

March 3, 1981

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

The 38th meeting of the committee was called to order at 8:15 a. m. in Room 415 of the State Capitol Building, Chairman Pat Goodover presiding.

ROLL CALL: All members were present except for Senator Towe.

CONSIDERATION OF SENATE BILL 409:

"AN ACT TO CREATE A WATER DEVELOPMENT PROGRAM, ESTABLISHING A LOAN AND GRANT PROGRAM FOR WATER DEVELOPMENT PROJECTS AND ACTIVITIES, ESTABLISHING AN EARMARKED WATER DEVELOPMENT ACCOUNT: ALLOCATING A PORTION OF THE COAL SEVERANCE TAX PROCEEDS: ALLOCATING A PORTION OF THE INTEREST INCOME FROM THE RESOURCE INDEMNITY TRUST ACCOUNT: CREATING AUTHORITY FOR WATER DEVELOPMENT BONDS: CREATING AUTHORITY FOR COAL SEVERANCE TAX TRUST FUND BONDS: LIFTING THE CEILING ON WATER CONSERVATION REVENUE BONDS: AMENDING AND REPEALING SECTIONS, M.C.A., AND PROVIDING EFFECTIVE DATES."

Senator Jack Galt, Co-sponsor with Senator Manning, said Senate Bill 409 is an attempt to get the State of Montana involved in water development, to promote development of private, local and state water projects, and promote offstream storage, develop recreational use and rehabilitate existing water storage structures. Senator Galt handed out Attachment #1, showing proposed funding for the bill. He said the most controversial part of the bill is getting into the coal severance tax which would be used to service 500 million dollars in bonds. Any use of monies would have to pass with a 3/4 vote of the legislature.

PROPOSERS:

Leo Berry, Director, Department of Natural Resources, provided Attachment 2. Mr. Berry referred to the chart that Senator Galt handed out previously, and said that on page 8 of the bill (or left-hand side of chart), it shows a total of \$950,000 going into water development; (i) lists types of projects the money will be used for including rehabilitation of state-owned dams; formation of early-warning systems below dams; conservation district assistance to promote offstream storage and tributary storage. The Supreme Court has ruled that the legislature cannot make grants to private individuals; this bill provides for that. It also sets up an application process, sets up criteria by which the department would make grants and loans, sets up preferences. Each project would have to be approved by the legislature before bonds were issued, and will require 3/4 vote to use the trust monies. The big question is whether permanent coal trust monies should be spent on this type of project.

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Peter Jackson, Western Environmental Trade Association, Helena; Charlie Crane, Montana Water Development Association; R. A. Ellis, Montana Water Development Association; Willa Hall, League of Women Voters, testimony is Attachment #3. Pat Osborne, NPRC, with amendments to offer for Senate Bill 409, Attachment #4; J. K. Kuzara, representing Musselshell Water Development Program; Ray Beck, Montana Association of Conservation District and Association of Grazing Districts.

OPPONENTS:

John Cadby, Montana Bankers Association, felt there were already three loan authority bills passed to make loans for irrigation purposes to private parties. He also was concerned with the Department of Natural Resources' authority to make loans to private individuals, as he didn't feel there were adequate checks and balances as to who would receive loans and who would not. He said there was no way a local bank could compete with the state. He objected to the fact that a Helena-based organization would say which farmer and which rancher would qualify for loans. He felt that this bill creates unfair competition, creates costly bureaucracy, has no controls and, in the long run, is probably inflationary.

Senator Galt closed by saying the legislature has complete oversight and control of any of the money being spent.

Senator Eck questioned the method of taking the 3/4 vote to allocate projects.

Mr. Berry said the language could be placed anywhere in the bill. What the Department of Natural Resources said was if the legislature didn't want to appropriate, just don't approve the 3/4 appropriation in the House Bill. The Department of Natural Resources would not like to put 3/4 vote requirement in the bill.

Senator Eck wanted to know if the Department of Natural Resources would give assistance if it looked as though the bill could not be passed without it. Mr. Berry said yes, they would take care of that.

Senator Elliott wondered why the bill doesn't say that the Department of Natural Resources can make loans to private individuals from Resource Indemnity Trust fund. The answer was that money will not be available for RITF this session, and the legislature cannot legally grant money to a private individual.

Senator Eck said it was her understanding that in addition to issuing bonds we would also use some of the coal money to pay off the bonds because many of these projects would not be able to create enough revenue to pay for the bonds.

Mr. Berry said if you build a project and issue 100 million dollars worth of bonds and the project is only capable of paying off 70 million dollars, then the fund would assist in the payoff of that bond, with legislative approval. It would be used to pay off those projects not capable of paying off by themselves.

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Senator Eck wondered if there should be a requirement that a certain amount of them should be able to pay their own way.

Mr. Berry said they didn't include criteria for the legislature to make a decision. If approved, you would be able to attach whatever criteria you wanted. Many of these projects won't pay for themselves and you will have to consider the public benefits involved. He said they have no objection to setting criteria that future legislators would use, but the Department of Natural Resources left it up to the legislature itself. Mr. Berry said the first priority is to fix the state-owned dams, then for the development of the water reserve for the conservation districts.

The hearing was closed on Senate Bill 409.

CONSIDERATION OF SENATE JOINT RESOLUTION 26:

"A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA DIRECTING MODIFICATION OF THE ADMINISTRATIVE RULE GOVERNING THE ASSESSMENT OF COMMERCIAL FURNITURE AND FIXTURES."

Senator Thomas said this bill asks the Department of Revenue to modify its depreciation schedules for assessments on commercial furniture and fixtures. Basically the Department of Revenue now uses a trending mechanism for placing value on furniture and fixtures. What we ask is simply that they come up with a cost and depreciation schedule for assessing taxable value on furniture and fixtures.

PROPONENTS:

George D. Anderson, CPA, representing Montana Taxpayers Association, Attachment #5., Larry Huss, representing Montana Taxpayers Association, Attachments #6 and 7. Mr. Huss contends that the Department of Revenue is using the trending mechanism, and has been using it since 1975, despite the fact they have no authority to do so. Even without continual change in the trending factor, they have also changed percentage depreciations. They have changed the rate that is used as the trending factor itself. He asked that the legislature request the Department of Revenue to use a system of original cost and depreciation on either a three, five or 10 year basis and refrain from using the trending factor. Ellen Feaver -- she said the current law requires the Department of Revenue to assess taxes on furniture and equipment based on fair market value. If we accepted MONTAX recommendation based on cost depreciated we would not be basing on fair market value. If this resolution is passed, I would urge you also to change statute requiring fair market value. Trending is a tool used to arrive at a fair market value. Trending factor is based on cost. It has been said that the Department of Revenue has instructed county offices to use trending factors; however, they have also been told they might have to re-compute. I will acknowledge testimony, particularly regarding computers. However, they are a very small part of what is involved. This matter has been considered by the Revenue Oversight Committee and they have chosen to say that the Department of Revenue can act in a fair way. There have been virtually no appeals

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on valuations placed by trending factors. I would urge you to keep in mind that we are talking about value, not cost, and fair market value is what we have been ordered to arrive at. Sally Price, Assessor's Association, said they are finding that the use of the trending factor is very useful in arriving at market value. We do not always get sheets back from taxpayers listing their property, so this has been a useful assessment tool.

Senator Thomas closed, saying he thought the reason there are not many tax appeals is that the process is too expensive. He hopes this bill would streamline the mechanism.

Senator Goodover: If you bought a desk for \$300 and would now pay \$500, what you are really doing is adding to the inflationary spiral.

Ellen: Our mandate is to tax at fair market value. As long as we have to do that we have to use today's values. If you don't agree with fair market value, that change should be made.

Senator Steve Brown said his recommendation would be to amend the statute itself.

Larry Huss said the standard for valuation of property has always been fair market value. He said original cost depreciated is fair market value.

Ellen Feaver said if you use cost-depreciated method on a \$200 vs. \$450 basis, there is substantial impact. The trending factor is a concept being used across the board to arrive at fair market value.

The hearing was closed on Senate Joint Resolution 26.

CONSIDERATION OF HOUSE BILL 13:

"AN ACT TO ALLOW THE DEPARTMENT OF REVENUE TO WAIVE INTEREST UPON DELINQUENT TAXES AND PENALTIES IN CERTAIN CASES; AMENDING SECTION 15-1-206, MCA."

Representative Fabrega, District 44, said House Bill 13 was put in at the request of the Revenue Oversight Committee. Last session we passed a bill that allowed the department to waive penalty for late payment of taxes within a five-day period leeway of the time due, but we did not take care of the interest. House Bill 13 tends to humanize the Department of Revenue. The Senate Committee will have extensive amendments offered created by the fact that the State of Alaska has had monies refunded to them.

Ellen Feaver said the Department of Revenue is eager to see this bill implemented. Larry Weinberg passed out proposed amendments to House Bill 13, saying that Montana gets Alaska tax as dollar for dollar credit on Montana tax. The proposed amendments give the department authority to waive or evade the interest that has accrued from April 1980 to April 1981. Amendments are Attachment #

The hearing was closed on House Bill 13.

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There was one proponent for Senate Joint Resolution 23, which time did not allow for hearing. He was asked if he could come tomorrow. The chairman said that House Bills 17 and 23 will be heading the list for consideration tomorrow.

The meeting was adjourned at 9:55 a. m.


PAT M. GOODOVER, Chairman

ROLL CALL

TAXATION COMMITTEE

47th LEGISLATIVE SESSION - - 1981

Date 3/24/81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat M., Chairman	✓		
McCallum, George, Vice	✓		
Brown, Bob	✓		
Brown, Steve	✓		
Crippen, Bruce D.	✓		
Eck, Dorothy	✓		
Elliott, Roger H.	✓		
Hager, Tom	✓		
Healy, John E. "Jack"	✓		
Manley, John E.	✓		
Norman, Bill	✓		
Ochsner, J. Donald	✓		
Severson, Elmer D.	✓		
Towe, Thomas E.		✓	

Each day attach to minutes.

DATE March 3, 1981

COMMITTEE ON Information

VISITORS' REGISTER

Senate Bill 409 & HB 13

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
R.A. Ellis	Mt Water Development ^{H 554}		409 13	409 13
G Bitt	DNRC		✓	
J. P. Jensen	Deadman's Basin			
Willa Hall	League of Women Voters		✓	
Charles Crane	MWRB		✓	
RAY BECK	MACD MASHD		✓	
Donald Thompson	National Farmers Org		✓	
JOHN C. DEW	IN - PATTERNS			✓
Edith Johnson	Wetlands		✓	
Ellen Leaver	Dept of Revenue			✓
John D. Oliver	NPRC	409	✓ with amendments	
John D. Oliver	NPRC			
G. L. Boushman	G.T. MURPHY & CO. PAPER STAMP	409	✓	
JOHN OTZINGER	DNRC	409		
John Lane	PNRC	409	✓	
John Lane		409	✓	
Henry Wanklyn				✓

(Please leave prepared statement with Secretary)

DATE March 3, 1981

COMMITTEE ON TAXATION

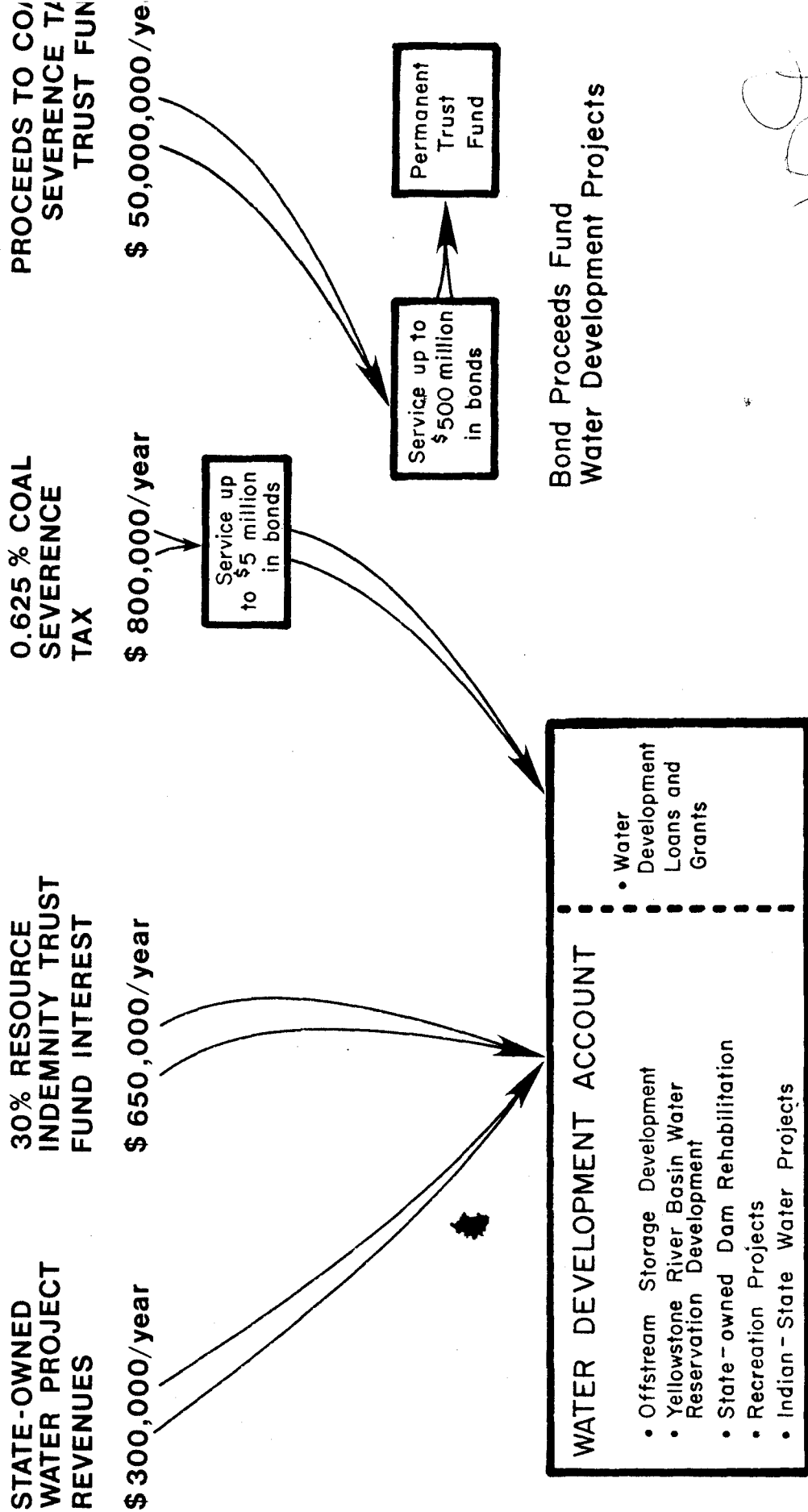
VISITORS' REGISTER

SJR 23 & SJR 26

[illegible]

(Please leave prepared statement with Secretary)

MONTANA WATER DEVELOPMENT PROGRAM



2B-409

January 1977

TESTIMONY OF THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

AN ACT TO CREATE A WATER DEVELOPMENT PROGRAM

In 1933, the State of Montana initiated a major, formal program of construction and operation of state-owned water development projects intended primarily to provide irrigation water. This program was established during a special session of the Montana Legislature in 1933 and subsequently amended and strengthened by the legislature in 1935. Legislation declared that the public interest required the construction of a system of works for the conservation, development, storage, distribution and utilization of water. In all, 181 water projects of a variety of types and sizes had been constructed by the late 1950's. Included were 141 dams and reservoirs with a total storage capacity of over 438,000 acre-feet. Associated with the dams and reservoirs were numerous diversion structures and 815 miles of canals with the capacity to carry some 260,000 acre-feet of water. Total acreage served by the state projects was in excess of 400,000 acres.

In the late 1950's, the State of Montana lost its momentum in the development of its own water resources under direct state sponsorship. To a considerable extent, the state yielded its responsibilities regarding water projects to the federal government, which was active during the 1950's, 1960's and early 1970's in construction of water projects. Federal initiative in water project construction then waned. Not only was there no new state construction of significance during this time but there was a gradual deterioration of the entire state water development system due to a number of reasons including advancing age, poor initial construction practices for some projects, the inability of water users associations to finance major repairs for their projects, increasing

cost per employee of state government, and decreased availability of general fund monies to plan and accomplish repairs and improvements.

Senate Bill 409, in creating a water development program, recognizes the importance of water to Montanans economic well-being and puts the state into the business of promoting the development and conservation of water. Last year, Montana ranchers and farmers produced \$1.4 billion worth of crops and livestock, the most revenue generated by any industry. Irrigated crops produced one-fifth of this revenue. Cattleman produced over one-half of the agricultural revenue and depended on 860,000 acres of irrigated pasture to do it. Last year, publicly-owned dams in Montana produced 10.3 billion kilowatt hours of electricity with a total value of about \$165 million. Water-based recreation is important to Montana's tourist industry; an industry that brought us \$420 million in gross revenues in 1979.

The use and development of Montana's water resources not only benefits today's economy and lifestyle but is an investment that accrues to future generations. Funds spent on water development today reverberate through today's economy. Funds spent on water development today provide long-term stability in our economy necessary for future Montanans. Our agricultural, tourism, hydropower and other water-dependent industries will be here long after our coal is mined and our oil recovered.

As Senator Towe has said "We owe it to future generations to use the money from the Coal Tax Constitutional Trust Fund in such a way that we can lessen the economic shock that will take place when our coal is gone.". It makes sense to invest revenue from nonrenewable resources

into the development of our water resources that will help sustain Montana through the hard times and provide an economic base for our children's children.

National criticism has been focused on Montana for salting away millions of dollars in a trust fund for unspecified and allegedly non-bona vide use. We can demonstrate the validity of the trust fund by providing a means to invest those funds in water resources and other economic development projects that will maintain our economy when the coal is gone. Senate Bill 409 would strengthen the need for our coal severance tax.

Senate Bill 409 would put the machinery in place to promote water resource development. It would be a mistake to expect miracles from the program overnight, but it's a start. The bill creates a program that many think we should have had twenty years ago, that most other western states already have, and that ensures Montana can wisely invest its severance taxes for the benefit of future generations.

Examples of the kinds of projects Senate Bill 409 would promote are:

1. Conversion from electric to gravity sprinkler systems
2. Saline seep abatement
3. Construction of offstream or tributary storage
4. Construction of irrigation systems
5. Canal lining
6. Streambank stabilization
7. Erosion control
8. Rehabilitation of existing irrigation projects
9. Development of Conservation District water reservations
10. Development of hydropower



League of Women Voters of Montana

testimony for SB 409

March 3, 1981

The League of Women Voters supports the concept of this water development program. We are also strong supporters of the 30% Coal Severance Tax. If using a portion of this tax to develop our renewable resources (such as water) strengthens our position with Congress, as we believe it will, then we support this action.

To improve the management of our water resource to the benefit of all Montana citizens is an important goal. While some of these projects to be financed are mentioned fairly specific, such as dam repairs, off stream storage and hydropower development; other projects are mentioned in a more vague fashion, such as projects to develop or protect the water and related agricultural land, fish, wildlife, water recreation resources. As a member of the Citizens Water Advisory Council, I would like to quote from the "Water Development Paper", which council members studied and discussed at great length; "Montana rivers provide a significant local and national recreational and scenic resource. As free flowing rivers become more scarce, their value increases. Montana possess a valuable resource in her rivers and this resource should be carefully utilized and preserved". It is important that we protect instream uses as well as consumptive uses as we proceed with water development.

Since this is a WATER DEVELOPMENT PROGRAM, I ask that you strike all wording such as "other capital improvement and economic development" as so stated on page 26, line 2 and 3. This could mean many things unrelated to water development and I could not support the bill if these phrases were

SB 409

AMENDMENTS TO SB 409:

Page 25 line 16

after "activities" STRIKE: "other capital improvements, and economic development in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful environment for present and future generations."

Page 25 line 16

after "activities" ADD: "which will serve a long-term renewable purpose. Such projects and activities include, but are not limited to agricultural, irrigation, small scale hydro, water based recreation, instream flow maintenance and dam maintenance and safety uses."

Page 26 line 2

STRIKE: "other capital improvements and economic development"

Page 26 line 18

after " section 5 " ADD: "The legislature further intends that water projects and activities financed by coal severance tax bonds serve a long-term renewable purpose."

Page 28 line 4

after "activities" STRIKE: "other capital improvements, or economic development"

Page 28 line 7

after "issue." ADD: "The purpose of the issue must clearly reflect that the project or activity will serve a long-term renewable purpose."

Page 35 line 11

after "activities" STRIKE "other capital improvements, and economic development."

Anderson ZurMuehlen & Co.
CERTIFIED PUBLIC ACCOUNTANTS

STATEMENT BEFORE HEARING OFFICER - PUBLIC HEARING
RELATIVE TO ASSESSMENT OF FURNITURE AND FIXTURES
COMMERCIAL ESTABLISHMENTS - RULE 42.21.134
February 11, 1981

I am George D. Anderson, Certified Public Accountant of Helena, Montana. I am here today representing the Montana Taxpayers Association, the Montana Bankers Association, Anderson ZurMuehlen & Co. and myself as a concerned taxpayer.

The Department of Revenue issued a Notice of Hearing certified to the Secretary of State as of December 30, 1980 relative to the amendment of Rule 42.21.134 relating to the valuation of commercial furniture and fixtures. The Department of Revenue is proposing to change the percentage factors utilized in determining the hypothetical fair market value of commercial furniture and fixtures.

On July 11, 1979, I appeared and testified at a similar hearing. In re-reading that testimony, I find it to be apropos to the present hearing with only some minor changes. I am, therefore, submitting copies of that testimony and a subsequent letter to the Department dated July 17, 1979, as part of this testimony. The differences between the proposal made at that time and the

rule proposed here today are the utilization of a different set of tables to compute the so-called "Trend Factor" and a change in the percentage of salvage value. Also, the Department is proposing to cease using a three (3) year table and would now classify such property in the five (5) year category.

The inequities which occur from dropping the three (3) year table are quite obvious. For example, a computer installation that was three (3) years old under the old table would immediately be assessed at three (3) times as much under the new table when it is four (4) years old. Under the three (3) year table, if an item was three (3) years old a factor of 12% of cost was used to determine fair market value. Under the new rule as proposed, the same item that is now four (4) years old would have a computed fair market value of 37% of cost, a 310% increase in value in one (1) year. This in light of the fact that the Bureau of Labor Statistics Producer Price Index relative to computer and electronic equipment shows a downward trending factor. This fact I can personally testify to as a computer system we purchased three (3) years ago for approximately \$40,000. can now be purchased for \$10,000 or less. The salvage value of this system is now approximately \$5,000.

The "trending factor" utilized in the proposed tables is taken from a manual published by Marshall and Swift Publications Company. The "trending factors used" are apparently the ones shown in that publication for Office Equipment on page 6 of Comparative Cost Multipliers. It is interesting to note what Marshall and Swift state in their introduction to this particular publication. They state, "The Equipment Comparative Cost Multipliers will give a measurement of the fluctuations in the average costs of plant equipment. They do not represent the cost change of any single item of equipment or machinery by itself." (Emphasis supplied). Later in the same introduction it is stated, "When applying these Comparative Cost Multipliers, keep in mind that they are averages for each of the industries listed and may not be representative when used on a specific item within an industry." (Emphasis supplied).

It is the practice of the Department of Revenue, through the County Assessors, to itemize the pieces of equipment and apply the factors on an individual basis. This is in complete contradiction of the instructions listed in the publication. The Department is attempting to make a broad general rule fit everyone - doing so is highly discriminatory against many taxpayers.

For example, the mix of equipment, as enumerated in the rule, as between two (2) taxpayers could cause one to be paying twice as much tax as he should and another to be paying half of the tax he should. The Marshall and Swift indexes are meant to be applied to large concentrations of equipment and not to individual items.

I have taken the liberty of calling the chief analyst for Marshall and Swift in an attempt to determine the applicability of the "Office Equipment Index" to the items enumerated in the Department's proposed rule. The analyst stated that the source of the data is mainly from the Producer Price Index which is put out by the Department of Labor; therefore, the same problem is inherent in the use of this index as in the one utilized previously.

The main problem appears to be the items which are used in computing the index. According to the analyst, the items included in the "Office Equipment" category are such things as desks, office chairs, file cabinets and small desk top type items. In previous testimony, we found that the items included in the Bureau of Labor's Producer Price Index consisted of wooden desks, wooden chairs, metal chairs and metal filing cabinets. These

items constitute a minimal portion of the items enumerated in the Department's proposed rule.

When I asked the analyst about computer and data processing systems, he stated that if there were a reliable index in existence for this category of equipment, it would show a negative trend. This category of equipment is no doubt the largest dollar value in this classification. Therefore, the utilization in the proposed rule of the so-called "trending index" is completely improper and erroneous when dealing with items enumerated in Table I for a five (5) year life. It would also be completely improper for most of the items listed in Table 2 with a ten (10) year life. Many items listed in Table 2 should not even have a ten (10) year life, i.e. Repair Shop tools, radios, mobile phones and PBX typesystems.

The following example illustrates the inequity which might occur with a company that has a large computer installation:

Assumptions:

Cost of Computer, 1978	\$150,000
Cost of other office equipment, 1978	<u>50,000</u>
Total	<u>\$200,000</u>

Fair Market Values:

	<u>Per DOR Tables</u>	<u>Per Proper</u> <u>FMV Computation</u>
Computer	59% \$ 88,500	*39% \$ 58,500
Other equipment	86% <u>43,000</u>	86% <u>43,000</u>
Fair Market Value	<u>\$131,500</u>	<u>\$101,500</u>

*Assumes an index of 75% at the end of three years.

The fair market value of the equipment is computed to be \$30,000 less than it would be under the DOR Tables. Therefore, taxpayers who possess large installations of electronic equipment are being discriminated against in the computations.

No taxing authority at the federal, state or any other level has ever allowed depreciation for income tax purposes based on a trending or inflation factor basis. This method has been advocated by taxpayers in an attempt to reflect inflation in the amount they deduct for depreciation, but to date, neither Congress nor the Legislature has been willing to allow such a procedure. The Department is, in fact, aggravating the problem of inflation by their proposed procedure. The theory behind using "fair market value" for assessment purposes is to achieve

equitable equalization of the tax burden. This rule not only does not achieve equitable equalization it causes complete inequities. The theory is that as taxable values increase, mill levies will decrease, as we all know this has not been true in Montana (nor nationwide for that matter). Therefore, the utilization of a "trending factor" not only causes an inequitable burden upon the taxpayer who owns commercial furniture and fixtures, but it also discourages the investment of funds in productive facilities, thereby contributing to inflation.

As I have stated in previous testimony relative to this matter, the taxpayers, the County Assessors and the Department of Revenue would be better served if the method utilized to value the items concerned was kept as simple as possible. The utilization of depreciated values as shown on a taxpayer's income tax return would simplify to a considerable extent the process now utilized to assess furniture and fixtures. The utilization of this figure would allow a very easy cross-check with the taxpayer's income tax return as to the correctness of amounts reported. Such a procedure is now utilized relative to the inventory tax and, I believe, has proven to be quite satisfactory.

The utilization of depreciation is at best an educated guess. Therefore, it should be recognized that the computation of fair market value by utilizing a factor for depreciation is extremely arbitrary. There is no "indexing factor" that can be applied to such a broad spectrum of items as set forth in the proposed rule which would result in "fair market value" for those items as a whole. The utilization of depreciation constitutes the insertion of enough nebulous factors into the calculation without the addition of a "trending factor" which is irrelevant in most cases.

The national trend is to allow a greater deduction for depreciation in order to more closely reflect the productive value of equipment. Such a philosophy could certainly be justified in computing so-called "fair market value" for purposes of property taxation. A fair market value for these items can only be computed by considering what their value is in place, not, out on the open market. Most taxpayers are not second-hand dealers and, therefore, the equipment they own has a fair market value based on its utilization in a certain location. The utilization of a "trending" or inflation factor assumes that the property concerned is ready for resale and immediate delivery to a purchaser. Therefore, if the Department of Revenue does not feel that using

the depreciated value as shown on the taxpayer's income tax return is acceptable, they are urged to utilize straight line depreciation with a 10% salvage value based on three (3), five (5) and ten (10) year life tables. The so-called "trending factor" should not be used as it compounds the inequities already built into the computational system employed. Also, to date, the Department has not demonstrated that the "trending factors" they are using are applicable to the equipment placed in this classification.

Business and especially small business does not need an additional disincentive. The proposal submitted by the Department is unnecessarily discriminatory, is complicated to compute, and discourages the type of investment needed by the economy of the State of Montana. The Department should be encouraged to simplify its procedures and to encourage business to add to and increase the tax base. Such policies would improve the business climate in Montana and would result in some badly needed economic growth for the State.

Anderson ZurMuehlen & Co.

CERTIFIED PUBLIC ACCOUNTANTS

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P. O. BOX 1147

JULY 11, 1979

COPY

Mr. R. Bruce McGinnis
Tax Counsel
Department of Revenue
Mitchell Building
Helena, Montana 59601

Re: Amendment of Rule 42-2.22(2) - S22172 Assessment of
Furniture and Fixtures - Commercial Establishments

Dear Mr. McGinnis:

In addition to testimony previously submitted by me at the hearings held on the above matter, I hereby request that this letter also be made a part of the record relative to this matter.

At the hearing held July 11, 1979, it developed that the Board personnel were not informed as to the makeup and details relative to the Wholesale Price Index for Commercial Furniture and Fixtures contained in the "Monthly Labor Reviews" published by the Department of Labor Statistics. Since it would seem extremely important to know the basis for these tables, I checked with the Regional Office of the Bureau of Labor Statistics in Kansas City, Missouri relative to this matter. The statistics are no longer referred to as the Wholesale Price Index. The former designation was apparently dropped early in 1978.

The only category which contains statistics on Office Furniture and Fixtures is contained in Code 122. I was informed by the Bureau of Labor Statistics Regional Office that this category is computed by obtaining the producers prices on the following items:

1. Wood - office side chairs
2. Wood - office swivel chairs
3. Wood - office general purpose desks
4. Wood - office executive desks
5. Metal - office chairs
6. Metal - filing cabinets

Therefore, the so-called Trend Factor used in Tables 1 and 2 would be based only upon these items. None of the items set forth in Table 1 of the first subsection (3) are contained in these statistics and only the furniture and

fixtures item in Table 2 would be contained therein. In discussing the other items enumerated under the categories Table 1 and Table 2 with the Bureau of Labor Statistics, they indicated that they possibly have statistics relative to these items, but since they do not constitute a homogeneous group, it would be impossible to have one set of statistics to cover a price index for the entire group.

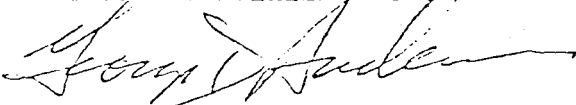
As an example of the above; whereas the index for the office furniture and fixture category had increased from 100 in 1967 to 201.5 in 1978, another category which covered mainly TV and radio sets had decreased from 100 in 1967 to 80.2 in 1978. This would indicate that there is no correlation whatever amongst the items enumerated by the Department of Revenue in the category Commercial Furniture and Fixtures.

Further research with a client in the radio and television broadcasting business indicate that the indexes used to compute the Trend Factor are in complete error as far as that industry is concerned.

Therefore, considering the large number of non-homogeneous items placed in this category, and considering the broad range of price indexes that would be produced by these items; it would appear that the utilization of original cost and straight line depreciation would be the most logical solution.

Respectfully submitted,

ANDERSON ZURMUEHLEN & CO.



George D. Anderson

GDA/cv

cc: Montana Bankers Association
Montana Taxpayers Association
Lawrence Huss, Attorney-at-Law

STATEMENT BEFORE HEARING OFFICER - PUBLIC HEARING RELATIVE TO
ASSESSMENT OF FURNITURE AND FIXTURES - COMMERCIAL ESTABLISHMENTS
JULY 11, 1979

I am George D. Anderson, Certified Public Accountant of Helena, Montana. I am here today representing the Montana Bankers Association, Anderson ZurMuehlen & Co., and myself as a concerned taxpayer.

The Department of Revenue issued MAR Notice 42-2-121 relative to a public hearing on the proposed amendment of rule 42-2.22(2)-S22172 having to do with the assessment of furniture and fixtures - commercial establishments for property tax purposes. The Department of Revenue is proposing to change this rule by setting up 5 and 10 year depreciation tables to determine the average market value of furniture and fixtures in commercial establishments. Because of changes enacted in the 1977 Legislature, it is now proposed that this rule change is necessary in order to more accurately reflect the present law.

The new rule states that the Department of Revenue will establish depreciation tables based on items which have a 5 year life and those having a 10 year life. These tables are included in the proposal under the first subsection (3) contained in the notice for the proposed rule. Basically, the tables are based on the utilization of an "R-3 % Good" table which purports to show the market value of an item at the end of each year based on 5 and 10 year lives. This market value would be computed by multiplying the percent obtained from the table times the cost value of the item. The Department of Revenue proposes in this rule to multiply this percentage of value by a so-called "Trend Factor" which is apparently based upon the 1979 Tables of the Wholesale Price Index for Commercial Furniture and Fixtures published by the Bureau of Labor Statistics in the "Monthly Labor Reviews". The percentage thereby obtained is apparently going to be utilized by the Department to determine market value of a particular item of equipment.

Although I am not acquainted with all of the factors utilized in computing the "R-3 % Good" table, it would seem only logical that such table would already consider the so-called trending factor and that the percentages obtained would in fact, attempt to reflect the market value of an item by applying this percentage to its original cost. Therefore, the attempt by the Department to increase this percentage by further inflation would, in reality, add inflation upon inflation.

As will be further discussed in testimony before this hearing, the setting of a minimum market value of 25% is completely arbitrary. The R-3 tables appear to indicate that such a minimum is completely incorrect. The R-3 tables indicate that salvage value at the end of 5 and 10 years is considerably less than 25%. Also, there is no indication as to what is meant by "cost" as used in subsection (2). Is this the original cost or is it an inflated cost utilizing the so-called "trend factor"?

Another problem which is not addressed in the rule is what happens with a piece of equipment which is in excess of 5 or 10 years of age. Is it to be carried at the percentages shown in the tables (22% and 26%) or at 25% as per subsection (2) or is it to be "trended" upward after the 5 and 11 year period to reflect further inflation? Actually, the item that is older than 5 or 10 years would have been purchased prior to the beginning of these tables and should probably be subject to a much different set of factors.

It is interesting to note that no taxing authority at the Federal level or at the State level in Montana has ever allowed the utilization of an inflation factor in computing depreciation. This method has been advocated by taxpayers in an attempt to receive a larger deduction for depreciation on the theory that it will cost more to replace the item at the end of its useful life than the amount contained in the depreciation reserve, but to this date, Congress nor the Legislature have seen fit to allow such a method to be utilized. I think it should also be recognized that proposition 13, as it was passed in California, was designed to forestall exactly the type of thing the Department of Revenue intends to accomplish by utilizing the so-called "trending factor".

A further thought relative to the utilization of depreciation schedules is that depreciation was never designed to calculate what the fair market value of an asset might be at any one particular point in time. Depreciation is nothing more nor less than a method of assigning the cost of an asset to individual accounting periods over the estimated economic useful life of that particular asset. If the depreciated value at any one point in time happens to equal the fair market value of a particular asset, it would be purely accidental. Depreciation is at best, an educated guess as to the cost that should be deducted from revenue for the utilization of a particular asset.

Considering all of the above, it is my opinion that the use of a so-called trending factor and a 25% minimum market value is completely arbitrary. The utilization of such factors do not necessarily reflect market value. Such factors will, without doubt, be highly discriminatory as between individual taxpayers and therefore, completely inequitable. The law does not provide for an average market value, but rather for a market value of the items of equipment owned by the taxpayer. If an average is to be used, it should be based on each class of equipment. In this ruling there is an attempt to average apples and oranges.

It would also appear that it will be necessary to change the rule each year in order to update the Trend Factor. The percentages used in the tables would only be good for 1979 if they reflect inflation for the last 5 and 10 years. Therefore, the Department would have to notice and hold a new hearing each year in order to update the "Trend Factor".

Considering the technical difficulties and the inequities which will arise from the adoption of this rule, I would recommend to the Department of Revenue that they utilize depreciated cost as a basis for computing so-called market value. Although, even this amount will not necessarily reflect true market value (only an indepth appraisal could hope to accomplish that); it would produce a value which has fewer inequities and probably more closely reflects the true circumstances of each case. If straight line depreciation were utilized with a ten percent salvage value based on the 5 and 10 year tables, a very close approximation of market value would result. This would reduce to a considerable extent the inequities between taxpayers and would certainly lessen the computational and paper work load that the proposed rule will cause. Such a procedure would allow the taxpayer to bulk all of his commercial furniture and fixtures into two categories - 5 year and 10 year. As a general rule, the information could be taken directly from his income tax returns that are now filed with the federal and state authorities. This would also lessen the burden on the County Assessors and the Department of Revenue personnel in preparing and monitoring tax assessment notices. It has been my experience over the years that the so-called market value will tend to average out as being depreciated cost. Most items in these categories eventually reach a ten percent salvage value at the end of their useful life.

If a procedure can be devised which will alleviate the paper work burden on both the taxpayer and the government, a great deal would be accomplished.

	1981	1980	1979	1978	Pre 1976
5 yr.					
1 yrs old	85%	82%	80%	80%	45%
2 yrs old	69%	64%	61%	64%	35%
3 yrs old	52%	46%	44%	45%	27%
4 yrs old	34%	28%	28%	34%	21%
5 yrs old	20%	10%	17%	25%	15%
10 year					
1 yrs old	92%	91%	91%	91%	52%
2 yrs old	84%	82%	82%	86%	47%
3 yrs old	76%	73%	73%	81%	41%
4 yrs old	67%	64%	64%	72%	31%
5 yrs old	58%	55%	55%	74%	32%
6 yrs old	49%	41%	47%	67%	28%
7 yrs old	39%	37%	39%	58%	25%
8 yrs old	30%	28%	31%	48%	22%
9 yrs old	24%	19%	24%	39%	19%
10 yrs old	20%	10%	19%	33%	15%

1981 COMMERCIAL FURNITURE, FIXTURE AND EQUIPMENT
DEPRECIATION TABLES

To compute "market value" use the "Percentage Trended Depreciation" column as listed below.

TABLE 1: 5 YEARS

Vending Machines, Cash Registers, Coin Operated Equipment, Radio and T.V. Broadcasting and Transmitting Equipment, Hotel and Motel Furniture and Fixtures, Office Copiers, Computer Systems, Data Processing Equipment, Electronic Cash Registers, Other Associated Electronic Equipment, Calculators, and Typewriters.

Age	Percentage Depreciation	Trend Factor	Percentage Trended Depreciation
1 Year Old	85%	1.000	85%
2 Years Old	69%	1.037	72%
3 Years Old	52%	1.138	59%
4 Years Old	34%	1.218	41%
5 Years Old and Older	20%	1.284	25%

TABLE 2: 10 YEARS

Specialized Medical and Dental Equipment, Repair Shop Tools, Citizenband Radio, Mobile Phones, PBX Typesystem, Show Cases, Restaurant and Van Fixtures, and All Other Commercial Furniture, Fixtures and Equipment.

Age	Percentage Depreciation	Trend Factor	Percentage Trended Depreciation
1 Year Old	92%	1.000	92%
2 Years Old	84%	1.037	87%
3 Years Old	76%	1.138	86%
4 Years Old	67%	1.218	82%
5 Years Old	58%	1.284	74%
6 Years Old	49%	1.359	67%
7 Years Old	39%	1.418	55%
8 Years Old	30%	1.695	51%
9 Years Old	24%	1.783	43%
10 Years Old and Older	20%	1.851	37%

(3) The lists of furniture and fixtures provided with the tables in subsection (2) are not meant to be exhaustive, but are intended to be illustrative of the types of property subject to the respective tables.

EFFECTIVE JANUARY 1, 1980

1980

1980 REVISION COMMERCIAL FURNITURE, FIXTURE, AND EQUIPMENT DEPRECIATION TABLE.

USED THE TRENDDED DEPRECIATION PERCENTAGE TO COMPUTE THE MARKET VALUE. ~~IF YOU HAVE NEW COST~~

YEAR	TREND FACTOR	TABLE I		TABLE II		TABLE III		
		DEPRE. %	TRENDED DEPRE.	DEPRE. %	TRENDED DEPRE.	DEPRE. %	TRENDED DEPRE.	
1 yr. old	1.000	70%	70%	82%	82%	91%	91%	79
2 yrs. old	1.101	40%	44%	64%	70%	82%	90%	78
3 yrs. old	1.194	10%	12%	46%	55%	73%	87%	77
4 yrs. old	1.331			28%	37%	64%	85%	76
5 yrs. old	1.456			10%	15%	55%	80%	75
6 yrs. old	1.777					46%	82%	74
7 yrs. old	1.846					37%	68%	73
8 yrs. old	1.877					28%	53%	72
9 yrs. old	1.938					19%	37%	71
10 yrs. old & Older	2.055					10%	21%	70

TABLE I

Computer systems, Data Processing Equipment, Electronic Cash Registers, and other associated Electronic Equipment.

TABLE II

Vending Machines, Cash Registers, Coin Operated Equipment, Radio and T.V. Broadcasting and Transmitting Equipment, and Hotel and Motel Furniture and Fixtures.

TABLE III

All other Commercial Furniture, Fixtures and Equipment; including specialized Medical and Dental Equipment, Repair Shop Tools, Citizenband Radio, Mobile Phones, PBX Type System, Showcases, Restaurant, Bar and Van Fixtures, etc.

GAS TANKS & FURNITURE

PRICES THIS BOOK
X 1.194 = 1980 COST
X DEPRE. % =
PRESENT VALUE

1979

1979 Revision for 5 Year and 10 Year Depreciation Table to be used in, completing Form PPB-2 "Retail and Wholesale Commercial Establishments, Professional Offices, Service and Repair Shops", Schedule D-E-F-G and I.

TABLE 1 - 5 YEARS

YEAR	R-3 % GOOD	* TREND FACTOR	TRENDED % GOOD OR MARKET VALUE
			<u>Year</u>
1 yr. old	80%	1.000	80% 78
2 yr. old	61%	1.057	64% 77
3 yr. old	44%	1.133	50% 76
4 yr. old	28%	1.179	33% 75
5 yr. old	17%	1.289	22% 74

TABLE 2 - 10 YEARS

YEAR	R-3 % GOOD	* TREND FACTOR	TRENDED % GOOD OR MARKET VALUE
			<u>Year</u>
1 yr. old	91%	1.000	91% 78
2 yr. old	82%	1.057	87% 77
3 yr. old	73%	1.133	83% 76
4 yr. old	64%	1.179	75% 75
5 yr. old	55%	1.289	71% 74
6 yr. old	47%	1.573	74% 73
7 yr. old	39%	1.635	64% 72
8 yr. old	31%	1.662	52% 71
9 yr. old	24%	1.716	41% 70
10 yr. old	19%	1.819	35% 69
11 yr. old	14%	1.891	26% 68

TABLE 1 Vending Machine, Computer Systems, Cash Registers, Coin Operated Equipment, Radio and T.V. Studio Broadcasting Equipment, Motel and Hotel T.V.'s.

TABLE 2 Furniture and Fixtures, Signs, Billboards, Specialized Medical and Dental Equipment, Radio and T.V. Transmitting and Antenna Equipment, Shop Equipment and Tools, Service Station Pumps and Equipment.

SCHEDULE H - Use Tables supplied for Stationary Manufacturing Machinery.

SCHEDULE J - Use Green Guides or Table used as Supplemental to Green Guides.

* Trend Factor used is from Wholesale Price Index for Commercial Furniture and Fixtures.

1978 Revision: Depreciation Tables to be used in completing Form
 PPB-2 "Retail and Wholesale Commercial Establishments, Professional
 Offices, Service and Repair Shops" schedules D--E--F--G and I.

TABLE 1	TABLE 2
1 Yr. - 80%-78	1 yr. - 91%-78
2 yrs.- 64%-77	2 yrs.- 86%-77
3 yrs.- 49%-76	3 yrs.- 81%-76
4 yrs.- 34%-75	4 yrs.- 78%-75
5 yrs.- 25%-74	5 yrs.- 74%-74
& Older	6 yrs.- 67%-73
	7 yrs.- 58%-72
	8 yrs.- 48%-71
	9 yrs.- 39%-70
	10 yrs.- 33%-69
	11 yrs.- 25%-68
	& Older

Sch. D-E-F -
 Class 9 - 13.3%
 Sch. G -
 Class 7 - 16%
 Sch. I -
 Class 14 - 8%

TABLE 1	TABLE 2
Electronic Computer Systems	Furniture and Fixtures
Data Processing Equip.	Signs
Cash Registers	Billboards
Coin Operated Equip.	Specialized Medical and
Radio and T.V. Studio	Dental Equipment
Broadcasting Equip.	Radio and T.V. Transmitting
	and Antenna Equip.
	Shop Equipment and Tools
	Bowling Alleys and Equip.

Schedule H - Use table for stationary manufacturing machinery.

Schedule J - Use "Green Guides" or tables used as supplement to
 "Green Guides".

Property Assessment Division
 Department of Revenue

TABLES FOR ASSESSMENT

EQUIPMENT - FURNITURE - FIXTURES

TABLE 1		TABLE 2		TABLE 3	
YEAR	ASSESSMENT FACTOR	YEAR	ASSESSMENT FACTOR	YEAR	ASSESSMENT FACTOR
New	60%	New	60%	New	60%
1st	45%	1st	52%	1st	54%
2nd	35%	2nd	47%	2nd	51%
3rd	27%	3rd	41%	3rd	47%
4th	21%	4th	36%	4th	43%
5th	15%	5th	32%	5th	40%
		6th	28%	6th	37%
		7th	25%	7th	34%
		8th	22%	8th	32%
		9th	19%	9th	29%
		10th	15%	10th	26%
				11th	23%
				12th	21%
				13th	19%
				14th	17%
				15th	15%

APPROPRIATE TABLE TO APPLY VARIOUS TYPES OF EQUIPMENT - FURNITURE - FIXTURES

TABLE 1:	
Vending Machines	Computer Systems
Cash Registers	Coin-Operated Amusement Machines
Electronic Machines	Coin-Operated Laundry & Dry Cleaning Equipment
Data Processing Equipment	

TABLE 2:		
Bar & Restaurant Equipment	Plastic Illuminated	Photography Equipment
Restaurant & Drive-In Equipment	Public Rental Equipment	Laboratory Equipment
Motel Furniture & Equipment	Car Wash Equipment	Broadcasting Equipment
Neon Signs	Research Equipment	Garage Tools & Equipment
		Golf Course Equipment

TABLE 3:		
Air Condition Units	Theatre Furniture,	Laundry & Dry Cleaning
Apartment Furniture & Fixtures	Fixtures & Equipment	Equipment
Bank Furniture & Fixtures	Printing & Publishing	
Barber & Beauty Shop Equipment	Equipment	
Dairy Equipment	Professional Libraries	
Retail & Wholesale Store	Medical & Dental Equipment	
Fixtures & Equipment	Including X-Ray	
Welding & Machine Shop	Hospital & Nursing Home	
Equipment	Equipment	

Proposed Amendments to HB 13

Third Reading Copy

1. Amend Title, line 7
Following: "MCA"
Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."
2. Amend Page 1, line 24
Following: line 23
Insert: " (3) The department may waive or abate interest accrued prior to April 15, 1981, on additional individual income tax liability for tax years beginning after December 31, 1978, and on or before December 31, 1979, due to the refunding of Alaska personal income tax during the period January 1, 1980, through December 31, 1980.

Section 2. Effective date. This act is effective on passage and approval."