

MINUTES

**MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By CHAIRMAN GERRY DEVLIN, on March 1, 1995, at
8:00 a.m.

ROLL CALL

Members Present:

Sen. Gerry Devlin, Chairman (R)
Sen. Mike Foster, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Delwyn Gage (R)
Sen. Lorents Grosfield (R)
Sen. John G. Harp (R)
Sen. Dorothy Eck (D)
Sen. Barry "Spook" Stang (D)
Sen. Fred R. Van Valkenburg (D)

Members Excused: SEN. DELWYN GAGE,
SEN. LORENTS GROSFIELD (arrived at 9:05 a.m.),
SEN. JOHN HARP

Members Absent: None

Staff Present: Jeff Martin, Legislative Council
Renée Podell, Committee Secretary

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

Committee Business Summary:

Hearing: SB 336, SB 358
Executive Action: None

HEARING ON SB 358

Opening Statement by Sponsor:

SEN. MIKE HALLIGAN, SD 44, Missoula, stated he was a sponsor of legislation several years ago attempting to encourage jobs in the state through the use of recycling. He commented the emphasis was on the technology of recycling associated with higher paid jobs. SEN. HALLIGAN explained the old incentive was pretty broad, but SB 358 expands the incentive to include reclaimable material.

Proponents' Testimony:

Russ Ritter, Envirocon, spoke in support of the inclusion of sanitized dirt in SB 358.

Larry Simkins, Envirocon, stated SB 358 provides alternatives for some of the clean-up measures that Envirocon currently evaluates for customers and clients throughout Montana. **Mr. Simkins** acknowledged SB 358 provides a cost effective on-site treatment of contaminated dirt.

Carl Schweitzer, Montana Contractors Association, commented SB 358 eliminates the current sunset and expands the definition of what types of equipment can be considered for recycling products.

Dennis Burr, Montana Taxpayers Association, acknowledged it is proven the incentive works in Montana and it is proper to take the sunset off. He stated this is a good bill.

Opponents' Testimony:

None

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. MACK COLE asked **Mr. Simkins** to give some examples of how his firm is currently processing soils and where some of the projects are located. **Mr. Simkins** stated there are several projects in the State of Montana at contaminated sites which extracts contaminants from the soil. He remarked a project was just finished in Columbus, Montana, using a chemical process.

SEN. DOROTHY ECK asked **Mr. Simkins** if his firm uses specialized equipment. **Mr. Simkins** stated the equipment is specialized and costly.

SEN. BARRY "SPOOK" STANG asked **SEN. HALLIGAN** if the credit will be expanded on all equipment. **SEN. HALLIGAN** stated the Department of Revenue will present an amendment. He said the DOR has adopted guidelines for recycling equipment. **Neil Peterson, DOR**, commented when the recycling credit was adopted rules were initially adopted and currently another set of rules are being processed. He submitted **EXHIBIT 1**.

SEN. STANG questioned **Mr. Ritter** in regard to putting a contingency voidance provision into this bill. **Mr. Ritter** said, "No". He said there are opportunities for jobs and there is a need to keep those jobs in Montana.

CHAIRMAN DEVLIN asked **Mr. Ritter** if he sees an increase in people going into the recycling business because of this credit. **Mr. Ritter** said "Yes". **CHAIRMAN DEVLIN** asked **Mr. Ritter** how much contaminated soil is being shipped out of state presently. **Mr. Ritter** commented perhaps **Mr. Simkins** could answer the question. **Mr. Simkins** stated he would try to get some information for the committee in regard to the question. **SEN. ECK** commented the Environmental Quality Council did a study on hazardous materials.

SEN. MACK COLE questioned **SEN. HALLIGAN** in regard to the fiscal note not being signed. **SEN. HALLIGAN** stated he didn't agree with the cost of \$375,000 as being accurate because he believes it will be a wash.

SEN. COLE asked **Steve Bender** to respond to the fiscal note. **Mr. Bender** explained the proponents of the bill asked the department to review whether the sunset of the recycle credit was assumed in the revenue estimates. He stated this is an expansion of the credit to include reclamation of soils.

Closing by Sponsor:

SEN. HALLIGAN acknowledged the original purpose of the credit was designed for private sector recycling, not government recycling. He commented the State of Montana doesn't have a place for dumping hazardous waste and Montana doesn't want one, it wants to clean up its own. **SEN. HALLIGAN** said the incentive is to look at the technological aspects and hire higher paid opportunity jobs. He stated the contingent voidance provision needs to be discussed.

HEARING ON SB 336

Opening Statement by Sponsor:

SEN. TOM BECK, SD 28, Deer Lodge, declared SB 336 is a lease and use fee on state trust lands by statute rather than by rule of the Board of Land Commissioners. He highlighted the mechanics of the bill.

Proponents' Testimony:

Jim Peterson, Montana Stockgrowers Association, presented written testimony. EXHIBIT 2.

Stephen A. Roth, Director, Montana Stockgrowers Association, submitted written testimony. EXHIBIT 3.

Lynn Cornwell, Montana Stockgrowers Association, presented written testimony. EXHIBIT 4.

John Swanz, Montana Stockgrowers Association, submitted written testimony. EXHIBIT 5.

Monte Eayrs submitted written testimony. **EXHIBIT 6.**

Candace Torgerson, Montana Cattlewomen's Association, ranchers develop water rights which make the land more valuable and more useful not only to livestock but to the wildlife. She urged support for SB 336.

REP. DOUG WAGNER, HD 83, Flathead County, presented an audit from Scott Seacat on how the state land use fee currently works. **EXHIBIT 7.** He also submitted amendments. **EXHIBIT 8.** REP. WAGNER urged support for the amendments.

{Tape: 1; Side: B; Comments: Turn Tape.}

Bud Clinch, Director, State Lands, commented SB 336 will amend the statutes pertaining to certain school trust lands by repealing the authority of the Board of Land Commissioners. Mr. Clinch presented the history of the Montana Enabling Act. He urged earnest and careful consideration of SB 336.

Opponents' Testimony:

Tony Schooner, State Land Coalition, Skyline Sportsmen's Club, Butte, Anaconda Sportsmen's Club, stressed there are some big problems with SB 336 and questioned if the bill was constitutional. He stated this bill will lose money for schools. Mr. Schooner insisted the Board of Land Commissioners deal with state land issues every day and the legislature only meets every two years and shouldn't be making laws for state lands.

Informational Testimony:

None

Questions From Committee Members and Responses:

SEN. COLE questioned Mr. Clinch in regard to cabin site language on Page 1, Line 19. Mr. Clinch stated the language is a reinstatement on how the cabin sites are presently being leased. He said there is an existing system in process. SEN. COLE asked SEN. BECK if there was any background for Section 3, being full market value. SEN. BECK stated his intent is to return to the previous process with the \$5.00 fee.

Chairman Devlin asked SEN. BECK if he had reviewed the amendments presented by REP. WAGNER. SEN. BECK responded he reviewed the amendments and at this point doesn't want to take a position.

SEN. DOROTHY ECK asked Mr. Clinch in cases where there has been litigation the states almost always lose. Mr. Clinch stated in cases where the school beneficiaries file suit and allege full value is not being received, if the merits of their case prove that, in almost all cases the school beneficiaries prevail.

CHAIRMAN DEVLIN asked Mr. Clinch what happened to the Watts and Associates report that was done in 1988 by request of the Board of State Lands. Mr. Clinch said the report is available and was considered by the advisory council.

CHAIRMAN DEVLIN questioned SEN. BECK in regard to the bill containing language on renewal of leases taking away the ability of the lessee of record to meet the highest bid. SEN. BECK stated that language has not been changed.

CHAIRMAN DEVLIN asked Mr. Schooner if anyone on the land board has agricultural expertise. Mr. Schooner acknowledged each member has land issue expertise from dealing with these issues every day. CHAIRMAN DEVLIN questioned Mr. Schooner in regard to the \$5.00 fee being adequate. Mr. Schooner responded the \$5.00 fee was adequate.

CHAIRMAN DEVLIN commented REP. WAGNER wanted the fee completely taken out of the bill. He asked REP. WAGNER if that could be challenged in court. REP. WAGNER responded the language "recreational use" could be used.

{Tape: 1; Side: B; Approx. Counter: 19.2.}

SEN. MIKE FOSTER asked Mr. Clinch to highlight the process and history used for determining the fee charged by the Department of State Lands. Mr. Clinch responded.

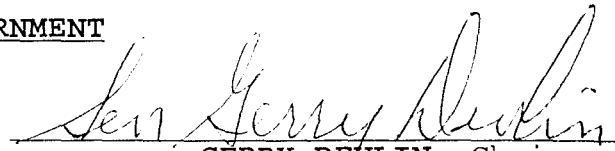
SEN. ECK asked Mr. Clinch if the competitive bid process is working. Mr. Clinch commented the bid process is working well.

Closing by Sponsor:

SEN. BECK explained this is an important bill and emphasized \$100.00 is the floor for the 3.5% appraised value of the cabin. He pointed out the grazing fees will remain the same. SEN. BECK requested the committee review REP. WAGNER'S amendments carefully. He acknowledged the bill is revenue neutral right now.

ADJOURNMENT

Adjournment: 9:50 a.m.


GERRY DEVLIN, Chairman


RENEE J. PODELL, Secretary

GD/rp

AMENDMENTS TO SENATE BILL 358
INTRODUCED BILL

SENATE TAXATION

DATE March 1, 1995

EXHIBIT NO. 1

BILL NO. SB 358

PREPARED BY THE DEPARTMENT OF REVENUE
FEBRUARY 21, 1995

EXPLANATION

Amendment 1 conforms the title to amendment 2. Amendment 2 provides for an applicability date. This bill makes permanent the recycling credit and also provides for a new credit for depreciable property used for the treatment of hazardous wastes in soils. The proposed legislation does not contain an effective date therefore the bill will be effective October 1, 1995. If this bill is to be applied from October 1, 1995 forward the depreciable property used in hazardous waste cleanup would have to be prorated to the number of months in service. If this is the case, this new credit will be extremely difficult for the Montana Department of Revenue to administer. This amendment does not change the effective date, but provides for an applicability date to the next tax year thus making this new credit less complicated to administer.

1. Title, line 7
After: MCA;
Insert: "PROVIDING FOR AN APPLICABILITY DATE;"
2. Page 3
Following: line 15
Insert: "NEW SECTION. Section 4 Applicability. [This Act] applies to tax years beginning after December 31, 1995."

March 1, 1995

TESTIMONY ON S.B. 336

Montana Stockgrowers Association

My name is Jim Peterson and I am speaking today as the Executive Vice President of the Montana Stockgrowers Association in support of Senate Bill 336.

As you may know, in 1991, the Montana Legislature discussed State Lands, particularly from a state land access perspective, and passed House Bill 778 authorizing licensed hunting and fishing on State Lands without lessee permission. The Legislature also authorized a major study of State Land Fees which was ultimately done and reported in 1993 as the "Duffield Report."

In 1993, the Legislature looked at State Lands issues and decided that all user fee setting should be directed to the State Land Board, and established a State Land Advisory Committee through S.B. 424. The Advisory Council was appointed by the Governor and approved by all members of the Land Board, to review all information available on fees and make recommendations to the Land Board.

Since 1993, the State Land Advisory Council met nine times to try to determine fees that represented full market value for all uses of State Lands and gave their report to the Land Board in December of 1994. The Land Board then arbitrarily changed some of the recommendations of the State Land Advisory Council and asked for public comment at hearings across the State conducted in January of 1995. At these hearings, there was overwhelming testimony in support of no change in the fees.

The State Land Board met on February 21 and decided to delay setting any fees for State Lands until this Legislature addresses this bill and other bills that may come before it. Montana Stockgrowers Association supports S.B. 336 for the following reasons. Individual representatives, ranchers and state land lessees will address the following points in more detail:

1. The current grazing fee formula is working and is set by taking six times the average price of a pound of beef cattle, as reported by the Ag Statistics Service. Using the current formula as proposed in S.B. 336, the 1995 grazing fee will be \$4.61/AUM which is the highest it's been since 1952 (see attached summary). The current formula works because it's fair and reflects the market price of cattle. See attached summary.
2. Non-fee costs account for the difference between the cost of a grazing lease on private land, and a grazing lease on state land. Examples of non-fee costs are weed control, fencing, water developments, non-use, access without lease permission, fire suppression and management costs. The State Land Advisory Council reviewed these costs and estimated them to be at least \$8.00/AUM using no management costs and a non-use factor of only one out of ten years. Lessees provide almost all the management costs associated with a state lease and the non-use factor should be closer to one out of three years.

3. The current formula represents full market value when one looks carefully at the Advisory Council's recommendations and factors in a realistic "non-use" deduction in the formula. The Advisory Council started with a private lease rate of \$11.40/AUM and deducted the non-fee cost associated with operating on State Lands and added value for preference and a ten year term of state lease. When this is adjusted for a non-use of one out of three years the grazing fee ends up being 4.02 based on 1993 cattle prices and the factor ends up being 5.89 which is very close to 6 (see attached summary). Therefore we feel the current formula represents full market value.
4. The Land Board has proven itself to be a very political body made up of politicians and not land managers. They arbitrarily changed the Advisory Council's recommendations prior to going to public comment and they have indicated time and time again their decision making process is based on politics.
5. We feel this authority should go to the Legislature, because the Legislature is at least made up of some people with land management and agricultural experience and it also allows for fair hearings and debate.
6. Finally, the Land Board has had their chance, they've been looking at this for two years and as recently as last week decided to delay the decision to see if the Legislature will act. Now, we are asking you to act, codify the fees at the rates set in S.B. 336, take the authority and let us all get on with our lives.

In summary, when one rationally and realistically considers the non-fee costs associated with the leasing of state lands, we believe the rate for the grazing fee set forth in S.B.336 represents full market value to the school trust beneficiaries. We urge your support.

Thank you for the opportunity to testify.

Montana Department of State Lands

EXHIBIT 2

AUM Grazing Rates

DATE 3-1-9511 SB 336

<u>YEAR</u>	<u>RENTAL</u>	<u>YEAR</u>	<u>RENTAL</u>
1952	\$0.40 ¹	1981	\$3.85
1953	\$0.43	1982	\$3.47
1954	\$0.42	1983	\$2.97
1955	\$0.35	1984	\$3.00
1956	\$0.28	1985	\$2.74
1957	\$0.25	1986	\$2.81
1958	\$0.25	1987	\$2.77
1959	\$0.28	1988	\$3.27
1960	\$0.54	1989	\$3.89
1961	\$0.48	1990	\$3.92
1962	\$0.48	1991	\$4.24
1963	\$0.46	1992	\$4.17
1964	\$0.76 ²	1993	\$4.03
1965	\$0.70	1994	\$4.09
1966	\$0.68	1995	\$4.61
1967	\$0.74		
1968	\$0.76		
1969	\$0.76		
1970	\$0.80		
1971	\$0.75		
1972	\$0.87		
1973	\$0.95		
1974	\$1.69 ³		
1975	\$1.79		
1976	\$1.30		
1977	\$1.48		
1978	\$1.45		
1979	\$1.68		
1980	\$3.64 ⁴		

G:\LANDS\KCO\AZRENT.DOC

¹ 1952 - 1963 Rate = average price for beef. Average rate for period: \$0.39.² 1964 - 1973 Rate = 2 x average price for beef + .32¢. Average rate for period: \$0.78.
Rental rates for 1964 through 1991 are "B" rates (15 - 19 AU per section). Add \$0.10 for "A" rate (>19 AU per section), or subtract \$0.10 for "C" rate (<15 AU per section). Beginning in 1992, there are no rate adjustments based on AU/section.³ 1974 - 1979 Rate = 3 x average price for beef + 50¢. Average rate for period: \$1.37.⁴ 1980 - 1995 Rate = 6 x average price for beef. Average rate for period: \$3.59.

Grazing

Currently there are approximately 1,023,000 Animal Unit Months (AUMs) leased on the 4,100,000 acres of state grazing land. To date, the minimum rental rate was determined by multiplying the previous years average price per pound of beef cattle in Montana times 6. The 1994 rental based on 1993 cattle prices is \$4.09 per AUM. In 1994, these lands generated \$4,264,030.

RECOMMENDATION: The Council recommends the per AUM minimum rental rate be set at 7.54 times the previous years average price per pound of beef cattle in Montana. Using the 1993 beef prices, the rental would be \$5.14 per AUM.

RATIONALE: The rate was determined by taking the average private lease rate (\$11.40/AUM) and adjusting it in comparison to the services and requirements of state leases. The adjustments were made as follows:

<u>Deductions</u>		<u>Additions</u>	
1. Weed Control	\$ 2.92	1. Length of Lease	\$.56
2. Fencing	\$ 1.85	2. Preference Right	<u>\$ 1.14</u>
3. Water Developments	\$ 1.00	Additions Subtotal	\$ 1.70
4. Non-use	\$.56 $\times 3 \rightarrow$ \$ 1.68		
5. Access	\$ 1.57		
6. Fire Suppression	<u>\$.06</u>		
Deduction Subtotal	\$ 7.96		
		$\begin{aligned} &\rightarrow 9.08 = 4.02 \div .682 = 5.89 \\ &\$11.40 - \$7.96 + \$1.70 = \$5.14 \end{aligned}$	
		$\$5.14 \div 1993 \text{ price for beef} = \text{Multiplier}$	
		$\$5.14 \div .682 = 7.54$	

ADDITIONAL RECOMMENDATIONS: The Council further recommends the Board consider the following options in regards to state grazing leases:

1. Allow the lessee the option to pay an additional fee (on top of the AUM fee) in order to control recreational use.

DATE March 1, 1995EXHIBIT NO. 3BILL NO. SB 336

Testimony in Support of SB 336
Stephen A. Roth
Big Sandy, MT
March 1, 1995

Non-Fee Costs associated with leasing of School Trust Lands

- A. Stockwater-This is the single most limiting factor on the ranch's state leased land. Since 1955, the ranch has completed 52 stockwater developments on its state leased land, not including stockwater developments on deeded land that serve state leased land. This is evidence of how poorly watered state leased land is.
- B. Noxious weeds - Neighboring Leafy Spurge has infested approximately 900 acres of state leased land. The ranch has attempted to control leafy spurge on its state leased land as well as its deeded land since 1960 using mapping and aerial and ground application of chemical. Spread of this tenacious weed by wildlife makes it impossible to control. In 1993, the ranch spent \$27,664 on leafy spurge control on its state leased lands.
- C. Hunting and Recreation - The ranch's state leased land provided 2,037 "hunter days" of recreation.
- D. Rodent Control - The ranch's state leased land contains 17 prairie dog towns encompassing approximately 545 acres. Since the ban on above ground poisoning the number of towns has increased 54% and the area has increased 25% on the ranch's state leased land.
- E. Fire Suppression - In 1978, 8,000 acres of state lease land was destroyed by fire. Every year the ranch donates to the local volunteer fire department and mans one of the Department of State Lands fire fighting vehicles which is required to go to all local fires.
- F. Fencing - Large blocks of state leased grazing lands require fencing to permit rotational grazing, protect riparian area, enhance distribution and increase AUM's without over grazing. 86 miles of fence are required to maintain the ranch's state leased land.
- G. Non-Use - In 1988 and again in 1992 due to inadequate stockwater on state leased land a 32% and 26% reduction in Animal Units (AU's) was required. Net loss in ranch income from these forced sales was \$370,000. Non-Use is not applied to the ranch's AUM cost. If non-use were applied to the ranch's AUM cost, it would amount to \$3.25/AUM. This seems excessive and therefore was not used.

In Summary, IX Ranch considers it a privilege to lease state land. The ranch receives less than 3% Return on Assets. To husband its state leased land as in the past, a fee that accounts for all costs should be adopted. A fee that discourages capital investment and requires maximum return to justify such a fee will eventually lead to deterioration of the resource, in this case, School Trusts Lands.

<u>Passive Factor</u>	<u>Annual Cost</u>	<u>Cost per AUM</u>
Stockwater development, maintenance & repair	12,221	1.15
Noxious weed control (9,487 AUM's)	27,664	2.92
Hunting and recreation	2,665	0.25
Rodent Control	1,000	0.09
Fire Suppression	615	0.06
Fencing	<u>16,168</u>	<u>1.52</u>
TOTAL	\$60,333	\$5.99

Note: Based on seven year cost figures. Except where noted, all costs per AUM are based on 10,663 AUM's, the DSL rated capacity of the ranch's state leased land.

1994 State Lease fee	\$4.09
IX Ranch annual cost	<u>\$5.99</u>
Total Lease Cost	\$10.08 Per AUM

SENATE TAXATION
DATE March 1, 1995
EXHIBIT NO. 4
BILL NO. SB 336

Testimony on S.B. 336 - State Lands

Montana Stockgrowers Association

March 1, 1995

Good morning. My name is Lynn Cornwell, a rancher and lessee from Valley County, Montana. I am here today representing four ranches in Northeastern Montana that are all large users of school trust lands. Those being Cornwell Ranch, Langen Ranch, BCD Farms and Antelope Ranch. I also am speaking on behalf of the Montana Association of State Grazing Districts as their Vice President, and First Vice President of the Montana Stockgrowers Association.

I would like to go on record in support of Senate Bill 336. Our ranching operations need a vehicle and or process which includes the actual use of range science and good economic common sense to establish grazing fees. The legislative process is that vehicle. The current formula, using 6 times the average price of cattle is working well. The checks and balances of the House, the Senate and ultimately the Governor's signature protect the grazing lessee's position very well.

What I would like to specifically talk about today is the fact that the State Land Advisory Council did not place enough value on the "non-use" deduction when it arrived at the new fee formula. We need more land management expertise for establishing fees that ultimately affect state school trust lessee's livelihoods.

These ranches operate as do most others across the state, as cow-calf yearling operations. Our season of use is eight months in length. We run

under nine different allotments. Those being: Bear Creek, Buggy Creek, Dry Fork, Upper Buggy Creek, East Fork Willow Creek, Spring Creek, Antelope Creek, West Fork and Porcupine Creek. Two of these are solid blocks of school trust lands. The others are intermingled ownership containing 16 x 36 sections. In order to manage this country properly, these ranches use BLM AMP's on all nine allotments. The cows all go to grass the fourth week of March and calve on old grass. The state lands are managed as part of this mix. As a common rule, we take half the grass and leave half.

Everyone in this room remembers the drought years in recent history of 1980, 1981, 1983, 1984, 1985, 1988, 1991 and 1992. In light of the fact that we are experiencing an open winter in 1995, this trend looks to continue. The point being, Montana is used to periods of prolonged drought. We have to manage our ranches to leave old grass. The wildlife also benefit under this process. It works well. For example, in the year 1988, our actual use was 14% because there was no water. As a result of this, we spent \$55,000 developing five springs, tanks and reservoirs in the state land pastures. In 1994, we spent \$3,650 on roadwork and \$3,500 for five cattleguards on these two state land allotments. This was for fire protection. All these costs go beyond the annual AUM charges for the grass. They are what we call resource management costs or non-fee costs.

The Advisory Council came up with a 56¢/AUM deduction for non-use. This figure should be three times higher or \$1.68/AUM. I have grazing worksheets with me that show from 14% to 80% utilization figures for the 1991 and 1992 grazing seasons. If you use an average figure, it would be 65% actual usage. So these ranches paid for 35% of the forage they did not use in

1991 and 1992 because it wasn't there. If you add \$1.40 to the 1993 grazing fee of \$4.08/AUM, you come up with \$5.49/AUM for the 1992 season of use. This changes the deduction total to roughly \$9.08/AUM, assuming non-use is \$1.68 or three times the 56¢/AUM - the figure the Advisory Council used.

$$\$11.40 - 9.08 + 1.70 \text{ (additions)} = \$4.02$$

$$\$4.02 \div .682 = \$5.89 \text{ (actual multiplier)}$$

Our actual costs for the years 1991 and 1992 was \$5.53 per AUM, not 4.09/AUM based on management decisions and actual on the ground range utilization.

The point I'm trying to make here today is simply this: we ranchers can and will manage these school trust lands right with the other rangeland. But if the fee goes beyond all reason -- as I feel using a 7.54 multiplier times the average price of beef does -- then two things could happen. State school trust leases might go unpaid or worse yet the possibility exists to over-use the range to try and recoup non-fee costs and non-use adjustments. In both cases the school trust is the loser. Denuded, overgrazed, barren ranges benefit no one.

Surely the Legislature can come up with a better plan that uses range science to establish a fair and equitable fee for grazing use. Let us try to remove the politics from the fee setting process. I urge you to support SB 336 as this plan and keep in mind the non-use argument while so doing.

Thank you.

March 1, 1995

TESTIMONY ON S.B. 336

Mister Chairman and Members of Committee.

For the record my name is John Swanz, a rancher from Judith Gap, a State Land lease holder and a director of the Montana Stockgrowers Association.

I am testifying today in support of S.B. 336.

I believe that in view of allowing the Land Board to set fees what has taken place the past two years is that decisions made by or not made by the State Land Board indicate that the current process has not been effective.

Two years ago, MSGA asked for and the Advisory Council to study State Land fees. We made a commitment to accept the results of this study provided the Land Board accepted the study as presented. But being true to form as with decisions in the past the Land Board arbitrarily changed the recommendations of the Advisory Council.

By returning the fee setting process to the Legislature we will reestablish stability to the process. It has become far too political.

Again the current process of allowing the Land Board to set fees has been quite ineffective. There has been more turmoil surrounding the decisions by the Land Board in the past two years than I can remember.

The process has become very political. I feel if this process continues the instability of the process could very well decrease the value of state leases.

I would hope you would consider this carefully, because as a lease holder the past two years have been like riding a roller coaster that never stops.

DATE MARCH 1, 1995EXHIBIT NO. 6 3/1/95BILL NO. SB 336

MONTY EYRS - MY FAMILY AND I HAVE A LIVESTOCK OPERATION NEAR GLASGOW IN VALLEY COUNTY. I'M SPEAKING IN SUPPORT OF SENATE BILL 336.

EXCUSE MY MANNERS AND VOCABULARY, ~~ONE~~ MY WIFE BOUGHT THIS SPORT COAT FOR GOING TO WEDDINGS AND FUNERALS. I MOSTLY GRIN AND NOD MY WAY THRU THESE FUNCTIONS AND HURRY HOME TO GET IT OFF.

BUT THE LAST FEW YEARS I WEAR IT MAINLY FOR GOING TO MEETINGS AND HEARINGS TO PROTECT MY FAMILIES PRIVATE PROPERTY RIGHTS. TO PROTECT OUR WAY OF LIFE FROM MY GOVERNMENT AND OTHER SELF SERVING GROUPS.

FOR THE PAST TWO YEARS MOST OF THESE MEETINGS HAVE BEEN INITIATED BY THE STATE LAND BOARD OR BEEN FOR ITS BENEFIT.

THEIR DECISIONS AND LACK OF DECISIONS HAVE NOT BEEN IN MY FAMILIES BEST INTEREST. NOR IN THE STATE OF MONTANA'S BEST INTEREST. AND TIME WILL PROVE THAT.

BUT I DON'T WANT TO SPEND THE NEXT 20-30 YEARS RUNNING TO MEETINGS AND TO HELENA TO DEFEND MY FAMILIES AND THE STATES PROPERTY RIGHTS.

I BELIEVE THE LEGISLATURE CAN BEST HANDLE THIS STATE LANDS MATTER AND SUPPORT SB 336

Monty Eyrns

SENATE TAXATION

DATE March 1, 1995CREDIT NO. 7BILL NO. SB 336

To: Scott Seacat

From: Geri Hoffman

Date: 1-10-94

Re: Recreational Use Licenses

Based on our research of state law and SBAS we have determined the following related to the fee for recreational use of state lands.

Per section 77-1-802, MCA (attached) the fee for recreational use of state land is distributed as follows:

A) Two dollars, less 50 cents to be returned to the license dealer, is deposited in the state lands recreational use account.

B) The balance of the fee is apportioned on a pro rata basis to the land trust accounts.

The total revenue collected from recreational use licenses was \$130,219 and \$142,305 in fiscal year 1993 and 1994, respectively. The following illustrates the amount received under A and B mentioned above:

	<u>FY 1993</u>	<u>FY 1994</u>
Recreational use account	\$ 38,944	\$ 42,584
Land trust accounts	<u>91,275</u>	<u>99,721</u>
Total Revenue	\$130,219	\$142,305

The revenue was distributed to the various land trust accounts as follows:

Land Trust Accounts

	<u>FY 1993</u>	<u>FY 1994</u>
Pine Hills	\$ 1,223	\$ 1,335
U.M.	321	350
MSDB	646	705
TECH	1,060	1,158
Capitol Building fund	3,312	3,619
State University	577	629
Common School Income	81,774	89,342
State University Morrill	1,244	1,360
Western Mt Normal Income	559	611
Eastern Mt Normal Income	<u>559</u>	<u>611</u>
Total land trust	\$91,275	\$91,721

The state lands recreational use account revenue must be used in accordance with section 77-1-808, MCA(attached). The law states the department may pay for; compensation for damage to the improvements of leases caused by recreational users; weed control management; the protection of the resource value of the trust assets or; the administration and management of the recreational use of state lands. The department had the following expenditures related to state lands recreational use account:

	FY 1993	FY 1994
Personal Services	\$ 5,397	\$25,349
Other Services	1,546	9,981
Supplies & Materials	73	179
Communication	1,981	602
Travel	282	902
Rent	0	75
Other	<u>513</u>	<u>22</u>
Total expenditures	\$ 9,792	\$37,110

Per department officials, the above expenditures relate to the administration and management of the recreational use of state lands and not for weed control or damage compensation.

Part 8
Recreational Use of State Lands

77-1-801. Recreational use license required to use state lands for general recreational purposes — penalty. (1) A person 12 years of age or older shall obtain an annual recreational use license pursuant to 77-1-802 to use state lands, as defined in 77-1-101, for general recreational purposes.

(2) A person shall, upon the request of a peace officer or fish and game warden, present for inspection his recreational use license.

(3) A violator of subsection (1) or (2) is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both.

History: En. Sec. 11, Ch. 609, L. 1991.

Cross-References

Peace officer defined, 1-1-207, 46-1-202.

77-1-802. Recreational use license — fee. (1) The fee for a recreational use license must[, taking into account recommendations of the state land board advisory council,] attain full market value.

(2) Money received by the department from the sale of recreational use licenses must be credited as follows:

(a) Except as provided in subsection (2)(b), license fees must be apportioned on a pro rata basis to the land trusts, in proportion to the respective trust's percentage contribution to the total acreage of all state land trusts.

(b) Two dollars from the fee for each license, less 50 cents to be returned to the license dealer as a commission, must be deposited in the state lands recreational use account established by 77-1-808.

(3) The department may contract with the department of fish, wildlife, and parks for the distribution and sale of recreational use licenses through the license agents appointed by and the administrative offices of the department of fish, wildlife, and parks and in accordance with the provisions of Title

87, chapter 2, part 9. (Bracketed language in subsection (1) terminates March 1, 1996—sec. 17, Ch. 586, L. 1993.)

History: En. Sec. 12, Ch. 609, L. 1991; amd. Sec. 2, Ch. 586, L. 1993.

Compiler's Comments

1993 Amendment: Chapter 586 in (1), after "license", substituted "must[, taking into account recommendations of the state land board advisory council,] attain full market value" for "is \$5. The fee is based upon:

(a) a \$3 charge as the value of 1 year of recreational use of state lands; and

(b) a \$2 surcharge for the administrative costs of providing recreational access to state lands and the maintenance of a state lands recreational use account pursuant to 77-1-808"; in (2)(a), at beginning, inserted exception clause and substituted "license fees" for "proceeds collected under subsection

(1)(a)"; and substituted (2)(b) concerning disposition of license fee for former (2)(b) that read: "(b) proceeds collected under the surcharge of subsection (1)(b), less 50 cents for each license to be returned as a commission to license dealers, must be deposited in the state lands recreational use account established by 77-1-808 for use by the department in the management of state lands open to general recreational use". Amendment effective July 1, 1993.

Applicability: Section 16(2), Ch. 586, L. 1993, provided: "[Section 2] [77-1-802] applies to licenses sold after February 28, 1994."

77-1-803 reserved.

(2) Each recreational user of state lands shall obtain permission of the lessee or his agent before entering the adjacent private property owned by the lessee. Entry to private property from adjacent state lands without permission of the landowner or his agent is an absolute liability offense. A violator of this subsection is guilty of a misdemeanor and shall be fined not less than \$50 or more than \$500, imprisoned in the county jail for not more than 6 months, or both.

(3) A person may be found guilty of the offense described in subsection (2) regardless of the absence of fencing or failure to post a notice in accordance with 45-6-201.

History: En. Sec. 15, Ch. 609, L. 1991.

77-1-807 reserved.

77-1-808. State lands recreational use account. (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue received from the recreational use license established by 77-1-802;

(b) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and

(c) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the state lands recreational use account is statutorily appropriated, as provided in 17-7-502, and must be used by the department for the following purposes:

(a) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b) assistance in weed control management necessary as a result of recreational use of state lands;

(c) protection of the resource value of the trust assets; and

(d) administration and management for the implementation of recreational use of state lands.

History: En. Sec. 16, Ch. 609, L. 1991.

77-1-809. Compensation for damage to improvements, growing crops, or livestock. A lessee may apply to the department for reimbursement of documented costs of repair to or replacement of improvements, growing crops, or livestock damaged by recreational users of state lands. The application must include an affidavit by the applicant setting forth the nature of the loss, allegations and reasonable proof supporting the involvement of recreational users, and documentation of repair or replacement costs. Upon review of the application and supporting proof and upon additional investigation as required, the department shall either grant, modify, or deny the claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments under this section must be made from the state lands recreational use account established by 77-1-808, and the liability of the department for damage payments is limited

Amendments to Senate Bill No. 336
Introduced Reading Copy

Requested by Rep. Wagner
For the Committee on Taxation.

Prepared by Doug Sternberg
March 1, 1995

1. Title, line 7.

Following: "COUNCIL"

Insert: "AND THE RECREATIONAL USE LICENSE AND FEE"

Following: "77-1-209,"

Strike: "77-1-802"

Following: "SECTIONS"

Insert: "77-1-106,"

2. Title, line 8.

Following: "77-6-507,"

Strike: "AND"

Following: "77-6-508,"

Insert: "87-1-504, AND 87-1-601,"

3. Title, line 9.

Following: "77-1-106"

Strike: "AND"

Insert: ", "

Following: "77-1-120"

Insert: "77-1-801, AND 77-1-802, MCA;"

4. Page 2, line 13 through page 3, line 3.

Strike: section 3 in its entirety

Insert: "Section 3. Section 77-1-808, MCA, is amended to read:

"77-1-808. State lands recreational use account. (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) ~~all revenue received from the recreational use license established by 77-1-802;~~

~~(b) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and~~

~~(c)~~ (b) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the state lands recreational use account is statutorily appropriated, as provided in 17-7-502, and must be used by the department for the following purposes:

(a) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b) assistance in weed control management necessary as a result of recreational use of state lands;

(c) protection of the resource value of the trust assets;

and

(d) administration and management for the implementation of recreational use of state lands."

5. Page 7, line 5.

Insert: "Section 12. Section 77-1-106, MCA, is amended to read:

"77-1-106. **Setting of rates or fees -- rules.** (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 production capabilities, 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.

(3) The board shall comply with Title 2, chapter 4, part 3, in setting rental rates and license fees pursuant to 77-1-208, ~~77-1-802~~, 77-6-202, 77-6-501, 77-6-502, and 77-6-507."

Section 13. Section 87-1-504, MCA, is amended to read:

"87-1-504. **Protection of private property -- duty of wardens.** It is the duty of wardens (state conservation officers) to enforce the provisions of 45-6-101, 45-6-203, 75-10-212(2), ~~77-1-801~~, 77-1-806, and rules adopted under 77-1-804 on private and state lands being used for hunting and fishing and to act as ex officio firewardens as provided by 77-5-104."

Section 14. Section 87-1-601, MCA, is amended to read:

"87-1-601. **Use of fish and game money.** (1) (a) Except as provided in subsection (7), all money collected or received from the sale of hunting and fishing licenses or permits, from the sale of seized game or hides, or from damages collected for violations of the fish and game laws of this state, from appropriations, or received by the department from any other state source must be turned over to the state treasurer and placed by him in the state special revenue fund to the credit of the department.

(b) Any money received from federal sources must be deposited in the federal special revenue fund to the credit of the department.

(c) All interest earned on money from the following sources must be placed in the state special revenue fund to the credit of the department:

- (i) the general license account;
- (ii) the license drawing account;
- (iii) accounts established to administer the provisions of

87-1-246, 87-1-258, 87-1-605, 87-2-412, 87-2-722, and 87-2-724;
and

(iv) money received from the sale of any other hunting and fishing license.

(2) That money must be exclusively set apart and made available for the payment of all salaries, per diem, fees, expenses, and expenditures authorized to be made by the department under the terms of this title. That money must be spent for those purposes by the department, subject to appropriation by the legislature.

(3) Any reference to the fish and game fund in this code means fish and game money in the state special revenue fund and the federal special revenue fund.

(4) Except as provided in subsection (7), all money collected or received from fines and forfeited bonds, except money collected or received by a justice's court, relating to violations of state fish and game laws under Title 87 must be deposited by the state treasurer and credited to the department in a state special revenue fund account for this purpose. Out of any fine imposed by a court for the violation of the fish and game laws, the costs of prosecution must be paid to the county where the trial was held in any case in which the fine is not imposed in addition to the costs of prosecution.

(5) Money received by the department from the sale of surplus real property; exploration or development of oil, gas, or mineral deposits from lands acquired by the department except royalties or other compensation based on production; and from leases of interests in department real property not contemplated at the time of acquisition must be deposited in an account within the nonexpendable trust fund of the state treasury. The interest derived from the fund, but not the principal, may be used only for the purpose of operation, development, and maintenance of real property of the department, and only upon appropriation by the legislature. If the use of money as set forth in this section would result in violation of applicable federal laws or state statutes specifically naming the department or money received by the department, then the use of this money must be limited in the manner, method, and amount to those uses that do not result in a violation.

(6) Money received from the collection of license drawing applications is not subject to the deposit requirements of 17-6-105. The department shall deposit license drawing application money within a reasonable time after receipt.

(7) Money collected or received from fines or forfeited bonds for the violation of ~~77-1-801~~, 77-1-806, or rules adopted under 77-1-804 must be deposited as follows:

(a) 50% in an account for use by the department for the enforcement of ~~77-1-801~~, 77-1-806, and rules adopted under 77-1-804; and

(b) 50% in the state lands recreational use account established by 77-1-808 for use by the department of state lands in the management of state lands."

Strike: "and"

Insert: ", "

Following: "77-1-120"

Insert: ", 77-1-801, and 77-1-802"

DATE March 1, 1995

SENATE COMMITTEE ON Taxation

BILLS BEING HEARD TODAY: SB 336 Senator Beck
SB 358 Senator Holligan

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Carl Schweitzer	Mont Cont Assn	83358	✓	
Russ Ritter	Envirocon	358	✓	
LARRY STANECNS	ENVIROCON	358	✓	
Steve Roth	Mont. Stockgrowers Ass	336	✓	
John SWANZ	Mont Stockgrowers Ass	336	✓	
John [unclear]	MSGA	336	✓	
Dennis Burr	MONTAX	358	✓	
CANDACE TORGERSO	Mont. Cattlemen's Ass	336	✓	
Rep- Doug Wagner	HD 83	336	✓ w/Amend	
Tony Schaefer	State Land Co. [unclear]	336		
	Stylian [unclear]	336		
MONTE FAYRS	FAYRS RANCH	336	✓	X
LYNN CORNWELL	CORNWELL RANCH	336	✓	
	MSGA			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY