MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 18, 1985

The ninth meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8:03 am in Room 415 of the Capitol Building.

ROLL CALL: With Senator Severson excused all other members of the committee were present.

CONSIDERATION OF SB 72: Senator Tom Hager, Senate District 48, was recognized as chief sponsor of the bill. He first offered amendments (Exhibit 1). The amendments include tier 1 railraod retirement pension funds in the bill and make the bill retroactive for 1984 income. Discussing the bill as a whole, he said that Montana has never taxed this income previously. This year, because of piggybacking on federal law changes, Montana was now taxing these sources of income without consideration by the Legislature at any time. He said that the tax creates a tax windfall at the expense of a select group of people. Further, he feels that well-to-do persons affected by the bill spend time in warmer climates and could choose to have their taxable residence in another state if this problem is not addressed.

PROPONENTS

Sam Ryan, an elderly home owner, said that tax breaks given to seniors previously were negated by this bill.

Tom Ryan, representing the Montana Senior Citizens Association, verified previous testimony and said that this issue has been more discussed than any other among seniors. Many seniors have a hardship with upfront medical cost, and a 12 percent raise in utilities rates. He said these are not luxuries, but necessities and they cannot now afford to pay tax on social security income. He submitted written testimony (Exhibit 2).

Ladd Shorey, Billings, submitted written testimony in support of the bill. As a retired tax accountant, his testimony detailed many of the problems with the status quo (Exhibit 3).

Ed Sheehy of the National Association of Retired Federal Employees said that Montana discouraged seniors from maintaining residence here. Further he felt all retirment income should be treated equally by taxation.

Bob Verts, a retired railroad engineer said that the railroad retirement system is in bad shape and that now it is being hit by a double taxation. He said all of the tier 2 dollars and 50 percent of the tier one dollars would be taxed if this bill was not passed. He said the cost of living increase in railroad retirement was not given one year and the next year amounted to 1.6 percent. Seniors, he said, cannot afford this tax.

Robert H. Yaw of Bozeman discussed people values vs. financial values saying that this group cannot be exploited as a tax resource. He said that seniors are a significant community resource and that without the bill they are given incentive to move elsewhere.

Lois Shorey, Billings, supporting SB 72 submitted written testimony (Exhibit 4).

Gordon Clare submitted a written statement in support of SB 72 (Exhibit 5).

Lloyd Anderson of East Helena said, "The tail will go with the hide and I'm stuck." He said he was required to retire because of age and then faced increased utility rates, increased telephone rates; everything except increased income. He said he had $2,000 in medical expenses for himself and then had a "stainless steel ball joint installed in the Mrs.' left hind leg." He said he had some income besides social security but that "if you tax this I can't have the money to make the mare go." He thanked the committee for listening and admonished them good naturedly to "do the right thing".

Joe Brand, State Director of the United Transportation Union, appeared in behalf of the amendment offered by Senator Hager. He felt the federal changes might be to manipulate states who use piggybacking. He said the fiscal note indicated a loss of $1,545,000 to the state when in fact the state had never before received this income. He said this is not a great amount of money and believed that the bill would lead to everybody who have social security eventually paying taxes on it.

Wade Wilkison, appearing for the Low Income Senior Citizen Advocates, said the bill addressed the special economic needs of the elderly. He said in all couples 65 years or older 85 percent have at least one partner with a chronic medical condition. He said all senior organizations are united behind the bill. He asked for tax equity saying that if there was a tax increase it should not be imposed on seniors alone.

Mr. Ken Morrison of the Department of Revenue rose to speak neither in support or opposition. He said the Department supported tax relief to the elderly in lower income categories. He presented amendments that would tax those with higher incomes (Exhibit 6).

In response to the testimony by Mr. Shorey, Mr. Morrison illustrated the problems of filing jointly and how that would hurt people filing with the state. He presented material to the committee illustrating the problems that the Department amendments would solve (Exhibit 7).

Questions from the committee were called for.

Senator Eck asked Mr. Morrison to look at all the issues surrounding taxation of pension income.

Senator Brown asked what affect these amendments would have on the fiscal note. That led to a discussion of the federal law which prohibits the state from taxing retirement railroad income. The committee was concerned that the tax preparation booklet and state tax forms made the exclusions difficult to understand, and further the committee wanted reassurance that bond income would not be taxed. Mr. Morrison said he had no objections to the amendments offered by Senator Hager.

Senator Towe asked if the fiscal note was included in the revenue estimates from the Budget Director and the Legislative Fiscal Analyst. Jim Oppedahl, of the Office of Budget and Program Planning, and Mr. Morrison of the Department of Revenue were directed to check into that.

Senator Towe directed a question to Ladd Shorey about the taxation of tax exempt income, particularly as it related to municipal bonds.

Senator Eck directed a question to Mary Craig, CPA and former Director of the Department of Revenue. Ms. Craig said the intentions were probably clear, but the bill could address some of these problems specifically. She said now anybody who files married filing separately will be paying taxes on even $2.00 of social security income.

Senator McCallum said that folks on the tight budgets will not only have to pay the tax, but will have to pay a CPA to figure it out. Ms. Craig said that the form used was better than nothing. She said she figured taxes recently where the adjusted gross income was $1,340 for the year and the person had to pay state tax on social security. She pointed out that older people do have interest income which is also taxed and that the process of change in the federal law caused the difficulties.

Senator Hager closed by saying that he was frustrated by the fiscal note. He did not know if the income was included in the Governor's budget. He said this is income Montana has never picked up before, that the Legislature has never acted on this issue. Further, he felt the Department of Revenue amendments would gut the intention of the bill.

Chairman Towe then closed the hearing on SB 72.

CONSIDERATION OF HB 56: Representative Robert Gilbert was then recognized as sponsor of HB 56. He said the bill simply reduced the record retention period for special fuel users from five to three years. He said the change would make Montana law conform with 30 other states and increase efficiency. He noted that the House passed the bill unanimously.

PROPONENTS

Ben Havdahl of the Montana Motor Carriers submitted a written statement in support of the bill (Exhibit 8).

OPPONENTS

There were no opponents to HB 56.

Questions from the committee were called for.

Senator Mazurek asked if Norris Nichols, Administrator of the Motor Fuel Tax Division, objected to the bill. Mr. Nichols said that the bill would help them by cutting down on their need for storage space.

Senator Mazurek then brought up a problem with the statute of limitations, which he felt should be changed to correspond to the record retention period. The committee directed Mr. Lear to prepare the amendments.

Senator Hager asked if this would apply to all fuel users and Mr. Norris said this applied primarily to diesel fuel. He explained that gasoline was already under a three year time period for record storage.

Senator Gilbert closed on HB 56 without comment.

FURTHER CONSIDERATION OF SB 37:

MOTION: Senator Halligan moved that SB 37 do pass.

Senator McCallum said that it seemed that the State Tax Appeal Board (STAB) was handling the problem as well as it could be and felt that STAB kept other parties from litigation. Senator Mazurek said he felt the bill kept parties from litigation and added that all those who had been party to these kinds of proceedings were in favor of the bill.

Senator Neuman was concerned that passing the bill would add to the work load of the district courts. Senator Mazurek said that STAB will have plenty of work with reappraisal and that it should not be burdened either.

Senator Lybeck said that with the decreased activity in the bar business it may not even be an issue.

Senator Eck said that while she would favor STAB hearings rather than passing more work to the district court; she felt that would not happen anyway and that the extra hearing would not be needed.

Senator Hager said that in addition information from Mr. Raundal of STAB they heard 10 appeals in 1982 of which three whent to the district court, and 10 in 1981 of which 1 went to the district court. He said that STAB is a tax authority and should not have to deal with liquor license issues.

Senator Goodover asked about the cost of the process and Senator Mazurek estimated it at $2,000 to $5,000 per step.

Senator Brown said that STAB is simply another hoop an applicant is forced to jump through.

Senator Halligan closed on his motion saying that Phil Strope, representing tavern owners, supported the bill and that all testimony was for the bill and that those experienced with the problems obviously want the bill and therefore, it should pass.

The question was called. With Senators Lybeck, McCallum and Goodover voting no; Senator Severson excused; and all other members voting yes, the motion that SB 37 do pass was carried.

CONSIDERATION OF SB 43: Ken Morrison of the Department of Revenue was recognized. He gave the committee an exhibit that explained how this change in the law would work. It included forms that showed how the law worked now and how the bill would change it (Exhibit 9).

Senator Towe said that with no fiscal note the committee would not act on SB 48 in executive session at its next meeting. He handed out to the committee a version of the bill with amendments incorporated (Exhibit 10).

Chairman Towe adjourned the meeting at 10 am.

Thomas E. Towe
Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date 18 January 85

Location -- Room 413-415

Name	Present	Absent	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson		✓	
Senator Towe	✓		

COMMITTEE ON Senate Taxation DATE 18 January 85

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
LADD S SHOREY	Legacy Legislation / MONT ADVOCACY on Aging	SB-72	X	
Lois Shorey	Legacy Legislature	SB-72	X	
Gordon CLARE	SELF	SB72	X	
Robert H. Yaw	SELF	SB72	X	
Lloyd Anderson	self	SB72	X	
Patricia J Koch	self	SB72	X	
Charles Willis	Self	S.B. 72	X	
Ed Sheehy	AARP	SB72	X	~~X~~
Sam Bryan	Self	SB72	X	
Bob Curtis	Self	SB72	X	
EARL REILLY	Mont Senior Citizens Asc	SB72	X	
Keith Anderson	MonTax			
Ben Havdahl	Montana Motor Carriers Assn	HB 56	X	
Tom Ryan	Montana Colleges	SB72	X	
TODD HUDAK	Mt. Ass. of COUNTIES			
Ken Morrison	Dept. of Revenue			
Doug Olson	Elderly Legal Services	SB72		
Joe Brand	United Transportation Union	SB72	X	

(Please leave prepared statement with Secretary)

NAME EDMUND F. SHEEHY BILL NO. SB 72

ADDRESS 1731 5th AVE HELENA MT. DATE 1-18 85

WHOM DO YOU REPRESENT RETIRED FEDERAL EMPLOYEES

SUPPORT ✓ OPPOSE ______ AMEND ______

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: ONE OF THE QUESTIONS UPPERMOST IN A PROSPECTIVE RETIREE OR RETIREE'S MIND IS "WHERE SHOULD I LIVE IN RETIREMENT?" THE ANSWER WE SEEM TO GET FROM THE STATE OF MONTANA THROUGH HOW IT TAXES RETIREMENT INCOME, IS DON'T COME OR STAY IN MONTANA

MONTANA GIVES VERY PREFERENTIAL TREATMENT TO ALL OF ITS STATE TAXPAYER SPONSORED PLANS BY FULLY EXEMPTING THEM FROM MONTANA INCOME TAX THIS PREFERENTIAL TREATMENT IS CONTINUED IN THE WORKSHEET FOR DETERMINING TAXABLE SOCIAL SECURITY BENEFITS IT IS POSSIBLE FOR TAXPAYERS WITH IDENTICAL FEDERAL ADJUSTED INCOME TO BE TREATED DIFFERENTLY UNLESS MONTANA CAN SHOW THAT ALL RETIREMENT INCOME IS TREATED ON THE SAME EQUITABLE BASIS, THIS STATE SHOULD NOT TAX SOCIAL SECURITY BENEFITS,

PLEASE NOTE LINE 4 ON SOCIAL SECURITY WORKSHEET – THIS IS PREFERENTIAL TREATMENT OF SOME RETIREMENT INCOME.

NAME GORDON CLARE BILL NO. SB-72

ADDRESS 341 B HIGHWAY 41 S Silver Star DATE 1-18-85

WHOM DO YOU REPRESENT SELF

SUPPORT ✓ OPPOSE ____ AMEND ____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME LADD S. SHOREY BILL NO. SB-72

ADDRESS 2115 DAHLIA Ln Billings, Mont DATE Jan 18, 1985

WHOM DO YOU REPRESENT Legacy L

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

See statement attached

NAME Lois Shorey BILL NO. SB 72

ADDRESS 2115 Dahlia Billings, Mont DATE Jan 18,

WHOM DO YOU REPRESENT Legacy Legislature

SUPPORT X OPPOSE ~~X~~ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

See statement attached

NAME Robert H. Yang BILL NO. SB 72

ADDRESS 2603 Spring Creek Dr DATE 18 JAN 85

WHOM DO YOU REPRESENT Self

SUPPORT X OPPOSE ___ AMEND ___

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. LACK OF INDEXING OF VALUES (25,000 & 32,000) IN COMBINATION WITH INFLATION PROVIDES A HARDSHIP ON INDIVIDUALS AS TIME PASSES

2. PROVIDES AN INCENTIVE FOR INDIVIDUALS THAT ARE A VALUABLE community RESOURCE TO LEAVE STATE

3. AT LEAST CONSIDER EXEMPTING INTEREST FROM MT STATE & MUNICIPAL BONDS & DIVIDENDS FROM COMMON STOCK OF UTILITIES DOING BUSINESS IN MT FROM THE COMPUTATION.

Amendments to Senate Bill No. 72

Amend SB 72, Introduced Copy

1. Title, line 5.
Following: "SECURITY"
Insert: "AND TIER 1 RAILROAD RETIREMENT"

2. Page 3, lines 12 and 13.
Following: "all" on line 12
Strike: remainder of subsection (m)
Insert: "social security and tier 1 railroad retirement benefits described in section 86 of the Internal Revenue Code of 1954, as amended and applicable on January 1, 1984."

3. Page 5, line 3.
Strike: "1984"
Insert: "1983"

EXHIBIT 1 -- SB 72
Senate Taxation Committee
January 18, 1985

Montana Senior Citizens Assn., Inc.

WITH AFFILIATED CHAPTERS THROUGHOUT THE STATE

P.O. BOX 423 - HELENA, MONTANA 59624

(406) 443-5341

To Senator Tom Towe, Chairman-Senate Taxation Committee and Members of the Committee

From The Montana Senior Citizen's Assn. (M.S.C.A.)

Regarding Senate Bill 72, by Chief Sponsor, Senator Tom Hager and other co-sponsors.

The M.S.C.A. is a statewide advocacy organization that champions the causes of Seniors, low income people, the handicapped and people on fixed incomes.

Following the 48th Legislative Session we denounced legal entitlements, namely, Federal Social Security payments being regarded by Montana Government as taxable income. This deprived many senior citizen's of anticipated property tax refunds.

The M.S.C.A. annual convention formed a resolution to urge the 49th Legislative Session to rectify this situation.

Senate Bill 72, introduced by Senator Tom Hager would exclude Social Security Benefits from state income tax liability.

M.S.C.A. members are aware of the rising costs of medical fees and utilities. Two unavoidable costs. We urge the committee to give this bill as amended a "do pass" after consideration.

Thank you,

Tom Ryan
M.S.C.A.

EXHIBIT 2 -- SB 72
Senate Taxation Committee
January 18, 1985

Testimony presented to Chairman Towe and members of the Senate Committee on Taxation. Meeting held in State Capitol on January 18, 1985. Senate Bill No. 72

Good Morning Senators. My name is Ladd S. Shorey, home address is 2115 Dahlia Lane, Billings, Montana. I am a full time volunteer in the senior movement and work without pay. I stopped doing income tax work several years ago as it was becoming increasingly complicated and difficult and sold the little accounts I had accumulated as I was doing it mostly as a hobby. However, a number of people continue to ask me for free advice or call me to get an update of some kind that I can help them with. These people I try to help are all seniors, some of them very old. These people have been taxpayers all of their lives.

It did not take long until I had accumulated a number of very reasonable complaints from people and so I checked the new tax forms for this year as well as the Tax Booklet put out for this year.

The first thing I became alarmed about was the formula which was put into effect for taxing social security benefits. This is done by using the Social Security Worksheet on the last page of the Tax booklet. What this formula does in effect is to either tax the entire amount of one-half the benefit received from social security, or at a minimum, pick up and tax the difference between the full one-half amount less the amount which was taxed by the Federal Government under the federal formula. In other words, Montana State in most cases will be taxing one-half of the benefits in full or that portion not taxed by the Feds.

Now, while this type of formula can be considered fair and impartial until it is studied, it may be questioned that it is discriminatory. Here is one of the reasons. This formula used by the State is set up, purposely or not, to force all or most taxpayers who customarily in past years that filed separately, will now have to file their Montana tax jointly. This of course forces any couple with joint income into a much higher bracket for tax purposes. In one case that I examined, this couple will have their Montana income tax tripled. But you say, there is provided a "Marriage Deduction" with a maximum of $3,000. However, this is only for earned income and cannot be used for pensions, annuities, IRA

EXHIBIT 3 -- SB 72
Senate Taxation Committee

distributions and deferred compensation. In other words, this rule definitely discriminates against all senior citizens who are on fixed income represented by pensions and investmentts.

I have another problem with the new tax procedures. By using this formula to force married couples to file Montana tax forms jointly, losing the advantages that formerly had accompanied this method, it is particularly harmful for senior citizens with regard to medical and dental expenses. This is because there is a dedictible of five percent before the taxpayer can deduct for these expenses. This five percent is figured on the adjusted gross incmme, and therefore becomes doubled before the taxpayer can take a medical deduction. This is particularly harmful for senior citizens, as usually one or the other partner in each marriage is the one requiring on-going medical attention. Under our old system, the one partner having most or all of the medical expenses could use that deduction to help minimize a part of the tax bill. Now that will not be possible.

I would like to bring out an additional point. No one would accuse the Federal government of ever being considerate or generous with taxpayers. However, the formula which they are using this year seems to, and I use this reservedly, appears to lessen the full impact of taxing one-half of the social security benefits at the so-called threshhold of $32,000. This also appears to be the case on the $25,000 threshhold. The key to this is to look at the formula and the last line of the computation which provides that the final figure arrived at after subtracting either $25,000 or $32,000, that figure is then divided by two. This usually results in a figure smaller than one-half of the social security benefits to be taxed, at least in the various tax forms that I was able to examine.

I would certainly not take the position that the Feds may not alter this formula in the future and make it more stringent. In fact, I would be surprised if they did not. Perhaps they are doing it this way to measure the number of protests they receive.

In conclusion, I am not going to tell this Committee that I am a professional accountant any more, or can possibly keep up with tax law changes. Very few can do that. However, from all that I hear of the complaints, I do feel that the formula your tax department has come up with this year has a number of flaws and inequities, particularly as they apply to the senior citizens of this State. Perhaps I was caught off-guard by not having attended any of your hearings on these tax changes. Perhaps there were no hearings to begin with. If there were no hearings, I believe there should have been, at least so concerned citizens could have had some input.

From my own standpoint, I do not want to shirk my fair share of income taxes. I do not think that senior citizens want to shirk their taxes either. But I do think they should not be discriminated against as a class of taxpayers over another class. If you wish to check me on this, you only have to look at the Worksheet on the back of the form on line 14 to find out that if you check the Box 3 which indicates that you are married and both filing separate returns, you automatically are denied any amount of the base figure of $25,000 or $32,000 as a deduction. Fairness itself, would indicate that when filing separately, that one-half of this deduction could be allocated to each of the spouses.

I, and all the many seniors I have talked with, will certainly appreciate your taking a good second look at this taxing formula, perhaps with the view of eliminating it all together. It would be my hope that you eliminate the taxing of social security benefits for the 1984 year, this year and all future years. I think seniors deserve this. They have paid taxes for a long time. They pay their share. Please, let's not abuse them.

Thank you.

SOCIAL SECURITY WORKSHEET

The taxable portion of your Social Security to Montana may be different than what is taxable to federal. This worksheet determines if there is a difference, see below.

Filing Status Check One
1 ☐ Single
2 ☐ Married filing joint return
3 ☐ Married and both filing separate returns on this form
4 ☐ Married and both filing separate returns on separate forms
5 ☐ Married filing separate return and spouse is not filing

		COLUMN A (For yourself, joint separate or single)		COLUMN B (For spouse)
1. Federal Adjusted Gross Income (Line 22 from Form 2)			1	
Subtractions				
2. Enter Social Security and/or Railroad Retirement Included in Federal AGI		2		
3. State Refund (if included in Line 15 of Form 2)		3		
4. Enter Exempt Retirement Income for Montana Purposes		4		
5. Total Reductions—Add Lines 2, 3 & 4			5	
6. Sub-Total—Subtract Line 5 from Line 1			6	
Additions				
7. Enter Total Interest on State and County Municipal Bonds		7		
8. Enter Federal Refund Received		8		
9. Enter Two Earner Marriage Deduction		9		
10. Total Additions: Add Lines 7, 8 and 9			10	
11. Modified Adjusted Gross—Add Lines 6 and 10			11	
12. Enter One-Half (50%) of the Social Security Benefits Received during 1984			12	
13. Add Lines 11 and 12			13	
14. Enter $25,000 if you checked Box 1; $32,000 if you checked Box 2; —0— if you checked Box 3, 4 or 5			14	
15. Subtract Line 14 from Line 13			15	

DO NOT GO ANY FURTHER IF LINE 15 IS NEGATIVE, NONE OF YOUR SOCIAL SECURITY BENEFITS ARE TAXABLE.

16. Enter One-Half (50%) of the amount on Line 15		16	
17. Enter the Amount from Line 16 or Line 12, Whichever is Smaller		17	
18. Enter the Amount of Social Security that is Taxable on Your Federal Return If Line 18 is greater than line 17, enter difference here and on Line 35 of Form 2. If Line 17 is greater than Line 18 enter difference here and on Line 25 of Form 2.		18	
19. No adjustment is necessary if Lines 17 & 18 are the same		19	

The taxable portion of your Social Security to Montana can be different than what is taxable to federal. The worksheet determines if there is a difference. Note: The difference in taxable Social Security may be due to your change in filing status (joint on federal return and separate on state return). You should calculate your tax liability under both filing statuses to determine which is to your advantage. If additional help is needed, call Toll Free 1-800-332-6103 between Jan. 1, and April 15, 1985.

Income Tax Division
Post Office Box 5805
Montana Department of Revenue
Helena MT 59604

BULK RATE
U.S. POSTAGE
PAID
MONTANA DEPARTMENT
OF REVENUE

520 10 5737 %E% 570 32 2217
SHUREY LADD S LUIS C
2115 DAHLIA LN
BILLINGS MT 59102

Please remove label and attach to return. Correct name and address if necessary.

(C) 305

TESTIMONY PRESENTED TO CHAIRMAN THOMAS TOWE AND MEMBERS OF THE SENATE COMMITTEE ON TAXATION MEETING ON JANUARY 18, 1985.

SB-72 TAXATION OF SOCIAL SECURITY BENEFITS BY STATE OF MONTANA

Good Morning Senators. My name is Lois C. Shorey and my home address is 2115 Dahlia Lane, Billings, Montana. I am an unpaid, full-time volunteer in the senior movement working at all levels from the State, through Areas on Aging, County down to city and neighborhood. While I am active in all these organizations, I speak today only as a senior citizen of the great state of Montana and unofficially represent a large proportion of those seniors who share my view.

Today your committee is meeting in official session as representatives of all the people in Montana to determine the fate of Senate Bill 72. I understand this bill is for the purpose of excusing the taxation of social security benefits from Montana State Income Tax. This is because the adjusted gross income line 22 on the Income Tax Return for Montana must be identical to the net adjusted gross income line 32 of the Federal tax form. Both of these procedures tax this income. I am against this arbitrary treatment of a special class of citizens. This causes social security recipients to be treated in a discriminatory manner by the tax system relative to all other taxpayers who have tax-exempt interest income. While tax-exempt interest is used to determine additional tax liability for social security beneficiaries, it is entirely ignored by other taxpayers for personal income tax purposes. The result is that social security people are the lone class of taxpayers who are burdened by additional tax liability from traditionally tax-exempt income. For example, a person who receives no social security and $10,000 of tax-exempt interest is <u>not</u> required to use this interest to move himself or herself into a higher tax bracket. However, $10,000 of tax-exempt interest could significantly raise the tax liability of a social security recipient. Additionally, the current tax-exempt interest law affects only those beneficiaries near the $25,000 ($32,000 for a couple) social security taxation threshold. Because the threshold phases out quickly, people with incomes above it will pay tax on one-half of their benefits regardless of the tax-exempt income provisions. It is only those

EXHIBIT 4 -- SB 72
Senate Taxation Committee

who are close to the threshold and have tax-exempt income who are harmed by the provision. I am particularly afraid of this initial assault on senior citizens by the Federal tax laws, because I firmly believe it is the infamous "foot in the door" approach. I claim that if allowed to go unchallenged, this threshold will continue to be eroded in successive years, until not a part, but all social security benefits for all people will be subject to taxation.

By going after only 9-1/2 percent of the total 36 million plus social security beneficiaries who will be affected by the present law, the time-honored divide and conquer tactic becomes evident. The proof for this is that the threshold levels which are designed to protect lower income individuals from the tax have not been indexed. Therefor, in future years, it is virtually certain that an ever greater number of recipients will find their benefits subject to taxation. This is especially probable if social security faces further financing problems and is in need of additional revenue.

This brings us my next point. National Council of Senior Citizens President Jacob Clayman called taxation of social security benefits at the state level "unfair and inequitable". Mr. Clayman pointed out in testimony that the national Congress taxed social security in order to bring more cash in the trust funds which were running out of money. All taxes levied on benefits under the provision would go back into the Social Security trust fund he noted. However, the extra funds produced by the Montana tax laws would go to the general fund and become a tax windfall.

In closing my remarks, I would like to make the point that many of the other states have exempted, or are considering exemption of taxation of social security benefits at their state level. In Alabama and Mississippi, the tax code of the state does not conform to the IRS code thereby exempting taxation. The following five states exclude social security benefits from taxation: Arkansas, Massachusetts, Pennsylvania, So. Carolina and Tennessee. From the latest information I have available, the following 14 states have a bill pending to exempt these benefits from state taxation. Theyare: California, Arizona, Georgie, Hawaii, Illinois, Kansas, Louisana, Maine, Minnesota, Missouri, Oklahoma, Oregon, Rhode Island, and Utah. It is nice to see Montana added to this impressive list of states considering this exemption. The following nine states impose no personal income tax: Alaska, Florida, Connecticut, Nevada, New Hampshire, South Dakota, Texas, Washington, and Wyoming.

Some have argued that the tax treatment of social security benefits should be modeled on the present tax treatment of pension payments. This is not persuasive. Social Security as it exists today, is not a pension; it is a form of social insurance with significant welfare/social adequacy components. Because these benefits are very different from pension payments, identical tax treatment is inappropriate.

As a means of handling the special problems elderly taxpayers face in preparing their federal income tax returns, Congress in 1978 created the "Tax Counseling for the Elderly" program. The problems have continued to arise, particularly with the passage of new tax compliance rules such as the one you are studying. This is particularly awesome and burdensome to those taxpayers in the autumns of their life who have tried to save enough assets to tide them over their remaining life period so as to not be a burden on society. I would ask you to please look at the new set of rules and particularly the social security worksheet which has been included with the 1984 Montana Income Tax booklet. This is not an easy computation for older citizens to work with. Not only will they be paying a greater proportion of their income in taxes, but they will be paying an additional burden to their tax preparer.

I would ask that you please consider this issue carefully in your deliberations. Is the additional revenue really worth the pain and worry, frustration and anger that it will certainly generate among the small percentage of the elderly that it will affect at this time? Remember, they are old and vulnerable to your actions. They have no powerful lobby to protect them. Their few votes certainly will not affect your electability. I ask only fairness for them, only a fair shake for these people who have been good taxpayers all their lives, and just want to live a little longer in comfort.

Thank you.

States Move To Resolve SS Taxation

Responding to swift persuasive action from the Association's State Legislative Committees, many state legislatures have taken action on bills to insure that automatic taxation of Social Security benefits does not occur in states that have no laws specifically excluding such taxation.

The New York State Legislature, for example, recently approved a measure exempting these benefits from taxation.

Delaware also recently approved an exemption provision, as did Idaho, Indiana, New Mexico, South Carolina and West Virginia.

New Jersey, Virginia and North Carolina had previously exempted these benefits from their gross income tax. Connecticut, which has no general income tax, includes these benefits in determining if an individual is beyond the income threshold ($50,000) at which interest income and dividends will be taxed.

In Michigan, State Treasurer Robert A. Bowman said, "No portion of Social Security benefits will be subject to tax under the state income tax act."

In the District of Columbia, budget director Richard C. Siegel has assured AARP representatives that D.C. will not tax these benefits.

About 10 percent of the nation's Social Security beneficiaries are facing this federal levy on half of their benefits for the taxable year 1984, but in some cases the estimated taxes on these benefits were due in April.

As this issue of the *News Bulletin* was being distributed, the latest developments in state legislative activity regarding the taxation were:

- Alabama—Tax code does not conform to federal IRS code.
- Arkansas—State had previously excluded retirement benefits from definition of gross income.
- Arizona—The issue has become a heated controversy as the state gropes

(See STATE TAX on Page 4)

State Tax Situations Coming into Focus

(Continued from Page 1)

for ways to find revenues to cover an expected $150-to-$200-million shortfall in the budget. A bill has been introduced to exempt such benefits.

- California—The state's tax code does not conform to the IRS code, and a bill pending in the state assembly would specifically exclude benefits. (State tax officials have told AARP representatives they do not intend to tax these benefits.)
- Colorado—The legislature had not adjourned and the issue is pending.
- Georgia—Several bills were introduced to exclude the taxation but they apparently are stalled in the Ways and Means Committee of both houses.
- Hawaii—A bill is pending to exempt the benefits.
- Illinois—Legislators are still considering a repeal bill but the outcome appears unpredictable at this point.
- Iowa—The Chairman of the House Ways and Means Commitee strongly objected to the bill, and the exemption proposal included in a Senate revenue bill was defeated on the floor. "The issue looks dead this session," according to an AARP representative.
- Kansas—Several legislators have introduced legislation aimed at granting an exemption, but approval prospects are unclear.
- Kentucky—Companion exemption bills died in the House and Senate, apparently because of fiscal problems.
- Louisiana—While the state intends to follow the federal formula for taxation, an exemption bill was introduced.
- Maine—There are two bills pending and hearings have been held by the Taxation Committees.
- Maryland—Companion bills were reported out of committees but went no farther, partially because many lawmakers backed an enormous pension reform bill pushed by Gov. Harry Hughes. The state could gain $8-to-$10 million in revenue by taxing the benefits.
- Massachusetts—Will not tax benefits, according to revenue officials.
- Minnesota—Exemption langauge is included in the Department of Revenue's omnibus tax bill, supported by House and Senate leadership. Other exemption bills are pending and passage appears likely, say sources involved.
- Mississippi—State tax code does not conform to IRS Code.
- Missouri—A Senate bill repealing the tax has moved to the House, where prospects are uncertain. State Revenue Director Richard King said it is uncertain as to whether the state constitution would permit the measure to be made retroactive to the beginning of 1984.
- Montana—The legislature was not in session.
- Nebraska—Exemption of benefits has met strong opposition from the chairperson of the Unicameral Revenue Committee, and the governor was likely to join the dissenters.
- North Dakota—Legislature was not in session.
- Ohio—A repeal bill has passed the Senate and is now in the House Ways and Means Committee. Passage is doubtful, according to an AARP staffer.
- Oklahoma—The state intends to tax benefits but a recently-introduced exemption bill appears to have strong support from the legislature's leadership.
- Oregon—No legislative session this year. However, a measure that would exempt benefits went before voters on a May 15 ballot.
- Pennsylvania—State does not tax retirement benefits.
- Rhode Island — Two measures to exempt benefits have encountered no strong adversaries at this point, but are still pending.
- South Carolina — State excludes Social Security benefits from taxation.
- Tennessee—Does not tax personal income except income generated by stocks, bonds, notes and mortgages outside the state.
- Utah—An exemption amendment was proposed but has not passed.
- Vermont—An exemption bill is expected to die in the House Ways and Means Committee because the state legislature is having its most turbulent session in recent history, facing a $45-million budget deficit and possible revision of state salaries and taxation.
- Wisconsin—No legislation has been introduced, and the state could enforce compliance with IRS tax code.

Alaska, Florida, Connecticut, Nevada, New Hampshire, South Dakota, Texas, Washington and Wyoming impose no personal income tax.

EXHIBIT 5 -- SB 72
Senate Taxation Committee
January 18, 1985

January 18, 1985

Re: SB 72

To: Senate Taxation Committee

Members of the Committee, I wish to speak in favor of SB 72 and request you give this measure a Do Pass.

My name is Gordon Clare. I am from Silver Star, Madison County. I am retired but as of now I am not drawing Social Securi as I will not be eligable for yet another year.

I wish to bring several points to your attention. First, the youth of Mo tana seem t be leaving for jobs in other States that have more to offer. Second, many of the rural towns throughout the State are loosing the middle aged workers as mines are shut down and farms are lost due to the slow down in the economy.

Now comes the taxation of social Security, will the retired also leave Montana.

Social Security inco e is money that left the State years ago, wasn't available for spending at that time, and is now being returned to the receiptitant for spending.This money is spent in the many communities through out the state and may just be the money t at keeps the local small business alive.

If you continue to tax this money it might be that the older, retired generationwill find this the straw that brakes the Camels back, and make the move to warmer climates, nearer the children and/or grandchildren. or to a state like Florida, Washington or Nevada that not nly don't tax Social Security but have no state income tax at all.

In my one case I retired to Montana from another state. I came here and built a home, giving work to the local carpenters I spend my retirement income with the local merchants, helping to maintain the local economy. When I start to draw my Social Security, this extra amount will either be spent or invested locally or within the state.

I suggest that the continued taxation of this income could tip the scales for me. I have already been upset by the large increase in my electric rates and don't look foward to the taxation of my Social Security.

Thank you for this opportunity to make my thoughts known. Please give SB 72 a do pass.

Sincerely,
Gordon Clare

Gordon Clare
341 B Highway 41 S.
Silver Star, MT. 59751

Department of Revenue
Amendments to Senate Bill 72

1. Title, line 4

   Following: "EXCLUDE"
   Insert: "CERTAIN"

   Line 6

   Following: "LIABILITY"
   Insert: "BY PROVIDING A BASE EXCLUSION FOR MARRIED PERSONS FILING SEPARATELY"

2. Page 3, line 12

   Strike: subsection (m) in its entirety

3. Page 4, line 20

   Add: "(6) Married taxpayers, filing a joint federal return, who must include part of their social security benefits in federal adjusted gross income, can split the federal base used in calculation of federal taxable social security benefits when they file separate Montana income tax returns. The federal base must be split equally on the Montana return.

EXHIBIT 6 -- SB 72
Senate Taxation Committee
January 18, 1985

$14,000 income
-elderly interest exclusion ignored

Effect of SS benefits - Joint vs. separate returns

Income - $14,000
SS - 10,000
H - 5,000
W - 5,000

Joint return	14,000	
Standard Deduction	(2,800)	
Exemptions	(4,000)	
	7,200	
tax	272	272

Separate returns w/SS

	H	W	
Income	7,000	7,000	
1/2 SS -	2,500	2,500	
	9,500	9,500	
	(1,880)	(1,880)	
	(2,000)	(2,000)	
	5,620	5,620	
Tax	193	193	386

Separate returns - no SS

	H	W	
	7,000	7,000	
Standard ded.	(1,400)	(1,400)	
	(2,000)	(2,000)	
	3,600	3,600	
Tax	106	106	212

EXHIBIT 7 -- SB 72
Senate Taxation Committee
January 18, 1985

$16,000 income
-elderly exclusion considered

Effect of SS benefits on Joint and Separate Montana returns

Income:

Interest	$12,000	
Dividends	4,000	16,000
SS - H	5,000	
W	6,000	
1/2 SS benefits		5,500
Fed. Modified AGI		21,500

SS not taxable for Federal

On a joint state return, SS also not taxable because of $32,000 exclusion (base)

Income reported to MT.	16,000	
Standard deduction	(3,200)	
Exemptions	(4,000)	
Taxable income	8,800	
Tax	365	365

On separate returns, SS is taxable to MT

	H	W	
Income	8,000	8,000	
1/2 SS	2,500	3,000	
	10,500	11,000	
Standard ded.	(1,880)	(1,880)	
Exemptions	(2,000)	(2,000)	
Taxable income	6,620	7,120	
	243	268	511

Separate returns - no SS

	H	W	
Income	8,000	8,000	
Standard ded.	(1,600)	(1,600)	
Exemptions	(2,000)	(2,000)	
	4,400	4,400	
	138	138	276

NAME Ben Havdahl BILL NO. HB 56

ADDRESS Box 1714 Helena DATE 1/18/85

WHOM DO YOU REPRESENT Montana Motor Carriers Assn

SUPPORT X OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: House Bill 56 reduces the time from 5 years to 3 years that a special fuel user including motor carriers must maintain receipts, invoices and other records of fuel purchases for tax purposes.

30 States have reduced the time period from 5 years to 3 years. The effect of this is to cut down on costs including maintaining unnecessary files and records. A dollar savings would be made by both the State and users.

Montana Motor Carriers Association supports this Legislation. The House passed HB 56 unanimously.

EXHIBIT 8 -- HB 56
Senate Taxation Committee
January 18, 1985

SENATE BILL 43
-EXAMPLE-

	Sub Chapter S Corporation		
	# of Shareholders	1	
Pg. 2, Line 24	Net Income	$1,168,000	
Pg. 3, Line 5	Capital Gain Portion	$1,168,000	

		Federal Level	State Level
Pg. 3, Line 19	Capital Gain Tax	$ 340,000	-0-
Pg. 4, Line 4	Income Passed Thru to Shareholders	$ 828,000	$ 828,000
	Amount of Income Subject to Tax	$1,168,000	$ 828,000

	Under Present Law	
Pg. 4, Line 4	Income Passed Thru to Shareholders	$ 828,000
	Capital Gains Rate	x .4
Pg. 5, Line 10	Taxable Income at Individual Level	$ 331,200

	Under Proposed Law	
Pg. 4, Line 14	Income Passed Thru to Shareholders	$ 828,000
Pg. 3, Line 19	Add Back: Federal Capital Gain Tax	340,000
Pg. 6, Line 4	Total Income Passed Thru to Shareholders	$1,168,000
	Capital Gains Rate	x .4
Pg. 7, Line 10	Taxable Income at Individual Level	$ 467,200

EXHIBIT 9 -- SB 43
Senate Taxation Committee
January 18, 1985

PAGE 2

Form **1120S** Department of the Treasury Internal Revenue Service

U.S. Income Tax Return for an S Corporation

For calendar 1984 or tax year beginning ...., 1984, ending ...., 19 ....

▶ For Paperwork Reduction Act Notice, see page 1 of the instructions.

OMB No. 1545-0130

1984

A Date of election as an S corporation	Use IRS label. Otherwise, please print or type. Name	C Employer identification number
	Number and street	D Date incorporated
B Business Code No. (see Specific Instructions)	City or town, State, and ZIP code	E Total assets (see Specific Instructions) $

F. Check box if there has been a change in address from the previous year ▶ ☐

Income	1	a Gross receipts or sales .... b Less returns and allowances .... Balance ▶			1c	
	2	Cost of goods sold and/or operations (Schedule A, line 7)			2	
	3	Gross profit (subtract line 2 from line 1c)			3	
	4	Nonqualifying interest and nonqualifying dividends			4	
	5	Gross rents			5	
	6	Gross royalties			6	
	7	Net gain or (loss) from Form 4797, line 14(a), Part II			7	
	8	Other income (see instructions—attach schedule)			8	
	9	TOTAL income (loss)—Combine lines 3 through 8 and enter here ▶			9	
Deductions	10	Compensation of officers			10	
	11	a Salaries and wages .... b Less jobs credit .... Balance ▶			11c	
	12	Repairs			12	
	13	Bad debts (see instructions)			13	
	14	Rents			14	
	15	Taxes			15	
	16	a Total deductible interest expense not claimed elsewhere on return (see instructions)	16a			
		b Interest expense required to be passed through to shareholders on Schedules K and K-1, lines 15a(2) and 15a(3)	16b			
		c Subtract line 16b from line 16a			16c	
	17	a Depreciation from Form 4562 (attach Form 4562)	17a			
		b Depreciation claimed on Schedule A and elsewhere on return	17b			
		c Subtract line 17b from line 17a			17c	
	18	Depletion (**Do not deduct oil and gas depletion.** See instructions)			18	
	19	Advertising			19	
	20	Pension, profit-sharing, etc. plans			20	
	21	Employee benefit programs			21	
	22	Other deductions (attach schedule)			22	
	23	TOTAL deductions—Add lines 10 through 22 and enter here ▶			23	
	24	Ordinary income (loss)—Subtract line 23 from line 9			24	1,168,000 —
Tax	25	a Excess net passive income tax (attach schedule)	25a			
		b Tax from Schedule D (Form 1120S), Part IV	25b	340,000 —		
		c Add lines 25a and 25b			25c	340,000 —
	26	Payments:				
		a Tax deposited with Form 7004	26a			
		b Credit for Federal tax on gasoline and special fuels (attach Form 4136)	26b			
		c Add lines 26a and 26b			26c	
	27	**TAX DUE** (subtract line 26c from line 25c). See instructions for Paying the Tax. ▶			27	
	28	**OVERPAYMENT** (subtract line 25c from line 26c) ▶			28	

Please Sign Here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

▶ Signature of officer | Date | ▶ Title

Paid Preparer's Use Only

Preparer's signature ▶	Date	Check if self-employed ▶ ☐	Preparer's social security number
Firm's name (or yours, if self-employed) and address ▶		E.I. No. ▶	
		ZIP code ▶	

PAGE 3

SCHEDULE D (Form 1120S)

Department of the Treasury
Internal Revenue Service

Capital Gains and Losses

▶ Attach to your tax return.

▶ For Paperwork Reduction Act Notice, see page 1 of instructions for Form 1120S.

OMB No. 1545-0130

1984

Name	Employer identification number

Part I Short-term Capital Gains and Losses—Assets Held One Year or Less (6 months or less if acquired after 6/22/84)

a. Kind of property and description (Example, 100 shares of "Z" Co.)	b. Date acquired (mo., day, yr.)	c. Date sold (mo., day, yr.)	d. Gross sales price	e. Cost or other basis, plus expense of sale	f. Gain or (loss) (d less e)
1					

2 Short-term capital gain from installment sales from Form 6252, line 22 or 30	2	
3 Unused capital loss carryover (attach computation)	3	( )
4 Net short-term capital gain or (loss) (combine lines 1, 2, and 3). Enter here and on line 3 of Schedule K of Form 1120S	4	

Part II Long-term Capital Gains and Losses—Assets Held More Than One Year (more than 6 months if acquired after 6/22/84)

a.	b.	c.	d.	e.	f.
5					1,168,000.

6 Long-term capital gain from installment sales from Form 6252, line 22 or 30	6	
7 Net long-term capital gain or (loss) (combine lines 5 and 6). Enter this amount (less any applicable tax on line 19 below) on line 4 of Schedule K of Form 1120S	7	828,000.
8 Enter section 1231 gain from line 6(a)(1), Form 4797. (See instructions regarding casualties and thefts and the line 8 amount to be entered on Schedule K of Form 1120S.)	8	
9 Net long-term capital gain or (loss) (combine lines 7 and 8)	9	

Part III Summary of Schedule D Gains for Tax Computation Purposes

Note: *If the corporation is liable for the excess net passive income tax (line 25a, page 1, Form 1120S), see line 10 instruction before completing line 10.*

10 Net capital gain—Enter excess of net long-term capital gain (line 9) over net short-term capital loss (line 4). (If more than $25,000, enter here and see instructions for Part IV. If $25,000 or less, enter here and do not complete Part IV as the tax computation does not apply.)	10	

Part IV Tax Computation (See Instructions)

11 Taxable income (See instructions for line 25a, page 1, Form 1120S.)	11	1,168,000.
12 Enter tax on line 11 amount (See instructions for computation of tax.)	12	
13 Net capital gain from line 10	13	
14 $25,000 (statutory minimum)	14	$25,000
15 Subtract line 14 from line 13	15	
16 Enter 28% of line 15	16	
17 Income tax on capital gains—Enter smaller of line 12 or line 16	17	
18 Minimum tax (See instructions—attach Form 4626)	18	
19 Total tax—Add lines 17 and 18. Enter here and on Form 1120S, page 1, line 25b	19	340000.

Instructions

(Section references are to the Internal Revenue Code, unless otherwise noted.)

Purpose of Schedule

Schedule D should be used by corporations to report sales or exchanges of capital assets and gains on distributions to shareholders of appreciated assets that are capital assets (hereafter referred to as distributions).

Sales, exchanges, and distributions of property other than capital assets, including property used in a trade or business, involuntary conversions (other than casualties or thefts), and gain from the disposition of interest in oil, gas, or geothermal property, should be reported on **Form 4797**, Supplemental Schedule of Gains and Losses. See the instructions for Form 4797 for more information. If property is involuntarily converted because of a casualty or theft, use **Form 4684**, Casualties and Thefts.

Parts I and II

Generally, you should report sales and exchanges (including like-kind exchanges) even though there is no gain or loss. Report gain, but not loss, on a distribution. In Part I report the sale, exchange, or distribution of capital assets held one year or less (6 months or less if acquired after 6/22/84). In Part II report the sale, exchange, or distribution of capital assets held more than one year (more than 6 months if acquired after 6/22/84).

For more information, see **Publication 544**, Sales and Other Dispositions of Assets, and **Publication 589**, Tax Information on S Corporations.

Exchange of like-kind property.—Report the exchange of "like-kind" property on Schedule D or on Form 4797, whichever applies. Report it even though no gain or loss is recognized when you exchange business or investment property for property of "like-kind." For exceptions, see Publication 544.

If you use Schedule D, identify the property you disposed of in column a. Enter the date you acquired it in column b, and the date you exchanged it in column c. Write "like-kind exchange" in column d. Enter the cost or other basis in column e. Enter zero in column f.

UNDER PRESENT LAW

PAGE 4

SCHEDULE K-1 (Form 1120S)

Department of the Treasury
Internal Revenue Service

Shareholder's Share of Income, Credits, Deductions, etc.

For calendar year 1984 or tax year beginning ______, 1984 and ending ______, 19__

(Complete a separate Schedule K-1 for each shareholder—See instructions)

OMB No. 1545-0130

1984

Shareholder's identifying number ▶

Corporation's identifying number ▶

Shareholder's name, address, and ZIP code

Corporation's name, address, and ZIP code

A Shareholder's percentage of stock ownership for tax year ▶ %

B Internal Revenue Service Center where corporation filed its return ▶

		a. Distributive share items	b. Amount	c. 1040 filers enter the amount in column b on:
Income (Losses) and Deductions	1	Ordinary income (loss)		Sch. E, Part II, col. (d) or (e)
	2	Dividends qualifying for the exclusion		Sch. B, Part II, line 4
	3	Net short-term capital gain (loss)		Sch. D, line 4, col. f or g
	4	Net long-term capital gain (loss)	828,000.	Sch. D, line 12, col. f or g
	5	Net gain (loss) from involuntary conversions due to casualty or theft		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	6	Other net gain (loss) under section 1231		Form 4797, line 1
	7	Other income (loss) (attach schedule)		(Enter on applicable line of your return)
	8	Charitable contributions: 50% ______, 30% ______, 20% ______		See Form 1040 Instructions
	9	Expense deduction for recovery property (section 179 expense)		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	10	Other (attach schedule)		(Enter on applicable line of your return)
Credits	11	Jobs credit		Form 5884
	12	Credit for alcohol used as fuel		Form 6478
	13	Other (attach schedule)		(Enter on applicable line of your return)
Tax Preference Items	14 a	Accelerated depreciation on nonrecovery real property or 15 (or 18)-year real property		Form 6251, line 4c
	b	Accelerated depreciation on leased personal property or leased recovery property other than 15 (or 18)-year real property		Form 6251, line 4d
	c	Depletion (other than oil and gas)		Form 6251, line 4i
	d (1)	Gross income from oil, gas, or geothermal properties		See Form 6251 instructions
	(2)	Gross deductions allocable to oil, gas, or geothermal properties		See Form 6251 instructions
	e (1)	Qualified investment income included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	(2)	Qualified investment expenses included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	f	Other (attach schedule)		
Investment Interest	15 a	Interest expense on:		
	(1)	Investment debts incurred before 12/17/69		Form 4952, line 1
	(2)	Investment debts incurred before 9/11/75 but after 12/16/69		Form 4952, line 15
	(3)	Investment debts incurred after 9/10/75		Form 4952, line 5
	b (1)	Investment income included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	(2)	Investment expenses included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	c (1)	Income from "net lease property"		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	(2)	Expenses from "net lease property"		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	d	Excess of net long-term capital gain over net short-term capital loss from investment property		Form 4952, line 20
Foreign Taxes	16 a	Type of income ▶		Form 1116, Check boxes
	b	Name of foreign country or U.S. possession ▶		Form 1116, Part I
	c	Total gross income from sources outside the U.S. (attach schedule)		Form 1116, Part I
	d	Total applicable deductions and losses (attach schedule)		Form 1116, Part I
	e	Total foreign taxes (check one): ▶ ☐ Paid ☐ Accrued		Form 1116, Part II
	f	Reduction in taxes available for credit (attach schedule)		Form 1116, Part III
	g	Other (attach schedule)		Form 1116 Instructions

UNDER PRESENT LAW

PAGE 3

FORM 2

Montana Individual Income Tax Return — 1984

or fiscal year beginning__________, 1984 and ending__________, 19____

PLACE LABEL HERE — Correct label if necessary. File on or before April 15, 1985 (Fiscal year see instructions).

Your First Name & Middle Initial	LAST NAME	Your Social Security No.	Chief Occupation Enter Code no. from page 10 of instructions	Yours
Spouse's First Name & Initial	Spouse's last name if different	Spouse's Social Security No.		Spouse's

MAILING ADDRESS — Number and Street or Rural Route / City, Town or Post Office / State / Zip Code

Filing Status Check One → 1 ☐ Single | 2 ☐ Married filing joint return | 3 ☐ Married and both filing separate returns on this form | 4 ☐ Married and both filing separate returns on separate forms | 5 ☐ Married filing separate return and spouse is not filing

Residency Status Check One → 1 ☐ Resident Full Year | 2 ☐ Nonresident Full Year | 3 ☐ Resident Part Year | Give date of change

DO NOT USE THIS SPACE

EXEMPTIONS

	Regular	65 or Over	Blind		COLUMN A (For yourself, joint separate or single)	COLUMN B (For spouse)
1. Yourself	☐	☐	☐	Enter number checked	☐ 1	
2. Spouse	☐	☐	☐	Enter number checked	☐ 2	☐ 2
3. Number of exemptions claimed for dependents. See page 2 of instructions					☐ 3	☐ 3
4. Number of exemptions claimed for handicapped children. See page 3 of instructions					☐ 4	☐ 4
5. Add lines 1, 2, 3, and 4 for **TOTAL** number of exemptions					☐ 5	☐ 5

ATTACH PAYMENT HERE

If married filing separate is elected, use Column A for yourself and Column B for spouse. For all other returns, use Column A only. You may round to nearest dollar.

INCOME REPORTED ON FEDERAL RETURN		COLUMN A (For yourself, joint separate or single)	COLUMN B (For spouse)	
6. Wages, salaries, tips, etc.	6.			6.
7. Interest income	7.			7.
8. Dividend income (Less federal exclusion)	8.			8.
9. Net business income (Attach federal Schedule C)	9.			9.
10. Capital gain or (loss) (Attach federal Schedule D)	10.	331,200 -		10.
11. Supplemental gains or (losses) (Attach federal Form 4797)	11.			11.
12. Rents, royalties, partnerships, estates, trusts, etc. (Attach federal Schedule E)	12.			12.
13. Net farm income (Attach federal Schedule F)	13.			13.
14. Taxable portion of Social Security	14.			14.
15. Other income (Specify; fees, retirement, State Ref. ______ etc.)	15.			15.
16. Total of lines 6 thru 15	16.			16.
Adjustments from Income: (Attach federal schedules)				
17. Moving expense (Attach federal Schedule 3903)	17.			17.
18. Employee business expenses (Attach federal Schedule 2106)	18.			18.
19. Payments to an IRA, Keogh, and other retirement plans	19.			19.
20. Other adjustments: (Marriage deduction, etc.) (Attach list)	20.			20.
21. Total of lines 17 thru 20	21.			21.
22. Adjusted gross income same as federal return (Subtract line 21 from line 16)	22.			22.

ATTACH WITHHOLDING STATEMENTS HERE

ADDITIONS TO INCOME — SEE PAGE 3 OF INSTRUCTIONS				
23. Interest on state, county municipal bonds (Non-Montana)	23.			23.
24. Federal income tax refunds received (For taxes deducted in an earlier year)	24.			24.
25. Other additions: (Marriage deduction, social security, etc.)	25.			25.
26. Transfer allocation of income	26.			26.
27. Total adjustments increasing income (Add lines 23 thru 26)	27.			27.
28. Add lines 22 and 27 enter result	28.			28.

REDUCTIONS OF INCOME — SEE PAGE 4 OF INSTRUCTIONS				
29. Total private retirement income______. Enter $360 or total, (Whichever is smaller)	29.			29.
30. Interest exclusion for elderly	30.			30.
31. Interest exclusion for savings bonds, etc.	31.			31.
32. Income from sources outside Montana (Part-year & nonresidents only)	32.			32.
33. Exempt retirement income (Specify) ______	33.			33.
34. State refund (If included in line 15 above)	34.			34.
35. Other reductions (Specify tips, social security, etc.)	35.			35.
36. Transfer allocation of income	36.			36.
37. Total adjustments decreasing income (Add lines 29 thru 36)	37.			37.
38. Subtract line 37 from line 28. Enter amount on line 39, page 2	38.			38.

PROPOSED LAW

SCHEDULE K-1 (Form 1120S)

Department of the Treasury Internal Revenue Service

Shareholder's Share of Income, Credits, Deductions, etc.

For calendar year 1984 or tax year beginning ______, 1984 and ending ______, 19__

(Complete a separate Schedule K-1 for each shareholder—See instructions)

OMB No. 1545-0130

1984

Shareholder's identifying number ▶	Corporation's identifying number ▶
Shareholder's name, address, and ZIP code	Corporation's name, address, and ZIP code

A Shareholder's percentage of stock ownership for tax year ▶ %

B Internal Revenue Service Center where corporation filed its return ▶

	a. Distributive share items	b. Amount	c. 1040 filers enter the amount in column b on:
Income (Losses) and Deductions	1 Ordinary income (loss)		Sch. E, Part II, col. (d) or (e)
	2 Dividends qualifying for the exclusion		Sch. B, Part II, line 4
	3 Net short-term capital gain (loss)		Sch. D, line 4, col. f or g
	4 Net long-term capital gain (loss)	1,168,000	Sch. D, line 12, col. f or g
	5 Net gain (loss) from involuntary conversions due to casualty or theft		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	6 Other net gain (loss) under section 1231		Form 4797, line 1
	7 Other income (loss) (attach schedule)		(Enter on applicable line of your return)
	8 Charitable contributions: 50% ______, 30% ______, 20% ______		See Form 1040 Instructions
	9 Expense deduction for recovery property (section 179 expense)		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	10 Other (attach schedule)		(Enter on applicable line of your return)
Credits	11 Jobs credit		Form 5884
	12 Credit for alcohol used as fuel		Form 6478
	13 Other (attach schedule)		(Enter on applicable line of your return)
Tax Preference Items	14 a Accelerated depreciation on nonrecovery real property or 15 (or 18)-year real property		Form 6251, line 4c
	b Accelerated depreciation on leased personal property or leased recovery property other than 15 (or 18)-year real property		Form 6251, line 4d
	c Depletion (other than oil and gas)		Form 6251, line 4i
	d (1) Gross income from oil, gas, or geothermal properties		See Form 6251 instructions
	(2) Gross deductions allocable to oil, gas, or geothermal properties		
	e (1) Qualified investment income included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	(2) Qualified investment expenses included in line 1		
	f Other (attach schedule)		
Investment Interest	15 a Interest expense on:		
	(1) Investment debts incurred before 12/17/69		Form 4952, line 1
	(2) Investment debts incurred before 9/11/75 but after 12/16/69		Form 4952, line 15
	(3) Investment debts incurred after 9/10/75		Form 4952, line 5
	b (1) Investment income included in line 1		See Shareholder's Instructions for Schedule K-1 (Form 1120S)
	(2) Investment expenses included in line 1		
	c (1) Income from "net lease property"		
	(2) Expenses from "net lease property"		
	d Excess of net long-term capital gain over net short-term capital loss from investment property		Form 4952, line 20
Foreign Taxes	16 a Type of income ▶		Form 1116, Check boxes
	b Name of foreign country or U.S. possession ▶		Form 1116, Part I
	c Total gross income from sources outside the U.S. (attach schedule)		Form 1116, Part I
	d Total applicable deductions and losses (attach schedule)		Form 1116, Part I
	e Total foreign taxes (check one): ▶ ☐ Paid ☐ Accrued		Form 1116, Part II
	f Reduction in taxes available for credit (attach schedule)		Form 1116, Part III
	g Other (attach schedule)		Form 1116 Instructions

PROPOSED LAW

FORM 2

Montana Individual Income Tax Return — 1984

or fiscal year beginning__________, 1984 and ending__________, 19____

PLACE LABEL HERE — Correct label if necessary. File on or before April 15, 1985 (Fiscal year see instructions).

Your First Name & Middle Initial	LAST NAME	Your Social Security No.	Chief Occupation Enter Code no. from page 10 of instructions	Yours
Spouse's First Name & Initial	Spouse's last name if different	Spouse's Social Security No.		Spouse's

MAILING ADDRESS — Number and Street or Rural Route | City, Town or Post Office | State | Zip Code

DO NOT USE THIS SPACE

Filing Status Check One → 1 ☐ Single | 2 ☐ Married filing joint return | 3 ☐ Married and both filing separate returns on this form | 4 ☐ Married and both filing separate returns on separate forms | 5 ☐ Married filing separate return and spouse is not filing

Residency Status Check One → 1 ☐ Resident Full Year | 2 ☐ Nonresident Full Year | 3 ☐ Resident Part Year | Give date of change

EXEMPTIONS

	Regular	65 or Over	Blind		COLUMN A (For yourself, joint separate or single)	COLUMN B (For spouse)
1. Yourself	☐	☐	☐	Enter number checked	☐ 1	
2. Spouse	☐	☐	☐	Enter number checked	☐ 2	☐ 2
3. Number of exemptions claimed for dependents. See page 2 of instructions					☐ 3	☐ 3
4. Number of exemptions claimed for handicapped children. See page 3 of instructions					☐ 4	☐ 4
5. Add lines 1, 2, 3, and 4 for **TOTAL** number of exemptions					☐ 5	☐ 5

ATTACH PAYMENT HERE

If married filing separate is elected, use Column A for yourself and Column B for spouse. For all other returns, use Column A only. You may round to nearest dollar.		COLUMN A (For yourself, joint separate or single)	COLUMN B (For spouse)	
INCOME REPORTED ON FEDERAL RETURN				
6. Wages, salaries, tips, etc.	6.			6.
7. Interest income	7.			7.
8. Dividend income (Less federal exclusion)	8.			8.
9. Net business income (Attach federal Schedule C)	9.			9.
10. Capital gain or (loss) (Attach federal Schedule D)	10.	467200.–		10.
11. Supplemental gains or (losses) (Attach federal Form 4797)	11.			11.
12. Rents, royalties, partnerships, estates, trusts, etc. (Attach federal Schedule E)	12.			12.
13. Net farm income (Attach federal Schedule F)	13.			13.
14. Taxable portion of Social Security	14.			14.
15. Other income (Specify; fees, retirement, State Ref. ______ etc.) ______	15.			15.
16. Total of lines 6 thru 15	16.			16.
Adjustments from Income: (Attach federal schedules)				
17. Moving expense (Attach federal Schedule 3903)	17.			17.
18. Employee business expenses (Attach federal Schedule 2106)	18.			18.
19. Payments to an IRA, Keogh, and other retirement plans	19.			19.
20. Other adjustments: (Marriage deduction, etc.) (Attach list)	20.			20.
21. Total of lines 17 thru 20	21.			21.
22. Adjusted gross income same as federal return (Subtract line 21 from line 16)	22.			22.

ATTACH WITHHOLDING STATEMENTS HERE

ADDITIONS TO INCOME — SEE PAGE 3 OF INSTRUCTIONS				
23. Interest on state, county municipal bonds (Non-Montana)	23.			23.
24. Federal income tax refunds received (For taxes deducted in an earlier year)	24.			24.
25. Other additions: (Marriage deduction, social security, etc.)	25.			25.
26. Transfer allocation of income	26.			26.
27. Total adjustments increasing income (Add lines 23 thru 26)	27.			27.
28. Add lines 22 and 27 enter result	28.			28.

REDUCTIONS OF INCOME — SEE PAGE 4 OF INSTRUCTIONS				
29. Total private retirement income______. Enter $360 or total, (Whichever is smaller)	29.			29.
30. Interest exclusion for elderly	30.			30.
31. Interest exclusion for savings bonds, etc.	31.			31.
32. Income from sources outside Montana (Part-year & nonresidents only)	32.			32.
33. Exempt retirement income (Specify) ______	33.			33.
34. State refund (If included in line 15 above)	34.			34.
35. Other reductions (Specify tips, social security, etc.)	35.			35.
36. Transfer allocation of income	36.			36.
37. Total adjustments decreasing income (Add lines 29 thru 36)	37.			37.
38. Subtract line 37 from line 28. Enter amount on line 39, page 2	38.			38.

EXHIBIT 10 -- SB 48
Senate Taxation Committee
January 18, 1985

SENATE BILL NO. 48

INTRODUCED BY TOWE, M. WILLIAMS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE MONTANA PROPERTY TAX CLASSIFICATION LAW TO IMPLEMENT THE MONTANA CONSTITUTION AND TO COMPLY WITH FEDERAL LAW GRANTING CERTAIN TYPES OF PROPERTY SPECIAL CONSIDERATION; REQUIRING THE DEPARTMENT OF REVENUE TO ANNUALLY REVALUE ALL COMMERCIAL AND INDUSTRIAL PROPERTY; REQUIRING THE DEPARTMENT OF REVENUE TO CONDUCT AUDITS OF ASSESSMENTS ON COMMERCIAL AND INDUSTRIAL PROPERTY; DEFINING THE TERM "COMMERCIAL" AS IT APPLIES TO PROPERTY SUBJECT TO TAXATION; CLARIFYING THE TERM "MARKET VALUE" FOR PROPERTY TAX PURPOSES; AMENDING SECTIONS 15-1-101, 15-6-101, 15-6-134, 15-6-135, 15-6-137 THROUGH 15-6-142, 15-6-151, 15-7-111, 15-7-202, 15-7-307, 15-8-104, 15-8-111, 15-16-611, AND 15-23-202, MCA; AND PROVIDING EFFECTIVE DATES."

WHEREAS, the federal government has granted special consideration to certain types of property with respect to property taxation; and

WHEREAS, the Legislature and the people of the State of Montana desire to be in full compliance with all federal law; and

WHEREAS, there have been questions in the past

regarding the validity of Montana's property tax classification laws with respect to federal law granting special consideration to certain types of property; and

WHEREAS, state tax policy is best determined by the state's primary policymaking body, which is the Legislature; and

WHEREAS, the Legislature wishes to retain as much as possible the sovereignty guaranteed to the State by the 10th amendment to the Constitution of the United States of America; and

WHEREAS, the 48th Legislature of the State of Montana adopted House Joint Resolution 31, requiring a study of Montana's property tax classification system; and

WHEREAS, the Revenue Oversight Committee has examined Montana's property tax system; and

WHEREAS, that examination causes the Revenue Oversight Committee to recommend a general revision of Montana's property tax classification system.

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

Section 1. Section 15-1-101, MCA, is amended to read:

"15-1-101. Definitions. (1) When terms mentioned in this section are used in connection with taxation, they are defined in the following manner:

(a) The term "agricultural" refers to the raising of

INTRODUCED BILL
SB 48

livestock, swine, poultry, field crops, fruit, and other animal and vegetable matter for food or fiber.

(b) The term "assessed value" means the value of property as defined in 15-8-111.

(c) The term "average wholesale value" means the value to a dealer prior to reconditioning and profit margin shown in national appraisal guides and manuals or the valuation schedules of the department of revenue.

(d) The term "commercial", when used to describe property, means any property used or owned by a business, a trade, or a nonprofit corporation as defined in 35-2-102 or used for the production of income.

~~(d)~~(e) The term "credit" means solvent debts, secured or unsecured, owing to a person.

~~(e)~~(f) The term "improvements" includes all buildings, structures, ~~fixtures,~~ fences, and improvements situated upon, erected upon, or affixed to land. When the department of revenue or its agent determines that the permanency of location of a mobile home or housetrailer has been established, the mobile home or housetrailer is presumed to be an improvement to real property. A mobile home or housetrailer may be determined to be permanently located only when it is attached to a foundation which cannot feasibly be relocated and only when the wheels are removed.

~~(f)~~(g) The term "leasehold improvements" means

improvements to mobile homes and mobile homes located on land owned by another person. This property is assessed under the appropriate classification and the taxes are due and payable in two payments as provided in 15-24-202. Delinquent taxes on such leasehold improvements are a lien only on such leasehold improvements.

~~(g)~~(h) The term "mobile home" means forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any "trailer", "housetrailer", or "trailer coach" up to 8 feet in width or 45 feet in length used as a principal residence.

~~(h)~~(i) The term "personal property" includes everything that is the subject of ownership but that is not included within the meaning of the terms "real estate" and "improvements".

~~(i)~~(j) The term "poultry" includes all chickens, turkeys, geese, ducks, and other birds raised in domestication to produce food or feathers.

~~(j)~~(k) The term "property" includes moneys, credits, bonds, stocks, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership. This definition must not be construed to authorize the taxation of the stocks of any company or corporation when the property of such company or corporation represented by the stocks is within the state and has been taxed.

~~(k)~~(l) The term "real estate" includes:

(i) the possession of, claim to, ownership of, or right to the possession of land;

(ii) all mines, minerals, and quarries in and under the land subject to the provisions of 15-23-501 and 15-23-801; all timber belonging to individuals or corporations growing or being on the lands of the United States; and all rights and privileges appertaining thereto.

~~(l)~~(m) The term "taxable value" means the percentage of market or assessed value as provided for in 15-6-131 through 15-6-140.

(2) The phrase "municipal corporation" or "municipality" or "taxing unit" shall be deemed to include a county, city, incorporated town, township, school district, irrigation district, drainage district, or any person, persons, or organized body authorized by law to establish tax levies for the purpose of raising public revenue.

(3) The term "state board" or "board" when used without other qualification shall mean the state tax appeal board."

Section 2. Section 15-6-101, MCA, is amended to read:

"15-6-101. ~~**Property**~~ Purpose -- property subject to taxation -- classification. (1) It is the purpose of this

to implement the Montana Constitution and

chapter to comply with federal law requiring special consideration of certain types of property. To meet the requirements of federal law, the legislature finds it necessary to separate the several types of property into classes, each class containing property reasonably related to other property in the same class and reasonably different from property in every other class. It is further the purpose of this chapter and the policy of the legislature to treat all similar property subject to taxation in an equitable manner.

~~(1)~~(2) All property in this state is subject to taxation, except as provided otherwise.

~~(2)~~(3) For the purpose of taxation, the taxable property in the state shall be classified in accordance with ~~15-6-131 through 15-6-141~~ this part."

Section 3. Section 15-6-134, MCA, is amended to read:

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

(a) all noncommercial land~~, including, for farm homes, 1 acre of agricultural land at market value,~~ except that specifically included in another class;

(b) all noncommercial improvements except those specifically included in another class~~;~~. Noncommercial improvements include single family residences and ancillary improvements and improvements necessary to the function of a bona fide farm, ranch, or stock operation.

(c) a trailer or mobile home used as a residence except when:

(i) held by a distributor or dealer of trailers or mobile homes as his stock in trade; or

(ii) specifically included in another class;

~~(c)~~(d) the first $35,000 or less of the market value of any improvement on real property and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

(i) a widow or widower 62 years of age or older who qualifies under the income limitations of (iii) of this subsection;

(ii) a widow or widower of any age with dependent children who qualifies under the income limitations of (iii) of this subsection; or

(iii) a recipient or recipients of retirement or disability benefits whose total income from all sources including otherwise tax-exempt income of all types is not more than $8,000 for a single person or $10,000 for a married couple;

(e) the first $35,000 or less of the market value of a trailer or mobile home used as a residence and actually occupied for at least 10 months a year as the primary

dwelling of any person described in subsections (1)(d)(i) through (1)(d)(iii);

~~(d)~~(f) all golf courses, including land and improvements actually and necessarily used for that purpose, that:

(i) consist of at least 9 holes and not less than 3,000 lineal yards; and

(ii) were used as a golf course on January 1, 1979, and were owned by a nonprofit Montana corporation.

(2) Class four property is taxed as follows:

(a) ~~Except as provided in 15-24-1402 or 15-24-1501, property~~ Property described in subsections (1)(a) ~~and (1)(b)~~ through (1)(c) is taxed at 8.55% of its market value.

(b) Property described in ~~subsection (1)(c)~~ subsections (1)(d) and (1)(e) is taxed at 8.55% of its market value multiplied by a percentage figure based on income and determined from the following table:

Income Single Person	Income Married Couple	Percentage Multiplier
$0 - $1,000	$0 - $1,000	0%
1,001 - 2,000	1,001 - 2,000	10%
2,001 - 2,800	2,001 - 3,000	20%
2,801 - 3,600	3,001 - 4,000	30%
3,601 - 4,400	4,001 - 5,000	40%
4,401 - 5,200	5,001 - 6,000	50%

5,201 - 6,000	6,001 - 7,000	60%
6,001 - 6,800	7,001 - 8,000	70%
6,801 - 7,600	8,001 - 9,000	80%
7,601 - 8,000	9,001 - 10,000	90%

(c) Property described in subsection ~~(1)(d)~~ (1)(f) is taxed at one-half the taxable percentage established in subsection (2)(a), or 4.275%."

Section 4. Section 15-6-135, MCA, is amended to read:

"15-6-135. Class five property -- description -- taxable percentage. (1) Class five property includes:

(a) all property used and owned by cooperative rural electrical and cooperative rural telephone associations organized under the laws of Montana, except property described in 15-6-139(1)(u) owned by cooperative organizations ~~described in subsection (1)(c) of 15-6-137~~;

(b) air and water pollution control equipment as defined in this section;

(c) new industrial property as defined in this section;

(d) any personal or real property used primarily in the production of gasohol during construction and for the first 3 years of its operation.

(2) (a) "Air and water pollution equipment" means facilities, machinery, or equipment used to reduce or control water or atmospheric pollution or contamination by

removing, reducing, altering, disposing, or storing pollutants, contaminants, wastes, or heat. The department of health and environmental sciences shall determine if such utilization is being made.

(b) The department of health and environmental sciences' determination as to air and water pollution equipment may be appealed to the board of health and environmental sciences and may not be appealed to either a county tax appeal board or the state tax appeal board. However, the appraised value of the equipment as determined by the department of revenue may be appealed to the county tax appeal board and the state tax appeal board.

(3) "New industrial property" means any new industrial plant, including land, buildings, machinery, and fixtures, used by new industries during the first 3 years of their operation. The property may not have been assessed within the state of Montana prior to July 1, 1961.

(4) (a) "New industry" means any person, corporation, firm, partnership, association, or other group that establishes a new plant in Montana for the operation of a new industrial endeavor, as distinguished from a mere expansion, reorganization, or merger of an existing industry.

(b) New industry includes only those industries that:

(i) manufacture, mill, mine, produce, process, or fabricate materials;

(ii) do similar work, employing capital and labor, in which materials unserviceable in their natural state are extracted, processed, or made fit for use or are substantially altered or treated so as to create commercial products or materials; or

(iii) engage in the mechanical or chemical transformation of materials or substances into new products in the manner defined as manufacturing in the 1972 Standard Industrial Classification Manual prepared by the United States office of management and budget.

(5) New industrial property does not include:

(a) property used by retail or wholesale merchants, commercial services of any type, agriculture, trades, or professions;

(b) a plant that will create adverse impact on existing state, county, or municipal services; or

(c) property used or employed in any industrial plant that has been in operation in this state for 3 years or longer.

(6) Class five property is taxed at 3% of its market value."

Section 5. Section 15-6-137, MCA, is amended to read:

"15-6-137. Class seven property -- description -- taxable percentage. (1) Class seven property includes:

(a) all property ~~used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively to rural areas or to rural areas and cities and towns of 800 persons or less;~~

~~(b) all property owned by cooperative rural electrical and cooperative rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town;~~

~~(c) electric transformers and meters; electric light and power substation machinery; natural gas measuring and regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property; and~~

~~(d) tools, implements, and machinery used to repair and maintain machinery not used for manufacturing and mining purposes.~~

~~(2) To qualify for this classification, the average circuit miles for each station on the telephone communication system described in subsection (1)(b) must be more than 1 mile.~~ used for noncommercial purposes which is not real property or an improvement to real property and which is not in another class or exempt from taxation under Title 15, chapter 6, part 2; and

(b) all agricultural tools, machinery, and equipment used in a bona fide farm, ranch, or stock operation.

~~(3)~~(2) Class seven property is taxed at ~~8%~~ 11.1% of its market value."

Section 6. Section 15-6-138, MCA, is amended to read:

"15-6-138. Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all ~~agricultural implements and equipment~~ land except that specifically included in another class; and

(b) all improvements except those specifically included in another class.

~~(b) all mining machinery, fixtures, equipment, tools, and supplies except:~~

~~(i) those included in class five; and~~

~~(ii) coal and ore haulers;~~

~~(c) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;~~

~~(d) motorcycles;~~

~~(e) watercraft;~~

~~(f) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;~~

~~(g) aircraft;~~

~~(h) all terrain vehicles;~~

~~(i) harness, saddlery, and other tack equipment;~~

~~(j) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class; and~~

~~(k) all other machinery except that specifically included in another class.~~

(2) Class eight property is taxed at ~~11%~~ 8.55% of its market value."

Section 7. Section 15-6-139, MCA, is amended to read:

"15-6-139. Class nine property -- description -- taxable percentage. (1) Class nine property is all property used for commercial purposes which is not real property or an improvement to real property and which is not included in another class or exempt from taxation under Title 15, chapter 6, part 2, and includes:

(a) buses and trucks having a rated capacity of more than three-quarters of a ton ~~but less than or equal to 1 1/2 tons~~;

(b) truck toppers weighing more than 300 pounds;

(c) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(d) x-ray and medical and dental equipment; ~~and~~

(e) citizens' band radios and mobile telephones~~.~~;

(f) all mining machinery, fixtures, equipment, tools, and supplies except those included in class five;

(g) all manufacturing machinery, fixtures, equipment, tools, and supplies except those included in class five;

(h) motorcycles;

(i) watercraft;

(j) all trailers up to and including 18,000 pounds maximum gross loaded weight, except those subject to a fee in lieu of property tax;

(k) aircraft;

(l) all-terrain vehicles;

(m) harness, saddlery, and other tack equipment;

(n) all goods and equipment intended for rent or lease, except goods and equipment specifically included and taxed in another class;

(o) all other machinery except that specifically included in another class;

(p) radio and television broadcasting and transmitting equipment;

(q) cable television systems;

(r) coal and ore haulers;

(s) all trailers exceeding 18,000 pounds maximum gross loaded weight, including those prorated under 15-24-102 and except those subject to a fee in lieu of property tax;

(t) theater projectors and sound equipment;

(u) electric transformers and meters; electric light and power substation machinery; natural gas measuring and

regulating station equipment, meters, and compressor station machinery owned by noncentrally assessed public utilities; and tools used in the repair and maintenance of this property;

(v) tools, implements, and machinery used to repair and maintain machinery not used in a bona fide agricultural operation or for manufacturing or mining purposes; and

(w) all other property not included in any other class except that property subject to a fee in lieu of a property tax and property exempt from taxation.

(2) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(3) Class nine property is taxed at ~~13%~~ 11.7% of its market value."

Section 8. Section 15-6-140, MCA, is amended to read:

"15-6-140. Class ten property -- description -- taxable percentage. (1) Class ten property includes:

~~(a) radio and television broadcasting and transmitting equipment;~~

~~(b) cable television systems;~~

~~(c) coal and ore haulers;~~

~~(d) trucks having a rated capacity of more than 1 1/2 tons, including those prorated under 15-24-102;~~

~~(e) all trailers exceeding 18,000 pounds maximum gross~~

~~loaded-weight,-including-those-prorated-under-15-24-102--and except-those-subject-to-a-fee-in-lieu-of-property-tax;~~

~~(f)--theater-projectors-and-sound-equipment;-and~~

~~(g)--all--other--property-not-included-in-the-preceding nine-classes-except-that-property-subject-to-a-fee--in--lieu of-a-property-tax.~~

(a) all railroad transportation property as described in the Railroad Revitalization and Regulatory Reform Act of 1976 as it reads on [the effective date of this act];

(b) all airline transportation property as described in the Tax Equity and Fiscal Responsibility Act of 1982 as it reads on [the effective date of this act]; and

(c) all motor carrier transportation property as described in the Motor Carrier Act of 1980 as it reads on [the effective date of this act].

(2) Class ten property is taxed at ~~16%-of-its-market value.~~ the percentage rate "R", to be determined by the department as provided in subsection (3).

(3) R = (A + B + C + D)/E, where:

(a) R is the taxable percentage applicable to class ten property;

(b) A is the total statewide taxable value of all property included in class eight and is determined by multiplying the total statewide market value of class eight property by the taxable percentage provided in 15-6-138;

(c) B is the total statewide taxable value of all property included in class nine and is determined by multiplying the total statewide market value of class nine property by the taxable percentage provided in 15-6-139;

(d) C is the total statewide taxable value of all property described in 15-6-141(1)(a), (1)(b), (1)(d), and (1)(e) and is determined by multiplying the total statewide market value of the property described in those subsections by the taxable percentage provided in 15-6-141(2)(a);

(e) D is the total statewide taxable value of all property described in 15-6-141(1)(c) and is determined by multiplying the total statewide market value of the property described in 15-6-141(1)(c) by the taxable percentage provided in 15-6-141(2)(b); and

(f) E is the total statewide market value of all property included in class eight, class nine, and class eleven.

(4) For the purpose of complying with the Railroad Revitalization and Regulatory Reform Act of 1976, the Tax Equity and Fiscal Responsibility Act of 1982, and the Motor Carrier Act of 1980, as they read on [the effective date of this act]:

(a) the rate "R" referred to in subsection (2) is the average tax rate generally applicable to commercial and industrial property in Montana; and

(b) "commercial and industrial property" is all property included in class eight, class nine, and class eleven."

Section 9. Section 15-6-141, MCA, is amended to read:

"15-6-141. Class eleven property -- description -- taxable percentage. (1) Class eleven property includes:

(a) centrally assessed electric power companies' allocations;

(b) allocations for centrally assessed natural gas companies having a major distribution system in this state; and

(c) centrally assessed companies' allocations except:

(i) electric power and natural gas companies' property;

(ii) property owned by cooperative rural electric and cooperative rural telephone associations and classified in class five; and

(iii) property owned by organizations providing telephone communications to rural areas and classified in class ~~seven,~~ nine; and

(iv) motor carrier, airline, and railroad transportation property included in class ten;

(d) all property used and owned by persons, firms, corporations, or other organizations that are engaged in the business of furnishing telephone communications exclusively

to rural areas or to rural areas and cities and towns of 800 persons or less; and

(e) all property owned by ~~cooperative~~ rural electrical and ~~cooperative~~ rural telephone associations that serve less than 95% of the electricity consumers or telephone users within the incorporated limits of a city or town where the average circuit miles for each station on the telephone communication system is more than 1 mile.

(2) Class eleven property is taxed as follows:

(a) Property described in ~~subsection~~ subsections (1)(a), and (1)(b), (1)(d), and (1)(e) is taxed at ~~12%~~ 12.8% of market value.

(b) Except as provided in 15-23-202, property described in subsection (1)(c) is taxed at ~~15%~~ 12.8% of market value."

Section 10. Section 15-6-142, MCA, is amended to read:

"15-6-142. Class twelve property -- description -- taxable percentage. (1) Class twelve property includes~~:~~ all commercial timberland.

~~(a)--a--trailer--or--mobile--home--used--as-a-residence except-when:~~

~~(i)--held-by-a-distributor-or--dealer--of--trailers--or mobile-homes-as-his-stock-in-trade;-or~~

~~(ii)-specifically-included-in-another-class;~~

~~(b)--the-first-$35,000-or-less-of-the-market-value-of-a~~

~~trailer--or--mobile--home--used--as-a-residence-and-actually occupied-for-at-least--10--months--a--year--as--the--primary residential-dwelling-of:~~

~~(i)--a--widow--or--widower-62-years-of-age-or-older-who qualifies-under-the-income--limitations--of--(iii)--of--this subsection;~~

~~(ii)-a--widow--or--widower--of--any--age-with-dependent children-who-qualifies-under-the-income-limitations-of-(iii) of-this-subsection;-or~~

~~(iii)-a--recipient--or--recipients--of--retirement---or disability--benefits--whose--total--income--from-all-sources including-otherwise-tax-exempt-income-of-all--types--is--not more--than--$8,000--for--a--single--person--or-$10,000-for-a married-couple.~~

(2) Commercial timberland is land in one ownership and from which is harvested 30,000 or more board feet in any year during the appraisal cycle.

~~(2)~~(3) Class twelve property is taxed ~~as-follows:~~

~~(a)--Property--described--in--subsection-(1)(a)-that-is not-of-the-type-described-in-subsection-(1)(b)-is--taxed--at 8.55%-of-its-market-value.~~

~~(b)--Property--described--in-subsection-(1)(b)-is-taxed at-8.55%-of-its-market--value--multiplied--by--a--percentage figure--based--on--income--and--determined--from--the--table established-in-subsection-(2)(b)-of-15-6-134~~ at 30% of the

combined appraised value of the standing timber and grazing productivity of the property."

Section 11. Section 15-6-151, MCA, is amended to read:

"15-6-151. Application for certain class four classifications. (1) A person applying for classification of property described in subsection ~~(1)(c)~~ (1)(d) or (1)(e) of 15-6-134 shall make an affidavit to the department of revenue, on a form provided by the department without cost, stating:

(a) his income;

(b) his retirement benefits;

(c) his marital status;

(d) the fact that he maintains the land and improvements as his primary residential dwelling, where applicable; and

(e) such other information as is relevant to the applicant's eligibility.

(2) This application must be made before March 1 of the year after the applicant becomes eligible. The application remains in effect in subsequent years unless there is a change in the applicant's eligibility. The taxpayer shall inform the department of any change in eligibility. The department may inquire by mail whether any change in eligibility has taken place and may require a new statement of eligibility at any time it considers necessary.

(3) The affidavit is sufficient if the applicant signs a statement affirming the correctness of the information supplied, whether or not the statement is signed before a person authorized to administer oaths, and mails the application and statement to the department of revenue. This signed statement shall be treated as a statement under oath or equivalent affirmation for the purposes of 45-7-202, relating to the criminal offense of false swearing."

Section 12. Section 15-7-202, MCA, is amended to read:

"15-7-202. Eligibility of land for valuation as agricultural. (1) Land which is actively devoted to agricultural use shall be eligible for valuation, assessment, and taxation as herein provided each year it meets any of the following qualifications:

(a) the area of such land is not less than 5 contiguous acres when measured in accordance with provisions of 15-7-206, and it has been actively devoted to agriculture during the last growing season, and it continues to be actively devoted to agricultural use, which means:

(i) it is used to produce field crops including but not limited to grains, feed crops, fruits, vegetables; or

(ii) it is used for grazing and it is not classified as commercial timberland as defined in 15-6-142; or

~~(iii) it is used for growing timber, or~~

~~(iv)~~(iii) it is in a cropland retirement program; or

(b) it agriculturally produces for sale or home consumption the equivalent of 15% or more of the owners' annual gross income regardless of the number of contiguous acres in the ownership; or

(c) it is used to raise animals in confined areas for the production of food or fiber, including but not limited to livestock, feedlots, dairies, fish hatcheries, and poultry farms.

(2) Land shall not be classified or valued as agricultural if it is subdivided with stated restrictions prohibiting its use for agricultural purposes.

(3) The grazing on land by a horse or other animals kept as a hobby and not as a part of a bona fide agricultural enterprise shall not be considered a bona fide agricultural operation."

Section 13. Section 15-7-307, MCA, is amended to read:

"15-7-307. Certificate -- exceptions. The certificate imposed by this part shall not apply to:

(1) an instrument recorded prior to July 1, 1975;

(2) the sale of agricultural land when the land is used for agricultural purposes;

(3) the United States of America, this state, or any instrumentality, agency, or subdivision thereof;

(4) an instrument which (without added consideration) confirms, corrects, modifies, or supplements a previously

[illegible] market value was determined before effective date of this act] except to the extent that a sales ratio study indicates that a different value would more closely approximate market value.

recorded instrument;

(5) a transfer pursuant to court decree;

(6) a transfer pursuant to mergers, consolidations, or reorganizations of corporations, partnerships, or other business entities;

(7) a transfer by a subsidiary corporation to its parent corporation without actual consideration or in sole consideration of the cancellation or surrender of subsidiary stock;

(8) a transfer of decedents' estates;

(9) a transfer of a gift;

(10) a transfer between husband and wife or parent and child with only nominal actual consideration therefor;

(11) an instrument the effect of which is to transfer the property to the same party or parties;

(12) a sale for delinquent taxes or assessments, sheriff sale, bankruptcy action, or mortgage foreclosure;

(13) a transfer made in contemplation of death~~.~~; or

(14) the sale of timberland when the land is classified for tax purposes as commercial timberland."

Section 14. Section 15-8-111, MCA, is amended to read:

"15-8-111. Assessment -- market value standard -- exceptions. (1) All taxable property must be assessed at 100% of its market value except as provided in subsection (5) of this section and in 15-7-111 through 15-7-114.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) The market value of all ~~motor-trucks;-agricultural tools;-implements;-and-machinery;-and-vehicles-of-all-kinds; including-but-not--limited--to--motorcycles;--aircraft;--and boats--and--all-watercraft;~~ property included in class seven is the average wholesale value shown in national appraisal guides and manuals or the value of the vehicle before reconditioning and profit margin. The department of revenue shall prepare valuation schedules showing the average wholesale value when no national appraisal guide exists.

(c) The market value of all commercial property other than real property and improvements is ~~the average retail value shown in one or more national appraisal guides and manuals chosen by the department of revenue. The department shall prepare valuation schedules showing the average retail value when no national appraisal guide exists.~~

~~(d) For real property and improvements, in the absence~~ of contradictory market data information, market ~~value is~~ considered to be replacement cost depreciated~~.~~

(3) The department of revenue or its agents may not adopt a lower or different standard of value from market value in making the official assessment and appraisal of the

value of property in 15-6-134 through ~~15-6-140~~ 15-6-141. For purposes of taxation, assessed value is the same as appraised value.

(4) The taxable value for all property in classes four through eleven is the percentage of market value established for each class of property in 15-6-134 through 15-6-141.

(5) The assessed value of properties in 15-6-131 through 15-6-133 is as follows:

(a) Properties in 15-6-131, under class one, are assessed at 100% of the annual net proceeds after deducting the expenses specified and allowed by 15-23-503.

(b) Properties in 15-6-132 under class two are assessed at 100% of the annual gross proceeds.

(c) Properties in 15-6-133 under class three are assessed at 100% of the productive capacity of the lands when valued for agricultural purposes. All lands that meet the qualifications of 15-7-202 are valued as agricultural lands for tax purposes.

(d) Properties in 15-6-142, under class twelve, are assessed at 100% of the combined appraised value of the standing timber and grazing productivity.

(6) Land and the improvements thereon are separately assessed when any of the following conditions occur:

(a) ownership of the improvements is different from ownership of the land;

(b) the taxpayer makes a written request; or

(c) the land is outside an incorporated city or town.

(7) The taxable value of all property in 15-6-131 and classes two, ~~and~~ three, and twelve is the percentage of assessed value established in 15-6-131(2), 15-6-132, ~~and~~ 15-6-133, and 15-6-142 for each class of property."

Section 15. Section 15-16-611, MCA, is amended to read:

"15-16-611. Reduction of property tax for property destroyed by natural disaster. (1) The department of revenue shall, upon showing by a taxpayer that some or all of the improvements on his real property or a trailer or mobile home ~~(as described in 15-6-134(1)(c))~~ have been destroyed to such an extent that such improvements have been rendered unsuitable for their previous use by natural disaster, adjust the tax due and payable for the current year on the property under 15-16-102 as provided in subsection (2) of this section.

(2) To determine the amount of tax due for destroyed property, the county treasurer shall multiply the amount of tax levied and assessed on the property for the year by the ratio that the number of days in the year that the property existed before destruction bears to 365.

(3) This section does not apply to delinquent taxes owed on the destroyed property for a year prior to the year

in which the property was destroyed.

(4) For the purposes of this section, "natural disaster" includes but is not limited to fire, flood, earthquake, or wind."

Section 16. Section 15-23-202, MCA, is amended to read:

"15-23-202. Assessment -- how made. (1) The department must assess the franchise, roadway, roadbed, rails, rolling stock, and all other operating properties of all railroads operated in more than one county or more than one state. All rolling stock must be assessed in the name of the person owning, leasing, or using the same. Assessment must be made to the person owning or leasing or using the same and must be made upon the entire railroad within the state. The depots, stations, shops, and buildings erected upon the space covered by the right-of-way and all other property owned or leased by such person, except as above provided, shall be assessed by the department.

(2) In determining the taxable value of railroad property, the department ~~may--modify~~ shall determine the percentage multiplier provided for in ~~15-6-141~~ 15-6-140 in order to achieve compliance with the requirements of the federal Railroad Revitalization and Regulatory Reform Act of 1976, as amended."

Section 17. Section 15-7-111, MCA, is amended to read:

"15-7-111. Periodic revaluation of taxable property. ~~The~~ (1) Except as provided in subsection (2), the department of revenue shall administer and supervise a program for the revaluation of all taxable property within the state at least every 5 years. A comprehensive written plan of rotation shall be promulgated by the department fixing the order of revaluation of property in each county on the basis of the last revaluation of taxable property in each county prior to July 1, 1974, in order to adjust the disparities therein between the counties. The plan of rotation so adopted shall provide that all property in each county shall be revalued at least every 5 years or that no less than 20% of the property in each county shall be revalued in each year. The department shall furnish a copy of the plan and all amendments thereto to each county assessor and the board of county commissioners in each county.

(2) All property in class eight, class nine, class ten, and class eleven shall be revalued annually under a program developed, administered, and supervised by the department."

Section 18. Section 15-8-104, MCA, is amended to read:

"15-8-104. Department audit of taxable value -- costs of audit paid by department. (1) When in the judgment of the director of revenue it is necessary, audits may be made for the purpose of determining the taxable value of net proceeds of mines and oil and gas wells and all other types of property subject to ad valorem taxation.

(2) The department of revenue shall conduct audits of the assessment of property in class eight and class nine to assure that the value of the property in those classes reflects market value. If the department determines that a sales-assessment ratio study is applicable, helpful in determining true market value, and reasonably available, it may use such study as an audit tool.

~~(2)~~ (3) The cost of ~~the~~ any audit performed under subsection (1) or (2) shall be paid by the department."

NEW SECTION. Section 19. Extension of authority. (1) Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

(2) The department may initiate rulemaking proceedings under this section on or after the date on which this act is passed and approved, but no rule adopted under this section may be made effective before January 1, 1986.

NEW SECTION. Section 20. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

NEW SECTION. Section 21. Effective dates. (1) This act, except section 19 and this section, is effective January 1, 1986.

(2) Section 19 and this section are effective on passage and approval.

-End-

STANDING COMMITTEE REPORT

January 18, 1985

MR. PRESIDENT

We, your committee on Taxation

having had under consideration Senate Bill No. 37

first reading copy (white)
color

REMOVING THE STATE TAX APPEAL BOARD FROM LIQUOR LICENSING APPEAL PROCESS

Respectfully report as follows: That Senate Bill No. 37

DO PASS

~~XXXXXXXXX~~S

Senator Tom Towe, Chairman.

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
48th Legislative Session -- 1985

Time ____________ Date 18 January 85 Room 413-415

Motion: That SB 37 do pass. [illegible]
Halligan.

Name	Yes	No	Excused
Senator Brown	✓		
Senator Eck	✓		
Senator Goodover		✓	
Senator Hager	✓		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck		✓	
Senator Mazurek	✓		
Senator McCallum		✓	
Senator Neuman	✓		
Senator Severson			✓
Senator Towe	✓		