

MINUTES OF THE MEETING  
TAXATION COMMITTEE  
MONTANA STATE SENATE

April 14, 1983  
Morning session

The sixty-eighth meeting of the Taxation Committee was called to order at 8:05 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HOUSE BILL 923: Representative Harrison Fagg, House District 63, sponsored the bill, saying it increases the percentage by which the number of all-beverages liquor licenses in a new quota area may exceed that area's quota, specifically from 33% to 43% in an incorporated city of more than 10,000 inhabitants and within a distance of 5 miles from its corporate limits. Three more licenses will be available in Billings and one additional license will be available in Bozeman.

PROPOSERS

Senator Bruce Crippen, Senate District 33, spoke in favor of the bill.

OPPOSERS

There were no opposers to the bill.

Questions from the committee were called for. There were no questions.

Senator Crippen moved that HB 923 BE CONCURRED IN. The motion was seconded and passed unanimously.

CONSIDERATION OF HOUSE BILL 925: Representative John Shontz, House District 53, said the bill was introduced at the request of the Revenue Oversight Committee. The bill (1) brings appraisal and taxation of railroad property in Montana into compliance with the federal Railroad Revitalization and Regulatory Reform Act (Four R Act) and puts it in classifications with other similarly situated property in Montana, and (2) puts into the statutes what the railroads have to do. We have to have an inventory of their property if we are going to tax it like other property. One of the results of the federal district court lawsuit was that the state lost because Montana statutes do not say the railroads have to provide the information. This requirement will allow us to put the property on the tax rolls in the proper classes.

PROPOSERS

Senator Thomas Towe, Senate District 34, said this bill results from litigation the Department of Revenue has been engaged in with Burlington Northern. The Four R Act says we have to tax the railroad at a rate no higher than any other commercial or industrial property in Montana. The laws since 1979 have had a \$6 million to \$7 million impact on local governments, and it may be even higher than that in the future. But the Four R Act says we should tax railroad property no differently. This bill does that. Presently, railroad property is taxed as centrally assessed property. The unitary system is used now. It is based on income and is not related to property value in Montana. Real estate would be taxed as other real estate; railroad machinery, fixtures, equipment, tools and supplies would be class eight property; rolling stock would be class ten. The railroads may say this does not comply with the Four R Act. There is no questions about the real estate, but they are going to argue that we have to have a separate classification of railroad personal property. Congressional intent was clear that if railroad property were treated the same as other commercial and industrial property, it is not a problem. If it has to be treated differently from other property, but we average all other classes, including net proceeds, we would come up with a higher classification than 11% or 16%. Senator Towe's only objection was that this applies on January 1, 1986, and he thought it should be January 1, 1984. The Department of Revenue says it will cost \$1.3 million to put this on line for January 1, 1984, but it would be a good investment if it brought in \$7 million before the biennium was over. There will be lawsuits, he said, but let's get it under way. In the hearing in the House, Burlington Northern took the position that since they make no money or very little, they shouldn't be taxed as high.

George Bousliman, representing Urban Coalition, agreed with Senator Towe that the act should be made applicable sooner.

Al Thelen, representing the city of Billings, said HB 925 provides stability in taxing railroad property. Billings is down from \$97 million to \$89 million in assessed valuation, and \$1 million of that is railroad property. The problem with the railroads is that we are in court all the time. When the cases are settled we have to write off amounts as bad debts.

Dennis Burr, representing the Montana Taxpayers Association, agreed with the other proponents' testimony. The railroad assessment method the state is under now is based on an agreement between the Department of Revenue and the railroads and is not based on the statutes. The original assessment value of Burlington Northern property in Montana was \$398 million. As a result of their agreement with the Department of Revenue, the value was reduced to \$127 million. That value will continue to decrease in accordance with the agreement. A good portion of railroad property in Montana was assessed locally until 1979. Under this

bill, the Department of Revenue will establish guidelines on how to value track. By leaving the applicability date in 1986, the state will continue to assess under their agreement with the railroad and they will continue to assess and tax under the agreement during the pendency of lawsuits filed in 1986 until the suits are finally settled.

Alec Hanson, representing the Montana League of Cities and Towns, supported the bill and the accelerated implementation date as proposed by Senator Towe.

#### OPPONENTS

Stan Kaleczyc, representing BurlingtonNorthern, told how the estimates were derived:

February 15, 1983 - At a Revenue Oversight Committee meeting, Dennis Burr told the committee that if we went from a unitary method and assessed locally, they could raise money. It could be done on replacement cost less depreciation. The lawsuits that have been brought will indicate what the problems are and what the solutions should be.

1976 - The Four R Act was passed with a 3 years' delayed applicability date. It requires that the average assessment of commercial and industrial property be used for railroad property.

1977 - Montana Railroad Association introduced legislation. Dennis Burr testified that the legislation was premature and it was defeated.

1979 - Another bill was introduced. The Department of Revenue, through Dennis Burr, opposed the legislation. Mr. Kaleczyc quoted Mr. Burr's testimony before the Taxation Committee on February 13, 1979, wherein Mr. Burr stated that the unit value was a good way to tax. On the effective date of that act, the first lawsuit was filed. Burlington Northern won.

1980 - New litigation was filed.

1981 - The Department of Revenue proposed a bill that would have them comply with the Four R Act.

1982 - The Department of Revenue settled the lawsuit.

The blue sheet on Mr. Kaleczyc's handout (Exhibit A) shows the 1983 figure differences between the average business taxpayer and the railroad taxpayer. Mr. Kaleczyc stated that Judge Battin (U.S. District Judge, Montana District, Billings Division) says this is illegal under the Four R Act. The valuation factors for centrally assessed property also came up before Judge Battin. The Department of Revenue wanted to change the valuation method, but the judge would not allow it.

In Department of Revenue v. Soo Lines, Inc., 172 Mont. 1, 560 P.2d 512 (1977), the Montana Supreme Court said the unit method is the preferred method for assessing railroad property. Equalization and classification are problems in this state. You don't need HB 925 to bring you into compliance; you already are in compliance. The state doesn't use the unit method because the statutes require valuation on the basis of market value. How do you obtain a market value of railroad property? The unit method of assessment is the proper way to value railroad property. A separate appraisal situation will not produce the market value of railroads as common carriers. The replacement cost method is not a good method. The Marshall Swift Manual tells you that the replacement cost method requires consideration of depreciation and obsolescence factors. That is why 38 states, in 1986, will assess railroad property on the unit basis. Whether the local assessment method or the unit method is used has nothing to do with the Four R Act.

Steven Wood, council of record for Burlington Northern in every Four R Act case they have, and their vice president for state and local taxes, said HB 925 does not accomplish what the sponsors have represented to the committee it will do. It is illegal and won't work. It won't produce taxes that have been promised. It is in violation of the federal statutes. It will raise havoc on the people who administer it. It will be detrimental to rural counties. Railroad rights-of-way cannot be valued by figuring what adjoining property was worth and adding the rails, etc. See Columbus Southern Ry. v. Wright, 151 U.S. 470, 480-481, 14 S. Ct. 396, 400, 38 L. Ed. 238, 243 (1894). Railroads can be used only for railroad purposes. What value, for example, does a railroad bridge have but as a railroad bridge? Franchise can only be found by finding the "going concern value" of the company. That is the unitary method. There is no provision in this bill regarding a unitary approach to franchise. There is no way to apportion the value of the property back to the counties. Who will decide how it is done, the Department of Revenue?

By taking railroads out of the central assessment category, Burlington Northern will have to file protests in each county. Historically under the Four R Act, a California railroad had to file 48 suits (one in each county) and that in itself was declared discriminatory. If we have to file 51 lawsuits in Montana, it will be just as discriminatory. If we protest the taxes under present law, all taxes go into escrow, including the undisputed taxes. The sponsors of this bill have created a monster. Who decides which property goes where? Why is repair machinery in class seven rather than in class eight with other machinery?

Replacement cost less depreciation is not market value; it is only a market indicator. Dennis Burr gave only half of the story. He assumes that Montana will keep the same relative proportion of property. In Kansas, the U.S. district court ruled that they had to equalize and classify property like everyone else. They had an

interim study and tried to determine whether they could change to a local assessment method. They concluded that only the unitary method would provide fair market value in a defensible manner.

The Department of Revenue testified that they didn't know what this would do with taxes, up or down. This bill doesn't pass muster under the Four R Act. Mr. Wood referred to the Clinchfield decision in the Fourth Circuit Court of Appeals.

Senator Towe gave the answer, he said--assessing all commercial and industrial property at 8.5 percent. Put all business taxpayers in one class, naming the one you want. Class four achieves that median level. If HB 925 is enacted, the counties will receive less taxes than they are currently getting. Railroad property assessment is now based on mileage rather than on usage, so a branch line with a lot of grain shipments for a period, and then none, will give no taxes. He stated that they had offered to work with the Department of Revenue on this, and he urged the committee to defeat the bill.

#### TECHNICAL INFORMATION


Gregg Groepper, from the Department of Revenue, said the Department took no position on HB 925 in the House, and they are not taking one here. If there is no appropriation, the Department cannot do this.

Dan Holman, from the Attorney General's office, stated that he had been involved in the BN litigation and settlements. They made settlement agreements for future taxes and they should be adhered to. No one knows what the values will be under this bill. He felt it would be better to use the delayed implementation date (1986) so that the Department could promulgate rules.

Cort Harrington, the committee's staff attorney, pointed out that if we pass this bill, "15-6-138" on page 14, line 6, should be changed to "15-6-140".

In closing, Representative Shontz said he felt the Department of Revenue was a hostile witness because of their agreement with BN. That agreement does not bind the legislature, he said. We cannot allow a separate agreement with each taxpayer in Montana. He agreed with the 1986 applicability date. One of the issues raised was rushing through the process. He said the interim committee worked hard on this for two years. The Four R Act does not address treating railroads on the same basis as all other property. It does say to treat it like all other industrial and commercial property. If we treat railroads under the present basis, we should treat Sears, and others, the same way.

The meeting recessed at approximately 9:10 a.m. and will reconvene at 1:00 p.m. this afternoon.

  
Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 4/14/83

*am. mtg*

NAME	PRESENT	ABSENT	EXCUSED
SENATOR GOODOVER, CHAIRMAN	✓		
SENATOR McCALLUM, VICE CHAIRMAN	✓		
SENATOR BROWN	✓		
SENATOR CRIPPEN	✓		
SENATOR ELLIOTT	✓		
SENATOR GAGE	✓		
SENATOR TURNAGE	✓		
SENATOR SEVERSON	✓		
SENATOR HAGER	✓		
SENATOR ECK	✓		
SENATOR HALLIGAN	✓		
SENATOR LYNCH	✓		
SENATOR NORMAN	✓		
SENATOR TOWE	✓		
SENATOR MAZUREK	✓		

DATE April 14, 1983

COMMITTEE ON ~~TAXATION~~

# VISITORS' REGISTER

[illegible]

*Senate Taxation Committee  
Exhibit A  
April 14, 1983 morning  
session  
HB 925*

	Average Business Taxpayer	Railroad Taxpayer
Full Market Value	\$100	\$100
Sales Assessment Ratio	<u>-50%</u>	—
Assessed Value	\$50	\$100
Classification Multiplier	<u>x10%</u>	<u>x15%</u>
Taxable Value per \$100	\$5	\$15

Valuation Factors for Centrally Assessed Property

1. Capitalized income.
2. Stock and Debt
3. Original Cost less Depreciation



## BURLINGTON NORTHERN

1982 TAXES PAID

\* \* \* AFTER COURT SETTLEMENT \* \* \*

BY COUNTY

COUNTY	RAILROAD <i>Railroad</i> TRANSPORTATION TAXES	TOTAL <i>Other</i> ALL OTHER TAXES	TOTAL TAX
BEAVERHEAD		\$735.82	\$735.82
BIG HORN	\$48,839.77	\$6,365.66	\$55,205.43
BLAINE	\$94,230.15	\$1,051.76	\$95,281.91
BROADWATER	\$55,779.00	\$1,942.62	\$57,721.62
CARBON	\$69,950.43	\$1,631.66	\$71,582.09
CARTER		\$6,528.62	\$6,528.62
CASCADE	\$192,568.99	\$471,321.47	\$663,890.46
CHOUTEAU	\$91,901.25	\$75.00	\$91,976.25
CUSTER	\$76,032.69	\$66,662.24	\$142,714.93
DANIELS	\$41,005.79		\$41,005.79
DAWSON	\$158,135.62	\$43,568.44	\$201,704.06
DEER LODGE	\$26,334.08	\$613.48	\$26,947.56
FALLON		\$8,536.50	\$8,536.50
FERGUS	\$78,874.16	\$3,487.50	\$82,361.66
FLATHEAD	\$220,133.78	\$207,117.28	\$427,251.06
GALLATIN	\$140,289.70	\$42,898.05	\$183,187.75
GARFIELD		\$38,200.84	\$38,200.84
GLACIER	\$116,648.46	\$1,160.48	\$117,808.94
GOLDEN VALLEY	\$32,387.44	\$5,501.52	\$37,888.96
GRANITE	\$65,480.03	\$4,751.67	\$70,231.70
HILL	\$176,924.34	\$10,572.54	\$187,496.88
JEFFERSON	\$109,351.10	\$947.37	\$110,298.47
JUDITH BASIN	\$106,694.42	\$150.81	\$106,845.23
LAKE	\$40,984.53	\$50,575.14	\$91,559.67
LEWIS & CLARK	\$156,811.16	\$23,824.75	\$180,635.91
LIBERTY	\$30,194.98	\$13,584.88	\$43,779.86
LINCOLN	\$191,467.93	\$61,231.40	\$252,699.33
MADISON	\$22,746.67	\$18,108.22	\$40,854.89
MCCONE	\$15,666.44	\$50,237.36	\$65,903.80
MEACHER		\$1,145.80	\$1,145.80
MINERAL	\$67,474.28	\$9,499.27	\$76,973.55
MISSOULA	\$175,689.41	\$295,155.23	\$470,844.64
MUSSELSHELL		\$9,369.08	\$9,369.08
PARK	\$163,127.36	\$15,101.50	\$178,228.86
PETROLEUM		\$1,698.78	\$1,698.78
PHILLIPS	\$75,840.75	\$605.57	\$76,446.32
PONDERA	\$37,676.21	\$2,355.38	\$40,031.59
POWDER RIVER		\$8,141.20	\$8,141.20
POWELL	\$91,627.52	\$13,159.52	\$104,787.04
PRAIRIE	\$39,010.04	\$25,205.69	\$64,215.73
RAVALLI	\$42,613.86	\$17,275.01	\$59,888.87
RICHLAND	\$32,191.30	\$16,058.25	\$48,239.55
ROOSEVELT	\$122,942.24	\$5,005.03	\$127,947.27
ROSEBUD	\$80,075.26	\$79,725.00	\$159,800.26
SANDERS	\$182,040.30	\$28,876.87	\$210,917.17
SHERIDAN	\$23,774.49		\$23,774.49
SILVER BOW	\$61,906.62	\$5,083.59	\$66,990.21
STILLWATER	\$63,814.81	\$1,800.57	\$65,615.38
SWEETGRASS	\$58,711.30	\$2,980.98	\$61,692.28
TETON	\$82,953.30	\$281.94	\$83,135.24
TOOLE	\$107,680.79	\$560.27	\$108,241.06
TREASURE	\$60,653.05	\$2,750.14	\$63,403.19
VALLEY	\$140,077.05	\$5,735.36	\$145,812.41
WHEATLAND	\$31,653.10	\$3,189.31	\$34,842.41
WIBAUX	\$11,379.55	\$10,476.32	\$21,855.87
YELLOWSTONE	\$239,407.28	\$255,718.25	\$495,125.53
TOTAL	\$4,351,622.78	\$1,959,360.99	\$6,309,983.77

COMPARISON OF "PROPERTY TAXES PER MILE" OF BURLINGTON NORTHERN  
ROAD OPERATED IN MONTANA AND OTHER NORTHERN TIER STATES

BEFORE COURT SETTLEMENT:

<u>STATE</u>	<u>TOTAL ROAD OPERATED MILES</u>	<u>1982 OPERATING TAX</u>	<u>TAX PER MILE OF TRACK</u>
Montana	3,487	\$13,599,348	\$3,900
North Dakota	3,373	\$ 822,888	\$ 244
Idaho	464	\$ 242,646	\$ 523
Washington	3,366	\$ 1,800,000	\$ 535
Oregon	674	\$ 641,683	\$ 952
Colorado	768	\$ 530,116	\$ 640
South Dakota	889	\$ 170,600	\$ 191

AFTER COURT SETTLEMENT:

<u>STATE</u>	<u>TOTAL ROAD OPERATED MILES</u>	<u>1982 OPERATING TAX</u>	<u>TAX PER MILE OF TRACK</u>
Montana	3,487	\$4,351,623	\$1,248
North Dakota	3,373	\$ 822,888	\$ 244
Idaho	464	\$ 242,646	\$ 523
Washington	3,366	\$1,800,000	\$ 535
Oregon	674	\$ 641,683	\$ 952
Colorado	768	\$ 530,116	\$ 640
South Dakota	889	\$ 170,600	\$ 191

In 1986, if HB 925 is enacted, the following states will assess railroad property on the unit basis:

- |               |                    |                    |
|---------------|--------------------|--------------------|
| 1. Alabama    | 14. Louisiana      | 27. Oklahoma       |
| 2. Arizona    | 15. Maryland       | 28. Oregon         |
| 3. Arkansas   | 16. Michigan       | 29. South Carolina |
| 4. California | 17. Minnesota      | 30. South Dakota   |
| 5. Colorado   | 18. Mississippi    | 31. Tennessee      |
| 6. Florida    | 19. Missouri       | 32. Texas          |
| 7. Georgia    | 20. Nebraska       | 33. Utah           |
| 8. Idaho      | 21. Nevada         | 34. Vermont        |
| 9. Illinois   | 22. New Hampshire  | 35. Washington     |
| 10. Indiana   | 23. New Mexico     | 36. West Virginia  |
| 11. Iowa      | 24. North Carolina | 37. Wisconsin      |
| 12. Kansas    | 25. North Dakota   | 38. Wyoming        |
| 13. Kentucky  | 26. Ohio           |                    |

The following states will assess railroad property locally:

Montana

4 others have local or partial exemptions (states in which principal railroad is either bankrupt or federally owned (Conrail)).

2 have no railroads (Alaska, Hawaii).

3 have no tax.

3 have central assessment but not unitary method.

## HOW TO VALUE RAILROAD RIGHT-OF-WAY

The United States Supreme Court stated in Columbus Southern Ry. v. Wright, 151 U.S. 470, 480-81, 14 S. Ct. 396, 400, 38 L. Ed. 238, 243 (1894):

The roadway itself of a railroad depends for its value upon the traffic of the company, and not merely upon the narrow strip of land appropriated for the use of the road, and the bars and cross-ties thereon. The value of the roadway at any given time is not the original cost, nor, a fortiori, its ultimate cost after years of expenditure in repairs and improvements. On the other hand, its value cannot be determined by ascertaining the value of the land included in the roadway assessed at the market price of adjacent lands, and adding the value of cross-ties, rails, and spikes. The value of land depends largely upon the use to which it can be put, and the character of the improvements upon it. The assessable value, for taxation, of a railroad track can only be determined by looking at the elements on which the financial condition of the company depends . . .

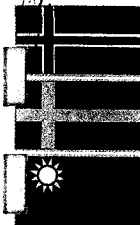
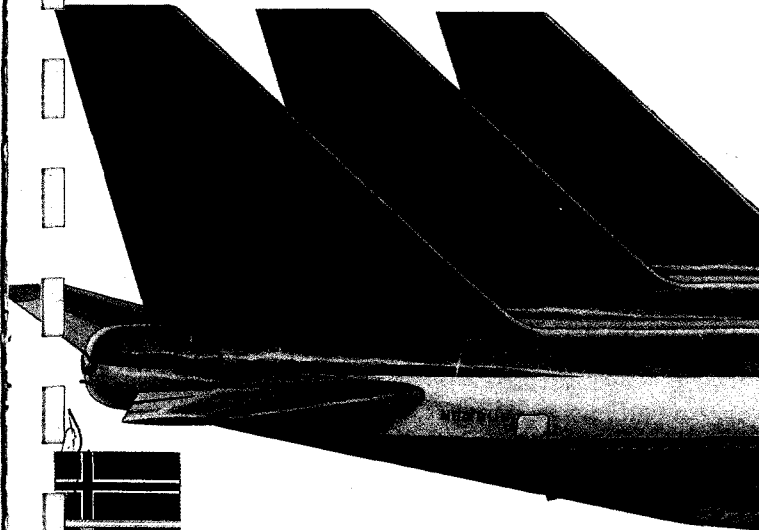
Senate Taxation  
Committee

Exhibit ~~5~~ K

April 13, 1983  
HB 573

**NORTHWEST ORIENT**

And the  
Montana  
Community



Same airline service to 16 countries.

## **MONTANA A 50-YEAR PARTNERSHIP**

Half a century ago the fledgling airline then known as Northwest Airways was locked in one of the biggest struggles of its early history, trying to prove to our nation's capital that a Northern Transcontinental air route through Montana to Seattle made sense.

Many influential Montanans added their voices to that of the young airline in the battle to persuade officials in Washington that the proposed East-West route should become a reality.

When a congressional hearing questioned Northwest's ability to conquer weather and mountains on a Northern Transcontinental air route, Col. Lewis Brittin — the airline's founder — answered the objections with action. He staged a demonstration flight to Helena (via Glendive, Miles City and Billings) on September 14, 1932.

His famous "proof of the pudding" flight took place without a hitch — 1,025 air miles from the Twin Cities in the then amazing time of nine hours 15 minutes. Northwest was given formal approval to begin service to Billings via Glendive and Miles City on March 2, 1933.

Once again Washington demanded proof that a direct route to Puget Sound was feasible. So Brittin and a Ford Tri-Motor plane load of 14 dignitaries — including famed aviatrix Amelia Earhart — staged another aerial safari which landed on schedule in Spokane in a blinding snowstorm on January 28, 1933.

Later that same year a Northwest plane roared into Seattle, completing the long flight to give the northern tier states their own air route across the continent.

During the half century since Northwest Orient pioneered service to Montana the airline has become international in stature, and continues to honor its 50-year partnership with the Treasure State. Northwest serves six Montana cities with its ultra-modern jets, linking the state to most of the globe, from Canada, Alaska, Hawaii and the Orient in one direction to a wide variety of U.S. destinations as well as Great Britain and several major European capitals in the other.

## **NORTHWEST AIRLINES PROMOTES MONTANA'S TOURISM**

Northwest's commitment to the great state of Montana goes beyond the deeply-rooted historical significance of the airline's early days. With its vast route system stretching from Europe across the United States to the Orient, Northwest has assumed a vital role in fostering tourism and promoting Montana.

Because Northwest is firmly based in Montana, the airline shares a sense of responsibility in cooperation with state and local governments to promote the state's attractions throughout Northwest's 31,000-mile route system.

In 1980 Northwest sent over 50 Montana travel agents and tour operators to Europe to promote Montana's many attractions, and to encourage Europeans to visit the state. The immediate result of this promotional effort was that in 1981 over 2,000 Europeans were brought into the state by Northwest Airlines. In addition, Northwest commissioned a highly-respected editorial writer to do a special feature on Montana for its in-flight *Passages* publication. The monthly magazine is read by over 12 million people each year and the Montana article was heralded by community leaders throughout the state for its value as a promotional piece. Northwest, which is a partner with Montana's Department of Tourism in a national promotion called "Ski Montana," offers special promotional fares to favorite winter vacation spots in Montana and promotes them heavily in major centers of commerce throughout the United States.

## **NORTHWEST ORIENT**



## NORTHWEST'S \$2 BILLION FLEET



Serving Billings, Bozeman, Butte, Great Falls, Helena and Missoula with daily service, Northwest Airlines boarded over 328,000 people in Montana during 1982. The airline's 1983 schedule offers 60 flights in and out of Montana cities each day with seating for over 7,700 passengers.

Northwest Airlines' revenue passenger miles are now more than 14 billion annually, ranking Northwest eleventh among the world's airlines and seventh among United States' airlines. In air freight Northwest is the ninth largest carrier in the world and the third largest among United States' airlines. Northwest serves 75 cities in 26 states and 15 foreign countries.

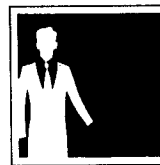
The airline pledges to continue its promotion of Montana's tourism by promoting the state throughout its worldwide operations.

## NORTHWEST AIRLINES— A CONCERNED COMMUNITY CITIZEN

Northwest Airlines has given high priority to its responsibilities as a concerned community citizen.

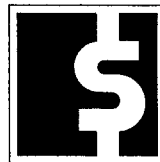
The company's executives have provided enthusiastic support and leadership to worthwhile civic endeavors and have actively encouraged Northwest employees' involvement in community affairs.

Financial support of community social services and educational, health, medical, civic and cultural institutions by Northwest and its employees has helped assure successful programs and fund-raising efforts. A substantial number of company employees give time and talent in various volunteer capacities for many of these institutions.



### EMPLOYMENT

Of Northwest Airlines' 13,096 employees worldwide, 107 live and work in Montana. These Northwest employees earn an annual payroll in excess of \$2.8 million. Northwest's Montana operations consist of sales, passenger services, freight and maintenance.



### TAXES

Northwest Airlines' operations resulted in a 1982 tax payment to Montana of \$340,000. In addition, Northwest paid airport-use fees totaling over \$764,000 and made fuel purchases of \$842,000 in Montana.



## SUPPLIERS

Northwest purchases goods and services from many Montana companies. In 1982 alone, the corporation placed more than \$2.7 million in business with these Montana firms.



## IMPACT IN MONTANA

Northwest Airlines contributed a total of \$7.4 million to Montana's economy during 1982. With Northwest's route structure stretching from Hamburg, West Germany, across the United States and to Tokyo, Japan, the Montana communities Northwest serves are able to benefit from the airline's economic contribution to the state. This included \$2.8 million in wages and salaries paid to Northwest's 107 Montana employees in 1982, and more than \$2.7 million in goods and services purchased from Montana firms. Northwest also paid over \$1.1 million in local taxes and airport-use fees last year.

Northwest Airlines is represented by over 81 travel agencies in Montana and the commissions the airline pays to these agents further contributes to the airline's favorable economic impact in the state. The company is pleased that the nature of its worldwide operations is such that it is able to make an important contribution to the Montana community.







## NOISE ABATEMENT

By purchasing a fleet of modern, quiet aircraft, and by implementing new operating procedures, Northwest Airlines has achieved a sterling record of noise abatement.

In addition to buying modern aircraft worth \$2 billion, Northwest has spent \$9 million to retrofit for noise reduction the earlier model 747 and 727 aircraft in the fleet.

The fleet-modernization and noise-abatement efforts of Northwest benefit the passengers and shippers who use the airline. Noise abatement has made the airline a better neighbor to people who live in communities surrounding the airports it serves. It has created thousands of jobs in the aircraft-manufacturing and related industries. This has been made possible only by diligent efforts on the part of Northwest to achieve the maximum operating efficiencies and noise control.

Northwest Airlines' pilots follow precise and noise control-effective operational procedures.

Northwest's procedures were designed to attain the maximum separation between aircraft and populated areas. In addition, a reduction to the least possible amount of thrust (which is the other noise factor) is achieved with the aircraft in an aerodynamic configuration as "clean" as possible.

This means that on take-off maximum climb and flap retraction are achieved as early as possible and on landing the fewest number of flaps are used consistent with safety.

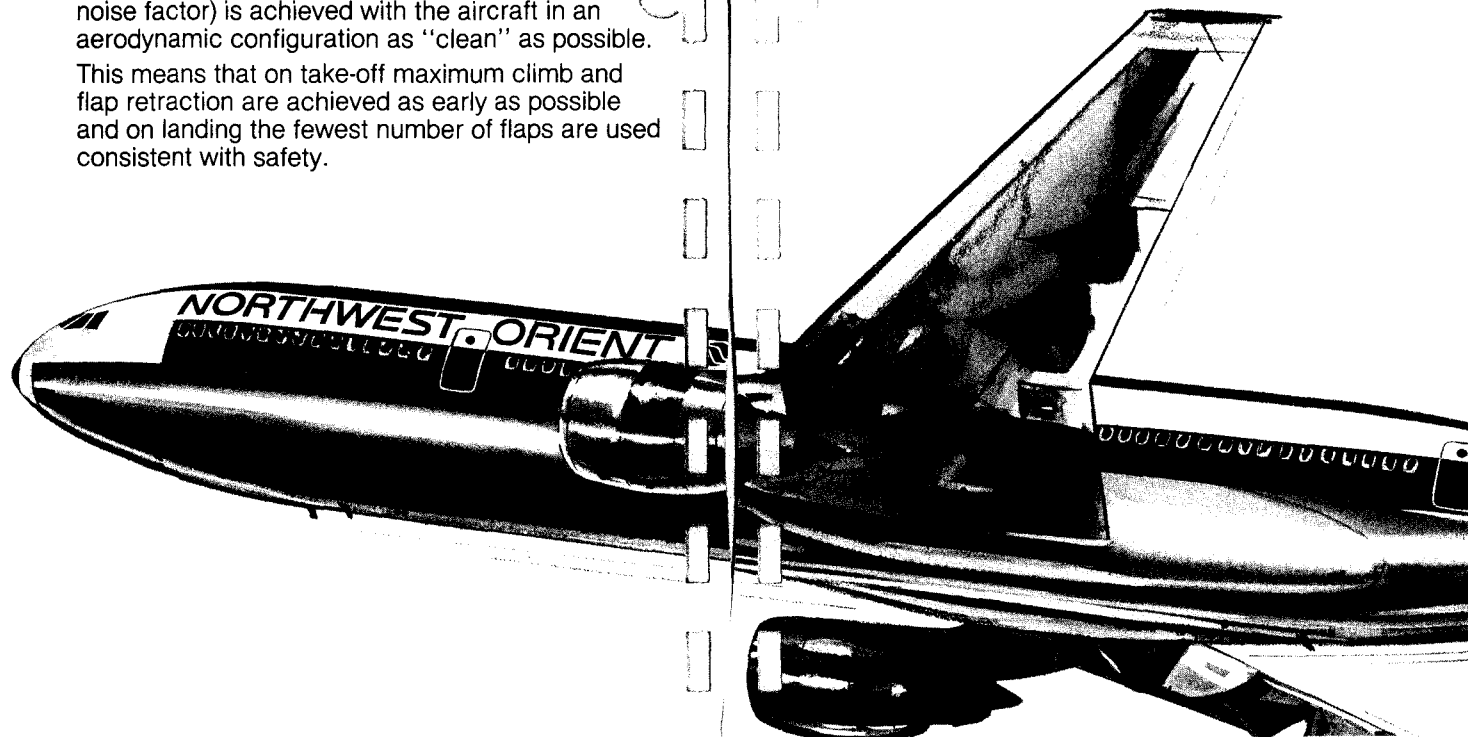
## AIR TRANSPORTATION EXPANDS MONTANA'S MARKET

Northwest Airlines has always prided itself on providing a superior level of service to the communities it serves. In pledging its full service to Montana, Northwest has the distinct advantage of being a leader in passenger boardings as well as cargo carried.

Each year Northwest Airlines carries many Montana passengers overseas and provides a key international link bringing Montana products across the nation to important U.S. cities and major world capitals in Europe, Canada and the Orient.

In 1982 alone Northwest transported over one million pounds of cargo out of Montana — 28,292 pounds were carried to Europe and the Orient — and 1,400 Montana passengers flew Northwest to Europe and the Far East. With the wide variety of corporations based in and around Montana, Northwest is able to assure speedy maximum lift capabilities for cargo of nearly any size. The frequency and reliability of Northwest's 60 departures and arrivals in Montana each day link the state with virtually every city in the world in a matter of hours.

Air transportation not only contributes to the economy of Montana but helps develop new markets and supports the state as a leader in commerce and industry.



Northwest Airlines has been providing Montana international service since July 1947 when it inaugurated transpacific flights via the Seattle/Tacoma, Wash. and Anchorage, Alaska gateways. Through Northwest's many weekly flights from Montana to Seattle/Tacoma, Montanans are provided approximately 35 weekly flights to Tokyo, Osaka and Okinawa, Japan; Seoul, South Korea; Manila, Philippines; Taipei, Taiwan; and Hong Kong. Northwest also provides Montana service to Copenhagen, Denmark; Glasgow, Scotland; Hamburg, West Germany; London, England; Oslo, Norway; Shannon, Ireland; and Stockholm, Sweden.

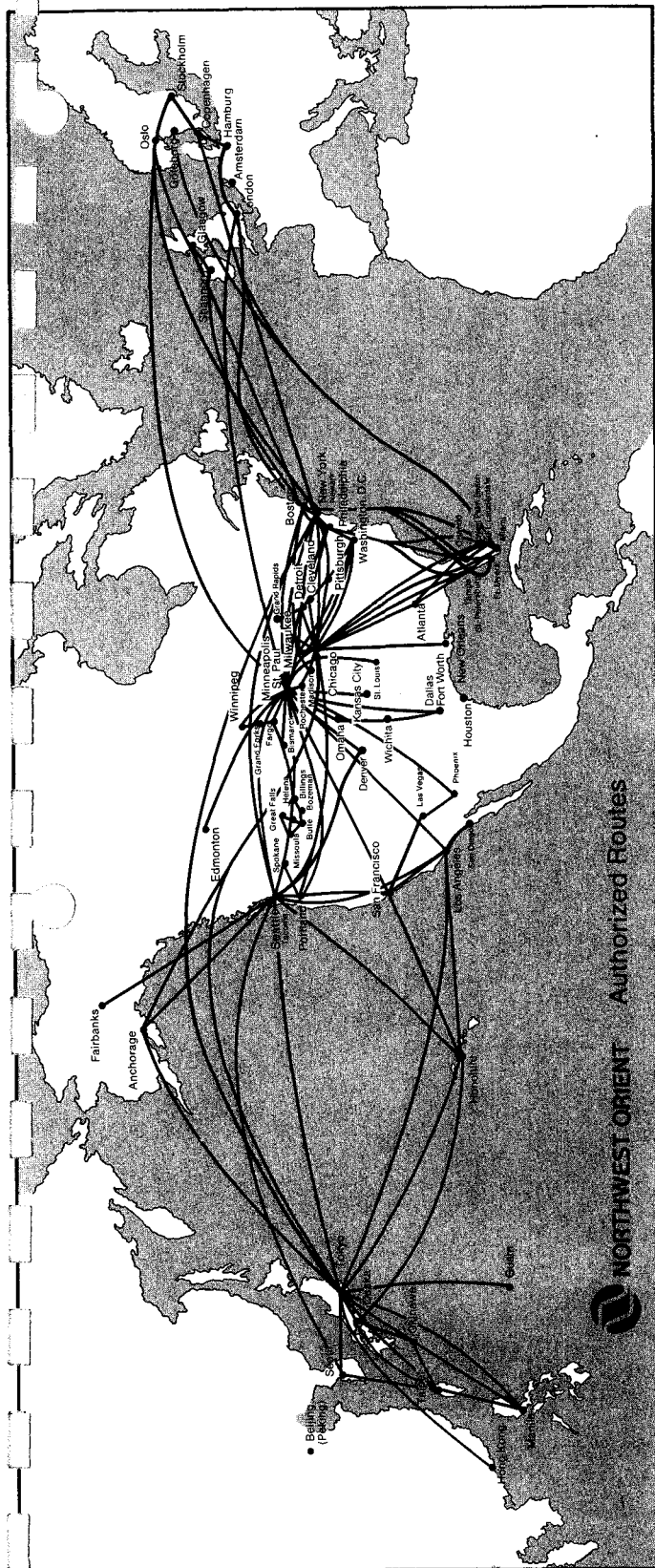
During 1982 Northwest Airlines transported approximately 280,000 passengers to Montana. Over 1,000 passengers from Europe and the Orient flew Northwest to the Treasure State. This high volume of passenger traffic provides significant economic support to tourism, hotels and convention attractions throughout Montana.

**COMMITTED TO THE  
MONTANA COMMUNITY**

Throughout Northwest Airlines' 57-year history it has demonstrated a real commitment to the communities it serves. In seeking to expand its relationship with the Montana community, Northwest pledges to continually improve its level of service. In 1982 the airline spent \$1.2 million on each aircraft to maintain its reputation for reliable service and more than \$25 million on a computer reservations system to assure customers easy access to reservations personnel.

Northwest's ongoing training programs for public-contact personnel such as flight attendants and gate agents are a high priority. In this way Northwest's Montana customers can expect friendly, positive interaction when dealing with Northwest representatives.

The net result of these and other programs is expected to further enhance community and customer relations with more people requesting Northwest Airlines when traveling.



**Billings**

Sales 406-657-5530  
Reservations 406-248-7301  
Air Freight 406-657-5540

**Bozeman**

Sales 406-657-5530  
Reservations 406-587-4591  
Air Freight 406-388-4202

**Butte**

Sales 406-657-5530  
Reservations 406-782-8341  
Air Freight 406-494-3881

**Great Falls**

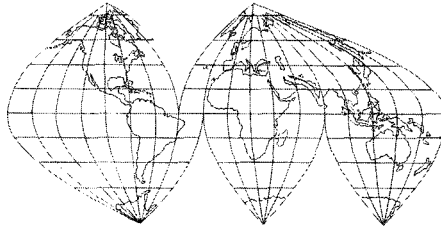
Sales 406-657-5530  
Reservations 406-761-8310  
Air Freight 406-761-8101

**Helena**

Sales 406-657-5530  
Reservations 406-442-9586  
Air Freight 406-442-0612

**Missoula**

Sales 406-657-5530  
Reservations 406-728-1400  
Air Freight 406-543-5491

**NORTHWEST ORIENT**

World Headquarters  
Minneapolis/St. Paul International Airport  
St. Paul, Minnesota 55111

### Why HB 925 Violates the 4R Act

The 4R Act requires that railroads be taxed on the same basis as the average commercial and industrial taxpayer in the State. Section 306 of the Act makes it illegal to assess railroad property "at a value which bears a higher ratio to the true market value... than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property." Section 306 also makes it illegal to levy or collect any property tax on railroad property "at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction." (Emphasis supplied).

The Legislative History of the 4R Act supports this analysis:

The purpose of the bill is to provide relief for common carriers from discriminatory property taxes whether through assessments or through rates. The test of discrimination as applied to assessments is to show the taxes which are based upon an assessment of the carrier's property at a higher proportion of its true market value than the proportion at which other taxpayers are assessed upon their property in the same taxing district. In making this comparison, the bill contemplates the relationship between a common carrier's property and that of the 'average' taxpayer in the taxing district.

S. Rep. No. 1483, 90th Cong., 2d Sess., p. 23 (1968). (Emphasis supplied).

HB925, however, puts railroad property in various classes of property, subjecting railroad property to different forms of property tax class discrimination, and does not provide relief from discriminatory taxes.

(d) If either the Senate or the House of Representatives passes a resolution of disapproval under subsection (c) of this section, the Commission shall develop a revised proposal setting forth the rules of practice before the Commission pursuant to this section. Within 60 days after the date of such disapproval, each such revised proposal shall be submitted to the Congress by the Commission for review pursuant to such subsection (c).

# Review.

(e) The Commission shall periodically, but not less than once every 3 years, review the rules of practice adopted pursuant to subsection (c) of this section, and shall revise such rules as it considers necessary.

## PROHIBITING DISCRIMINATORY TAX TREATMENT OF TRANSPORTATION PROPERTY

Sec. 306. Part I of the Interstate Commerce Act (49 U.S.C. 1 et seq.), as amended by this Act, is further amended by inserting therein a new section 28, as follows:

"Sec. 28. (1) Notwithstanding the provisions of section 202(b), any action described in this subsection is declared to constitute an unreasonable and unjust discrimination against, and an undue burden on, interstate commerce. It is unlawful for a State, a political subdivision of a State, or a governmental entity or person acting on behalf of such State or subdivision to commit any of the following prohibited acts:

"(a) The assessment (but only to the extent of any portion based on excessive values as hereinafter described), for purposes of a property tax levied by any taxing district, of transportation property at a value which bears a higher ratio to the true market value of such transportation property than the ratio which the assessed value of all other commercial and industrial property in the same assessment jurisdiction bears to the true market value of all such other commercial and industrial property.

"(b) The levy or collection of any tax on an assessment which is unlawful under subdivision (a).

"(c) The levy or collection of any ad valorem property tax on transportation property at a tax rate higher than the tax rate generally applicable to commercial and industrial property in the same assessment jurisdiction.

"(d) The imposition of any other tax which results in discriminatory treatment of a common carrier by railroad subject to this part.

## District courts, jurisdiction.

"(2) Notwithstanding any provision of section 1341 of title 28, United States Code, or of the constitution or laws of any State, the district courts of the United States shall have jurisdiction, without regard to amount in controversy or citizenship of the parties, to grant such mandatory or prohibitive injunctive relief, interim equitable relief, and declaratory judgments as may be necessary to prevent, restrain, or terminate any acts in violation of this section, except that —

"(a) such jurisdiction shall not be exclusive of the jurisdiction which any Federal or State court may have in the absence of this subsection;

"(b) the provisions of this section shall not become effective until 3 years after the date of enactment of this section;

"(c) no relief may be granted under this section unless the ratio of assessed value to true market value, with respect to transportation property, exceeds by at least 5 per centum the ratio of assessed value to true market value, with respect to all other commercial and industrial property in the same assessment jurisdiction:

"(d) the burden of proof with respect to the determination of assessed value and true market value shall be that declared by the applicable State law; and

"(e) in the event that the ratio of the assessed value of all other commercial and industrial property in the assessment jurisdiction to the true market value of all such other commercial and industrial property cannot be established through the random-sampling method known as a sales assessment ratio study (conducted in accordance with statistical principles applicable to such studies) to the satisfaction of the court hearing the complaint that transportation property has been or is being assessed or taxed in contravention of the provisions of this section, then the court shall hold unlawful an assessment of such transportation property at a value which bears a higher ratio to the true market value of such transportation property than the assessed value of all other property in the assessment jurisdiction in which is included such taxing district and subject to a property tax levy bears to the true market value of all such other property, and the collection of any ad valorem property tax on such transportation property at a tax rate higher than the tax rate generally applicable to taxable property in the taxing district.

"(3) As used in this section, the term—

"(a) 'assessment' means valuation for purposes of a property tax levied by any taxing district;

"(b) 'assessment jurisdiction' means a geographical area, such as a State or a county, city, township, or special purpose district within such State which is a unit for purposes of determining the assessed value of property for ad valorem taxation;

"(c) 'commercial and industrial property' or all other commercial and industrial property' means all property, real or personal, other than transportation property and land used primarily for agricultural purposes or primarily for the purpose of growing timber, which is devoted to a commercial or industrial use and which is subject to a property tax levy; and

"(d) 'transportation property' means transportation property, as defined in regulations of the Commission, which is owned or used by a common carrier by railroad subject to this part or which is owned by the National Railroad Passenger Corporation."

## Definitions.

## UNIFORM COST AND REVENUE ACCOUNTING SYSTEM

Sec. 307. Paragraph (3) of section 20 of the Interstate Commerce Act (49 U.S.C. 20633) is amended to read as follows:

"(3) (a) The Commission shall, not later than June 30, 1977, issue regulations and procedures prescribing a uniform cost and revenue accounting and reporting system for all common carriers by railroad subject to this part. Such regulations and procedures shall become effective not later than January 1, 1978. Before promulgating such regulations and procedures, the Commission shall consult with and solicit the views of other agencies and departments of the Federal Government, representatives of carriers, shippers, and their employees, and the general public.

"(b) In order to assure that the most accurate cost and revenue data can be obtained with respect to light density lines, main line operations, factors relevant in establishing fair and reasonable rates, and other regulatory areas of responsibility, the Commission shall

## Regulations.

## ANALYSIS OF HB 925

### BURLINGTON NORTHERN, INC.

The stated purpose of HB 925 is to bring Montana into compliance with the Federal Rail Reorganization and Revitalization Act, commonly referred to as the 4-R Act. This is to be achieved by (1) taking railroads out of the category of centrally assessed property; (2) having county assessors do the assessment on most railroad property; and (3) requiring the Department of Revenue to continue to assess the franchise and rolling stock of the railroads.

HB 925 does not achieve its stated purpose; it does, however, have some severe consequences to the State: First, HB 925 violates the 4-R Act; second, it will not result in increased tax revenues; third, it imposes upon Montana an archaic system of valuing railroad property; fourth, it will impose a substantial burden upon officials responsible for assessing the property; and, fifth, it changes the division of railroad taxes to the detriment of rural counties. And, most importantly, the bill itself is not needed because there is a better way to "reform" the property tax system, as it applies to railroads and all taxpayers in the State.

1. HB 925 violates the 4-R Act: The 4-R Act requires that railroad real and personal property be taxed at the same level as the "average" commercial and industrial taxpayer. Placement of railroad property in classes seven and eight at 11% and 16%, respectively, does not reflect the average level. To achieve compliance, it is necessary to either provide for a computation of the average level or place all commercial and industrial property in the same class.
2. HB 925 will not result in substantially increased or decreased tax revenues: Montana, like all other taxing jurisdictions, requires that property be assessed on the basis of fair market value. Regardless of the method used for determining fair market value, there can be only one fair market value. If, as the proponents of HB 925 suggest, this bill will generate substantial additional tax revenues, it can do so only by imposing an artificially high "fair market value," which violates sound appraisal methodology and does not reflect true market value.
3. HB 925 imposes an archaic system of valuation: Montana law requires that property be valued for tax purposes at its fair market value. It has been widely accepted by tax administrators for decades that the best method for achieving fair market value of interstate companies, such as railroads, pipelines and telephone companies, is a unitary approach. Thus, a value is found for the entire system by standard appraisal techniques and then allocated to each state by activities therein. HB 925 would require fractionalized appraisals by county assessors. Accordingly, Montana will not receive a proportion of the relative value attributable to large facilities in other states.

4. HB 925 will impose a substantial burden upon officials responsible for assessing railroad property: As the Department of Revenue testified, both before the Revenue Oversight Committee and the House Taxation Committee, ten new professional staff employees will have to be added to the Department of Revenue staff to implement this bill. And, even if the job could be done with fewer staff, the effort is a wasteful use of the State's resources since, as noted above in part 2, it will not result in increased revenues for the State.
5. Statewide division of railroad taxes is changed to detriment of rural counties: The fractionalized assessment methodology proposed by HB 925 will result in rural counties, without large railroad facilities, receiving less tax than under current methodology. At present, each county receives a percentage of the entire railroad plant on the basis of track mileage. Under HB 925, rural counties will receive only basic county right-of-way value and a share of rolling stock value. However, even the rolling stock is tied to track mileage plus annual usage. Thus, rural areas with less total track usage will suffer.
6. There is an alternative: HJR 31 proposes a study of Montana's tax classification system. This study can identify the changes necessary to classify all commercial and industrial property at a constant level. Such an approach alleviates the 4-R Act issue. Furthermore, if a statewide reappraisal is accomplished by 1986 so that all property is assessed at 100% of market value (instead of approximately 50% of value under present procedures), no equalization of taxable values will be necessary, and railroad taxes can double over the equalized level.

# STANDING COMMITTEE REPORT

..... April 14 ..... 19 83 .....

MR. .... **PRESIDENT** .....

We, your committee on **taxation** .....

having had under consideration ..... **House** Bill No. **923** .....

**Fagg (Crippen)**

Respectfully report as follows: That ..... **House** Bill No. **923** .....

**third reading copy**

**BE CONCURRED IN**

**~~DO PASS~~**