

SENATE BILL 35

Introduced by Bruski-Maus, et al.

12/03	Introduced
12/03	Referred to Taxation
12/03	First Reading
12.03	Fiscal Note Requested
12/09	Fiscal Note Received
12/10	Hearing
12/10	Tabled in Committee

**SENATE** BILL NO. **35**

INTRODUCED BY Sen. Mike Mansueti

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING THE MONTANA SEVERED MINERAL INTEREST AND TAX ACT; PROVIDING FOR A TAX ON SEVERED MINERAL INTERESTS; PROVIDING FOR COLLECTION AND DISTRIBUTION OF THE TAX ON SEVERED MINERAL INTERESTS; PROVIDING RULEMAKING AUTHORITY; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE, AN APPLICABILITY DATE, AND A CONTINGENT RETROACTIVE APPLICABILITY DATE."

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 6] requires the department of revenue to adopt rules to implement and enforce the provisions of [sections 1 through 6]. The legislature anticipates that the rules should accommodate necessary procedures for assessing and collecting the tax imposed in [section 4], for the distribution of revenue collected, and for such other administrative and enforcement procedures as the department considers necessary.

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

NEW SECTION. **Section 1.** Short title. [Sections 1 through 6] may be cited as the "Montana Severed Mineral

Interest and Tax Act".

NEW SECTION. **Section 2.** Statement of purpose and policy. (1) It is the policy of this state to enable and encourage marketability of real property and to mitigate the impact of severed mineral interests on the full use and development of both surface estate and mineral interests in the property.

(2) [Sections 1 through 6] must be construed to effectuate the purpose of providing a means for rejoining severed mineral interests with the property interests of the surface owner.

(3) In achieving the purposes stated in subsections (1) and (2), it is also a policy of this state that the state and its subdivisions should:

(a) recoup all costs associated with administering laws attendant to severed mineral interests, including but not limited to filing and maintaining public records and assisting the public in locating and interpreting relevant records; and

(b) if necessary, conduct tax sales for the purpose of collecting delinquent taxes on severed mineral interests.

NEW SECTION. **Section 3.** Definitions. As used in [sections 1 through 6], unless the context requires otherwise, the following definitions apply:

(1) "Department" means the department of revenue

provided for in 2-15-1301.

(2) "Mineral" includes oil; gas; coal; other liquid, gaseous, and solid hydrocarbons; oil shale; cement material; sand and gravel; road material; building stone; chemical substances; gemstones; metallic ores; fissionable and nonfissionable ores; colloidal or other clays; steam or other geothermal resources; and any other substance defined as a mineral by the laws of this state.

(3) "Mineral interest" means an interest in a mineral estate, however created and regardless of form, whether absolute or fractional, divided or undivided, or corporeal or incorporeal, including a fee simple or any lesser interest or any kind of royalty, production payment, executive right, nonexecutive right, leasehold, or lien in minerals, regardless of character, whether fugacious or nonfugacious, organic or inorganic.

**NEW SECTION. Section 4. Tax on severed mineral interests -- distribution of revenue.**

(1) There is a tax on each mineral interest that is severed from the surface interest.

(2) The annual rate of tax on a severed mineral interest is 20 cents per acre or portion of an acre.

(3) All revenue collected from the tax imposed by this section must be distributed in the same manner as revenue collected from taxes on real property is distributed.

(4) For the purposes of [sections 1 through 6], a severed mineral interest is property, as defined in 15-1-101.

**NEW SECTION. Section 5. Exclusions.** (1) [Sections 1 through 6] do not apply to:

(a) a mineral interest of the United States or an Indian tribe, except to the extent permitted by federal law; or

(b) a mineral interest of this state or an agency or political subdivision of the state, except to the extent permitted by state law other than [sections 1 through 6].

(2) [Sections 1 through 6] do not affect water rights.

(3) [Sections 1 through 6] do not affect the meaning of the terms "mineral" or "mineral interest" for purposes other than [sections 1 through 6].

**NEW SECTION. Section 6. Administration and enforcement -- department rules.** (1) The collection of taxes, including a tax sale if necessary, on a severed mineral interest must be conducted pursuant to chapters 16 through 18.

(2) The department shall adopt rules necessary to administer and enforce [sections 1 through 6].

**NEW SECTION. Section 7. Codification instruction.** [Sections 1 through 6] are intended to be codified as an integral part of Title 15, chapter 24, and the provisions of Title 15 apply to [sections 1 through 6].

1        NEW SECTION.   **Section 8.**   Effective        date        --  
2   **applicability.** (1) [This act] is effective on passage and  
3   approval.  
4        (2) [This act] applies on and after January 1, 1994.  
5        NEW SECTION.   **Section 9.**   Contingent        retroactive  
6   **applicability.** [This act] applies retroactively, within the  
7   meaning of 1-2-109, to January 1, 1994, if it is approved on  
8   or after January 1, 1994.

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