

SENATE BILL NO. 412

INTRODUCED BY AKLESTAD, FELAND, D. BROWN, LYNCH, QUILICI,  
PAVLOVICH, DAILY, JACOBSON, HAYNE, ROSE

IN THE SENATE

FEBRUARY 16, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 9, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 10, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
MARCH 11, 1993	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 48; NOES, 0.
	TRANSMITTED TO HOUSE.

IN THE HOUSE

MARCH 12, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
	FIRST READING.
MARCH 19, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN AS AMENDED.
APRIL 1, 1993	THIRD READING, CONCURRED IN. AYES, 83; NOES, 16.
	RETURNED TO SENATE WITH AMENDMENTS.

IN THE SENATE

APRIL 6, 1993	SECOND READING, AMENDMENTS CONCURRED IN.
APRIL 7, 1993	THIRD READING, AMENDMENTS

CONCURRED IN.

SENT TO ENROLLING.

REPORTED CORRECTLY ENROLLED.

1 Senate BILL NO. 412 Lynch  
 2 INTRODUCED BY AKLESTAD Island Dave Brown Turler  
 3 Caldwell Paul Jackson Wayne Rose  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THAT THE  
 5 BENEFICIAL USE OF PROPERTY HELD BY A PORT AUTHORITY IS  
 6 EXEMPT FROM PROPERTY TAXATION; AMENDING SECTION 15-24-1203,  
 7 MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
 8 RETROACTIVE APPLICABILITY DATE."

9  
 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 Section 1. Section 15-24-1203, MCA, is amended to read:  
 12 "15-24-1203. Privilege tax on gainful use of tax-exempt  
 13 property -- exceptions. After March 17, 1969, there is  
 14 imposed and shall must be collected a tax upon the  
 15 possession or other beneficial use enjoyed by any private  
 16 individual, association, or corporation of any property,  
 17 real or personal, which for any reason is exempt from  
 18 taxation. No A tax may not be imposed upon the possession or  
 19 other beneficial use of buildings owned by public entities  
 20 and located upon public airports. However, privately owned  
 21 buildings located on such airport property are subject to  
 22 tax. No A tax shall may not be imposed upon the possession  
 23 or other beneficial use of public lands occupied under the  
 24 terms of mineral, timber, or grazing leases or permits  
 25 issued by the United States or the state of Montana or upon

1 any easement unless the lease, permit, or easement entitles  
 2 the lessee or permittee to exclusive possession of the  
 3 premises to which the lease, permit, or easement relates.  
 4 The tax ~~shall be~~ is imposed upon the possession or other  
 5 beneficial use of an electric transmission line and  
 6 associated facilities, except that lines and facilities of a  
 7 design capacity of less than 500 kilovolts shall may not be  
 8 subject to the tax. The tax may not be imposed upon the  
 9 possession or other beneficial use of railroad right-of-way  
 10 or track owned by the United States or acquired by the state  
 11 pursuant to Title 60, chapter 11, part 1, as long as the  
 12 state or the United States retains ownership and the  
 13 right-of-way or track is used exclusively for rail  
 14 transportation. The tax may not be imposed on the beneficial  
 15 use by a person of property held by a port authority,  
 16 created under Title 7, chapter 14, part 11, unless the port  
 17 authority provides for the exclusive use of the property by  
 18 the person."

19 NEW SECTION. Section 2. Effective date -- retroactive  
 20 applicability. [This act] is effective on passage and  
 21 approval and applies retroactively, within the meaning of  
 22 1-2-109, to tax years beginning after December 31, 1991.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0412, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act clarifying that the beneficial use of property held by a port authority is exempt from property taxation; and providing an effective date and a retroactive applicability date.

FISCAL IMPACT:

Revenues:

Currently, the beneficial use tax collections on property held by a port authority are approximately \$8,000 in Toole County and \$31,000 in Silver Bow County. The proposal would result in a decrease in property tax revenue of \$39,000, primarily for local governments in Toole and Silver Bow County.

TECHNICAL NOTE:

The proposal presents a serious problem for the taxation of the BPA powerlines (\$4.1 million per year) because it exempts port authorities created by local government, but does not provide a corresponding exemption for port authorities created by the federal government. The problem can be avoided by amending the proposal to exempt the beneficial use of property owned by federal port authorities.

 2-19-93

DAVID LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/23/93  
GARY AKLESTAD, PRIMARY SPONSOR      DATE

Fiscal Note for SB0412, as introduced

SB 412

APPROVED BY COMMITTEE  
ON TAXATION

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MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A  
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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 15-24-1203, MCA, is amended to read:

"15-24-1203. Privilege tax on gainful use of tax-exempt  
property -- exceptions. After March 17, 1969, there is  
imposed and ~~shall~~ must be collected a tax upon the  
possession or other beneficial use enjoyed by any private  
individual, association, or corporation of any property,  
real or personal, which for any reason is exempt from  
taxation. No A tax may not be imposed upon the possession or  
other beneficial use of buildings owned by public entities  
and located upon public airports. However, privately owned  
buildings located on such airport property are subject to  
tax. No A tax ~~shall~~ may not be imposed upon the possession  
or other beneficial use of public lands occupied under the  
terms of mineral, timber, or grazing leases or permits

issued by the United States or the state of Montana or upon  
any easement unless the lease, permit, or easement entitles  
the lessee or permittee to exclusive possession of the  
premises to which the lease, permit, or easement relates.  
The tax ~~shall~~ is imposed upon the possession or other  
beneficial use of an electric transmission line and  
associated facilities, except that lines and facilities of a  
design capacity of less than 500 kilovolts ~~shall~~ may not be  
subject to the tax. The tax may not be imposed upon the  
possession or other beneficial use of railroad right-of-way  
or track owned by the United States or acquired by the state  
pursuant to Title 60, chapter 11, part 1, as long as the  
state or the United States retains ownership and the  
right-of-way or track is used exclusively for rail  
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use by a person of property held by a port authority,  
created under Title 7, chapter 14, part 11, OR BY A PORT  
AUTHORITY OWNED BY THE UNITED STATES OR AN AGENCY OF THE  
UNITED STATES, unless the port authority provides for the  
exclusive use of the property by the person."

NEW SECTION. **Section 2.** Effective date -- retroactive  
applicability. [This act] is effective on passage and  
approval and applies retroactively, within the meaning of  
1-2-109, to tax years beginning after December 31, 1991.

-End-

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applicability. (This act) is effective on passage and  
approval and applies retroactively, within the meaning of  
1-2-109, to tax years beginning after December 31, 1991.

-End-

-2-

SB 412

THIRD READING



#1

HOUSE COMMITTEE OF THE WHOLE AMENDMENT  
Senate Bill 412  
Representative Gilbert

March 25, 1993 1:11 pm  
Page 1 of 1

Mr. Chairman: I move to amend Senate Bill 412 (third reading copy -- blue).

Signed: Bob Gilbert  
Representative Gilbert

And, that such amendments to Senate Bill 412 read as follows:

1. Page 2.

Following: line 20

Insert: "NEW SECTION. Section 2. Coordination instruction. If House Bill No. 312, Senate Bill No. 325, and [this act] are passed and approved, then 15-24-1204 is amended to read:  
"15-24-1204. Rate of privilege -- tax credit for federal payments in lieu of taxes. The tax imposed upon such the possession or other beneficial use of tax-exempt property for industrial, trade, or other business purposes shall be in the same amount and to the same extent as the ad valorem property tax would be if the possessor or user were the owner thereof, provided that there shall be is on the separate private interest in the tax-exempt property. The amount of payments that are made in lieu of taxes must be credited against the amount of tax so that is imposed upon the beneficial use of property owned by the federal government the amount of payments which are made in lieu of taxes."

Renumber: subsequent section

-END-

ADOPT

REJECT

HOUSE  
SB 412

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exclusive use of the property by the person."

NEW SECTION. SECTION 2. COORDINATION INSTRUCTION. IF  
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PASSED AND APPROVED, THEN 15-24-1204 IS AMENDED TO READ:

"15-24-1204. Rate of privilege -- tax credit for  
federal payments in lieu of taxes. The tax imposed upon such



1 the possession or other beneficial use of tax-exempt  
2 property for industrial, trade, or other business purposes  
3 ~~shall-be-in-the-same-amount-and-to-the-same-extent-as-the-ad~~  
4 ~~valorem--property-tax-would-be-if-the-possessor-or-user-were~~  
5 ~~the-owner-thereof,--provided-that-there-shall-be~~ is on the  
6 separate private interest in the tax-exempt property. The  
7 amount of payments that are made in lieu of taxes must be  
8 credited against the amount of tax so that is imposed upon  
9 the beneficial use of property owned by the federal  
10 government ~~the-amount-of-payments-which-are-made-in-lieu-of~~  
11 ~~taxes."~~

12 NEW SECTION. Section 3. Effective date -- retroactive  
13 applicability. [This act] is effective on passage and  
14 approval and applies retroactively, within the meaning of  
15 1-2-109, to tax years beginning after December 31, 1991.

-End-