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Senate BILL NO. 358

INTRODUCED BY *[Signature]*

A BILL FOR AN ACT ENTITLED: "AN ACT RELATING TO THE TAXATION OF SEVERED MINERAL INTERESTS; PROVIDING THAT SEVERED MINERAL INTERESTS ARE SUBJECT TO 10 PERCENT OF THE TAX OF THE SURFACE PARCEL UNDER WHICH THEY ARE LOCATED; PROVIDING THAT A SEVERED MINERAL INTEREST IS NOT TAXED UNLESS THE SURFACE OWNER NOTIFIES THE DEPARTMENT OF REVENUE OF THE SEVERED MINERAL INTEREST; PROVIDING THAT ONLY THE OWNER OF THE SURFACE ESTATE MAY BE THE PURCHASER OF THE MINERAL INTEREST IF THE MINERAL INTEREST OWNER DEFAULTS ON PROPERTY TAXES; AND PROVIDING AN APPLICABILITY DATE."

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

NEW SECTION. **Section 1. Taxation of severed mineral interests.** (1) The owner of mineral interests severed from the surface ownership of class 3, 4, and 10 real property is subject to property taxes in an amount equal to 10% of property taxes on the surface parcel of real property under which the severed mineral interest is located.

(a) If more than one person owns mineral interests on a parcel of real property, the amount of property taxes is to be divided among the owners based upon the proportion of their ownership.

(b) If mineral interest ownership has been split by type of mineral resulting in different interests in different minerals, each mineral interest is equally subject to the property taxes imposed by this section and the owners of each mineral interest are subject to the property taxation for the amount allocated to their mineral interest as provided in subsection (1)(a).

(2) The owners of severed mineral interests are not subject to taxation under this section unless the surface owner of the parcel under which the mineral interest is located notifies the department of revenue of the severed mineral interest. The notice must be on a form provided by the department and must include the mineral interest owner's name and address, the location of the surface parcel subject to the mineral interest, and a description of the mineral interest. The surface owner shall sign the form and swear that the facts that it contains are true.

(3) Delinquent property taxes on a mineral interest subject the mineral interest to a tax sale under

1 chapter 17, parts 1 through 3, and chapter 18, except that "purchaser", as defined in 15-17-121, means  
2 the owner of the surface interest in which the mineral interest is located. If an owner of the surface  
3 interest does not purchase the tax deed, the county in which the mineral interest is located is considered  
4 the purchaser.

5 (4) For the purposes of this section, "severed mineral interest" means a mineral interest the  
6 ownership of which is different from the ownership of the surface estate.

7

8 **NEW SECTION. Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
9 integral part of Title 15, chapter 6, part 1, and the provisions of Title 15, chapter 6, part 1, apply to  
10 [section 1].

11

12 **NEW SECTION. Section 3. Applicability.** [Section 1] applies to tax years beginning after December  
13 31, 1997.

14

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0358, as introduced

DESCRIPTION OF PROPOSED LEGISLATION: An act relating to the taxation of severed mineral interests; providing that severed mineral interests are subject to 10 percent of the tax of the surface parcel under which they are located; providing that a severed mineral interest is not taxed unless the surface owner notifies the Department of Revenue of the severed mineral interest; providing that only the owner of the surface estate may be the purchaser of the mineral interest if the mineral interest owner defaults on property taxes; and providing an applicability date.

ASSUMPTIONS:

1. The proposed tax on severed mineral interest applies only to mineral interest severed after December 31, 1997 (MDOR).

FISCAL IMPACT:

Expenditures:

There would be significant impact to Department of Revenue expenditures under the proposed legislation. However, given the lack of available data on severed mineral interests, the magnitude of the impact to administrative expenditures cannot be determined at this time.

Revenues:


The department has no information pertaining to the amount of property taxes currently being paid on surface property for which there exists a "severed mineral interest". Consequently, the data necessary to estimate the impact to property tax collections is not available.


TECHNICAL NOTES:

The proposed legislation does not allow the department to assess the property tax on severed mineral interest unless reported by the surface property owner. This could cause unequal taxation among similar taxpayers which could have constitutional implications.

The proposed legislation would cause additional constitutional concerns because it would tax similar severed mineral interests differently based upon the type and value of the surface property.

The proposed legislation is not clear if the tax applies on mineral interests severed prior to the effective date of the legislation.

 2-19-97  
DAVE LEWIS, BUDGET DIRECTOR      DATE  
Office of Budget and Program Planning

 2/20/97  
DARYL TOEWS, PRIMARY SPONSOR      DATE  
Fiscal Note for SB0358, as introduced

**SB 358**