Senate Bill 424 (third reading copy -- blue) be concurred in as amended .

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Wilbur

And, that such amendments read:

1. Title, line 11.

Strike: "DEPARTMENT"

Insert: "BOARD OF LAND COMMISSIONERS"

2. Page 1, line 23.

Following: "shall"

Insert: "["

3. Page 1, line 24.

Following: "1"

Insert: "]"

4. Page 3, line 7.

Following: "must"

Insert: "["

5. Page 3, line 9.

Following: "1"

Insert: "]"

6. Page 6, line 22.

Following: "board"

Insert: "["

7. Page 6, line 24.

Following: "1"

Insert: "]"

Committee Vote:

Yes 14, No 1.

731415SC.Hpf

8. Page 10, line 23.

Following: "must"

Insert: "["

9. Page 10, line 25.

Following: " / "

Insert: "]"

10. Page 11, line 2.

Following: "~~77-6-507~~"

Insert: "as provided in 77-6-507"

11. Page 11, line 20.

Strike: "AND"

Following: "77-6-502"

Insert: ", and 77-6-507"

12. Page 12, line 8.

Following: line 7

Insert: "NEW SECTION. Section 11. Setting of rates or fees.

(1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."

Renumber: subsequent sections

13. Page 12, line 23.

Strike: "[SECTION 12] IS"

Insert: "[Sections 11 and 12] are"

14. Page 12, line 25.

Strike: "SECTION"

Insert: "sections 11 and"

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Page 3 of 3

15. Page 13, line 12.

Following: line 11

Insert: "

NEW SECTION. Section 15. Termination. [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."

Renumber: subsequent section

-END-

Amendments to Senate Bill No. 424
Third Reading Copy

Requested by Senator Mesaros
For the Committee on Taxation

Prepared by Greg Petesch
April 5, 1993

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"
2. Title, line 15.
Strike: "77-6-202,"
3. Page 1, line 23.
Following: "shall"
Insert: "["
4. Page 1, line 24.
Following: "1"
Insert: "]"
5. Page 3, line 7.
Following: "must"
Insert: "["
6. Page 3, line 9.
Following: "1"
Insert: "]"
7. Page 5, line 18 through page 6, line 8.
Strike: section 3 in its entirety
Renumber: subsequent sections
8. Page 6, line 22.
Following: "board"
Insert: "["
9. Page 6, line 24.
Following: "1"
Insert: "]"
10. Page 10, line 23.
Following: "must"
Insert: "["
11. Page 10, line 25.
Following: "1"
Insert: "]"

12. Page 11, line 2.
Following: "~~77-6-507~~"
Insert: "as provided in 77-6-507"

13. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

14. Page 12, line 8.
Following: line 11
Insert: "NEW SECTION. Section 11. Setting of fees. (1) In setting the lease rental rates or fees for the use of state lands, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee.
(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."
Renumber: subsequent sections

15. Page 12, line 23.
Strike: "[SECTION 12] IS"
Insert: "[Sections 11 and 12] are"

16. Page 12, line 25.
Strike: "SECTION"
Insert: "sections 11 and"

17. Page 13, line 10.
Strike: "8 AND 10"
Insert: "7, 9, and 11"

18. Page 13, line 12.
Following: line 11
Insert: "

NEW SECTION. Section 15. Termination. [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."

Renumber: subsequent section

TESTIMONY
HOUSE TAXATION COMMITTEE
S.B. 424

MONTANA STOCKGROWERS ASSOCIATION, MONTANA CATTLEWOMEN, INC.,
AND MONTANA WOOL GROWERS ASSOCIATION
APRIL 7, 1993

For the record, my name is Jim Peterson. I am Executive Vice President of the Montana Stockgrowers Association and a rancher from central Montana. Today I am speaking in support of the amendments to S.B. 424 on behalf of the Montana Stockgrowers, the Montana Wool Growers and the Montana CattleWomen. If the amendments are approved, we are also supporting S.B. 424 so that the State Land Board has a process for reviewing all fees for all users of state lands.

The original purpose of S.B. 424 as it was introduced in the Senate was two fold: First, to place authority for establishing fees on all uses of school trust lands with the State Land Board, and to require the Board of Land Commissioners to obtain "full market value" for leases on school trust lands. Second, to use the recently released, "Duffield Study" as a guideline for the Board of Land Commissioners to use in reviewing land use fees on state school trust land.

The amendments that were added in the Senate would require the State Land Board to adopt rule making guidelines that must be followed for reviewing all fees on state lands (i.e. notice, hearings, comments, and appeals). The Senate amendments also require formation of an Advisory Council made up of state land users and a representative from education to review all information available, not just the Duffield Study, and make recommendations to the Land Board. The Senate amendments also re-established the market based grazing fee formula as the foundation for grazing lessees. Senator Mesaros' amendment No. 14 would require consideration of the impact on land uses and lessee expenses required on school trust land in the fee setting process.

One major problem with this bill is the fiscal note. While not specifically stated in the bill itself, the fiscal note implies that the Duffield Study should be the guideline for recommended fees used by the Board of Land Commissioners in obtaining full market value. I will provide you with two critiques of the Duffield Study--one from Pepperdine University and one from Montana State University--that provide strong evidence that the Duffield Study should not be used as a sole recommendation for reviewing fees on state lands and certainly not as a guideline for "full market value".

First, however, two questions should be addressed: 1) Should the State Land Board have the exclusive authority for establishing fees on school trust lands?, 2) What kind of decision making process and information guidelines should be used for establishing the land use fees themselves?

Initially, who should have the authority for establishing fees on state lands--the State Land Board or the Legislature? Currently, the State Land Board has the authority to establish fees for grazing and agricultural uses and outfitting fees. The Legislature, however, has set the fees for recreational use and cabin site lessees. It makes sense that the authority should be one place or the other and not fragmented and split between two entities. This bill, S.B. 424, establishes the authority with the State Land Board for all uses of state lands. One can argue that the State Land Board has been given the responsibility for managing state lands, therefore, they should have the authority for setting fees. One concern that the agricultural community has is the State Land Board has very little agricultural background and that is the reason for the introduction of the process and the Advisory Council.

Second, if the State Land Board is given the authority for setting all fees, there should be a clear procedure for notifying all state land uses and lessees, providing hearings and a comment period, and an appeal process so that all users of state lands have an ample and fair opportunity to respond to any proposals that may come from the State Land Board. This process merely provides a level playing field for all lessees and users in any or all discussions and reviews of uses and fees for state lands. The Advisory Council should consist of individuals knowledgeable in the use of state lands and be representative of state land uses. The Advisory Council, provides an entity to review all of the information available and discuss important issues related to the uses of state lands. The Advisory Council then makes recommendations to the State Land Board which may not take the time (or have the time) to review the information thoroughly.

With this in mind, we are supporting the amendment that establishes the Advisory Council for the initial process but then terminates the committee in four years after the initial fee review process has been completed. The Advisory Council can provide expertise and direct input from actual users of State Land and hopefully won't be as political as either the Legislature or Land Board might be.

A significant concern of everyone associated with this process is the "knee jerk" reaction to the recommendations of the Duffield Study and the attempt to codify these recommendations by Rep. Kadas in H.B. 665 (which was killed in the House Education Committee) and now in S.B. 424, with the reference in the fiscal note to use the Duffield recommendations as guidelines for the Board of Land

Commissioners to use in setting fees. The Duffield Study was released in February and no one has had the chance to thoroughly analyze the study adequately. The statistical data has not been reviewed by other researchers and in the two cases I mentioned earlier, reviewers are very skeptical of the methodology used and they question the assumptions and conclusions of the study. Yet, this bill and the fiscal note recommends the Duffield Study as a guideline for the Board of Land Commissioners. We strongly object to this and assert that other information is available which should be considered.

Since the Duffield Study was released in February, four economists--Dr. Myles Watts and Dr. Terry Anderson of Montana State University, and Dr. Gerhard Rostvold and Dr. Thomas Dudley of Pepperdine University in California--have reviewed the economic theory and statistical analysis used in the study. Both reports strongly recommend a review of the methodologies, the factual foundation and conclusions drawn by Professor Duffield, et. al, before any adjustments are made in grazing lease fees on state school trust lands in Montana. A copy of both reports are provided for your review.

In spite of these major concerns, and the "knee jerk" reaction to the Duffield Study, the livestock and agricultural industries realize that it is appropriate to review the fee structure of state school trust lands, and that there is a recognized obligation to optimize return on school trust lands. At the same time, however, there are three major pillars to the foundation of long term management of school trust lands. They are: 1) The fee structure, 2) The long term stewardship and variability in the land, and 3) The lessees themselves. All three portions must be given careful consideration before any final decisions are made.

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We sincerely hope that our support of S.B. 424 will help insure that all three portions--the land, the lessee and the fee--will be reviewed thoroughly by the Advisory Council and the Land Board through a well established process prior to the Land Board making any decisions.

If the amendments to S.B. 424 cannot be added and there is not insured a fair, thorough process, I would encourage you to kill the bill, wait two years and we will try again. In spite of the "knee jerk" reaction to the Duffield Study, however, we are willing to move forward provided we are insured a fair and informative process. Thank you for your support of our concerns and I urge you consider the amendments and pass S.B. 424 with the amendments.

PEPPERDINE UNIVERSITY

SCHOOL OF BUSINESS AND MANAGEMENT

REPORT TO THE MONTANA STOCKGROWERS ASSOCIATION

CRITIQUE OF THE REPORT ENTITLED ECONOMIC ANALYSIS OF THE VALUES OF SURFACE USES OF STATE LANDS, BY JOHN DUFFIELD, BRUCE ANDERSON AND CHRIS NEHER

AUTHORS OF CRITIQUE:

Dr. Gerhard N. Rostvold

Dr. Thomas J. Dudley

It is the primary purpose of this report to present a preliminary analysis and evaluation of (1) the economic market model, and (2) the statistical model utilized by Professor Jon Duffield and his colleagues in their February 1993 report to the Montana Department of State Lands. Our analysis and evaluation of the economic/market and statistical models used to support the final conclusions of the study program will be confined to the question of the full or fair market value of the forage produced on state school trust lands in Montana. In other words, are state grazing leases in Montana priced at fair market value?

Our work program has centered upon a review of the Summary Report, Economic Analysis of the Values of Surface Uses of State Lands, and the TASK 3 Report, Fair Market Value for Grazing Leases. Both reports (henceforth to be referred to as the Duffield Reports) were published under date of February 1993.

CONCLUSION OF THE DUFFIELD REPORTS CONCERNING THE ADEQUACY OF CURRENT STATE LEASE RATES IN MONTANA

The conclusions drawn with respect to the adequacy of current lease rates for grazing on state school trust lands in Montana were set forth in the TASK 3 Duffield Report (p. 65) as follows:

5.4 CONCLUSIONS.

As a result of an intensive (and extensive survey of Montana ranchers concerning grazing lease rates and four additional methods of analysis, we conclude that current state lease rates are much lower than current fair market value. Lease rates on Montana DSL grazing leases currently average \$4.24 per AUM. The preceding analysis suggests that fair market value for these leases is on the order of \$7.50 to \$8.50 per AUM.

METHODOLOGIES UNDERLYING THE CONCLUSIONS DRAWN IN THE DUFFIELD REPORTS

Professor Duffield and his colleagues used six specific approaches to estimate a current fair market value for state grazing leases in Montana. The six approaches are described in the Summary Report (pp. 17-18), and the TASK 3 Report along the following lines:

Approach #1: Based upon a statistical model (a so-called "Hedonic Model") that relates lease characteristics and terms to price for private market grazing leases.

Approach #2: To look at the average price of the private leases that are most like the state leases. Comparative data from six private leases provided the foundation for estimating the current fair market value of state leases.

Approach #3: To look at the average competitive bid for the 8% of all state school land grazing leases which are competitively bid.

Approach #4: To look at what ranchers report is a fair market price for state leases.

Approach #5: To examine what other public land agencies, e.g., BLM, the Forest Service, and the Bureau of Indian Affairs (BIA), have established as lease rates for grazing lands.

Approach #6: To undertake a literature review of studies concerned with the economic value of forage on public and privately-owned grazing lands in the western states.

The author concluded that . . .

"All six of the methods tend to lead to a fair market value for state grazing leases that is around 70% of the private dryland lease rate..."

"This evidence suggests a fair market price between \$7.50 and \$8.50, with a point estimate of \$8.00. (TASK 3 Report, p. 3)."

EVALUATION OF THE MARKET PRICE THEORY MODEL FROM WHICH FAIR MARKET VALUE CONCLUSIONS ARE DRAWN

Although Professor Duffield and his colleagues used six approaches to support their conclusions, there is no doubt that their Hedonic Price Model is the flagship of their alternative methodologies. In this section of our report we will evaluate the appropriateness of using an Hedonic Price Model to predict a "fair market value" for grazing leases on Montana state school trust lands. In the next section we will outline a detailed critique of the statistical methodology applied in translating data on private market lease rates into a measure of the "fair market value" of leases on state school trust lands.

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As stated on page 9 of the TASK 3 Report . . .

"The theoretical model adopted for this study is what is called a "Hedonic Price Model" (Rosen, 1974). The central idea is that house or land or similar goods can be modeled as single commodities differentiated by the amounts of various characteristics they contain. This model rests on a theory of product differentiation in pure competition."

The reader at this point, in all honesty, has to be asking himself, "What in the hell is a 'Hedonic Price Model'? And, what does it have to do with the price of forage and beef in the State of Montana?"

We have reviewed Herwin Rosen's 1974 article, "Hedonic Prices and Implicit Markets: Product Differentiation in Pure Competition," published in the Journal of Political Economy.

In the introduction to his paper, Rosen writes . . .

"This paper sketches a model of product differentiation based on the hedonic hypothesis that goods are valued for their utility-bearing attributes or characteristics."

Our review of the "Hedonic Price Model" articulated by Sherwin Rosen, and applied in the February 1993 Duffield preports leads us to the conclusion that this price theory model is not appropriate to a factual determination of whether or not lease fees on private grazing lands in Montana represent an accurate proxy measure of the "fair market value" of grazing fees on state school lands in Montana.

The "Hedonic Price Model," in the words of Professor Duffield and his colleagues, ". . . rests on a theory of product differentiation in pure competition." (TASK 3 Report, p. 9).

We agree that it is feasible to conceptualize varying tracts of state school lease lands as differentiated products, but we summarily reject the choice of the purely competitive market model as a framework for predicting the "fair market value" of state school land leases.

The price theory micro-economic model of pure competition is defined in terms of many buyers and many sellers of the product. In this market model, no one buyer or seller exerts a direct influence on the ruling market price. Moreover, the product itself is homogeneous in character.

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Table 3.1 (p. 11) of the Duffield Summary Report outlines the "Structure of State Lands Resource Markets." In the case of Montana grazing lands the product is defined as "Fairly Homogeneous." The market structure is defined as "Competitive."

In addressing the inholding issue, the TASK 3 Duffield Report (p. 63) observes,

"The inholding issue is troublesome because these units are typically unfenced. This means that the only logical user of these units is the rancher who owns the surrounding land. This means there is unlikely to be competition for the lease, but it also means the rancher has little choice but to use the unit and pay the state-determined rate."

Another factor limiting competitive forces in established lease rates on state school lands in Montana is the general unwillingness of ranchers to bid competitively against their neighbors. Additionally, the parcel of state school lands does not of itself represent an economically viable unit of production. State lands must be integrated into the production function of a given ranch operation which includes fee land as well as federal, state and private lease lands.

The realities are that there currently exists no pure micro-economic/market price theory model which allows us to say when grazing fees on public lands are equal to "fair market value." We summarily reject the "Hedonic Price Model" as a basis for defining the "fair market value" of grazing fees on state school trust lands in Montana.

In the final analysis, grazing fees on public lands are set by a Legislative-Regulatory-Administrative process. In this model of price determination the state of Montana, operating within the framework of the decision-making authority of the State Lands Board, occupies the powerful position of "Price Maker." The rancher, on the other side of the market transaction, is a "Price-Taker," insofar as grazing fees are concerned.

In our opinion, it is an heroic analytical leap to take the findings of a purely competitive Hedonic Price Theory Model and to apply these findings to an institutional setting in which Legislative-Regulatory-Administrative forces set the ultimate price. Even in the best of all social-political-economic worlds it is not highly probable that a highly abstract Hedonic Price Model will approximate the realities of the Legislative-Regulatory-Administrative model.

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Finally, the "Hedonic Price Model" of the Duffield Reports fails to adequately address the bottom-line questions of the comparability of privately-owned versus state-owned school trust lands in Montana.

EVALUATION OF THE FOUR REMAINING APPROACHES OF THE DUFFIELD REPORTS

In the two preceding sections of this report we have pointed out the weaknesses of the "Hedonic Price Model" and the failures of the "Statistical Model" used by Professor Duffield and his colleagues in concluding that current state lease rates are much lower than current fair market value. At this point we present an evaluation of the remaining five methodologies applied in support of the conclusion that the fair market value of Montana DSL grazing leases is in the order of \$7.50 to \$8.50 per AUM, in contrast with the current average lease price of \$4.24 per AUM.

COMPARISONS WITH THE AVERAGE PRICE OF THE PRIVATE LEASES THAT ARE MOST LIKE STATE LEASES

Here the Duffield Report takes a sub-sample of six private leases held to be "most like the state leases" and derives a mean "fair market price" for state school trust grazing lands of \$7.90 per AUM. The specific values of the six leases were: \$3.91, \$7.50, \$8.00, \$8.00, \$8.00, and \$12.00. The sheer paucity of the data sample here places into serious question the validity of the conclusion drawn. In some economic and statistical circles, this type of analysis is described as "Casual Empiricism". The data base simply provides no foundation for the conclusions drawn.

AVERAGE COMPETITIVE BID PRICES AS A MEASURE OF FAIR MARKET VALUE

In Montana, 8% of all state school land grazing lease prices are set by competitive bids. As the study itself observes (TASK Report, p. 41), the unwillingness of ranchers/neighbors to bid competitively is a factor limiting the establishment of true market values. Beyond the reluctance of the rancher to bid against his neighbor on state school land leases it is highly unlikely that the competitive bidding process on state lands meets the well-defined criteria of the purely competitive market structure where many buyers (ranchers) are bidding for the product (grazing lands) being offered by many sellers.

Again, the reality does not fit the model. In the case of Montana state school lands we have one seller -- a "Price Maker" -- higgling and haggling with a limited number of potential buyers. This does not describe the purely competitive market model held to be fundamental to the conclusions of the Duffield Reports.

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WHAT RANCHERS REPORT IS A FAIR PRICE FOR STATE LEASES

A total of 601 ranchers in the survey sample provided an AUM-based average price for private leases in their area and the percent of that average private lease rate they thought represented a fair price for state leases. The percent-weighted average of all ranchers responding was \$9.01 per AUM. In the case of those ranchers holding leases on state lands, the average percent-weighted fair price was \$7.62.

We genuinely respect the opinions and judgments of Montana ranchers in the matter of what constitutes the fair market value of grazing leases on state school trust lands, but we withhold judgment as to the validity of the dollar value figures cited in the Duffield Reports. Opinions rarely meet the test of factual objectivity.

WHAT OTHER PUBLIC LAND MANAGEMENT AGENCIES ARE CHARGING FOR PRIVATE GRAZING LEASES

Professor Duffield and his colleagues quickly dismissed BLM and Forest Service lease rates as not providing useful information on the forage lease market (TASK 3 Report, p. 3 of Executive Summary). They did however, accept the validity of the "17 usable private leases both on and off the Fort Peck Reservation" yielded by the Anita Bauer study of May 1992. Again, we confront the "Comparability Issue," that is, do the 17 pieces of data from the Bauer study provide an adequate basis for drawing the general conclusion that the \$8.00 per AUM price for BIA range units in the Fort Peck Area represent an acceptable proxy measure of the fair market value of state school trust land leases? We do not question the accuracy of Anita Bauer's findings. We do, however, question the adequacy of the sample from which Duffield, et al., derive their conclusions.

THE FINDINGS OF A REVIEW OF THE LITERATURE -- THE TORRELL, GHOSH, AND FOWLER STUDY OF 1988

Messrs. Torrell, Ghosh, and Fowler, in 1988, completed a study of the value of public grazing leases in New Mexico. They found that about 30% of private market grazing land lease rates were absorbed by the value of services rendered by the lessor.

The conclusion was drawn that the economic value of forage on public lease lands in New Mexico was approximately 70% of the private market lease rate for nonirrigated lands.

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Professor Duffield and his colleagues concluded that assuming (emphasis supplied) that this ratio holds for Montana, the value of state school land leases in an estimated \$7.89.

Here again, we have an important conclusion drawn upon the basis of untested assumptions. Of additional concern is the question of the comparability of Montana and New Mexico grazing lands as a basis for estimating the fair market value of grazing land leases. Duffield et al., do not confront the comparability issue. That remains as the paramount unanswered question in the comparative analysis of grazing fees on public and private lands in the western U.S. Until the criterion of comparability of public and private grazing lands in terms of productivity, value of the forage, carrying capacity, availability of water, etc., is met, economists and statistical model builders should tread lightly insofar as defining the "fair market value" of grazing leases is concerned.

For a more detailed exposition on this point, see the Rostvold/Dudley Report to Congress, New Perspectives on Grazing Fees and Public Land Management in the 1990's, June 1992.

EXAMINATION OF SPECIFIC RESEARCH AND STATISTICAL METHODOLOGIES

The following section deals with a critique of specific research and statistical methodologies utilized in the six approaches for determining grazing fees as advanced in the report. The critiques are from the point of view of appropriate research and statistical methodology generally employed in situations such as presented herein. In general, all research must be grounded in the testing of the major hypotheses or assumptions which underlay the problem at hand or decision to be made. In this case the major premise seems to be that there is comparability between private lease situations and public lease situations. If this is not the case, then how can one analyze private lease situations and be fiat assign the solutions to the public lease situations?

But this question is never put to the test or scrutiny of research methods and statistical analysis. Since the relationship between public rangelands and private rangelands is assumed to be comparable, it must be tested in a rigorous way before conclusions on the one side i.e. private grazing leases; can be arbitrarily assigned to the other side, i.e. public grazing leases. Because this was not accomplished in this study any conclusions reached lack credibility and are subject to question as to their "correctness."

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In case number one a model is developed which purports to predict fair market value for grazing leases on public rangelands. On page 33 of the final report is listed a complete model and a reduced model. The reduced model is employed in the prediction process. A major evaluation tool of any prediction model is the degree to which the model "explains" the variability in the variable to be predicted, in this case price. The statistic utilized is called the coefficient of determination or r squared. In this case the reduced model has a value of .268 and the complete model has a value of .261. This results in an increase of .007 between the two models. This is not a significant increase in the predictability of the two models. However, the six variables eliminated from the complete model to proffer the reduced model all possess negative signs. This means that these six variables impact the predictive variable in a negative way, i.e. they would decrease the predicted price. In addition four of the eliminated variables are districts. One of the districts left in the model is district 50, which is purported to be the most expensive district. Thus, the most expensive district is left in at the expense of less expensive ones.

As indicated above the coefficient of determination is a measure of the degree to which the independent variables in the model explain the value or behavior of the dependent variable, i.e. price. Since, the value of this statistic in either model is in the .26 range, this means that 26% of the variation in price is "determined" by the variation in the variables in the model. The question that needs to be posed is, what variables not in the model explain the other 74% of the variation in price?

Another measure of the usefulness of a model is the coefficient of correlation, or " r ". This is a measure of the association between the independent variables and the dependent variable. In this case both models have a coefficient of correlation in the .51 range. This means that both models possess the same degree of associativeness. Therefore, both are equally appropriate in terms of their ability to measure the relationship between the set of independent variables and price. But, the reduced model is purported to be the "right" model, even though it predicts a higher lease price than the complete model. The second case utilizes the model developed in case one above to select "private leases most similar to state leases." This results in a sample of six. This size of sample is hardly relevant to the total number of leases in the population, and is not representative of that population by virtue of the fact that it was selected on the basis of the model previously critiqued. A necessary condition of research is to obtain one unbiased random sample from a population if one desires to generalize to the population attributes obtained from the sample. Since, this particular sample was by nature restricted in how it was chosen, no conclusions obtained from it can be generalized onto the

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population. That is, the price obtained from the six samples cannot be generalized onto the entire population of private leases much less equated to public leases. In addition, those six leases have great variability in the values. The 95% confidence limits are from 5.20 to 10.57.

The third case utilizes as its basis the 315 state leases which could have been competitively bid. Of this number 33 were actually competitively bid. Based upon this sample an average price of \$9.21 was determined. This begs the question of what happened to the 282 other state leases that were not competitively bid? If they were all let at the minimum state set price of \$4.17, the weighted average of all 315 state leases would be \$4.70. If some of the state leases were not even let, then the average value over all 315 leases would obviously be even lower.

The fourth case relies upon the reporting of what ranchers say is "a fair price for state leases." The point is that what one says is "a fair price" and what one actually pays in a transaction is usually very different. Prices should not be based upon what people think or say, even if those people are the "knowledgeable" experts if actual transaction data can be studied.

The fifth case "to examine what other public land management agencies charge for private grazing leases." At the present time the actual price charged for lease rates by the BLM and Forest Service is \$1.92. This fact is summarily dismissed because they "do not provide useful information on the forage lease market." No evidence or even rationale is given for this stance. Instead, BIA leases are examined because they "do appear to represent market leasing rates." Again no evidence or rationale is given for the inclusion of this set of leases. Basic premises must be examined, at the outset of any research. If basic premises or hypotheses are not tested any conclusions drawn from the subsequent research are highly suspect. That is, if the basic premises are not true, in fact, the resulting conclusions are in all likelihood also not true. The sixth case is more of the same.

This case is built on literature review and public grazing leases in New Mexico. From the text one finds "assuming that this ratio holds for Montana. . . ." But, this assumption is not tested in any statistical way. Therefore any conclusions drawn are highly suspect.

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CONCLUSIONS

The main conclusions drawn from our review and evaluations of the Duffield Reports are:

First, the Hedonic Price Theory Model built around the concepts of product differentiation and pure competition carries severe limitations when applied to the prediction of the "fair market value" of state school grazing land leases in Montana.

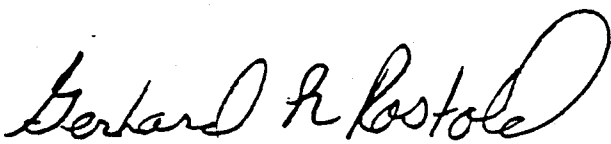
Second, the research and statistical methodologies employed in the six cases of the report have serious limitations as to their appropriateness. Any and all conclusions drawn, therefore, are highly suspect as to their validity and reliability.

Third, the application of limited data samples to support general conclusions with respect to the "fair market value" of state school grazing land leases in Montana is of questionable merit.

Fourth, the Duffield Reports do not adequately address the all-important question of the economic comparability of private and public grazing lands and lease rates in the west. Most, if not all, recent studies of the grazing fee issue beg the question of comparability.

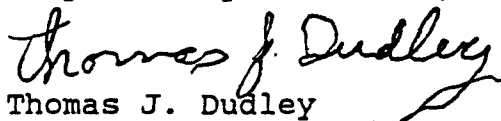
Decision-makers entrusted with solving important public policy questions must recognize that the conclusions drawn by analysts are generally based upon assumptions, theories, models, opinions, values, and facts.

In the case at hand we strongly recommend a detailed review of the methodologies, the factual underpinnings, and conclusions drawn by Professor Duffield, et al., before major adjustments are made in grazing lease prices on state school trust lands in Montana.



Gerhard N. Rostvold
Professor
Economics

Respectfully submitted,



Thomas J. Dudley
Professor
Quantitative Methods

March 15, 1993

~~A~~ Preliminary Evaluation
prepared by
Terry L. Anderson and Myles Watts
Professors of Agricultural Economics and Economics
Montana State University¹
of an
*Economic Analysis of the Values
of Surface Uses of State Lands²*

I. Introduction

The pricing of services from governmental lands at both the state and federal levels is controversial because governmental agencies that control these lands are not subject to the same market forces as the private sector. Private land owners presumably maximize their wealth by getting the most value of their assets. Governmental land managers, on the other hand, are subject to political pressures from a variety of special interest groups who would like to pay less than the resource is actually worth. Because the political land managers do not directly benefit from maximizing asset values and because competitive bidding does not exist for all public resources, there is reason to expect that state and federal governments will not obtain full value from resources under their control.

Unlike most governmental lands that are managed for multiple uses, school trust lands were set aside to generate revenues for public education. Therefore a failure to maximize the value of these lands constitutes a violation of the trust responsibility of the state. Collecting less than lands are worth clearly reduces revenues for schools. Less obvious but just as important is the fact that charging more than uses are worth can leave lands idle and also reduce revenues. For these

reasons it is crucial that the Montana Department of State Lands (DSL) carefully consider its land pricing policy.

It should be noted at the outset that this is a preliminary evaluation. We have only seen the final report prepared by Duffield and Anderson and have not yet obtained the data summarized in that report. Moreover, due to short notice, we have not had sufficient time to fully evaluate all aspects of the Duffield-Anderson Report.

II. Determinants of Grazing Fees

Determining the "fair market value" of grazing leases is complicated by the fact that lands are of different quality and that the lessor and lessee contribute different inputs to the production process. Generally we would expect the lease price received by the lessor to be positively related to livestock prices, alternative forage costs, and the value of lessor-provided inputs (e.g. fencing, water development, and weed control) and negatively related to length of the lease and lack of access control by the lessee.

The D-A Report attempts to gather information on private lease prices and compare them to state land lease prices. Given that lease prices depend on a number of variables, it is necessary to control for these in any comparison. The D-A Report makes a number of comparisons, but fails to adequately control for the many variables that could explain differences in lease prices within the private sector or between the private and public sectors. In some cases the D-A Report simply compares lease prices on private and public lands with leases greater than five years, no fence maintenance services, and dryland. In other cases the D-A Report compares

state land lease prices across states. In our opinion neither of these approaches has much credibility because neither adequately controls for important variables.

The best method of controlling for the many variables that affect lease prices used in the D-A Report is the "hedonic pricing model." This model attempts to estimate a statistical relationship between private lease prices and the variables mentioned above. The "hedonic pricing" method they use has been criticized in the economics literature because it fails to sufficiently distinguish between demand and supply variables that enter into a final determination of a market price. These criticisms aside, in order for a hedonic pricing model to be a useful policy tool, it must be a good predictor. Their "complete model" (see Table 4-17, 33) reports an "adjusted R^2 " of 0.261. This means that only 26% of the variance in lease prices is explained by the variables they use, and raises the question of what accounts for the other 74% of the variance. In other words, their model does not do a good job of explaining what determines private lease prices and therefore cannot do an adequate job of predicting what state lease prices should be.

III. Evaluation of the Hedonic Model

The main reason that the D-A Report fails to explain variances in private lease prices is that the data used do not adequately control for the many variables that influence leases. For example, to capture the impact that landowner provided inputs might have on lease prices, the D-A survey asked whether the landowner contributed to the costs of fencing maintenance, weed control, and water development. I did not ask how much the lessor contributed to fence maintenance and water development,

but it did ask how much the tenant and landowner contributed to the costs of weed control. The data on noxious weed control, however, were not used in the statistical analysis, and the D-A Report does not explain why.

To understand the impacts of not including the costs of lessor-lessee contribution, suppose that the lessor provides for all fence maintenance and this is worth \$2 per AUM to the lessee. All else equal, the lessee would be willing to pay \$2 more for this lease. On the other hand, if the lessor contributes only \$0.05 for fence maintenance, the lease would only pay an additional \$0.05. In the D-A analysis both of these would be reported as a lessor contribution, but there is no way to differentiate between the two. Therefore it is inappropriate to use this hedonic price model estimated from private lease data to predict what state grazing fees should be.

It is important to note that the noxious weed variable is removed from their "reduced model" because it is not found to be significant. Such removal, however, is inappropriate in a predictive model where the variable is expected to have an impact. Clearly a lessee would prefer a lease without a weed problem particularly if the lessee must pay for weed control as the is the case with state lands. Moreover, the usual statistical test for determining whether a variable is significant is based on the probability that the coefficient on the variable is zero. Using this standard approach, the probability the coefficient on noxious weeds is zero is about 17% and the probability it is not zero is 83%. The noxious weed variable should not be omitted from the model.

Even though control variables for fence maintenance and water development

are found to be significant, the use of the "dummy variable" technique is inappropriate for predictive purposes. The D-A Report enters a 1 if the landowner participates in the costs and 0 if not. The appropriate statistical measure would be the degree of participation. Therefore it is not surprising that the D-A Report can not adequately predict private lease prices.

Another problem with the D-A method of accounting for fencing contributions is that they only ask if the landowner participated in maintenance costs; they do not determine whether the landowner made the initial investment. This becomes particularly important on state leases where there are not fences. On private leases it is typical for the landowner to provide the initial cost of the fencing because it is permanently attached to the land. However, on state lands, the lessee is responsible for fence construction which would reduce the value of a state grazing lease, all else equal.

The D-A Report does not control for access which is likely to be an important determinant of the grazing fee. We can infer this from the amount of effort agricultural interests were willing to put into their fight to keep recreationists off state lands leased for agricultural purposes. Moreover, D-A find that lessees were "willing to pay" as much as \$1.13 more for private leases without public access. If state lands have public access, at least this amount must be subtracted from the "fair market value." Such an adjustment is not made by D-A and is not included in their model.

IV. Cattle Prices and Grazing Fees

The D-A Report is critical of basing grazing fees on cattle prices. This criticism

is based on their regression analysis reported in Table 4-45 (57) which shows that 77% of the variance in private lease prices can be explained by beef prices between 1969 and 1991, but that only 10% can be explained between 1980 and 1991. One possible explanation for the big difference between the two is the small sample (12) for the latter period. Given that beef prices explain more variance in the long term than does the hedonic model produced by D-A, there is reason to believe that it may be a better predictor. Data are available to do a more sophisticated statistical analysis of the relationship between beef prices, and grazing fees and preliminary results show this is a promising approach.

V. Competitive Bidding

The D-A Report suggests that a major reason for lower grazing fees on state lands is the lack of competitive bidding. They report survey results that many ranchers do not want to bid against their neighbors, concluding that this effectively provides sufficient collusion to depress grazing fees. On the other hand, their survey results show that 22% to 36% of those surveyed are willing to bid against their neighbors, yet only 8% of the leases have more than one bid. These statistics appear inconsistent. If so many are willing to bid and if grazing fees on state lands are so far below the fair market value why aren't there more bids?

An explanation for the lack of more than one bid on 8% of the state lands is that these leases are not worth significantly more than the minimum of \$4.17. If there are some lands where the grazing is worth far more than \$4.17, we would expect more competition for them. The fact that the average competitive bid is \$8.34 (40) may

indicate that some lands are worth more. For example, if state land is near an urban area, the forage for "hobby farmers" may be worth much more than it is for the typical Montana cattle rancher. In short, the fact that only 8% of state lands receive only one bid tells us little about whether tacit collusion is holding down state grazing fees.

VI. Comparison with Other States

The D-A Report compares Montana state land grazing fees to other states and concludes that "Montana is toward the lower end of the scale in terms of the ratio of state grazing lease rates as a percentage of market value." Table 1-12 reveals that 8 of the 14 other states have ratios near or below Montana's; only 6 other states have ratios higher than Montana's. No statistical analysis is provided by D-A.

To make comparison with other states valid, it would be necessary to control for the same variable discussed above. Do other states provide or share in improvements; are other states less urban; do other states have public access; how do other states deal with drought conditions? Until question such as these are addressed, comparison with other states is of little value in predicting what Montana's grazing fee should be.

VII. Conclusion

It is important that Montana maximize the value of its state lands especially to the extent that these lands were specifically set aside to support public education. The problem is determining what is the value maximizing price to charge for various uses. If the state decides to raise grazing fees significantly, it may discover unanticipated impacts. For example, under current practices there is little or no monitoring of leases.

If fees are increased to dissipate profits from grazing, the lessee will have more incentive to overstock. Not only will this reduce long term productivity of the range, it will ultimately reduce the revenues from leasing. This scenario would require that the state increase monitoring expenditures thus offsetting potential revenue gains.

It is wise for the DSL to study this issue in depth, but the D-A Report does not provide an adequate basis for changing the state law regarding the grazing fees. The statistical analysis does not predict very well what factors determine private grazing fees and is not adequate to predict what state grazing fees should be. The D-A Report does present evidence that suggests that state grazing fees may be below fair market value, but additional statistical analysis is necessary to determine what that fair market value is. Before state law is changed in a way that can significantly disrupt an important sector in the state's economy and potentially disrupt revenues and expenditures associated with grazing, more careful analysis should be performed.

1. The ideas expressed in this evaluation are those of the authors and not necessarily those of Montana State University.
2. The report under evaluation here was done for the Department of State Lands by John Duffield and Bruce Anderson, *Economic Analysis of the Values of Surface Uses of State Lands*, Bioeconomics, Inc., Missoula, MT, February 1993. This evaluation covers on "Task 3, Fair Market Value for Grazing Leases." Hereafter this report is referred to as the D-A Report.

TIM TANBERG

PRESIDENT MONT. ST. LEASEHOLDERS ASSN.

BOX 136 SEELEY LAKE 59868

EXHIBIT 5.5

DATE 4-7-93

SB 424

Mr. Chrman, Committee members I am TT etc.

I have come here today as a cabinsite leaseholder, and as a representative of several hundred cabinsite homesite leaseholders throughout the state, to urge you to kill SB 424.

The language of this bill is confusing at best. The intent of the bill is to generate more funds for the school trust, but, in all likelihood will complicate the issues further, leave unclear directives for the OSC to follow, increase the administrative ~~burden~~ and tax burden on the general fund and damage the program to the point where more revenue will be lost in the long term, than is gained, while we concentrate on the immediate increase.

This legislation was introduced in direct response to the Duffield study. A study that we maintain is inaccurate, nearsighted, narrow minded and conveniently ignores more facts and elements of the lease program, than it took time or interest enough in to study. Mr Duffield ^{TRIGGERED} ~~contacted~~ fewer than 3% of cabinsite leaseholders and contacted none in his study.

Every element, of the Mont. population, is being asked to sacrifice and contribute more to our society. The Universities, health programs, social programs, the school system, and virtually every state agency, bureau and dept. are facing reduced budgets. It seems ironic that taxpayers are expected to foot a bill of \$250,000⁰⁰ for a study, that delivered little more than hot air, and a great deal of controversy.

Mr. Duffield came to the conclusion that you can get more from the lease program, while handily ignoring the leaseholders contribution, to the development of these leased lands, and to the state and local economies. As a result of this efforts, these leaseholders are directly responsible for much of the value that these lease properties hold today. Mr. Duffield never mentions that this taxpayer supported program, was and is, intended to be maintained for the direct benefit of the state of Mont. and its citizens.

3 There is little or no emphasis on the antiquated system that is used to administer these leases. There is no mention of the failure by the DSC to maintain a program of timely and up to date lease increases, over the years, that would accurately reflect the constantly changing cost of living or inflation rates. There is no mention of the system where lease fees were changed in 3 to 5 to 10 year periods where fees irrationally increased by 100 to 300 to 500% up to thousands of %'s. There is no mention in Mr Duffield's study about the negative impact on the cabin site lease program, of the use of questionable appraisal methods, performed in a haphazard manner and the manipulation of figures to produce highly inflated property values.

If you buy into Mr. Duffield's conclusions, that all you have to do, is neatly package the state of Mont., for sale to big money interests, where every lake, river and stream has a road fee attached to it, where every recreation opportunity has a price tag on it, where every game animal has a bar code on it.

All you have to do to achieve his goal, is to sweep the middle class out of the way, and SB 424 is the first step. If we treat Mont. as a commodity, that is for sale in a convenience store, we need to consider what we can restock the shelves with in the future.

It needs to be noted that the cabinsite lease program is not a marketplace, where many uncontrolled elements come together to create the conditions of a market. Rather, this is a Monopoly that is beyond the influences of, in this case, the real estate market, where property values are assigned, and rates of increase are dictated.

We feel, that for the benefit of the system, in the case of the cabinsite lease program that the value of the use of the surface area of a cabinsite lease, be determined, and a lease rate be established with a cap on increase determined. We feel that the cabinsite home sites need to be dealt with as a separate entity, because of the unique situation where valuable assets (in this case our homes) are permanently fixed to lease property. We need to pursue goals,

where the state of Mont., the school trust, and the rights and property of leaseholders, are respected and considered, in an atmosphere of cooperation and mutual benefit.

These cabinsites comprise less than 1/2 of 1% of the 5.2 million acres of school trust lands in the state. The receipts from the cabinsite leases are equal to 3.3% of receipts from agricultural leases, 6.7% as compared to grazing lease receipts and comprise 2.1% of the total receipts of the school trust surface use program. However if you will notice on page 1 of SB424 the cabinsite leases are considered first and foremost when increases are being sought, while the rights and contributions of cabinsite leaseholders are secondary to any other consideration.

I receive phone calls on a daily basis from leaseholders who are concerned about the future of the program. These calls vary from mild curiosity + disappointment to frustration and outright rage over a system that many feel is inadequate, unresponsive, and discriminatory. The questions range from what legislation do we propose, to when do we hire a lawyer.

6

The recreational value of these leases is greatly overstated. While some are waterfront properties and have a good deal of recreational appeal. Many are full time residences, some are weekend retreats, yet all, are represented as high value and hotly sought after gems with unlimited recreational appeal. This is not an accurate portrayal.

The level of frustration among cabin site leaseholders is very high. The language of SB42 is vague, confusing, and could be the straw that breaks the program's back. There are too many issues that are not covered, and there are many parts of this bill that will guarantee that the lease program will slip into further disarray and total inefficiency.

If SB424 becomes law, the prospect of losing a large number of participants is guaranteed.

Many leases will be dropped and never ~~re~~-leased again. The likely hood of legal action to protect leaseholder rights will become a probability, and everyone will lose.

For these reasons, and many more, we urge you, to remove the cabin sites from this bill or better yet just kill this bill. Thank you

TESTIMONY BY SAM HOFMAN
OPPOSING SB 424.

Opposing H.B. 665

Lessees of State Land now pay an initial fee of \$25.00 for a Land Use License. The cost of the license is \$50 per year but paid in advance at the time the lease is renewed. (\$500.) The purpose is for grain bin storage and buildings. On the private sector, leases usually include the use of all buildings and improvements.

In the Private sector, landowners pay for one-third of the fertilizer expenses on crop share agreements. In addition, landowners also pay a share of the weed control costs, usually one-third. In my agreement with my sister I pay all the weed control costs in exchange for grazing benefits. If weed control costs were deducted from my sister's crop share, her return per acre would be consistently less than the State share even under the 25% rental agreement we now have.

Most farmers in my area do not run cattle and therefore are not able to utilize the grazing on their State leases that they are required to pay for.

Recreation Use License — Price people out

GRAZING FEE COMPARISONS

Following figures are 5 year averages.

Brashers	$\frac{1}{2}$ section	\$95. per year
DeBoer	$\frac{1}{2}$ section	95. - -
Brown	1 section	220. - -

State of Mont 1 section 90 AUM at \$4.05 = \$364.50

Fiscal note increased to \$7.60 per AUM = \$684.00

Under new formula in the bill

\$525.

I lease private summer pasture for 10.

EXHIBIT #6

DATE 4-7-93

58-424

2

Wheat

1992 84.04 bu per acre at \$3.05 per bu = \$256.26 Return per acre
 $\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share	64.07	85.42	74.32	Hers share 85.42 less $\frac{1}{3}$ Fert. 13.57 = 71.85
Renter share	192.19	170.84	181.94	Mys share 170.84
less Fertilizer	40.75	40.75	40.75	less $\frac{2}{3}$ Fert. 27.17
Renter Net	151.44	130.09	141.19	Renter net 143.67

1991 36.75 bu per acre at \$2.83 per bu = \$104.18 Return per acre
 $\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share	26.04	34.73	30.21	Hers share 34.73 less $\frac{1}{3}$ Fert. 12.02 = 22.71
Mys share	78.14	69.45	73.97	Mys share 69.45
less Fertilizer	36.05	36.05	36.05	less $\frac{2}{3}$ Fert. 24.03
Renter Net	42.09	33.40	37.92	Renter net 45.42

1990 38.12 bu per acre at \$2.48 per bu = \$94.64 return per acre
 $\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share	23.66	31.55	27.45	Hers share 31.55 less $\frac{1}{3}$ Fert. 14.13 = 17.42
Mys share	70.98	63.09	67.19	Mys share 63.09
less Fert.	42.39	42.39	42.39	less $\frac{2}{3}$ Fert. 28.26
Renter Net	28.59	20.70	24.80	Renter Net 34.83

1989 44.15 bu per acre at \$3.82 per bu = 168.58 Return per acre
 $\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share	42.14	56.19	48.89	Hers share 56.19 less $\frac{1}{3}$ Fert. 15.57 = 40.62
Mys share	126.44	112.39	119.69	Mys share 112.39
less Fertilizer	46.70	46.70	46.70	less $\frac{2}{3}$ Fert. 31.13
Renter Net	79.74	65.69	72.99	Renter Net 81.26

Wheat

1988 44.48 t/ha at \$3.55 per t = 158.14 return per acre

$\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share 39.53 52.71 45.86 Her share 52.71 less $\frac{1}{3}$ per 13.99 = 38.72

Mys share 118.61 105.43 112.28 Mys share 105.43

less Fertilizer 41.96 41.96 41.96 less $\frac{2}{3}$ Fert. 27.97

Renter net 76.65 63.47 70.32 Renter net 77.46

BARLEY

1992 86.62 t/ha at \$1.89 per t = \$163.62 return per acre.

$\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's place $\frac{1}{3}$ crop share

State share 40.90 54.54 47.45 Her share 54.54 less $\frac{1}{3}$ Fert. 9.50 = 45.04

Mys share 122.72 109.08 116.17 Mys share 109.08

less Fertilizer 28.49 28.49 28.49 less $\frac{2}{3}$ Fert. 18.99

Renter net 94.23 80.59 87.68 Renter net 90.09

1991 38.5 t/ha at \$1.54 per t = 59.14 return per acre

$\frac{1}{4}$ $\frac{1}{3}$ 29% Sister's Place $\frac{1}{3}$ crop share

State share 14.78 19.71 17.15 Her share 19.71 less $\frac{1}{3}$ per 12.73 = 6.98

Mys share 44.36 39.43 41.99 Mys share 39.43

less Fertilizer 38.18 38.18 38.18 less $\frac{2}{3}$ Fert. 25.45

Renter net 6.18 1.25 3.81 Renter net 13.98

BARLEY

EXHIBIT #6
DATE 4-7-93
1 SB-424

4

1990 43.6 bu per acre at \$1.76 per bu = 76.83 return per acre

$\frac{1}{4}$

$\frac{1}{3}$

29%

Sister's Place $\frac{1}{3}$ crop share

State share	19.21	25.61	22.28	Her share	25.61 less $\frac{1}{3}$ per 10.93 = 14.68
Mg share	57.62	51.22	54.55	Mg share	51.22
less Fertilizer	32.78	32.78	32.78	less $\frac{2}{3}$ per	21.85
Renter net	24.84	18.44	21.77	Renter net	29.37

1989 43.75 bu per acre at \$1.87 per bu = 81.66 return per acre

$\frac{1}{4}$

$\frac{1}{3}$

29%

Sister's Place $\frac{1}{3}$ crop share

State share	20.41	27.22	23.68	Her share	27.22 less $\frac{1}{3}$ per 11.55 = 15.67
Mg share	61.25	54.44	57.98	Mg share	54.44
less Fert.	34.64	34.64	34.64	less $\frac{2}{3}$ per	23.09
Renter net	26.61	19.80	23.34	Renter net	31.35

1988 50.19 Bu per acre at \$2.27 per bu = \$114.15 return per acre.

$\frac{1}{4}$

$\frac{1}{3}$

29%

Sister's Place $\frac{1}{3}$ crop share

State share	28.54	38.05	33.10	Her share	38.05 less $\frac{1}{3}$ per 9.18 = 28.87
Mg share	85.61	76.10	81.05	Mg share	76.10
less Fert.	27.53	27.53	27.53	less $\frac{2}{3}$ per	18.35
Renter net	58.08	48.57	53.52	Renter net	57.75

LANDOWNER SHARES

5

CROP SHARE COMPARISONS

WHEAT

Stateline SISTERS PLAC

Stateline $\frac{1}{4}$

Stateline $\frac{1}{3}$

29% to sample 3 fertilizers

1992	64.07	85.42	74.31	71.84
1991	26.04	34.73	30.21	22.71
1990	23.66	31.55	27.45	17.42
1989	42.14	56.19	48.89	40.62
1988	39.53	52.71	45.86	38.72

AVERAGE	39.09	52.12	45.34	38.26
		13.86 more	7.68 more	83 less

BARLEY

$\frac{1}{3}$

29%

1992	40.90	54.54	47.45	45.04
1991	14.78	19.71	17.15	6.98
1990	19.21	25.61	22.28	14.68
1989	20.40	27.22	23.68	15.67
1988	28.54	38.05	33.10	28.87

AVERAGE	24.77	33.03	28.73	22.25
		10.78 more	6.48 more	2.52 less

LANDOWNER SHARES CROP SHARE COMPARISONS

EXHIBIT # 6
DATE 4-7-93
IL SB-424

WHEAT

~~State share~~ 25%

~~State share~~ 30%

SISTER'S SHARE
 $\frac{1}{3}$ couple $\frac{2}{3}$ Family

1982	53.04	63.65	58.41
1981	58.74	70.48	66.29
1979	32.76	39.31	36.17

AVERAGE	\$ 48.18	57.81 4.19 more	53.62 5.44 more
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BARLEY

1982	26.22	31.47	21.32
1981	35.48	42.58	35.37
1979	27.74	33.29	29.46

AVERAGE	29.81	35.78 7.07 more	28.71 1.10 less
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PENTER NET SHARES

7

CROP SHARE COMPARISONS

WHEAT

SISTERS PLACE

State $\frac{1}{4}$

State $\frac{1}{3}$

29.0%

1/3 share 1/3 Fertilizer

1992	151.44	130.09	141.19	143.67
1991	42.09	33.40	37.92	45.42
1990	28.59	20.70	24.80	34.83
1989	79.74	65.69	72.99	81.26
1988	76.65	63.47	70.32	77.46

AVERAGE	75.70	62.67	69.44	76.52
		13.85 less	7.08 less	.82 more

BARLEY

1992	94.23	80.59	87.68	90.09
1991	6.18	1.25	3.81	13.98
1990	28.84	18.44	21.77	29.37
1989	26.61	19.80	23.34	31.35
1988	58.08	48.57	53.52	57.75

AVERAGE	42.79	33.73	38.02	44.51
		10.78 less	6.49 less	1.72 more

Keep in mind these figures deal only with fertilizer costs

therefore the system is working
there used to be land idle no less

Suggest that you take this bill

No sign
for a different reason
Dad Bond
no gate?

Honorable Chairman, Vice Chairman, and other Representative Members of the
House Taxation Committee.

We, Merwin & Carol M. Works, are farm co-owners/operators and lifetime residents of Chouteau County, MT, speaking in opposition to Senate Bill #424.

This Bill does not clearly state who or how many members would comprise the State Land Board Advisory Council. They must be (quote)"broadly representative to the users and beneficiaries of the State Trust Lands."(unquote) This is a pretty general statement.

Also in Sec.12, the Advisory Council shall make recommendations to the State Land Board, but that doesn't mean they have to concur. Based on past experience with a State Land Board, they could still do as they see fit, no matter how well researched, how accurate, or how much sense those recommendations make.

In Sec. 11, (quote) "the procedure should establish provisions for notice, public comment, public hearing and appeal." (unquote) (Note that word should) Again, it is not clear. Would these notices be sent to all state lease/license holders? Published in all county newspapers, only in a Helena paper, or how would notice be given? How long before a scheduled meeting will notice occur?

How much are these members to be paid in wages, in allowed expenses, and for mileage? How much are the notices going to cost? What about extra secretaries to take care of additional paper work?

We honestly feel this bill is not in the best interest of the State as there are too many unknown factors and it puts too much power in too few hands.

We also oppose the proposed lease rate increases found in the bills fiscal note No. 6. These increases will have a rippling or snoball effect of raising private lease rents as well. All landowners will quickly follow in raising their rents to equal or surpass those which the state imposes. The average lease rate in our area is about 28%. But, most rates over 25% include an expense share of the landowner on fertilizer, chemicals, seed etc. In other words the landowner assumes a part of the production cost risk, in order to receive a higher share of the crop production. The State does not do this.

The State & National Legislatures are trying to raise taxes on fuel, fertilizer, chemicals, property, income, a sales tax, and etc.. All farm expenses are escallating at an astounding rate. But where is the price of grain? About where it was 25 years ago. In agriculture we can not, I repeat can not pass on those increased expenses when we sell our products as most other businesses can. Agriculture is at the mercy of the buyer. We can not set our selling price to reflect the incresed cost of production. A lease rental increase at this time is definitely not in the best interest of Montanas #1 industry, Agriculture.

If a higher lease rate occurs, farmers will have to cut production costs. That means less or no fertilizer, less tillage, less weed control, resulting in poorer crops, lower quality grain, and less bushels. It is not in the best interest of the school trust to encourage its lessees to use management techniques which would be to the detriment of the land in the long run. It could also result in a high turnover of lessees who would not manage the land in order to insure the long term productivity and sustained yield to the school trust.

The state would have to hire more people to monitor state lands. This increased cost plus those of the Advisory Council and Public Notice, plus the probable deteriorating quality of the land and possible dishonest crop shares paid, could in fact mean less funds received by the State Trust. We have talked with over 20 couples, with and without state land leases, and all were against this bill and lease rent increase.

No, this Bill is not in the best interest of Montana. Do not put this hardship on your lessees and do not give this power to the few members of the State Land Board. Keep it in your hands - those of the Legislature.

Thank you.

Carol M. Works
Merwin Works

Box 712
Big Sandy, MT 59520

EXHIBIT 8
DATE 4-7-93
SB 374

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/7/93 BILL NO. SB 374 NUMBER

MOTION: My Rep. Dolezal that SB 374
Be Concurred in

NAME	AYE	NO
REP. FOSTER	✓	
REP. HARRINGTON	✓	
REP. ANDERSON	✓	
REP. BOHLINGER	✓	
REP. DOLEZAL	✓	
REP. DRISCOLL	✓	
REP. ELLIOTT		✓
REP. FELAND		✓
REP. HANSON		✓
REP. HARPER		✓
REP. HIBBARD		✓
REP. KELLER	✓	
REP. McCAFFREE	✓	
REP. MCCARTHY	✓	
REP. NELSON		✓
REP. ORR		✓
REP. RANEY		✓
REP. REAM		✓
REP. TUNBY		✓
REP. GILBERT		✓
	9	11

Amendments to Senate Bill No. 379
Third Reading Copy

For the Committee on Taxation

Prepared by DOR / Lee Heiman
March 31, 1993

1. Title, line 7.
Following: "15-2-306,"
Insert: "15-7-102,"

2. Page 15.
Following: line 17
Insert: "Section 8. Section 15-7-102, MCA, is amended to read:
"15-7-102. Notice of classification and appraisal to owners
-- appeals. (1) It ~~shall be~~ is the duty of the department of
revenue, through its agent as specified in subsection (2), to
cause to be mailed to each owner and purchaser under contract for
deed a notice of the classification of the land owned or being
purchased ~~by him~~ and the appraisal of the improvements on the
land only if one or more of the following changes pertaining to
the land or improvements have been made since the last notice:
(a) change in ownership;
(b) change in classification;
(c) change in valuation; or
(d) addition or subtraction of personal property affixed to
the land.

(2)(a) The county assessor shall assign each assessment to
the correct owner or purchaser under contract for deed and mail
the notice of classification and appraisal on a standardized
form, adopted by the department, containing sufficient
information in a comprehensible manner designed to fully inform
the taxpayer as to the classification and appraisal of ~~his~~ the
property and of changes over the prior tax year.

(b) The notice must advise the taxpayer that in order to be
eligible for a refund of taxes from an appeal of the
classification or appraisal, the taxpayer is required to pay the
taxes under protest as provided in 15-1-402.

(3) If the owner of any land and improvements is
dissatisfied with the appraisal as it reflects the market value
of the property as determined by the department or with the
classification of his land or improvements, ~~he~~ the owner may
submit ~~his~~ an objection in writing to the department's agent. In
an objection to the appraisal of the property, the department may
consider the actual selling price of the property, independent
appraisals of the property, and other relevant information
presented by the taxpayer as evidence of the market value of the
property. The department shall give reasonable notice to the
taxpayer of the time and place of hearing and hear any testimony
or other evidence that the taxpayer may desire to produce at that
time and afford the opportunity to other interested persons to
produce evidence at the hearing. After the hearing, the
department shall determine the true and correct appraisal and
classification of the land or improvements and notify the

EXHIBIT 10
DATE 4-7-93
SB 379

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/7/93 BILL NO. SB 379 NUMBER

MOTION: by Rep. Elliott That SB 379
Be Concurred In

NAME	AYE	NO
REP. FOSTER	X	
REP. HARRINGTON	X	
REP. ANDERSON	X	
REP. BOHLINGER	X	
REP. DOLEZAL	X	
REP. DRISCOLL	X	
REP. ELLIOTT	X	
REP. FELAND	X	
REP. HANSON	X	
REP. HARPER	X	
REP. HIBBARD	X	
REP. KELLER	X	
REP. McCAFFREE		✓
REP. MCCARTHY	X	
REP. NELSON	X	
REP. ORR	X	
REP. RANEY	X	
REP. REAM	X	
REP. TINBY	X	
REP. GILBERT		✓
	18	2

EXHIBIT 11
DATE 4-7-93
SB 426

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL VOTE

DATE 4/7/93 BILL NO. SB 426 NUMBER

MOTION: by Rep. Russell - SB 426 Be
not concurred in

NAME	AYE	NO
REP. FOSTER	✓	
REP. HARRINGTON	✓	
REP. ANDERSON	✓	
REP. BOHLINGER	✓	
REP. DOLEZAL		✓
REP. DRISCOLL	✓	
REP. ELLIOTT		✓
REP. FELAND	✓	
REP. HANSON	✓	
REP. HARPER		✓
REP. HIBBARD	✓	
REP. KELLER	✓	
REP. McCAFFREE	✓	
REP. MCCARTHY	✓	
REP. NELSON	✓	
REP. ORR	✓	
REP. RANEY		✓
REP. REAM		✓
REP. TUNBY	✓	
REP. GILBERT	✓	
	15	5

EXHIBIT 12
DATE 4-7-93
SB 438

Amendments to Senate Bill No. 438
Third Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 8, 1993

1. Page 2, line 13.
Following: "property"
Insert: "-- refund"
Following: "."
Insert: "(1)"

2. Page 2, line 17.
Strike: "of the"
Insert: "that the remaining"

3. Page 2, lines 17 and 18.
Strike: "that the personal property is located in the state"
Strike: "during"
Insert: "in"

4. Page 2, line 19.
Following: "~~bears~~"
Insert: "bears"

5. Page 2.
Following: line 21
Insert: "(2) If property upon which taxes have been paid is removed from the state, the taxpayer may obtain a refund of a prorated portion of the taxes, subject to the requirements of 15-16-613."

EXHIBIT 12
DATE 4-7-93
SB 427

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/9/93 BILL NO. SB 427 NUMBER

MOTION: by Rep. Ream That SB 427
Be Concurred in

NAME	AYE	NO
REP. FOSTER		✓
REP. HARRINGTON	✓	
REP. ANDERSON		✓
REP. BOHLINGER	✓	
REP. DOLEZAL	✓	
REP. DRISCOLL	✓	
REP. ELLIOTT	✓	
REP. FELAND	✓	
REP. HANSON		✓
REP. HARPER	✓	
REP. HIBBARD	✓	
REP. KELLER		✓
REP. McCAFFREE	✓	
REP. McCARTHY	✓	
REP. NELSON	✓	
REP. ORR		✓
REP. RANEY	✓	
REP. REAM	✓	
REP. TINBY	✓	
REP. GILBERT		✓
	14	6

EXHIBIT 14
DATE 4-7-93
SB 424

Amendments to Senate Bill No. 424
Third Reading Copy

For the Committee on Taxation

Prepared by Greg Petesch
April 5, 1993

1. Title, line 11.
Strike: "DEPARTMENT"
Insert: "BOARD OF LAND COMMISSIONERS"
2. Page 1, line 23.
Following: "shall"
Insert: "["
3. Page 1, line 24.
Following: "1"
Insert: "]"
4. Page 3, line 7.
Following: "must"
Insert: "["
5. Page 3, line 9.
Following: "1"
Insert: "]"
6. Page 6, line 22.
Following: "board"
Insert: "["
7. Page 6, line 24.
Following: "1"
Insert: "]"
8. Page 10, line 23.
Following: "must"
Insert: "["
9. Page 10, line 25.
Following: "1"
Insert: "]"
10. Page 11, line 2.
Following: "~~77-6-507~~"
Insert: "as provided in 77-6-507"
11. Page 11, line 20.
Strike: "AND"
Following: "77-6-502"
Insert: ", and 77-6-507"

12. Page 12, line 8.

Following: line 7

Insert: "NEW SECTION. Section 11. Setting of rates or fees.

(1) In setting the lease rental rates or fees for the use of state lands and cabin sites, the board shall consider the impact of the uses on the school trust asset, lessee expenses for management, water development, weed control, fire control, the term of the lease, the conditions on the lease payment, and any other required expenses reasonably borne by the lessee. In setting cabin site lease rates, the board shall consider expenses that are commonly incurred by the lessees to preserve the value of the state land or to provide services commonly provided by private lessors in the area.

(2) All lease rental rates and fees established by the board under 77-1-208, 77-1-802, 77-6-202, 77-6-501, 77-6-502, and 77-6-507 must consider the trust asset and be in the best interests of the state with regard to the long-term productivity of the school trust lands, while optimizing the return to the school trust."

ReNUMBER: subsequent sections

13. Page 12, line 23.

Strike: "[SECTION 12] IS"

Insert: "[Sections 11 and 12] are"

14. Page 12, line 25.

Strike: "SECTION"

Insert: "sections 11 and"

15. Page 13, line 12.

Following: line 11

Insert: "

NEW SECTION. Section 15. Termination. [Section 12] and the bracketed references to the state land board advisory council in 77-1-208, 77-1-802, 77-6-205, and 77-6-502 terminate March 1, 1996."

ReNUMBER: subsequent section

EXHIBIT 15
DATE 4-7-93
SB 424

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 4/7/93 BILL NO. SB 424 NUMBER

MOTION: by Rep. Harper that SB 424
Be Concurred in As Amended

NAME	AYE	NO
REP. FOSTER		✓
REP. HARRINGTON	✓	
REP. ANDERSON		✓
REP. BOHLINGER	✓	
REP. DOLEZAL	✓	
REP. DRISCOLL	✓	
REP. ELLIOTT	✓	
REP. FELAND		✓
REP. HANSON		✓
REP. HARPER	✓	
REP. HIBBARD	✓	
REP. KELLER	✓	
REP. McCaffree	✓	
REP. McCarthy	✓	
REP. NELSON	✓	
REP. ORR		✓
REP. RANEY	✓	
REP. REAM	✓	
REP. TINBY	✓	
REP. GILBERT		✓
	14	6

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation

COMMITTEE

BILL NO. Senate - 424

DATE 4-7-93

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MERWIN WORKS Big SANDY MT			X
CAROL M. WORKS Big Sandy, MT 59520			X
Liam Hoffman Manhattan, Mont	APA - self		X
Richard L Miller	State Cabin site leaseholder	✓	X
Dennis Casey	self	X	
Eric J. Jare	MSA	Σ	
Garth Jacobson	Sec. ad state office	✓	
Dan Thompson	SELF		✓
Geo Schunk	AG	✓	
George Paul	Farmers Union	X	

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