

**MINUTES**

**MONTANA SENATE  
53rd LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON TAXATION**

**Call to Order:** By Chairman Mike Halligan, on February 3, 1993,  
at 8:02 a.m.

**ROLL CALL**

**Members Present:**

Sen. Mike Halligan, Chair (D)  
Sen. Dorothy Eck, Vice Chair (D)  
Sen. Bob Brown (R)  
Sen. Steve Doherty (D)  
Sen. Delwyn Gage (R)  
Sen. Lorents Grosfield (R)  
Sen. John Harp (R)  
Sen. Spook Stang (D)  
Sen. Tom Towe (D)  
Sen. Fred Van Valkenburg (D)  
Sen. Bill Yellowtail (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Jeff Martin, Legislative Council  
Bonnie Stark, Committee Secretary

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

**Committee Business Summary:**

Hearing: SB 228, SB 240  
Executive Action: SB 168

**HEARING ON SB 240**

**Opening Statement by Sponsor:**

Senator Dorothy Eck, representing Senate District 40, presented Senate Bill 240, which is an act to create a new type of restaurant beer and wine license with no gambling allowed, and which will not be allowed to increase in value beyond an index amount each year. Senator Eck said this committee has many times discussed the prohibitive cost of an all-beverage license. Many people have talked to Senator Eck about a market need, especially in larger communities, for a restaurant where one can get a good meal and have a glass of wine or beer, and where there is no

gambling. Others who have an all-beverage license have told her the only way they can pay for their all-beverage license is to support their restaurant with gambling machines. Senate Bill 240 establishes a new class of beer and wine license which can only be sold in conjunction with the sale of the restaurant, and the amount of purchase price would be indexed for inflation on annual renewal. This bill provides for a separate quota system, license, and permit fees, issued by the Department of Revenue.

**Proponents' Testimony:**

Paul Cartwright testified as a consumer in favor of Senate Bill 240. Mr. Cartwright presented Exhibits 1 and 2 to these minutes, and enumerated likely pro and con arguments to passage of this bill, including the need for fine dining establishments, harm to public health, safety, and morals, and fear of diminished economic activity.

Leon Stalcup, representing the Montana Restaurant Association (MRA), appeared in support of Senate Bill 240, saying an opportunity is being provided for beer and wine consumption in a dining experience that is now excluded by a monopolistic system. The Montana Restaurant Association asked that Section 2 be stricken in its entirety from Senate Bill 240. Mr. Stalcup said the MRA is philosophically opposed to a quota system.

Keith Clevenger, part-owner of the Staggering Ox in Helena, said an all-beverage license in Helena, if available, could cost approximately \$35,000 to \$60,000. Mr. Clevenger believes their restaurant business would improve 50% to 75% with the sale of beer and wine. He presented projections on additional employment in his business, as well as other businesses in the Helena area, and suggested the economy would improve, creating additional revenues for the state.

Jim Martinez, of Frisco's in Helena, stated his support of Senate Bill 240.

Bob Kiesling, of the Windbag Saloon in Helena, said he is an all-beverage license holder in support of Senate Bill 240. Mr. Kiesling feels the existing quota system is inappropriate, unwise and unfair, and believes this bill will open the door for new businesses, more competition, and will meet a demand by the dining public.

Lynne Albright, owner of the Upcountry Inn and Red Fox Restaurant in Helena, spoke in favor of Senate Bill 240, saying it would help the tourism industry.

**Opponents' Testimony:**

Mark Staples, representing the Montana Tavern Association, spoke in opposition to Senate Bill 240 for several reasons, including the fact that some people are wanting to get into the

restaurant as "market busters". Mr. Staples said opening a new license quota will diminish the value of the existing all-beverage licenses, as happened when 53 new quota licenses were released into the system recently. He asked the committee not to throw present license holders' investments away by approving Senate Bill 240. Mr. Staples presented Exhibits 3, 4, 5, and 6 to these minutes.

Joe Bower, Vice President of First Bank Helena, presented a written testimony, attached to these minutes as Exhibit No. 7. Mr. Bower said banks play a significant part in the bar and restaurant business in Montana because licenses are often used as security against loaned funds. Mr. Bower urged a vote against Senate Bill 240 for economic reasons stated in his testimony.

Tom McCarvel, founder/owner of Bert & Ernie's Restaurants in Helena, Billings, and Great Falls, competes in the food service industry in Montana which he feels is already saturated with restaurants and taverns. Mr. McCarvel said Montana does not need additional legislation to create additional licenses to create additional competition, and requested Senate Bill 240 not pass.

Jim Grubbs, Main Street Casino in Billings, spoke against Senate Bill 240. Mr. Grubbs was involved in three pizza businesses in Wyoming when the Wyoming Legislature passed similar legislation. Overnight, the value of his businesses dropped by half, the banks re-called his loans because the business liquor license equity was no longer there, he had to close two businesses and the third is still struggling to survive. Mr. Grubbs does not decry competition, but feels there would be no similar investment in the new quota licenses under Senate Bill 240, and it would be impossible to compete fairly.

Tom Harrison, representing the Montana Sheriffs and Peace Officers Association, spoke against Senate Bill 240, saying the passage of this bill would be a law enforcement nightmare.

Darrell Keck, owner of the Dixie Inn in Shelby, spoke against Senate Bill 240. He said most small businesses would not benefit from passage of this bill, that current and incoming major food chains would be the benefactors, and that present license holders would find their assets greatly devalued.

Rose Lee Bullock, co-owner of the Silver Saddle Club in Basin, Montana, and President of the Lewis & Clark, Jefferson and Broadwater Tri-County Tavern Association, spoke against Senate Bill 240. Ms. Bullock presented Exhibits 8 and 9 to these minutes, and requested the Committee reject this legislation.

Clark Pyfer, CPA and Chairman and Secretary/Treasurer of the Stonehouse Corporation and Restaurant, presented written testimony, Exhibit 10 to these minutes, and asked the committee to vote against Senate Bill 240.

Roger Tippy, lobbyist for the Independent Bankers Association, spoke against Senate Bill 240 for the reasons stated by Mr. Bower in his testimony. Lending institutions feel loans against all-beverage license collateral would be greatly endangered by this new quota system.

Soren Detienne, representing the Park Plaza Hotel in Helena, and JDD, Inc., of Great Falls, urged defeat of Senate Bill 240. Mr. Detienne researched the state this past 24 months and found there are licenses available in every major city, and the quotas are unmet in many smaller areas. His businesses paid in excess of \$125,000 for their licenses, and he sees this bill as having an adverse affect on both his businesses.

Dick Steinhoff owns and operates Howard's Pizza in Shelby. He and his family have worked 13 years to build their business. He said flooding the market with new quota licenses will take away the wealth he has built, and his license wouldn't be worth the paper it is written on. He asked that Senate Bill 240 not pass.

Others appearing as opponents to Senate Bill 240 included Jerry LaSeur, Emerald Entertainment in Billings; Kevin Olson, Smith's Place in East Helena; Mike Cetraro, Village Inn Pizzas in Bozeman, Helena, and Missoula; and Orville Johnson, Yacht Basin, Helena.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

Senator Gage asked Mark Staples if the decrease in values as a result of the recently-released 53 licenses will correct itself when the market has absorbed those 53 businesses. Mr. Staples said this remains to be seen.

Senator Gage questioned Gary Blewett, Administrator for the Liquor Division, about the lack of a quota system in Butte and Anaconda. Mr. Blewett said the Anaconda/Deer Lodge and Butte/Silver Bow areas are not construed as being municipalities; they are established under the Constitution as county-wide operations. Senator Gage questioned the quota limits established in Senate Bill 240, and Mr. Blewett said the quota limits are identical to the quota limits existing for the current beer and wine on-premises licenses.

Senator Towe questioned Soren Detienne about the worth of present licenses in Billings, Great Falls, Missoula, and Helena. Mr. Detienne estimated \$150,000, with beer and wine approximately \$50,000 to \$70,000 up to \$110,000. Mark Staples disagreed with those figures, and said liquor licenses were recently sold in Missoula for \$95,000, and in Helena for \$80,000.

Senator Towe said that during legislative terms in 1975, 1977, 1979, the Legislature worked very hard to try to find a way to stop the increase, or at least restrict the growth, of the value of the all-beverage licenses, and the Montana Tavern Association was present to oppose every effort. Senator Towe questioned Mr. Staples on whether the Montana Tavern Association is genuine in wanting to do what is best for the state, or if they are interested only in protecting the financial interests of their clients regardless of what happens to the rest of the people in the state. Mr. Staples disagreed with Senator Towe and said many thousands of people in the state are presently employed in liquor businesses, so it is not an exclusive industry.

Senator Towe asked Mr. Staples if the Montana Tavern Association would oppose allowing persons, other than all-beverage licensees, to have gambling machines. Mr. Staples said it would be difficult for the Montana Tavern Association to say they wanted it all, but with that comes a responsibility to monitor, pay taxes, and be fiercely regulated. Mr. Staples thinks a lot of people would not want to be in that situation.

Senator Doherty questioned Mark Staples about any constitutional problems with the current quota system which might impede interstate commerce. Mr. Staples said he has done a study and does not believe there is any constitutional problems.

Senator Doherty asked Mr. Kiesling if he is concerned about proliferation of fast food restaurants who pay minimum wages and don't hire full-time employees or pay benefits. Mr. Kiesling doesn't anticipate more of those types of businesses, but does anticipate new ethnic diversity choices in restaurants and more neighborhood restaurants and taverns.

**Closing by Sponsor:**

Senator Eck believes the situation has changed slightly since this issue was presented in the past. In response to statements by Mark Staples, Senator Eck said the quota in Senate Bill 240 is not similar to the licensing of professionals such as attorneys, physical therapists or others, where they have to meet qualifications in order to be licensed. She sees the quota system as a restraint to the trade, and can see some real advantages in allowing beer and wine consumption in small restaurants, as opposed to having a license that costs so much the business has to push alcohol consumption in order to pay for their license.

**HEARING ON SB 228**

**Opening Statement by Sponsor:**

Senator Barry "Spook" Stang, representing Senate District 26, presented Senate Bill 228 which expands the categories of

petroleum products for which a petroleum storage tank cleanup fee is assessed, and defines the terms of aviation gasoline, distributor, export, exporter, heating oil, import, and special fuel. Senator Stang said Senate Bill 228 will put a 3/4 cent tax on special fuel, which is diesel fuel. The reason for this tax is the underground storage tank fund needs that money to maintain a balance in their fund. Since the underground storage tank fund was established in 1989, 23% of the cleanup costs have come from fuels which have not been taxed to pay for the fund. Exhibit No. 12 to these minutes is a report from the Petroleum Tank Release Compensation Board which includes lists of every underground storage tank cleanup paid in the state.

### Proponents' Testimony:

Jean Riley, Executive Director of the Montana Petroleum Tank Release Compensation Board (Board), spoke in favor of Senate Bill 228, and presented her written testimony, attached to these minutes as Exhibit No. 14. Ms. Riley said the Board administers the Petroleum Tank Release Cleanup Fund (Fund). This fund is used to reimburse owners and operators of petroleum storage tanks for costs associated with corrective action and third party damages for bodily injury or property damage. Ms. Riley presented Exhibit No. 13, which is a corrected Fiscal Note.

Ronna Alexander represented the Montana Petroleum Marketers Association (MPMA), who are the wholesale and retail distributors of petroleum products in Montana. In addition to their bulk operations, most owners also own one or two retail locations, and combined, that makes them responsible for a large majority of the underground storage tanks in the state. She said it is crucial that the Fund remain viable because of EPA requirements for \$1 million coverage for anyone who owns a commercial underground storage tank. That coverage is not available through ordinary insurance sources. The MPMA feels this 3/4 cent tax is probably the fairest approach to keeping the Fund solvent. The MPMA does support Senate Bill 228.

John Geach, Section Supervisor of the Underground Tank Storage Program in the Department of Health and Environmental Sciences, said the DOHES supports Senate Bill 228. Mr. Geach said leaking underground petroleum storage tanks pose a major threat to human health. Since 1985, 1360 leaking underground storage tanks have been reported to the Department's underground storage tank program, and 707, or 52 percent, of these leaks involved petroleum fuels other than gasoline. The Fund is necessary to assure a financial mechanism to the owners of underground storage tanks. If the Fund becomes insolvent, many tank owners would not be able to maintain the minimum level of financial responsibility required by Federal EPA requirements and may be forced to close. Passage of Senate Bill 228 will help insure the solvency of the Fund.

Mark Daspit, representing the Montana Audubon Legislative Fund (MALF), spoke in support of Senate Bill 228.

Jim Jensen, Executive Director of the Montana Environmental Information Center (MEIC), said the MEIC supports Senate Bill 228 for all the reasons listed by the previous proponents.

**Opponents' Testimony:**

None.

**Informational Testimony:**

None.

**Questions From Committee Members and Responses:**

In answer to questions by Senator Halligan on a \$1 million spill, Ms. Riley said an owner would be responsible for 1/2 of the first \$35,000, and after that figure, can be reimbursed 100%, to a total reimbursement of \$982,500, or \$17,500 less than a million dollars. The actual amount non-reimbursable to a tank owner would be \$17,500.

Senator Gage asked if there are any jet fuel refiners in Montana at this time, and Ms. Riley replied yes. Senator Gage asked why we subject the refiners to the fees, but not the Federal Defense Fuel Supply Center. Ms. Riley said the Federal government is excluded from paying the fee, as are railroads, refineries, and oil and gas production facilities. These are statutorily exempt and cannot receive reimbursement.

Cindy Anders, Administrative Officer with the Department of Transportation which collects this Fund, answered questions from Senator Gage on the definition of a distributor. Ms. Anders said a distributor is anyone in the state who refines or produces gasoline, jet fuel, or diesel fuel, and he would pay the clean-up fee on the product he is selling to the retail outlet.

Senator Gage asked about the court ruling that states can now charge Federal facilities for environmental problems they cause. Mr. Geach said the DOHES Underground Storage Tank Program has heard that Malmstrom Air Force Base is paying some of their fees, but he is not familiar with the particulars.

Senator Van Valkenburg questioned Ben Havdahl, Executive Vice President of the Montana Motor Carriers Association (MMCA), about the MMCA's position on Senate Bill 228. Mr. Havdahl said the MMCA had considered this bill and determined they would be in a neutral position, mainly because of the extent of the problem and also because diesel fuel tanks are covered. After reviewing the detailed information regarding claims on spills, the MMCA concluded that the situation might call for a review of the tank standards.

Senator Gage questioned the audit time-limits, and if there are significant changes in a person's tax structure, are they stuck with paying the 3/4 cent on that audit when this law was not even effective? Ms. Anders said the statute of limitations for audits on gasoline, diesel and aviation fuel is three years.

Senator Towe questioned the applicability date of October 1, which applies to all tax revenues recorded on or after July 1, 1993, whether the tax obligation accrued or not. Senator Stang agreed that there should be a July 1, 1993, effective date, which will be discussed in executive session.

**Closing by Sponsor:**

Senator Stang closed by explaining that Senate Bill 228 is a condensed version of a previous bill to include just the fee. Regarding Mr. Havdahl's reference to tank standards, Senator Stang said by 1997, all underground tanks in the state are required to be replaced with new tanks which have more strict standards.

**EXECUTIVE ACTION ON SB 168**

**DISCUSSION:**

A copy of amendments presented by Senator Doherty, dated January 31, 1993, are attached to these minutes. Senator Doherty said these amendments would bring farmsteads that are now in Class 11 into Class 4 and tax them at 3.86%.

**MOTION/VOTE:**

Senator Doherty moved for APPROVAL of AMENDMENTS to SB 168, dated January 31, 1993. The motion CARRIED UNANIMOUSLY on oral vote.

**DISCUSSION:**

Amendments dated February 2, 1993, are attached to these minutes. Jeff Martin, Legislative Council Staff Member, said these amendments cover the changes to the original amendments adopted by this Committee, including Senator Yellowtail's amendment for a 25% phase-in over four years of the taxable value, Senator Towe's amendments dealing with issues involved in assessing valuations of agricultural lands, and part of the study to insure no reduction in state-wide taxable value of state land.

**MOTION/VOTE:**

Senator Brown moved for APPROVAL of AMENDMENTS dated February 2, 1993, which clarify the previous amendments approved on Senate Bill 168. The motion CARRIED UNANIMOUSLY on oral vote.



**DISCUSSION:**

A memorandum from David Woodgerd, Chief Counsel, Montana Department of Revenue, to Senator Towe, dated February 3, 1993, is attached to these minutes. This memo addresses the constitutional question regarding the phase-in of property tax values proposed in amendments to Senate Bill 168. The memo includes a Preamble which Mr. Woodgerd suggests be adopted for Senate Bill 168.

**MOTION/VOTE:**


Senator Towe moved APPROVAL of the Preamble for Senate Bill 168. The motion CARRIED on oral vote with Senator Van Valkenburg voting "no".

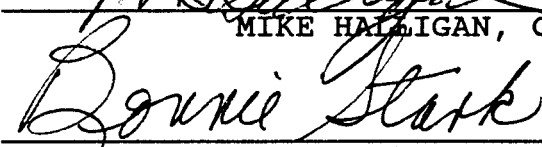
**MOTION/VOTE:**

Senator Brown moved SB 168 DO PASS AS AMENDED. The motion CARRIED UNANIMOUSLY on oral vote.

**ADJOURNMENT**

**Adjournment:** The meeting adjourned at 10:04 a.m.

  
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MIKE HALLIGAN, Chair

  
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BONNIE STARK, Secretary

MH/bjs

# ROLL CALL

SENATE COMMITTEE TAXATION

DATE 2-3-93

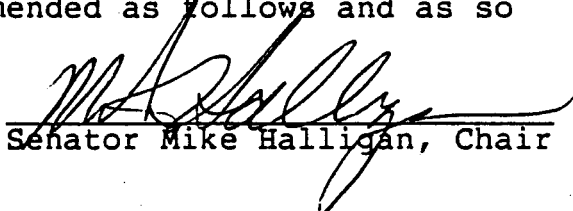
| NAME                 | PRESENT | ABSENT | EXCUSED |
|----------------------|---------|--------|---------|
| Sen. Halligan, Chair | ✓       |        |         |
| Sen. Eck, Vice Chair | ✓       |        |         |
| Sen. Brown           | ✓       |        |         |
| Sen. Doherty         | ✓       |        |         |
| Sen. Gage            | ✓       |        |         |
| Sen. Grosfield       | ✓       |        |         |
| Sen. Harp            | ✓       |        |         |
| Sen. Stang           | ✓       |        |         |
| Sen. Towe            | ✓       |        |         |
| Sen. Van Valkenburg  | ✓       |        |         |
| Sen. Yellowtail      | ✓       |        |         |
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SENATE STANDING COMMITTEE REPORT

Page 1 of 10  
February 3, 1993

MR. PRESIDENT:

We, your committee on Taxation having had under consideration Senate Bill No. 168 (first reading copy -- white), respectfully report that Senate Bill No. 168 be amended as follows and as so amended do pass.

Signed: 

Senator Mike Halligan, Chair

That such amendments read:

1. Title, line 5.

Following: "ACT"

Insert: "GENERALLY"

Following: "REVISING"

Insert: "THE TAXATION OF AGRICULTURAL LAND; REVISING"

2. Title, line 7.

Following: "PURPOSES;"

Insert: "PROVIDING FOR THE DETERMINATION OF NET INCOME FROM  
AGRICULTURAL LAND;"

3. Title, line 9.

Strike: "OVER TWO REAPPRAISAL CYCLES"

4. Title, line 10.

Strike: "PRODUCTIVE CAPACITY"

Insert: "TAXABLE"

5. Title, lines 12.

Following: "REVIEW"

Insert: "ALL RELEVANT COSTS, INCLUDING"

6. Title, line 13

Following: "COSTS"

Insert: ", "

7. Title, line 14.

Following: " ; "

Insert: "ELIMINATING CLASS ELEVEN FARMSTEAD PROPERTY BY COMBINING  
IT WITH CLASS FOUR PROPERTY;"

Following: "SECTIONS"

Insert: "7-13-2527,"

Following: "15-6-133,"

Insert: "15-6-134,"

Strike: "AND 15-8-111,"

Insert: "15-10-402, AND 15-10-412,"

8. Title, line 15.

Following: "MCA;"

Insert: "REPEALING SECTION 15-6-144, MCA;"

9. Page 1.

Following: line 17

Insert: " WHEREAS, the Montana Legislature adopted a plan in 1975 for cyclical reappraisal of nonagricultural land; and WHEREAS, nonagricultural land has been through three reappraisal cycles since 1972, with the values of the third cycle becoming effective January 1, 1993; and

WHEREAS, agricultural land has not been reappraised since 1963 and the Montana Legislature has determined that reappraisal of agricultural land is necessary for the overall improvement of Montana's property tax system; and

WHEREAS, the Montana Legislature has traditionally kept the total taxable value of an entire class of property relatively constant between reappraisal cycles by adjusting tax rates; and

WHEREAS, the Montana Legislature desires to keep the total taxable value of agricultural land constant despite reappraisal; and

WHEREAS, the new method of determining productive capacity of various subclasses of agricultural land results in significant increases or decreases in individual reappraised values; and

WHEREAS, the Montana Legislature finds that it is equitable and desirable for the tax system as a whole that the increases and decreases in taxable value of agricultural land be phased in over the appraisal cycle; and

WHEREAS, the Montana Legislature considers it appropriate to provide for the reappraisal of agricultural land and to provide for a phasein of the changes in taxable values over the reappraisal cycle."

10. Page 7, line 14.

Strike: "production"

Insert: "water"

11. Page 7, line 15.

Following: "period."

Insert: "(i)"

Strike: " , "

Insert: "and"

12. Page 7, line 16.

Strike: ", and production cost data"

13. Page 7.

Following: line 18

Insert: "(ii) Crop share arrangements are based on the rental value of the land and average landowner costs.

(iii) Allowable water costs consist only of the per-acre labor costs and energy costs of irrigation.

(A) Labor costs are zero for pivot sprinkler irrigation systems; \$4.50 an acre for tow lines, side roll, and lateral sprinkler irrigation systems; and \$9 an acre for hand-moved and flood irrigation systems.

(B) Energy costs must be based on per-acre energy costs incurred in 1992. By July 1, 1993, an owner of irrigated land shall provide the department, on a form prescribed by the department, with energy costs incurred in 1992. In the event that no energy costs were incurred in 1992, the owner of irrigated land shall provide the department with energy costs from the most recent year available. The department shall adjust the most recent year's energy costs to reflect costs in 1992."

14. Page 7, line 20.

Following: "alfalfa"

Insert: "hay, adjusted to 80% of sales price"

15. Page 8, line 1.

Following: the first "data"

Strike: ","

Insert: "and"

Following: "fees"

Strike: ", and production cost data"

16. Page 8, lines 4 and 5.

Strike: "and the" on line 4 through "costs" on line 5

17. Page 9, line 3.

Strike: "department"

Insert: "governor"

18. Page 9, line 12.

Following: "."

Insert: "With respect to irrigated land, the value of irrigated land may not be below the value that the land would have if it were not irrigated."

19. Page 10, line 2 through page 13, line 21.

Strike: Sections 3 through 5 in their entirety

Insert: "NEW SECTION. Section 3. Phasein of the taxable value of agricultural land. The increase or decrease in taxable value of agricultural land resulting from the change in the method of determining productive capacity value under 15-7-201 must be phased in beginning January 1, 1994, as follows:

(1) For the year beginning January 1, 1994, and ending December 31, 1994, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 25% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(2) For the year beginning January 1, 1995, and ending December 31, 1995, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 50% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(3) For the year beginning January 1, 1996, and ending December 31, 1996, the taxable value of agricultural land in each land use and production category must increase or decrease from the December 31, 1993, value by 75% of the difference between the product of the productive capacity value of agricultural land for 1994 determined under 15-7-201 times the class three tax rate and the taxable value of agricultural land as of December 31, 1993.

(4) Beginning January 1, 1997, the taxable value of agricultural land in each land use and production category is equal to 100% of the productive capacity value of agricultural land determined under 15-7-201 times the class three tax rate.

NEW SECTION. Section 4. Advisory committee -- review of water costs and crop share arrangements. (1) The governor shall appoint an advisory committee to review water costs, crop share arrangements, and other issues involving the assessment and valuation of agricultural land. The membership of the committee must include:

- (a) one member representing urban interests;
- (b) two members representing water users, one of whom must be an individual water user and one of whom must be a representative of an organized irrigation district;
- (c) one member representing grazing interests;
- (d) one member representing nonirrigated crop land interests;
- (e) one member representing multiple-use farmers and ranchers;
- (f) one member representing financial institutions;
- (g) two members of the legislature, not of the same political party, one of whom must be a member of the senate and one of whom must be a member of the house of representatives; and
- (h) one member representing local government.

(2) The committee shall review water costs and crop share arrangements associated with irrigated lands and recommend to the

department of revenue by July 1, 1994, how water costs and crop share arrangements should be considered for the valuation of irrigated land. The committee may recommend the adjustment in the valuation of other agricultural land classes in order to prevent a reduction in the level of statewide taxable valuation of agricultural land."

Section 5. Section 7-13-2527, MCA, is amended to read:

"7-13-2527. List of property owners. (1) A copy of the order creating the district ~~shall~~ must be delivered to the county assessor of each county within the district.

(2) The assessor shall, on or before August 1 of ~~any given~~ each year, prepare and certify a list of all persons owning class ~~four or class eleven~~ property within such the district and deliver a copy of such the list to the board of trustees of ~~said~~ the district."

Section 6. Section 15-6-134, MCA, is amended to read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land except that specifically included in another class;

(b) all improvements, including trailers or mobile homes used as a residence, except those specifically included in another class;

(c) the first \$80,000 or less of the market value of any improvement on real property, including trailers or mobile homes, and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of any person whose total income from all sources, including net business income or loss and otherwise tax-exempt income of all types but not including social security income paid directly to a nursing home, is not more than \$10,000 for a single person or \$12,000 for a married couple or a head of household, as adjusted according to subsection (2)(b)(ii);

(d) all golf courses, including land and improvements actually and necessarily used for that purpose, that consist of at least 9 holes and not less than 3,000 lineal yards; and

(e) all improvements on land that is eligible for valuation, assessment, and taxation as agricultural land under 15-7-202(2), including 1 acre of real property beneath the agricultural improvements. The 1 acre must be valued at market value.

(2) Class four property is taxed as follows:

(a) Except as provided in 15-24-1402 or 15-24-1501, property described in subsections (1)(a), and (1)(b), and (1)(e) is taxed at 3.86% of its market value.

(b) (i) Property described in subsection (1)(c) is taxed at 3.86% of its market value multiplied by a percentage figure based

on income and determined from the following table:

| Income<br>Single Person<br>Head of Household | Income<br>Married<br>Couple | Percentage<br>Multiplier |
|--|-----------------------------|--------------------------|
| \$0 - 1,000                                  | \$0 - 1,200                 | 0%                       |
| 1,001 - 2,000                                | 1,201 - 2,400               | 10%                      |
| 2,001 - 3,000                                | 2,401 - 3,600               | 20%                      |
| 3,001 - 4,000                                | 3,601 - 4,800               | 30%                      |
| 4,001 - 5,000                                | 4,801 - 6,000               | 40%                      |
| 5,001 - 6,000                                | 6,001 - 7,200               | 50%                      |
| 6,001 - 7,000                                | 7,201 - 8,400               | 60%                      |
| 7,001 - 8,000                                | 8,401 - 9,600               | 70%                      |
| 8,001 - 9,000                                | 9,601 - 10,800              | 80%                      |
| 9,001 - 10,000                               | 10,801 - 12,000             | 90%                      |

(ii) The income levels contained in the table in subsection (2)(b)(i) must be adjusted for inflation annually by the department of revenue. The adjustment to the income levels is determined by:

(A) multiplying the appropriate dollar amount from the table in subsection (2)(b)(i) by the ratio of the PCE for the second quarter of the year prior to the year of application to the PCE for the second quarter of 1986; and

(B) rounding the product thus obtained to the nearest whole dollar amount.

(iii) "PCE" means the implicit price deflator for personal consumption expenditures as published quarterly in the Survey of Current Business by the bureau of economic analysis of the U.S. department of commerce.

(c) Property described in subsection (1)(d) is taxed at one-half the taxable percentage rate established in subsection (2)(a).

(3) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate for class four property until a revaluation has been made as provided in 15-7-111.

(4) Within the meaning of comparable property as defined in 15-1-101, property assessed as commercial property is comparable only to other property assessed as commercial property, and property assessed as other than commercial property is comparable only to other property assessed as other than commercial property."

Section 7. Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, and 15-6-1367 and ~~15-6-144~~ may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not



apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; elementary and high school districts, Title 20; juvenile detention programs authorized under 7-6-502; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

Section 8. Section 15-10-412, MCA, is amended to read:

"15-10-412. Property tax limited to 1986 levels -- clarification -- extension to all property classes. Section 15-10-402 is interpreted and clarified as follows:

(1) The limitation to 1986 levels is extended to apply to all classes of property described in Title 15, chapter 6, part 1.

(2) The limitation on the amount of taxes levied is interpreted to mean that, except as otherwise provided in this section, the actual tax liability for an individual property is capped at the dollar amount due in each taxing unit for the 1986 tax year. In tax years thereafter, the property must be taxed in each taxing unit at the 1986 cap or the product of the taxable value and mills levied, whichever is less for each taxing unit, except in a taxing unit that levied a tax in tax years 1983 through 1985 but did not levy a tax in 1986, in which case the actual tax liability for an individual property is capped at the dollar amount due in that taxing unit for the 1985 tax year.

(3) The limitation on the amount of taxes levied does not ~~mean that no prohibit a further increase may be made~~ in the total taxable valuation of a taxing unit as a result of:

(a) annexation of real property and improvements into a taxing unit;

(b) construction, expansion, or remodeling of improvements;

(c) transfer of property into a taxing unit;

(d) subdivision of real property;

(e) reclassification of property;

(f) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;

(g) transfer of property from tax-exempt to taxable status;

or

(h) revaluations caused by:

(i) cyclical reappraisal; or

(ii) expansion, addition, replacement, or remodeling of

improvements.

(4) The limitation on the amount of taxes levied does not mean that ~~no prohibit a further increase may be made~~ in the taxable valuation or in the actual tax liability on individual property in each class as a result of:

- (a) a revaluation caused by:
  - (i) construction, expansion, replacement, or remodeling of improvements that adds value to the property; or
  - (ii) cyclical reappraisal;
- (b) transfer of property into a taxing unit;
- (c) reclassification of property;
- (d) increases in the amount of production or the value of production for property described in 15-6-131 or 15-6-132;
- (e) annexation of the individual property into a new taxing unit; or
- (f) conversion of the individual property from tax-exempt to taxable status.

(5) Property in ~~classes~~ class four and eleven is valued according to the procedures used in 1986, including the designation of 1982 as the base year, until the reappraisal cycle beginning January 1, 1986, is completed and new valuations are placed on the tax rolls and a new base year designated, if the property is:

- (a) new construction;
  - (b) expanded, deleted, replaced, or remodeled improvements;
  - (c) annexed property; or
  - (d) property converted from tax-exempt to taxable status.
- (6) Property described in subsections (5)(a) through (5)(d) that is not class four or ~~class eleven~~ property is valued according to the procedures used in 1986 but is also subject to the dollar cap in each taxing unit based on 1986 mills levied.

(7) The limitation on the amount of taxes, as clarified in this section, is intended to leave the property appraisal and valuation methodology of the department of revenue intact. Determinations of county classifications, salaries of local government officers, and all other matters in which total taxable valuation is an integral component are not affected by 15-10-401 and 15-10-402 except for the use of taxable valuation in fixing tax levies. In fixing tax levies, the taxing units of local government may anticipate the deficiency in revenues resulting from the tax limitations in 15-10-401 and 15-10-402, while understanding that regardless of the amount of mills levied, a taxpayer's liability may not exceed the dollar amount due in each taxing unit for the 1986 tax year unless:

- (a) the taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year. If a taxing unit's taxable valuation decreases by 5% or more from the 1986 tax year, it may levy additional mills to compensate for the decreased taxable

valuation, but ~~in no case may~~ the mills levied may not exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit.

(b) a levy authorized under Title 20 raised less revenue in 1986 than was raised in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, raise each year thereafter an additional number of mills but may not levy more revenue than the 3-year average of revenue raised for that purpose during 1984, 1985, and 1986;

(c) a levy authorized in 50-2-111 that was made in 1986 was for less than the number of mills levied in either 1984 or 1985, in which case the taxing unit may, after approval by the voters in the taxing unit, levy each year thereafter an additional number of mills but may not levy more than the 3-year average number of mills levied for that purpose during 1984, 1985, and 1986.

(8) The limitation on the amount of taxes levied does not apply to the following levy or special assessment categories, whether or not they are based on commitments made before or after approval of 15-10-401 and 15-10-402:

- (a) rural improvement districts;
- (b) special improvement districts;
- (c) levies pledged for the repayment of bonded indebtedness, including tax increment bonds;
- (d) city street maintenance districts;
- (e) tax increment financing districts;
- (f) satisfaction of judgments against a taxing unit;
- (g) street lighting assessments;
- (h) revolving funds to support any categories specified in this subsection (8);
- (i) levies for economic development authorized pursuant to 90-5-112(4);
- (j) levies authorized under 7-6-502 for juvenile detention programs; and
- (k) elementary and high school districts.

(9) The limitation on the amount of taxes levied does not apply in a taxing unit if the voters in the taxing unit approve an increase in tax liability following a resolution of the governing body of the taxing unit containing:

(a) a finding that there are insufficient funds to adequately operate the taxing unit as a result of 15-10-401 and 15-10-402;

(b) an explanation of the nature of the financial emergency;

(c) an estimate of the amount of funding shortfall expected by the taxing unit;

(d) a statement that applicable fund balances are or by the end of the fiscal year will be depleted;

(e) a finding that there are no alternative sources of revenue;

(f) a summary of the alternatives that the governing body of the taxing unit has considered; and

(g) a statement of the need for the increased revenue and how it will be used.

(10) (a) The limitation on the amount of taxes levied does not apply to levies required to address the funding of relief of suffering of inhabitants caused by famine, conflagration, or other public calamity.

(b) The limitation set forth in this chapter on the amount of taxes levied does not apply to levies to support:

(i) a city-county board of health as provided in Title 50, chapter 2, if the governing bodies of the taxing units served by the board of health determine, after a public hearing, that public health programs require funds to ensure the public health. A levy for the support of a local board of health may not exceed the 5-mill limit established in 50-2-111.

(ii) county, city, or town ambulance services authorized by a vote of the electorate under 7-34-102(2).

(11) The limitation on the amount of taxes levied by a taxing jurisdiction subject to a statutory maximum mill levy does not prevent a taxing jurisdiction from increasing its number of mills beyond the statutory maximum mill levy to produce revenue equal to its 1986 revenue.

(12) The limitation on the amount of taxes levied does not apply to a levy increase to repay taxes paid under protest in accordance with 15-1-402."

NEW SECTION. Section 9. Repealer. Section 15-6-144, MCA, is repealed."

Renumber: subsequent sections

20. Page 14, line 9.

Strike: "1997"

Insert: "1995"

-END-

## SENATE TAXATION

EXHIBIT NO. 1DATE 2-3-93BILL NO. SB 240

## IMPACT OF SB 240 ON 20 LARGEST TOWNS IN MONTANA

1-26-93

This table shows the number of existing all-beverage and beer licenses, the maximum number of restaurant beer and wine licenses SB 240 would add, the maximum total number of businesses that could sell alcohol for on-premises consumption once SB 240 passes, and the maximum percentage increase in businesses selling alcohol possible under SB 240.

| TOWN               | All-<br>Beverage               | Beer | Restaurant | New<br>Total | Percent<br>Increase |
|--------------------|--------------------------------|------|------------|--------------|---------------------|
| ANACONDA           | (No quota on beer licenses)    |      |            |              |                     |
| BELGRADE           | (Below quota on beer licenses) |      |            |              |                     |
| BILLINGS           | 80                             | 44   | 44         | 168          | 35%                 |
| BOZEMAN            | 26                             | 15   | 15         | 56           | 37%                 |
| BUTTE              | (No quota on beer licenses)    |      |            |              |                     |
| DILLON             | (Below quota on beer licenses) |      |            |              |                     |
| GLASGOW            | (Below quota on beer licenses) |      |            |              |                     |
| GLENDIVE           | 10                             | 6    | 6          | 22           | 38%                 |
| GREAT FALLS        | 73                             | 33   | 31         | 137          | 29%                 |
| HAMILTON/PINESDALE | 12                             | 6    | 6          | 24           | 33%                 |
| HAVRE              | (Below quota on beer licenses) |      |            |              |                     |
| HELENA/E.HELENA    | 39                             | 17   | 17         | 73           | 30%                 |
| KALISPELL          | 19                             | 9    | 9          | 37           | 32%                 |
| LAUREL             | 10                             | 7    | 6          | 23           | 35%                 |
| LEWISTOWN          | 11                             | 7    | 7          | 25           | 39%                 |
| LIVINGSTON         | 19                             | 7    | 7          | 33           | 27%                 |
| MILES CITY         | 19                             | 8    | 8          | 35           | 30%                 |
| MISSOULA           | 67                             | 25   | 25         | 117          | 27%                 |
| SIDNEY             | (Below quota on beer licenses) |      |            |              |                     |
| WHITEFISH          | 11                             | 7    | 6          | 24           | 33%                 |

Based on Department of Revenue data Fall 1992.

**TABLE 4.3**  
**Number of Establishments<sup>1</sup>**  
**By Annual Video Gambling Machine Gross Income**  
**Fiscal Years 1991 and 1992**

| Annual Gross Income |                    | Number of Establishments |             |             |             |
|---------------------|--------------------|--------------------------|-------------|-------------|-------------|
|                     |                    | FY 91                    | % of Total  | FY 92       | % of Total  |
| \$ 0                | - \$ 1,000         | 7                        |             | 6           |             |
| 1,001               | - 2,000            | 7                        |             | 10          |             |
| 2,001               | - 3,000            | 17                       |             | 14          |             |
| 3,001               | - 4,000            | 12                       |             | 14          |             |
| 4,001               | - 5,000            | 14                       |             | 13          |             |
| 5,001               | - 6,000            | 22                       |             | 12          |             |
| 6,001               | - 7,000            | 17                       |             | 19          |             |
| 7,001               | - 8,000            | 15                       |             | 20          |             |
| 8,001               | - 9,000            | 11                       |             | 13          |             |
| 9,001               | - 10,000           | 11                       | N=133 11.4% | 13          | N=134 11.4% |
| 10,001              | - 11,000           | 17                       |             | 15          |             |
| 11,001              | - 12,000           | 19                       |             | 15          |             |
| 12,001              | - 13,000           | 25                       |             | 12          |             |
| 13,001              | - 14,000           | 20                       |             | 16          |             |
| 14,001              | - 15,000           | 19                       |             | 12          |             |
| 15,001              | - 16,000           | 20                       |             | 19          |             |
| 16,001              | - 17,000           | 20                       |             | 17          |             |
| 17,001              | - 18,000           | 15                       |             | 10          |             |
| 18,001              | - 19,000           | 22                       |             | 17          |             |
| 19,001              | - 20,000           | 13                       |             | 16          |             |
| 20,001              | - 21,000           | 18                       |             | 15          |             |
| 21,001              | - 22,000           | 14                       |             | 17          |             |
| 22,001              | - 23,000           | 14                       |             | 16          |             |
| 23,001              | - 24,000           | 13                       |             | 18          |             |
| 24,001              | - 25,000           | 17                       |             | 13          |             |
|                     | <b>Total</b>       | <b>399</b>               | <b>34%</b>  | <b>362</b>  | <b>31%</b>  |
| \$ 25,001           | - \$ 50,000        | 264                      |             | 244         |             |
| 50,001              | - 75,000           | 183                      |             | 179         |             |
| 75,001              | - 100,000          | 79                       |             | 99          |             |
|                     | <b>Total</b>       | <b>526</b>               | <b>45%</b>  | <b>522</b>  | <b>45%</b>  |
| \$ 100,001          | - \$ 125,000       | 60                       |             | 58          |             |
| 125,001             | - 150,000          | 16                       |             | 39          |             |
| 150,001             | - 175,000          | 22                       |             | 19          |             |
| 175,001             | - 200,000          | 17                       |             | 13          |             |
| 200,001             | - 225,000          | 17                       |             | 17          |             |
| 225,001             | - 250,000          | 15                       |             | 18          |             |
| 250,001             | - 275,000          | 14                       |             | 9           |             |
| 275,001             | - 300,000          | 7                        |             | 9           |             |
| 300,001             | - 400,000          | 23                       |             | 39          |             |
| 400,001             | - 500,000          | 10                       |             | 13          |             |
| 500,001             | - 600,000          | 12                       |             | 14          |             |
| 600,001             | - 700,000          | 7                        |             | 8           |             |
| 700,001             | - 800,000          | 7                        |             | 9           |             |
| 800,001             | - 900,000          | 5                        |             | 7           |             |
| 900,001             | - 1,000,000        | 0                        |             | 3           |             |
| 1,000,001           | - 1,100,000        | 2                        |             | 1           |             |
| 1,100,001           | - 1,200,000        | 3                        |             | 2           |             |
| 1,200,001           | - 1,300,000        | 1                        |             | 3           |             |
| 1,300,001           | - 1,400,000        | 1                        |             | 3           |             |
| 1,400,001           | - 1,500,000        | 2                        |             | 2           |             |
| > 1,500,000         |                    | 1                        |             | 1           |             |
|                     | <b>Total</b>       | <b>242</b>               | <b>21%</b>  | <b>287</b>  | <b>24%</b>  |
|                     | <b>Grand Total</b> | <b>1167</b>              | <b>100%</b> | <b>1171</b> | <b>100%</b> |

SENATE TAXATION

EXHIBIT NO. 2

DATE 2-3-93

BILL NO. SB 240

N=134 11.4%

<sup>1</sup> Establishments with one or more machines operating for 90 days in each quarter.

Mike Munsey  
Depot Bar & Restaurant  
201 West Railroad  
Missoula, Montana 59802

SENATE TAXATION  
EXHIBIT NO. 3  
DATE 2-8-93  
BILL NO. SB 240  
February 3, 1993

Chairman Mike Halligan  
Senate Taxation Committee  
Capitol Station  
Helena, Montana 59620

Re: Hearing on Senate Bill 240 - 8 a.m. on February 3rd

Dear Chairman Halligan and Members of the Committee:

I am a partner in a corporation that owns both the Depot Restaurant in Missoula and the Rex in Billings. I think I can modestly say that the reputation of these establishments in both communities for "fine dining". We also have the reputation in both communities as establishments that do not have any gambling whatsoever on our premises. In contrast to the rationale behind Senate Bill 240, we find that the fact that we do not have gambling on our premises has actually enhanced our business, and we feel that it has done the same for other businesses that do not have gaming machines.

The idea that the restaurant business in Montana is not competitive enough is patently absurd. In Missoula and Billings, restaurateurs such as myself have to stay constantly innovative and find ways to be creative with our menu and our services to keep our popularity. It's also very much a function of the fact that many of our employees have been with us for a great many years and the public has come to trust not only the quality of our food and drinks, but also the quality of our service.

The casinos in Montana have not killed fine dining. What they have done is given those that want an inexpensive meal a place to go and made the true "fine dining" establishments stand out even more. If this bill were to pass, it would create a flood of beer and wine establishments for which food would only be an excuse. The worth of our licenses would collapse almost immediately and quite frankly, the opposite of what this Bill is intended for would happen. The time and care we have taken to understand and excel in the beer and wine market would be washed away and, the real impact would be, sadly, that these two, and other fine restaurants, would most probably have to become casinos themselves.

For these reasons we think that Senate Bill 240 is extremely illogical, ill-conceived and unfair. Please do not pass it.

Sincerely,

Mike Munsey

WRITTEN TESTIMONY OF MARK LANGLOIS  
OWNER/MANAGER OF GARDEN BAR & GRILL, BIGFORK, MONTANA  
BEFORE SENATE TAXATION COMMITTEE  
ON FEBRUARY 3, 1993  
OPPOSITION TO SENATE BILL 240

SENATE TAXATION

EXHIBIT NO. 4

DATE 2-3-93

BILL NO. SB 240

DEAR MR. CHAIRMAN AND MEMBERS OF THE SENATE TAXATION COMMITTEE:

I WOULD LIKE TO EXPRESS MY OPINION OF SENATE BILL 240, INTRODUCED BY SENATOR ECK. FOR THE PAST ELEVEN YEARS MY PARTNER AND I HAVE WORKED VERY HARD AT THE BAR AND RESTAURANT BUSINESS AND BUILT THE GARDEN BAR AND GRILL INTO A THRIVING BUSINESS THAT BENEFITS THE TOWN OF BIGFORK. WE BORROWED TO PAY MARKET VALUE FOR OUR FIRST BEER AND WINE LICENSE 11 YEARS AGO, WORKED WITH IT FOR 3 YEARS, THAN BORROWED TO UPGRADE TO AN ALL-BEVERAGE LICENSE. WE PAID THE PRICE AND WE'VE NOW MADE OUR LICENSE QUITE VALUABLE. WE ARE AGAINST SENATE BILL 240. NOW SEVERAL OTHER BEER AND WINE LICENSES COULD COME INTO BIGFORK, ESSENTIALLY FOR FREE. IT ISN'T FAIR AND IT TAKES AWAY THE VERY VALUE WE'VE WORKED FOR. ALSO, BIGFORK HAS FABULOUS DINING AND LOTS OF IT!

THANK YOU FOR LISTENING.



*Exhibit # 5A*

EXHIBIT 5A  
DATE 2-13-91  
HB 438

\*\*\*\*\*  
F A X   T R A N S M I T T A L   M E M O  
\*\*\*\*\*

TO: Mark Staples

DEPT: \_\_\_\_\_ FAX #: 443-7706

FROM: P. Polzin PHONE: 243-5713

CO: \_\_\_\_\_ FAX #: \_\_\_\_\_

Post-It brand fax transmittal memo 7871

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SENATE TAXATION

EXHIBIT NO. 5  
DATE 2-3-93  
BILL NO. SB 240

1222 Lincolnwood Rd.  
Missoula, MT 59802  
February 11, 1991

Mark Staples  
34 W. Sixth  
Helena, MT 59624

Dear Mark:

You asked for my professional opinion concerning the impacts of removing restrictions on the number of beer and wine licenses. I believe that the value of the licenses will decrease as a result of the deregulation and the current owners may suffer significant financial losses.

Currently, there are restrictions on the number of licenses that may be issued in a county. There are also numerous examples of existing licenses which have been bought and sold. These facts indicate to me that the regulatory procedures have created a commodity which has value to the owner. That is, the licenses are a valuable good and are part of the owner's assets, just like his building, inventory, and other items.

Easing the restrictions on the number of licenses in a county is equivalent to increasing the supply of those licenses. Holding everything else the same, an increase in the supply of any good will decrease its price. Those persons already holding the good will experience a decrease in their wealth because the decline in the value of the good.

Specifically, many of the existing licenses have value and are assets to their owners. This value owes its existence to the restrictions on the number of licenses. If these restrictions are modified and the number of licenses increases, the current owners will suffer losses.

I hope that this answers your question.

Sincerely,

Paul E. Polzin  
Economist

1991 EXHIBIT NO. 6  
DATE 2-3-93  
BILL NO. SB 240

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0438, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act creating a restaurant beer and wine license, exempting the license from quota limitations, and providing an annual fee.

ASSUMPTIONS:

1. There are approximately 1,100 restaurants that derive 50% or more of their income from food service and employ one or more people in the 29 Montana counties that currently are at their quota for on-premises beer and wine licenses (Department Revenue, and U.S. Bureau of the Census, County Business Patterns).
2. All of these 1,100 restaurants derive at least 60% of their gross income from the sale of food to be consumed on the premises.
3. All 1,100 restaurants apply for and are granted a restaurant beer and wine license.
4. No restaurants in the remaining 27 counties apply for or are granted a restaurant beer and wine license.
5. Because of their small size and more limited ability to afford an \$800 annual license fee, no restaurants in any county operated exclusively by a self-employed person (persons) apply for or are granted a restaurant beer and wine license.
6. All restaurants that have existing beer and wine licenses and that qualify for this new license will sell or otherwise dispose of their current licenses to establishments that do not qualify for this new license.
7. Half of the new licenses are issued in FY92 and half in FY93.
8. A \$100 one time processing fee is charged at the time of the issuance of the new license.
9. An additional 4.70 FTE employees are required to administer and regulate the new licenses. These FTE, at full implementation, consist of an additional 2.00 FTE investigators, 1.50 auditors, and 1.20 technicians plus travel, supply and other expenses in order to administer and regulate the new licenses.

FISCAL IMPACT:

see next page

*Mark O'Keefe*  
 MARK O'KEEFE PRIMARY SPONSOR  
 DATE 2/5/91  
 HB 438

*Rod Sundsted*  
 ROD SUNDESTED, BUDGET DIRECTOR  
 Office of Budget and Program Planning  
 DATE

TESTIMONY OF JOE BOWER, VICE PRESIDENT, FIRST BANK HELENA  
BEFORE SENATE TAXATION COMMITTEE  
ON FEBRUARY 3, 1993  
OPPOSITION TO SENATE BILL 240

SENATE TAXATION

EXHIBIT NO. 7

DATE 2-3-93

BILL NO. SB 240

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, MY NAME IS JOE BOWER. I AM VICE PRESIDENT OF FIRST BANK HELENA, AND I'M HERE TO TELL YOU THAT CREATION OF A WEALTH OF NEW LICENSES FOR BEER AND WINE WILL TAKE AWAY SIGNIFICANTLY FROM THE VALUE THE PRESENT ONES HELD. AS YOU KNOW, MY BANK AND MANY OTHERS FINANCE CONSTRUCTION, OPERATIONS, AND OTHER ASPECTS OF A SIGNIFICANT PART OF THE BAR AND RESTAURANT BUSINESS IN MONTANA, AND IN SO DOING, THE VALUE OF THE BEER AND WINE OR LIQUOR LICENSE IS OFTEN THE SECURITY THAT WE HOLD AGAINST THE LOANED FUNDS.

A RECENT RULING BY THE MONTANA SUPREME COURT, WHICH PUT 53 NEW LIQUOR LICENSES ON THE MARKET IN MONTANA, SPREAD OUT OVER AN ENTIRE STATE, WITH ONLY THREE OR FOUR OF THEM IN HELENA, HAS HAD THE EFFECT OF DIMINISHING THE WORTH OF LIQUOR LICENSES IN HELENA BY SOMEWHERE IN THE NEIGHBORHOOD OF \$5,000-\$10,000 BY MY OBSERVATIONS. THE CREATION OF 17 NEW BEER AND WINE LICENSES IN THIS COMMUNITY AND POSSIBLY A DOZEN MORE IN THE IMMEDIATE VICINITY WOULD SEND THOSE VALUES CRASHING THROUGH THE FLOOR.

I SPEAK TODAY NOT FROM SPECULATION, BUT FROM IMMEDIATE PAST EXPERIENCE. SEVERAL YEARS AGO A SMOOTH OPERATOR NAMED ERNIE BOWERS CAME THROUGH MONTANA AND PICKED UP A NUMBER OF BUSINESSES ONLY TO LOOT THE CASH AND LEAVE THEM BANKRUPT. ONE OF THEM WAS A LIQUOR AND BOWLING ESTABLISHMENT HERE IN HELENA. HAD A BILL LIKE THIS PASSED TWO YEARS AGO, WE WOULD NOT HAVE BEEN ABLE TO RECOVER EVEN WHAT WE WERE ABLE TO RECOVER. OUR SECURITY IN THE LIQUOR LICENSE PROVIDED US THE ABILITY TO RECOVER AT LEAST A SOMETHING ON OUR LOANED FUNDS AND HAD THE LEGISLATION TWO YEARS AGO GONE THROUGH, WE AND THE PEOPLE WHO DEPOSIT AT OUR BANK WOULD HAVE TAKEN AN ENORMOUS LOSS. SHOULD THIS LAW PASS, THE INTEREST WE NOW HOLD ON THESE TYPES OF LICENSES WOULD BE SIGNIFICANTLY LESSENERED, AND I SERIOUSLY BELIEVE THAT YOU WOULD SEE BANKS ACROSS MONTANA BEGIN TO RECONSIDER LOANING AGAINST THESE LICENSES AT ALL.

FOR FAIRNESS REASONS, TO THE PRESENT LICENSE HOLDERS AND THOSE WITH INTEREST IN THOSE LICENSES, AND FOR THE ECONOMIC REASONS THAT I'VE STATED, I URGE YOU TO VOTE AGAINST SENATE BILL 240.

TESTIMONY OF ROSE BULLOCK, SILVER SADDLE CLUB, BASIN, MT.  
BEFORE SENATE TAXATION COMMITTEE  
ON FEBRUARY 3, 1993  
OPPOSITION TO SENATE BILL 240

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-3-93

BILL NO. SB 240

CHAIRMAN HALLIGAN AND MEMBERS OF THE COMMITTEE,

MY NAME IS ROSE BULLOCK. I AM THE PRESIDENT OF THE LEWIS AND CLARK, JEFFERSON, AND BROADWATER TRI-COUNTY TAVERN ASSOCIATION, AND MY HUSBAND AND I OWN THE HISTORIC SILVER SADDLE CLUB AND CAFE IN BASIN, MONTANA. WE HAVE WORKED SEVEN DAYS A WEEK, 52 WEEKS A YEAR FOR 20 YEARS TO KEEP OUR BUSINESS ALIVE AND HAVE SURVIVED THE INTERSTATE HIGHWAY TAKING AWAY OUR THOROUGHFARE AND A CONSEQUENT LOSS OF POPULATION.

WE SERIOUSLY BELIEVE THAT WE ARE THE CENTER OF COMMUNITY LIFE IN BASIN, MONTANA, AND HAVE HELPED THIS SMALL COMMUNITY SURVIVE. TO ALLOW ONE OR TWO NEW BEER AND WINE LICENSES FOR SOMEBODY WHO WANTS TO CHEAPLY START A RESTAURANT IN OUR TINY TOWN COMPETITION WITH US IS SIMPLY ECONOMIC DEATH FOR US, AFTER ALL OUR WORK AND INVESTMENT. I KNOW I SPEAK FOR ESTABLISHMENTS IN HUNDREDS OF SIMILAR COMMUNITIES IN MONTANA.

AS PRESIDENT OF THE TRI-COUNTY TAVERN ASSOCIATION, I CAN TELL YOU THAT THE INCLUSION OF SOMEWHERE BETWEEN 18 AND 30 LICENSES IN OUR MARKET AREA WOULD WIPE OUT A BIG CHUNK OF THE VALUE OF THE MANY FINE ESTABLISHMENTS THAT WE HAVE. PLEASE DON'T PUNISH THE MANY FOR THE FEW WHO DO NOT LIKE THE CURRENT OFFERINGS OF FOOD AND ENTERTAINMENT OR WHO WANT TO GET INTO A BUSINESS WITHOUT PAYING WHAT THE REST OF US HAVE HAD TO DO. THANK YOU FOR YOUR OPPOSITION TO SENATE BILL 240.

TRI-COUNTY LICENSED BEVERAGE ASS'N.

P. O. BOX 851  
HELENA, MONTANA 59601

February 2, 1993

SENATE TAXATION

EXHIBIT NO. 9

DATE 2-3-93

BILL NO. SB 240

TO: Members of the Senate Taxation Committee

RE: SB 240

The members of the Tri-County Licensed Beverage Association, representing a majority of alcoholic beverage on-premise licensees in Lewis & Clark, Jefferson, and Broadwater counties, wish to express our strong opposition to SB 240 by Senator Eck of Bozeman, which would create a new restaurant beer/wine license and establish a new quota for same.

We are very concerned that, if passed, SB 240 would immediately and irrevocably devalue the several millions of dollars just those of us in this area have invested in our businesses, not to mention the same adverse economic impact all other Montana licensees would suffer. In our three-county area alone, 24 of these new licenses could become available. SB 240 represents a direct assault on the investments we've made in our present licenses because our licenses are the cornerstone of the worth of each of our businesses.

We have all lived and made our investments under the present quota system. We believe the legislature has the responsibility, since it created the system, to protect those of us who have put forth our life's savings into our businesses from the cavalier treatment SB 240 would inflict upon us.

We firmly believe that the creation of a new class of licenses in Montana must be accompanied by some funding mechanism to pay current license holders for the inevitable decrease in the value of their licenses. Is the State of Montana prepared to do this, in light of its present fiscal crisis?

We respectfully request your Committee to reject SB 240 in its entirety.

  
ROSE LEE BULLOCK, President

RLB/d

SENATE TAXATION

EXHIBIT NO. 10

DATE 2-3-93

BILL NO. SB 240

TESTIMONY OF MR. CLARK PYFER, CPA AND  
CHAIRMAN AND SECRETARY/TREASURER  
OF THE STONEHOUSE CORPORATION AND RESTAURANT  
BEFORE SENATE TAXATION COMMITTEE  
ON FEBRUARY 3, 1993  
OPPOSITION TO SENATE BILL 240

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE,

MY NAME IS CLARK PYFER. I AM CHAIRMAN AND SECRETARY/TREASURER OF THE STONEHOUSE CORPORATION AND RESTAURANT, AND WE RUN THE STONEHOUSE HERE IN HELENA. I ALSO AM A CERTIFIED PUBLIC ACCOUNTANT *Retired from* ~~WEST~~ GALUSHA, HIGGINS AND GALUSHA. I HAVE SYMPATHY FOR THE PEOPLE HERE TODAY WHO WANT TO ADD BEER AND WINE TO THEIR PRESENT OR PROPOSED OPERATIONS. HOWEVER, MY PARTNERS AND I PAID FULL PRICE FOR OUR BEER AND WINE LICENSE AND THIS PIECE OF PROPERTY THAT WE HAD TO PAY DEARLY FOR SHOULD NOT BE GIVEN TO SOMEONE ELSE. WORSE YET, THAT GIVING OF IT TO SOMEONE ELSE COULD TOTALLY OBLITERATE THE PAYMENT WE MADE FOR OURS. ALSO, I FOR ONE BELIEVE THAT THE STONEHOUSE AND NUMEROUS OTHER HELENA ESTABLISHMENTS DO INDEED HAVE "FINE" DINING AND MANY OF THEM IN A NON-GAMBLING ENVIRONMENT SUCH AS OURS.

PLEASE VOTE AGAINST THIS LEGISLATION. THANK YOU.

ONCE AGAIN THE FREE BE'S OF THE WORLD  
WANT SOMETHING FOR NOTHING - THEY  
HAVEN'T MADE THIS PART OF THEIR BUSINESS  
PLAN AS I HAVE HAD TO. DON'TY HERSELF  
DOESN'T EVEN KNOW HER OWN MARKET  
PLACE, BOZEMAN THERE ARE MANY  
NON-MACHINE RESTAURANTS THERE -  
I HAVE BEEN IN THE RESTAURANT BUSINESS  
LONGER THAN ANYONE - WHY DOES  
DON'TY CONTACT ME AND ASK SOME  
QUESTION, WHO DOES SHE WANT TO?  
WHY NOT INTRODUCING A BILL AND MAKE  
THOSE WHO ARE SLOW CONTROLLERS  
WHY NOT MAKE THEM PAY 15 TO 30<sup>m</sup>  
MAKE IT A PART OF THEIR INVESTMENT  
AS I HAD TO.

SENATE TAXATION

EXHIBIT NO. 11

DATE 2-3-93

BILL NO. SB240

Mike Cetrano  
Village Inn Pizza Parlors  
Bozeman, Helena, Missoula.

SENATE TAXATION

EXHIBIT NO. 12

DATE 2-3-93

BILL NO. SB 2281

MONTANA  
PETROLEUM  
TANK  
RELEASE  
COMPENSATION  
BOARD

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



PETROLEUM TANK RELEASE COMPENSATION BOARD

Jean Riley  
Executive Director

(406) 449-8717

1740 N. Montana  
Helena, MT 59620



Testimony SB 228

Jean Riley, Executive Director  
Petroleum Tank Release Compensation Board

SENATE TAXATION

EXHIBIT NO. 14  
DATE 2-3-93  
BILL NO. SB 228

The Petroleum Tank Release Compensation Board (Board) rises in support of SB 228. The Board administers the Petroleum Tank Release Cleanup Fund (Fund). This Fund is used to reimburse owners and operators of petroleum storage tanks for costs associated with corrective action and third party damages for bodily injury or property damage. The Board has projected the amount of reimbursement to owners/operators for FY 94 and FY 95. These projections are conservative and do not include any third party damage claims. The Board anticipates almost \$3 million in reimbursements for FY 94 and over \$3.7 million in FY 95. Revenue projections for FY 94 and FY 95 are over \$3 million short of covering administrative expenses and claims for the biennium.

To date the Board has reimbursed over \$4.5 million to owners and operators of petroleum storage tanks. The present fee has been assessed only on gasoline products. Since 1989 diesel and special fuels have never been assessed the fee. However, these tanks have received over 23% of the total reimbursement with no contribution to the Fund.

Since 1989 the Board has seen a significant increase in claims against the Fund. The average amount of claims received has grown from \$11,997 per month in 1989 to \$271,852 per month in 1992. In January of this year the Board received requests for \$304,214. At this rate the revenues will not keep abreast of the expenditures. This will cause the Fund balance to continue to drop even after the gasoline fee is reinstated.

If the unobligated Fund balance drops below \$1 million EPA may not consider the Fund as a viable mechanism of financial assurance for tank owners. This is one of the main reasons the Fund was initially created in 1989. Tank owners are required to have financial assurance by EPA. Without the Fund, tank owners would have to seek pollution liability insurance which is very expensive and may not be available to the typical tank owner.

The EPA approved the Fund as the Financial Assurance mechanism for these tank owners. The Fund was set up to collect the fee until the unobligated Fund balance reaches \$8 million. The collection of the fee will stop until the balance is depleted to \$4 million. The fee was discontinued in October of 1991. The current balance is 5.4 million and it is anticipated that the balance will drop below \$4 million between April and June of this year.

The unobligated Fund balance does not take into account claims already received by the Board which have not yet been approved for payment. On January 31, 1993 these claims totaled over \$2 million. If all claims received were paid today the Fund balance would be reduced to \$3.4 million. It takes approximately 60 to 90 days to pay claims, therefore, the potential claim affect to the Fund balance could be even greater. At the current rate with no increase of revenue, the Fund balance is anticipated to drop below \$1 million April 1995. The balance of the Fund could reach zero as early as December 1995.

The Board asks for your support on SB 228.

STATE OF MONTANA - FISCAL NOTE  
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB228, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

A bill expanding the categories of petroleum products for which the petroleum storage tank cleanup fee is assessed; defining the terms aviation gasoline, distributor, export, exporter, heating oil, import, and special fuel; and providing an applicability date.

ASSUMPTIONS:

1. Approximately 280 million gallons of special fuel and heating oil is distributed in the state per year. This fuel usage should remain stable over the biennium. The fee rate in the 1995 biennium will be \$0.0075 per gallon.
2. Approximately 442 million gallons of gasoline will be distributed in the state for FY94 and 447 million gallons in FY95. The fee rate in the 1995 biennium will be \$0.0075 per gallon.
3. Collection will be lagged by one month for special fuel and heating oil, this results in 11 months of collections in FY94.
4. The fee on gasoline will be reinstated prior to FY94.
5. Claim payments for FY94 and FY95 are projected from the FY91 and FY92 claim payments, assuming same historical increases.

FISCAL IMPACT:

| Expenditures:      | FY 94     |           | FY 95     |           |
|--------------------|-----------|-----------|-----------|-----------|
|                    | Current   | Proposed  | Current   | Proposed  |
| FTE                | 12.0      | 12.0      | 12.0      | 12.0      |
| Personal Services  | 549,417   | 549,417   | 549,839   | 549,839   |
| Operating Expenses | 379,483   | 379,483   | 387,008   | 387,008   |
| Equipment          | 19,967    | 19,967    | 13,073    | 13,073    |
| Benefits & Claims  | 2,973,574 | 2,973,574 | 3,716,968 | 3,716,968 |
| Total              | 3,922,441 | 3,922,441 | 4,666,888 | 4,666,888 |
| Revenues:          |           |           |           |           |
| Petro. Tank Fund   | 3,311,692 | 5,236,692 | 3,354,172 | 5,454,172 |
|                    |           |           |           | 2,100,000 |

Net Impact:

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

Including special fuels and heating oil into the collection of the petroleum storage tank cleanup fee will prevent the balance of the petroleum tank release cleanup fund dropping below \$1 million and continuing to drop to a zero balance.

TECHNICAL NOTES:

Revenue estimates do not include interest payments.

SENATE TAXATION

EXHIBIT NO. 13

DATE 2-3-93

BILL NO. SB 228

DATE \_\_\_\_\_

SENATE COMMITTEE ON \_\_\_\_\_

BILLS BEING HEARD TODAY: \_\_\_\_\_

| Name              | Representing              | Bill No. | Check One |        |
|-------------------|---------------------------|----------|-----------|--------|
|                   |                           |          | Support   | Oppose |
| Chester Bullock   | Silver Saddle Bar Cafe    | 240      |           | ✓      |
| Jim Jensen        | MEIC                      | 228      | X         |        |
| Jim Jensen        | GRUB-STAKE                | 240      |           | ✓      |
| Mitch Doherty     | Roses / Dos Hermanos INC. | 240      |           | ✓      |
| CAROL NELSON      | TRIALTO                   | 240      |           | ✓      |
| Jerry LaSaur      | Emerald Entertainment     | 240      |           | ✓      |
| Yvonne Johnson    | YACHT BASIN               | 240      |           | ✓      |
| Orville Johnson   | " "                       | 240      |           | ✓      |
| Jim Olson         | SMITHS PLACE              | 240      |           | ✓      |
| Leon Stalcup      | Mont Real Assoc           | 240      | X         |        |
| Jim Grubbs        | MAJESTIC CASINO           | 240      |           | X      |
| Norma M. Albright | Upcountry Inn             | 240      | X         |        |
| J. M. Martine     | FRISCOS                   | 240      | X         |        |
| Keith Cleverger   | Staggering Ox             | 240      | X         |        |
| Donald Tweden     | Staggering Ox Inc         | 240      |           | ✓      |
| Bob Kiesling      | Windbag Saloon            | 240      |           | ✓      |

### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE \_\_\_\_\_

SENATE COMMITTEE ON \_\_\_\_\_

BILLS BEING HEARD TODAY: \_\_\_\_\_

| Name            | Representing           | Bill No. | Check One                           |                                     |
|-----------------|------------------------|----------|-------------------------------------|-------------------------------------|
|                 |                        |          | Support                             | Oppose                              |
| Roger Tippy     | MT Independent Bankers | 240      |                                     | <input checked="" type="checkbox"/> |
| Jim Jensen      | MEIC                   | 228      | <input checked="" type="checkbox"/> |                                     |
| Ronna Alexander | MT-Int. Marketers      | 228      | <input checked="" type="checkbox"/> |                                     |
|                 |                        |          |                                     |                                     |
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### VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

# State of Montana

Marc Racicot, Governor



Department of Revenue

Mick Robinson, Director

Room 455, Sam W. Mitchell Building

Helena, Montana 59620

## MEMORANDUM

**TO:** Senator Tom Towe  
Montana Senate Taxation Committee

**FROM:** David W. Woodgerd, Chief Counsel  
Montana Department of Revenue

**DATE:** February 3, 1993

**SUBJECT:** Constitutional question regarding the phase-in of property tax values proposed in amendments to SB 168.

Amendments to SB 168 propose that rather than calculating the taxable value of land for 1994 at 100% of a reappraised value times the tax rate, class 3 taxable value is phased-in to the new rate at 25% per year. For example, in 1994, taxable value will increase or decrease from the December 31, 1993, taxable value by 25% of the difference between the product of the reappraised value of agricultural land multiplied by the class 3 tax rate and the taxable value of agricultural land as of December 31, 1993.

Because of this legislative choice, some agricultural land will be valued below the reappraised value and some will be valued above the reappraised value.

There are potential challenges to this classification from non-irrigated farmland owners because their property is valued above the reappraised value during the phase-in. The issue is whether this classification, created by phasing in the increase or decrease of taxable value of class 3 over an appraisal cycle, satisfies people's equal protection rights. The classification is not class 3 but the classes within class 3, some of which will

Senator Tom Towe  
Page 2  
February 3, 1993

actually have decreased values under reappraisal and some of which will have increased values under reappraisal.

While it is impossible to predict the outcome of a constitutional challenge, case law has set forth relatively straightforward standards for determining if legislation satisfies equal protection constraints. Tax laws receive the lowest level of equal protection analysis. The only Fourteenth Amendment inquiry is whether the state's classification is rationally related to the state objective.

It has long been settled that a classification, though discriminatory, is not arbitrary nor violative of the Equal Protection Clause of the Fourteenth Amendment if any state of facts reasonably can be conceived that would sustain it. (cites omitted) (emphasis added)

Allied Stores, Inc. v. Bowers, 358 U.S. 522, 3 L.Ed.2d 489, 79 S.Ct. 437 (1959).

The theoretical underpinnings of this low level of scrutiny is a respect for the elected branch of government. Courts presume the Legislature is in the best position to wisely give effect to the will of the people and do not second guess the wisdom or folly of legitimate legislative choices.

If the Montana Legislature determines that the best policy is to phase-in the change in taxable value due to reappraisal, it would be helpful if the basis for the policy is articulated. The Department would suggest that language be put in a preamble concerning the Legislature's basis for adopting a phase-in policy. The attached preamble may be a possibility or the committee may have other ideas on why the phase-in is a good idea.

/dgj

## PREAMBLE

WHEREAS, in 1975 the Legislature adopted a plan for cyclical reappraisal of nonagricultural land which has been through 3 reappraisal cycles since 1972, with the third cycle values becoming effective January 1, 1993.

WHEREAS, agricultural land has not been reappraised since 1963 and the Montana Legislature has determined that reappraisal of agricultural land is necessary for the overall improvement of Montana's property tax system.

WHEREAS, traditionally, the Montana Legislature has kept the total taxable value of an entire class of property relatively constant between appraisal cycles by adjusting tax rates.

WHEREAS, the Montana Legislature desires to keep the total taxable value of agricultural land constant despite reappraisal.

WHEREAS, the recalculation of productive capacity for the various subclasses results in significant increases and decreases in individual reappraised values.

WHEREAS, Montana has a legislative tradition of attempting to minimize changes in taxable value between reappraisal cycles and that it is equitable and desirable for the tax system as a whole that the increases and decreases in taxable value of agricultural land be phased-in over the appraisal cycle.

NOW, THEREFORE, the Montana Legislature enacts this legislation providing for reappraisal of agricultural land and a phase-in of the values over the reappraisal cycle.