

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 2, 1985

The sixty-second meeting of the Senate Taxation Committee was called to order by Chairman Thomas E. Towe at 8:35 am in Room 413-415 of the State Capitol.

ROLL CALL: Senator Hager was excused at roll call, but arrived at 8:45 am. All other members of the committee were present.

CONSIDERATION OF HB 851: Representative Paul Pistoria, House District 36, was recognized as chief sponsor of the bill. He provided the committee with Exhibits 1 and 2 which show that after the Legislature had twice rejected exemptions for private school busses and that the Department had then allowed it by rule. He said that the House had amended the bill into better shape with the help of Mr. Greg Groepper, Department of Revenue, and Mr. Gene Phillips, Flathead 4-H Foundation. He said after the amendments were added the House had no problems with the bill.

PROPOSERS

Mr. Gene Phillips, Flathead 4-H Foundation, said that the bill as amended would preserve the tax exempt status for the educational camp owned by the foundation.

OPPOSERS

Mr. Rod Johnson, Transportation Director for the Great Falls Public Schools, submitted his testimony in writing (Exhibit 3).

Mr. Bob Stockton, Superintendent of Public Instruction, said they oppose the bill because it will increase taxes by making the contracts with the private suppliers cost more. He said that high initial costs will force them to run inferior equipment or will force schools to purchase their own buses.

Mr. Terry Brown, Transportation Safety Specialist for the Office of Public Instruction, said that standards won't be met if the bill is passed.

Mr. Temple Beavers, a school bus contractor from Great Falls, said that if this bill passes he will leave his 1972 equipment in place in order to pay the lower property tax. He said that would cost him about \$55 per bus as opposed to \$1,039 on a new bus.

Questions from the committee were called for.

Senator Mazurek asked how far that concept should be extended and if every supplier should be exempt from taxation of various kinds. Mr. Johnson replied saying it was very expensive equipment and would cost the school district more if they should buy the equipment themselves. He said a bond issue would cost \$3.5 million to buy busses in Great Falls.

Mr. Stockton said this was a special case because the school district could be in competition with the contractor and the contractor would have an unfair disadvantage if taxed.

Senator Lybeck asked Mr. Phillips how the Flathead 4-H Foundation was affected by the bill. Mr. Phillips explained that they were incorporated for educational purposes.

Senator Severson asked if school-owned busses would become more prevalent if this bill passed. Response was that now the busses are about half and half with the contracts being let in the larger districts and smaller districts owning their own busses.

Senator Eck asked how the taxation is handled now. Mr. Groepper responded that privately owned buses are taxed unless they are used "exclusively for educational purposes". If the bus is used for any purpose other than transporting students to and from school, the bus is taxed. Senator Eck asked if church vehicles were handled in the same way. Mr. Groepper said, yes.

Senator Eck asked if the amount of money was great enough to make it a serious concern. Mr. Stockton said that the margin of profit would be gone for the private operator if this tax were imposed. Mr. Beavers said that he is not a robber baron, but is trying to make a profit.

In response to another question by Senator Eck, Mr. Groepper said that if the school district owns the bus, the test is not a use test. Senator Eck asked if the school district owned the bus and leased it to an operator how it would be taxed. Mr. Groepper said it would be exempt.

Senator Mazurek asked Mr. Beavers why his business should be tax exempt. Mr. Beavers said that if the busses were taxed it would discourage him from upgrading the equipment.

Senator Towe noted that other non-profits were not included in this exemption. Mr. Stockton said that was because they were not taxing authorities.

Representative Pistoria closed saying that nothing had been said prior to 1977 when the exemption was passed. He said that administration of the current law is too difficult. He said that the bill will help the Department do the proper thing. He said that if the exemption was allowed it would be pused into other areas. "This is an important bill," he concluded.

CONSIDERATION OF HB 892: Representative Hal Harper, House District 44, was recognized as chief sponsor of the bill. He said the bill would offer a hard hit segment of the economy a little relief. He explained that the bill allows designation of riparian habitat and allows taking those designated lands off the tax rolls. This plays an important part in eco systems, stream bank stability, filtering

contamination, stream velocity, stream shading and a raised water table. He said that healthy riparian habitat benefits the landowner, the sportsman and, finally, the taxpayer because stream rehabilitation is unnecessary. He noted the sections of the bill that involve definition of riparian habitat and wet lands.

The bill would require the Department of Fish, Wildlife and Parks to evaluate the application for designation. He said that if they disallow part of the application the landowner can withdraw the entire application. If it is approved and agreed on then notice is sent to the county assessor. He said the average timber acre would be taxed at 44 cents, the grazing acre at 60 cents. He said the revenue loss would fall between those two figures. He said the impact on counties would be very small. He noted that Oregon has similar legislation and that it has not been extensively used.

When the landowner wanted to change the designation he could simply change the use and notify the Department within 60 days. He said the value of the bill isn't in the huge tax break, but in educating people to understand the importance of riparian habitat.

Ms. Janet Decker Hess a fisheries biologist, said they have been working on the bill for three years and that 20 other states have similar legislation. She said the bill is not in conflict with the stream bed protection act which is only implemented after the damage is done. She said it does not affect grazing. She said the bill for a low cost offers long term protection. She said the incentive to landowners is voluntary and allows them to maintain control over their land. She provided the committee with a fact sheet (Exhibit 4) and testimony supporting the bill from Dr. Donald R. Reichmuth (Exhibit 5).

Mr. Jim Flynn, Director of the Department of Fish, Wildlife and Parks, submitted his testimony in writing (Exhibit 6).

Ms. Janet Ellis, Montana Audubon Council, submitted written testimony in support of the bill (Exhibit 7).

Mr. Dan Heinz, Montana Wildlife Federation, submitted written testimony in support of the bill (Exhibit 8).

Mr. Leonard A. Walch, Montana Chapter American Fisheries Society, submitted written testimony in support of the bill (Exhibit 9).

OPPONENTS

Ms. Carol Mosher, Montana CowBelles, submitted written testimony in opposition to the bill (Exhibit 10).

Mr. Bill Asher, representing the Agricultural Protection Association, the Park County Legislative Association and the Meagher County Agricultural Protection Association, submitted their objections to the bill in writing (Exhibit 11).

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Mr. Lorents Grosfield, cattle rancher from Big Timber, submitted written testimony in opposition to the bill (Exhibit 12).

Mr. Mons Teigen, Montana Stockgrowers, Montana Woolgrowers, and Grazing Districts, submitted written testimony in opposition to the bill (Exhibit 13).

Mr. Mike Micone, Western Environmental Trade Association, said the bill cannot be regarded as a tax incentive program. He said the fiscal note says approximately 9,300 acres per year could be exempt and that would amount to only about \$7,000 to \$8,000 per year across the state. He said that landowners are good stewards. He said that they would support state sponsored educational programs. He said he felt the proponents of stream access were now supporting this bill.

Senator Lybeck said he opposed the bill as a director of the Montana Cattlemen's Association.

Questions from the committee were called for.

Senator Eck asked Mr. Flynn what action would result from the passage of the bill. Mr. Flynn said the public rule making process would be used to determine how the bill would be implemented. He said that fencing would not be discarded as an option, but that there would be no dramatic shift to fencing to qualify for the designation.

Senator Eck asked Mr. Groepper how the fiscal note was written and if it was based on agricultural lands. She asked if it could have an impact in other areas. Ms. Decker noted the section of the bill that limits the applications of the designation.

Senator Lybeck asked if the bill was a step in acquiring fishing access sites. Mr. Flynn said that the bill was introduced by Representative Harper and not by the Department. He said the bill is not a first step to anything.

Senator McCallum asked if the Department would demand fencing for the designation. Mr. Flynn said, no, that was not an assumption. He used the example of a wet land and said that if it is not currently fenced and not changed to crop land that there would be no reason to require fencing. Senator McCallum also inquired about the situation at Spring Creek in Lewistown.

Senator Goodover asked if the bill would also protect fence lines. Representative Harper said that it is not the fence line protection act.

Senator Mazurek asked Representative Harper if the bill had such a controversial hearing in the House. Representative Harper said, no, that in this case a rolling stone has gathered opposition.

Mr. Ray Beck of the Conservation Division of the Department of Natural Resources, said that the district drains only saline seep areas

and not other wet lands.

Senator Towe clarified that the payback from the landowner would apply only when the change was not reported within 60 days. It was clarified that the Department of Fish, Wildlife and Parks is the inspecting agency and that they would not require additional personnel to do the work. Mr. Groepper reassured Senator Towe that notice to the landowner would not be a problem.

Senator Towe asked Ms. Janet Decker what actions she would see the bill requiring. Ms. Decker said that now the problems can only be dealt with after the fact. She said the bill encourages maintenance before massive work is needed. She said the bill is a tool to start discussions with the landowners.

Senator Towe said that the landowners are concerned that additional burden will be put on them by the Department. Ms. Decker said that many things can be done that cost no money.

Senator Towe asked why, if the bill is strictly voluntary, there is so much opposition. Mr. Asher said that he has been involved in the legislative process enough to know that "may" can be changed to "shall". He said they do appreciate that it is voluntary.

Senator Towe asked Mr. Flynn if the areas could be closed to hunting and fishing to protect habitat. Mr. Flynn said from the Department's perspective, that is certainly not intended. He said that as the owner does analysis of property management this could be a factor in the judgment, but that nothing is intended or contemplated beyond that.

Senator Towe asked if large basins would be included if they flood occasionally. Mr. Flynn said, yes they could.

Mr. Dan Heinz was recognized and said that some families have excellent management right now and this bill was a way of recognizing and encouraging that.

Senator Goodover asked if deer would be kept from congregating in those areas. Mr. Flynn said he didn't know how to do that.

Representative Harper closed by offering clarifying amendments (Exhibit 14) and a letter from Paul F. Berg, Legislative Committees of the Billings Rod and Gun Club and the Southeastern Sportsman Association in support of the bill (Exhibit 15). He said that he understands the emotion surrounding the issue because of the stream access issues in HB 265. He said this bill would give landowners a way to cut a deal with Fish and Game. He said that stream bed and stream channel are covered by "310" and conservation districts. This bill, he said, addresses riparian habitat and those do not. He called the bill an "ounce of prevention".

CONSIDERATION OF HB 704: Chairman Towe noted to the committee that the bill had already been amended and that the amendment allowing the taxing jurisdictions to spend a portion of the protest funds remained under discussion (Exhibit 3 from April 1 minutes).

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The constitutional issues in the bill were discussed. Neither Senator Towe nor Mr. Jim Lear, committee staff, felt that constitutional problems existed within the bill.

MOTION: Senator Hirsch moved that HB 704 be amended per Exhibit 1 from the April 1 minutes.

Senator Neuman said that he was afraid of saddling the counties with a large amount to be made up in one year. He said the bill should be passed without this amendment.

Senator Hager also objected to the amendment.

Senator Severson said the amendment was like rolling the dice in state law. He said the burden should be faced before not after the fact.

The question was called. Senators Hirsch, Lybeck and Towe voted yes; Senators Brown, Eck, Goodover, Hager, Mazurek, McCallum, Neuman and Severson voted no; Senator Halligan was excused. The motion failed.

MOTION: Senator McCallum moved that HB 704 be amended per Exhibit 16. The motion carried unanimously.

MOTION: Senator McCallum moved that HB 704 be concurred in as amended.

MOTION: Senator Eck moved as a substitute motion that HB 704 be tabled. The committee discussed that the reasons for supporting the motion were based on actions taken in the House on other bills. Senator Eck withdrew the motion. The Chairman, however, received the consensus of the committee to hold the committee report appropriately.

MOTION: Senator Lybeck moved as a substitute motion that a grey bill be printed before final action was taken on HB 704. Senator Brown said that if the object was delay, it should be done in the open.

Senator Mazurek asked Mr. Laumeyer, Superintendent of Boulder Schools, how important the timing of the passage of the bill was to his school district. Mr. Laumeyer said that he would like to know before his April 9th board meeting as cuts would have to be made at that time if the bill was not going to pass.

The committee agreed to act on the bill in good faith and not handle other political problems through this bill. Senator Lybeck withdrew the motion asking for a grey bill.

Question was called on the original motion that HB 704 be concurred in as amended. Senator Lybeck voted no, all other committee members voted yes. The motion carried.

Chairman Towe adjourned the meeting at 10:55 am.



Chairman

ROLL CALL

SENATE TAXATION COMMITTEE

49th Legislative Session -- 1985

Date April 2, 1985

Location -- Room 413-415

Name Present Absent Excused

Senator Brown	✓		
Senator Eck	✓		
Senator Goodover	✓		
Senator Hager	\$:45		
Senator Halligan	✓		
Senator Hirsch	✓		
Senator Lybeck	✓		
Senator Mazurek	✓		
Senator McCallum	✓		
Senator Neuman	✓		
Senator Severson	✓		
Senator Towe	✓		

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Janet Ellis	MT Audubon Council	4B892	✓	
BILL ASHER	AGRICULTURAL PRES. ASSN.	HB 892		✓
GREG BEACH	MT SCHOOL TRANSPORTATION ASSN	HB 951		✓
Mike M... ..	WETA	HB 892		✓
Regina WALKER	MONTANA CHAPTER OF THE AMERICAN FISHERIES SOCIETY	HB 892	✓	
Bob Johnson	St Falls Public School	HB 851		✓
C. T. Blowers	St Falls Mt	HB 851		✓
Don L Hall	St Falls mt	HB 851		✓
Frank	OP	851		✓
Mary Wright	Trout Unlimited	HB 892	✓	
Tony Brown	OP	851		✓
Mont Wildlife Fed				
Dan Heinz	Mont Wildlife Fed	892	✓	
met dicker-hess	American Fisheries	892	✓	
Larry Wemler	MT. UNW. S-S	851	No position	
...	WIFE	892		✓
GENE PHILLIPS	4-H	851	✓	
Mens Teiger	Mont Stocking ^{Civ. Dist} Woods	892		X
Betsy Cappi	FBHS			
Annie Metzger	FBHS			
stacy ruben	" "			
Shelley Newberry	FBHS			
Laral Mosher	Montana Cow Belles	HB 892		XX
Lawn Hagenson	FBHS			
Karen Carlstrom	FBHS			
Angie Price	FBHS			

DATE

April 2, 1985

COMMITTEE ON

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VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
<i>Melby LaPalme</i>	<i>FBHS</i>			
<i>KYU Seating</i>	<i>FBHS</i>			
<i>Angela Handford</i>	<i>FBHS</i>			
<i>Janice Carter</i>	<i>FBHS</i>			
<i>Claudia Hansen</i>	<i>FBHS</i>			
<i>Diane Bushman</i>	<i>FBHS</i>			

Montana School Transportation Association

9-83

M. S. T. A.
FROM THE PRESIDENT'S DESK

REC'D - Tues. Oct. 18, 1983
mine Paul's
Aistoria

Congratulations and welcome aboard to the new Board member,

Orin Beaty, from Anaconda, and welcome again to Bob Beach and
and Doc McCulloch for another term on the Board.

Rev. Dept. issued
in this directive
in Sept
1983

* The good news for the year and one of the biggest projects
tackled in some time has paid off after two sessions with the
legislature and several meetings with the Department of Revenue.

Property tax exemption for buses owned by contractors and used
for route transportation is a reality. The following is needed to
get buses on exempt status: Form AB30 Rev. 10-8, Application

for property tax exemption must be filled out. This form can be
obtained from your local appraiser or Department of Revenue, Property
Assessment Division, Mitchell Building, Helena Montana 59620. You
need a picture of the front of each bus that clearly shows the license
plate of the bus and enough of the bus that it can be identified.

You also need a picture of each bus you are requesting property tax
exemption on, and must include the following information: year of
the vehicle, make of vehicle, serial number, license number, title
number, and your unit number. All of this information must then be
taken to your local assessor's office. He then fills out his portion
of the form and it is sent to Helena for processing.

ASS
END
OF THE
BUS.

Many thanks to all who have worked on this project, especially
Charlie Simonsen, Bob Beach, Marty Bates, Don Hall, Jerry Perkins,
Earl Hinter, Hugh Grove, and many others. Thanks also to Terry
Brown from O.P.I. office for assistance with information, etc.

Agency seeks to tighten up exemption

Tribune Capitol Bureau

HELENA — The state Revenue Department Friday suggested limiting tax exemptions for parsonages to "ordained clergy" rather than just to "clergy" as the law now reads.

But members of the Legislature's Revenue Oversight Committee thought that could open up exemptions to mail-order "phoneys" while denying them to genuine ministers who don't believe in ordination.

Gregg Groepper, head of the department's Property Assessment Division, said applications for tax exemptions on the residences of religionists range from "the legitimate to the bizarre." About 90 percent are legitimate, he said.

"We have had people say, 'I am the church, therefore my house ought to be exempt,'" he said. "They call themselves clergy and worship by themselves." When in doubt, the department

denies the application, he said. If it is upheld by the State Tax Appeal Board, then the exemption is applied to others in similar situations.

The department suggested limiting the exemptions to ordained clergy to tighten up the law, which was passed in 1975.

Sen. Bill Norman, D-Missoula, replied that he could get ordained by mail from Los Angeles, and wondered about religions who don't ordain, such as the Hutterites and Menonites.

Rep. Dan Yardley, D-Livingston, noted that the state had long been exempting parsonages as part of the general exemption for religious property. The 1975 Legislature was merely trying to "legalize the status quo," he said, not grant broad new exemptions.

Rep. Paul Pistoria, D-Great Falls, appeared before the committee to take the department to task for granting exemptions to private

school bus operators after the Legislature had twice rejected them.

"I think Revenue has too much power, determining issues contrary to the Legislature," he said.

He said Cascade County stands to lose \$30,000 to \$35,000 from the exemptions.

Rep. Mel Williams, D-Laurel, agreed that it was "not the intent of the Legislature to exempt private buses."

The department's reasoning, according to lawyer Larry Schuster, is that as long as the property is used exclusively for an educational use, the fact that it's privately owned is inconsequential.

Sen. Tom Towe, D-Billings, suggested that the law be revised to allow exemptions only for property owned by schools and other exempt entities. Rep. Jack Ramirez, R-Billings, objected that if an entity leases property for tax advantages, it shouldn't be denied the exemption.

Schuster told the committee there is also a gray area in the exemption laws regarding what are termed "situations of purely public charity."

That "antiquated" terminology is given "very liberal interpretation" by the State Tax Appeal Board, he said. "They are willing to apply an exemption to any organization with a benevolent attitude."

The committee also discussed the confusion surrounding exemptions for "quasi-government" entities. Rural fire districts recently sought exemption for all their personal and real property, according to Schuster. "Perhaps there is a valid public policy reason for exempting such property," he said in a memo. "However, the Legislature has not provided such an exemption and thus one must not be implied. Nevertheless, the State Tax Appeal Board recently decided that such property is tax-exempt."

Note - The Rev. Dept. is now Arg this Bill 100% of Repel Amended. It has since been a problem for them & crabbly to improve they Buddes they have this money on hand.

Why should they directive themselves issue a directive to exempt private owned buses, especially when the 2 previous sessions they were turned down, less they want against the Legislature & Board. They told for the Revenue Dept. they have money on hand.



GREAT FALLS PUBLIC SCHOOLS

1100 4th Street South
P.O. Box 2428
Great Falls, Montana 59403

TESTIMONY by ROD JOHNSON
TRANSPORTATION SUPERVISOR
GREAT FALLS PUBLIC SCHOOLS
on HOUSE BILL 851

April 2, 1985

This proposal would be expensive for the local school districts for the following reasons:

1. When a State Government puts a tax on another government agency, it does nothing more than shuffle money and that is expensive to do. That is why school owned vehicles are exempt from license fees.

The only difference between a contracted bus and a school owned bus is that the local districts do not have the capital outlay expenses of purchasing buses, land, shops etc. The only income the contractor has is from the district. So if he must pay the license fee then it must revert back to the district and the local tax payer.

Here is our problem: Our contractors pay the license fees at the first of the year to the county treasurer. When the treasurer disburses this money only approximately 60 percent is returned to the district. This means the schools are subsidizing other government agencies with school raised funds to provide pupil transportation. More and more school districts are having problems passing their mill levies now and by placing a further burden on the local tax payer would be unfair and unnecessary, especially when they do not have a choice in transportation because it is a permissive levy.

3. We take into account at negotiation time all of the expenses the contractors have and negotiate accordingly. Representative Pistoria has inferred that the Great Falls School District did not get it's money back when the exemption was granted by the Revenue Department. This is not true. We did get the money back at the negotiations table resulting in a lesser percentage to make up for the reduction in fees.

The Revenue Department did nothing more than act on a law written and passed by the legislature when it granted the exemption in the first place. They did not go over the head of the legislature as inferred by Representative Pastoria. They only upheld the existing law passed by this body.

would urge this committee to place a "do not pass" recommendation on this house bill 851.

Thankyou.

Exhibit 3 -- HB 851
April 2, 1985

STATE, COUNTY, CITY AND SCHOOL DISTRICT TAX LEVIES

Great Falls, Montana

Year	State	County	City	Total	District & County School Levies	Grand Total
1970	8.30	40.88	68.83	118.01	139.98	257.99
1971	6.10	43.43	75.20	124.73	139.44	264.17
1972	6.00	41.53	74.92	122.45	138.44	260.89
1973	21.00	42.41	73.86	137.27	123.41	260.68
1974	6.00	37.04	74.76	117.80	140.07	257.87
1975	9.50	41.22	74.65	125.37	164.14	289.51
1976	7.60	40.94	73.78	122.32	163.38	285.70
1977	6.99	45.80	75.86	128.65	168.05	296.70
1978	9.20	47.39	90.65	137.24	163.36	300.60
1979	7.00	57.97	79.35	144.32	161.60	305.92
1980	5.65	58.30	80.16	144.11	180.55	324.66
1981	6.00	63.93	80.16	150.09	208.36	358.45
1982	6.00	64.58	82.37	152.95	200.92	353.87
1983	17.86	59.31	89.36	166.53	206.52	373.05

1984 18.00 60.17 91.06 169.23 274.82 444.05

4% 13 1/2% 20 1/2% 62%

**RIPARIAN LANDS PROTECTION ACT
HOUSE BILL 892
FACT SHEET**

PURPOSE

The proposed legislation provides for property tax exemptions on private lands adjacent to Montana's streams and wetlands to encourage private landowners to protect or restore streamside and marshland vegetation. Under the provisions of the legislation a landowner would pay no property tax on riparian or wetland areas included in the program.

WHY

Healthy riparian lands provide flood control and prevention, reduce soil erosion and stabilize streambanks, increase summer lowflow and provide the most productive fish and wildlife habitat.

LIMITATIONS

Participation would be limited to forest or agricultural lands including rangeland. It is proposed that no more than 2000 acres of stream or wetland shoreland could be enrolled in the program per county in a calendar year.

COST

A fiscal note prepared by the Department of Revenue indicates that a loss of county and other local revenue of \$4131.00 would result from this proposed bill.

BENEFIT

The incentive program established by this legislation is the most cost effective means of providing these public benefits with no new regulations and minimal public expenditure.

FUNDING

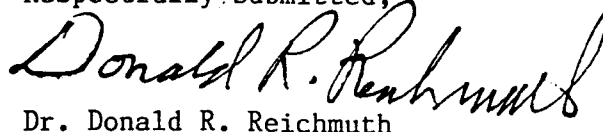
The Department of Fish, Wildlife and Parks will review potential sources of funding for the in lieu of taxes funding sources for counties. This review will proceed concurrently with the Department's rulemaking responsibilities outlined in the bill.

TESTIMONY
IN SUPPORT OF
THE RIPARIAN LANDS PROTECTION ACT

I am Dr. Donald R. Reichmuth and I support the Riparian Lands Protection Act bill. I currently teach engineering at Montana State University and am a principal in GEOMAX. I have both taught and consulted on river problems for over 13 years. During this time I have seen large amounts of money spent to protect land and structures along rivers. Many times these problems could have been avoided if vegetative buffers had been maintained along the banks.

I have attached five examples which illustrate some of the losses and benefits I have observed along rivers that involved river bank vegetation management. If time allowed I could show a great many others.

Respectfully submitted,



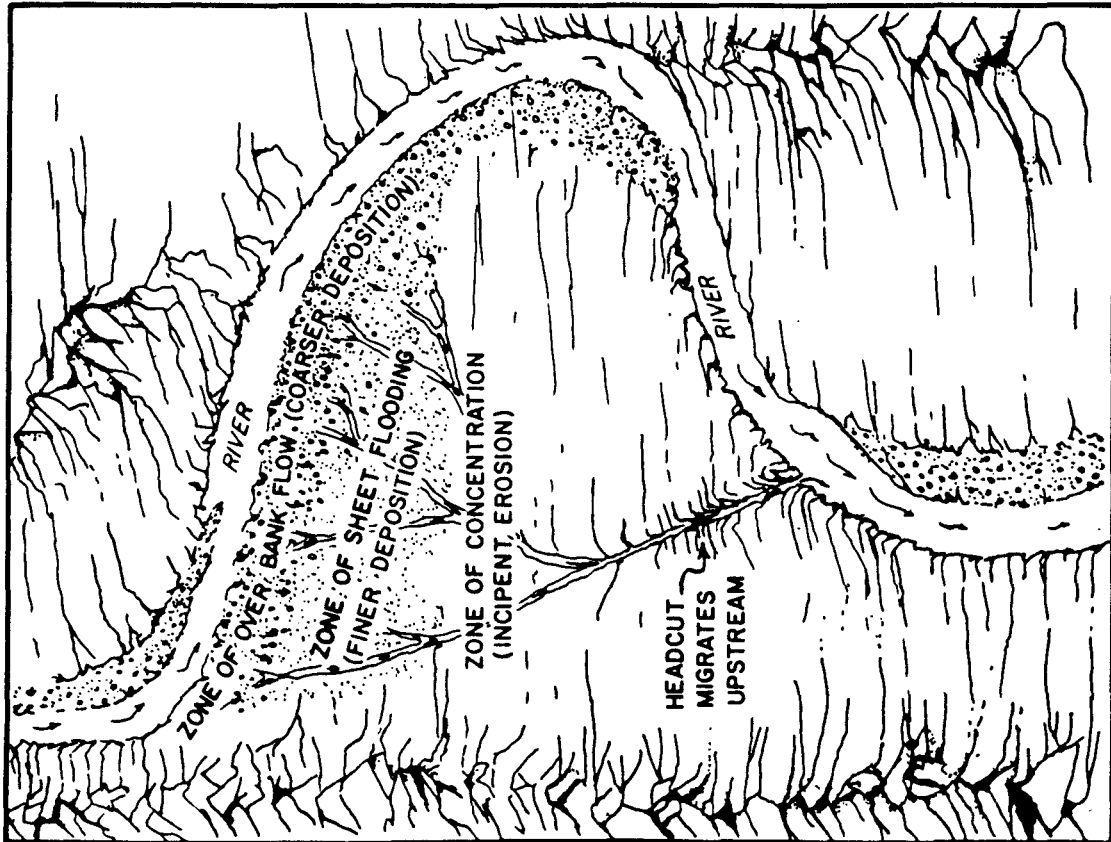
Dr. Donald R. Reichmuth



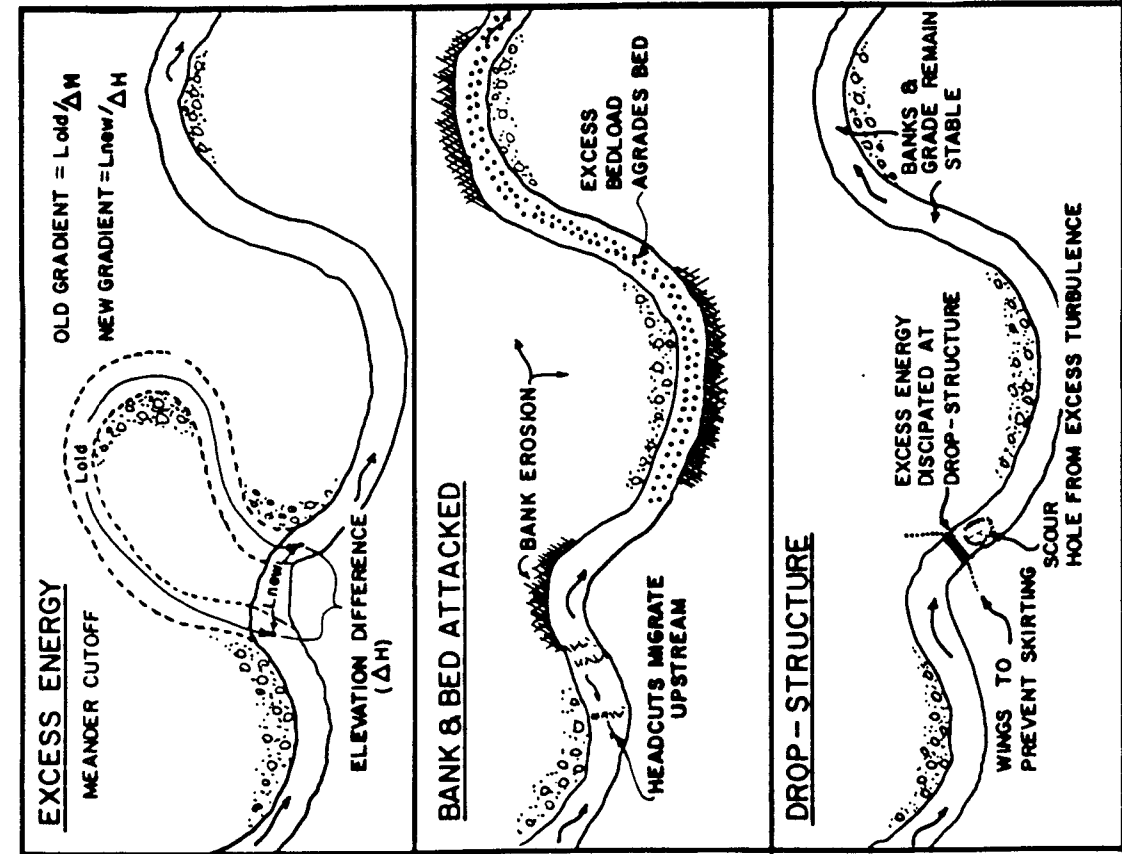
EXAMPLE 1 MUSSELSHELL RIVER

Destruction of farm ground by head cutting.

This loss could have been greatly reduced if a vegetative buffer would have been in place on the upstream meander loop and at the mouth of the headcut



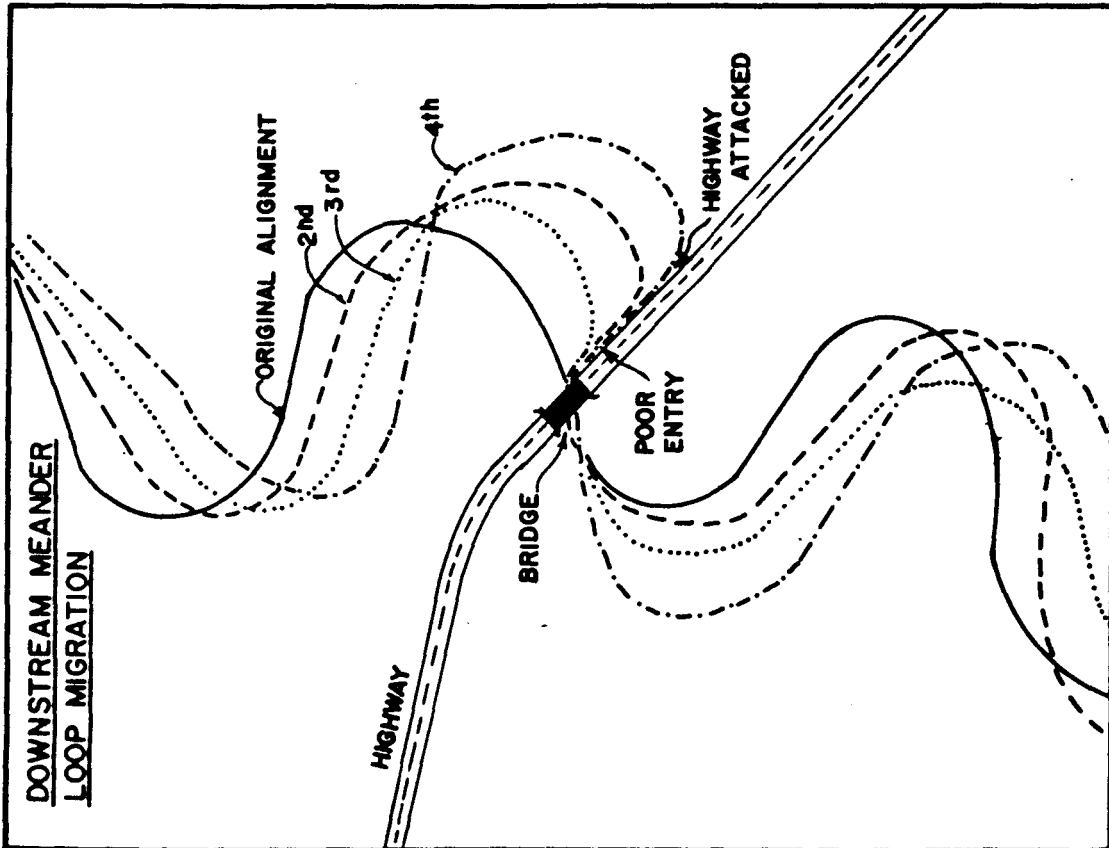
Effects of sheet flooding.



EXAMPLE 2 JEFFERSON RIVER

Destruction of a hay field by meander cutoff.

This cutoff could have been prevented by vegetative buffers at the cutoff entrance and exit.



Effects of bridges on meandering streams.

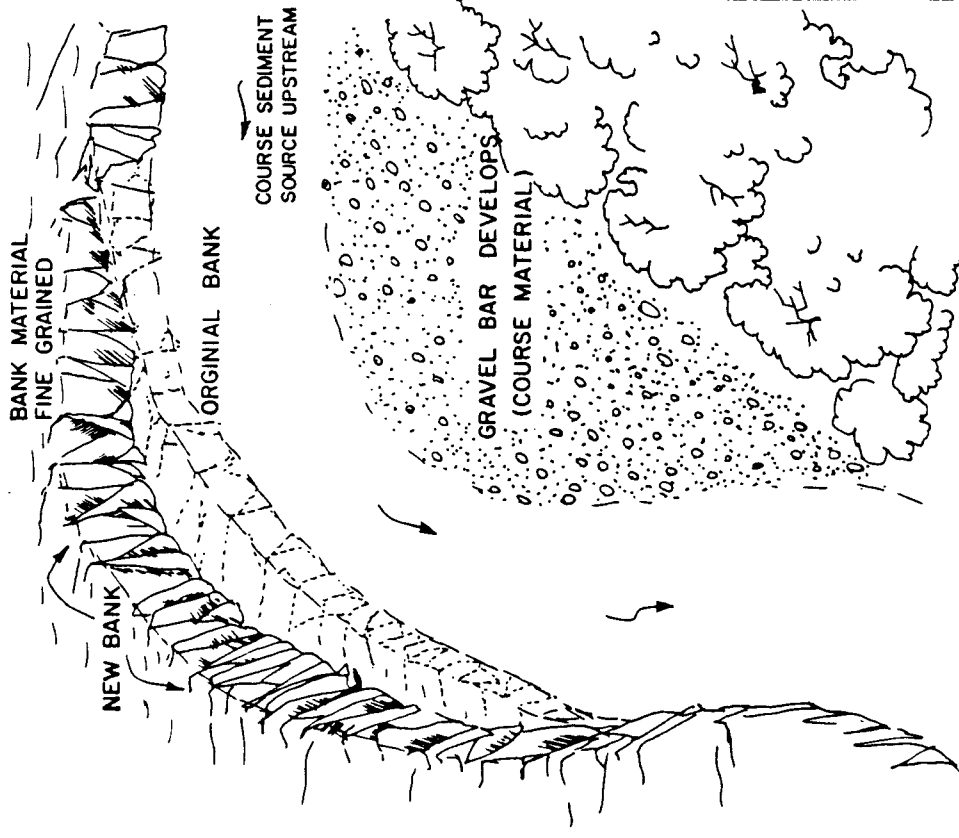


EXAMPLE 3 RUBY RIVER

Destruction of a bridge approach and hay ground by meander loop migration.

This meander loop migration would have probably not occurred if there had been vegetation on the outside of the river bend.

**BANK EROSION BY
DIFFERENTIAL DISPLACEMENT**



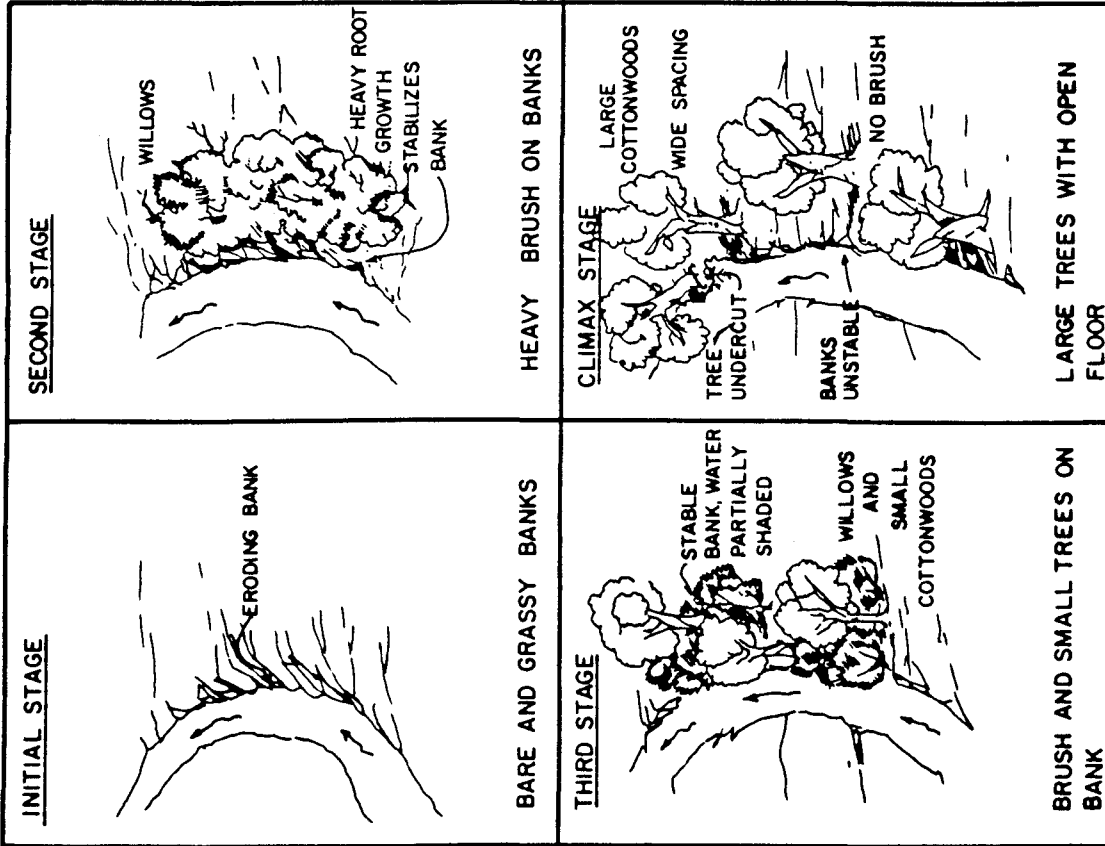
Differential displacement of coarse and fine material during flooding.



EXAMPLE 4 JEFFERSON RIVER

Destruction of a winter feed yard by differential bank erosion.

A vegetative buffer on the outside of the river bend would have greatly slowed gravel deposition on the inside of the bend.



Stages of development of vegetative climax on typical streams.



EXAMPLE 5 YELLOWSTONE RIVER

This is an example of a vegetative buffer protecting the outside of a river bend and causing the gravel which was swept out of the river to be deposited near the bank. This buffer protected the land behind the buffer.

HB 892

Testimony presented by Jim Flynn, Department of Fish, Wildlife & Parks

April 2, 1985

This proposed riparian land protection act to provide tax exemption for designated riparian habitats and wetlands marks another progressive step toward managing streambanks in Montana. In 1963, the legislature took an unprecedented step by enacting Montana's (and the nation's) first streambank protection act. Its scope was further broadened in 1974 to include private landowners.

The act before you, rather than adding further regulation, is an incentive to proper management of streambank and wetland vegetation. Riparian, or streamside, vegetation is recognized as the most productive area both for vegetation and wildlife. Riparian lands buffer activities on uplands by capturing sediment and other pollution and absorbing the force of spring floods. Wetlands act as natural purification systems, as well as temporary flood control basins.

These types of habitats are diminishing at an accelerated rate across the nation. Estimates range from 70 to 90 percent of this country's riparian habitat that has already been lost to urban and suburban development, channelization, dikes and cleaning. Wetland losses have averaged over 450,000 acres annually between the mid-1950's and mid-1970's.

Healthy riparian and wetland habitat benefits fish and wildlife in many ways. It provides sources of food and shelter. Water for fish is kept cool and pollution into the stream is reduced. Dozens of species of wildlife live in riparian habitat and many more depend on it seasonally.

Many of the problems associated with loss of riparian habitat are also felt by adjacent landowners. Streams widen and shallow, eating into valuable land. These lands then become more vulnerable to further erosion from flooding. The costs of repair in the form of riprap and dikes are high compared to the costs of prevention as proposed in this bill. On Big Spring Creek near Lewistown, for example, a landowner channelized a stream to gain approximately one acre of bottom land. In subsequent floods he lost 12 acres. The cost of rehabilitating and stabilizing the stream and repairing a bridge damaged from this action cost taxpayers over three-quarters of a million dollars.

Riparian habitat is nature's buffer between land and water. It bends, but usually does not break. It absorbs pollution, captures rich soil, provides homes for abundant wildlife and stabilizes the streams which harbor Montana's famous fishery resources.

This bill is another step in the right direction for Montana by providing incentives for proper management of riparian areas and wetlands. If enacted, this legislation will become another useful tool for landowners, conservation districts and the department in seeking low-cost, long-term solutions to managing streambanks, river bottoms and wetlands.

We encourage your support of this bill.

Montana Audubon Council
Testimony on HB 892
April 2, 1985

Mr. Chairman and Members of the Committee,

My name is Janet Ellis and I'm here today representing the Montana Audubon Council. The Council is composed of 9 Chapters of the National Audubon Society and represents over 2200 members statewide. The Council supports HB 892.

Wetland and riparian areas are critical to much life in Montana. In addition to being important for many plant and animal species, a well managed wetland or riparian area goes a long way towards preventing soil erosion and improving water quality.

Farmers and ranchers are important stewards for this important habitat. We feel that a tax relief for these areas is a small price to pay for the benefits Montana gains from these areas.

1985 is a tight fiscal year. Tax incentives are a mixed blessing as farmers and ranchers struggle to make ends meet and local governments need money too. Currently wetland-riparian areas are taxed at a very low level in the state. An additional incentive to farmers seems like a small price to pay for the benefits we gain. Because the effects of a tax break on this land will affect local governments minimally, we feel that HB 892 is an important piece of legislation to pass.

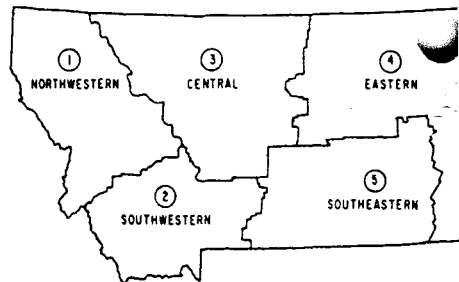
We urge you to vote for a "Do Pass" on this bill.

Thank you.

Exhibit 7 -- HB 892
April 2, 1985

Montana Wildlife Federation

AFFILIATE OF NATIONAL WILDLIFE FEDERATION



HB 892
April 2, 1985

My name is Dan Heinz. I'm appearing today on behalf of
 The M.W.F.
 Wildlife is a Montana Heritage we all cherish
 Riparian habitats are the most productive wildlife habitats in the state.
 Most of them occur on private lands. They are vulnerable to mis use.
 Many landowners take good care of their riparian lands at some loss to their ^{short term} cash flow.
 This voluntary incentive provides some recognition for those landowners
 who ^{may} chose to participate in a program to maintain the productivity of these lands.
 We urge your concurrence with HB892

Exhibit 8 -- HB 892
April 2, 1985



NAME LEONARD A. WALCH BILL NO. HOUSE BILL 892

ADDRESS 1030 WILDER HELENA MT DATE 4/2/85

WHOM DO YOU REPRESENT MONTANA CHAPTER AMERICAN FISHERIES SOCIETY

SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

RIPARIAN ZONES ARE KEY AREAS FOR FISH AND MANY WILDLIFE SPECIES. LAND MANAGEMENT ACTIVITIES HAVE THE POTENTIAL TO NEGATIVELY AFFECT THE PRODUCTIVITY OF RIPARIAN AREAS ~~AND~~

THE PROPOSED BILL WILL PROVIDE LANDOWNERS WITH AN INCENTIVE TO MANAGE RIPARIAN AREAS IN A MANNER THAT WILL ENHANCE THE LONG TERM & SHORT TERM PRODUCTIVITY OF THE LAND. THE FISHERIES RESOURCE WILL BENEFIT GREATLY FROM THE ENHANCED PRODUCTIVITY OF WELL MANAGED RIPARIAN ZONES.



NAME Carol Mosher BILL NO. HB 892
ADDRESS Augusta DATE Apr. 2, 1985
WHOM DO YOU REPRESENT Montana CowBelles
SUPPORT _____ OPPOSE XX AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

For the following reasons, we are opposed to HB 892.

The provision for removing the property tax on designated riparian habitat is very unpalatable bait for the land owner and one that our organization would advise landowners not to take advantage of. I speak with the advantage of 30 years experience on a fairly large ranch of the constantly changing possibilities in the legal description on parcels of land. Sometimes a river will move from one section into another with a flood. New roads, changing fence lines for various management reasons with verbal agreements with neighbors--many times concerning water---all of these things can cloud the ownership lines, but we always make sure that these correct descriptions are on our assessment lists and that we pay the taxes. Several times throughout the years in complicated situations, we have successfully prevented problems by our proof of ownership by referring to the payment of taxes on that land for the past 50 years. Under no conditions would I give up my privilege of paying taxes on my land.

My husband has been a county soil conservation supervisor for over 25 years and we have done stream bank repairs many times. We live on the South Fork of the Sun River and have been through the disasterous floods of 1964 and 1975. Parts of our streams are still fenced off from those years, letting them revegetate and settle in. Have any of you seen where and how these types of fences are built? We want to be able to take those fences out when we want to, again, for management purposes. It is not easy moving cows and baby calves in thick brush with those bottleneck fences, in either fly season or a blinding blizzard.

We fully recognize that nothing in this bill makes riparian work mandatory, but this bill is what we call a "foot in the door" type bill. Most of us, as landowners are willing to do repair work, when we can afford it, on a cost sharing type base, working in co-operation with Soil Conservation advisors, but we do not need this type of bill. Thank you for your consideration.

NAME BILL ASHER BILL NO. HB 892
ADDRESS P.O. Box 3285 Bozeman DATE 7-2-85
WHOM DO YOU REPRESENT APA & PCLA
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Exhibit 11 -- HB 892
April 2, 1985

OUR OBJECTIONS TO HB 892 ARE:

- 1.) WE ARE NOT CONVINCED THAT THIS WOULD BE A TAX BREAK, CONSIDERING THERE PROBABLY WOULD BE A SHIFT TO MAKE UP THE LOSS.
- 2.) WE ARE VERY LEERY OF ANYTHING THAT PERTAINS TO "A STREAM, RIVER OR OTHER WATERCOURSE, INCLUDING THE BEDS OF STREAMS, THE ADJACENT VEGETATIVE COMMUNITIES, AND THE LANDS THEREUNDER", IN VIEW OF THE CURRENT CONTROVERSY OVER STREAM ACCESS.
- 3.) WE SEE AN INCONSISTENCY IN THE FACT THAT THE STATE, ON THE ONE HAND, IS PURSUING A COURSE OF PUBLIC ACCESS TO THE STREAMBANKS OF THIS STATE OF MONTANA, WHILE ON THE OTHER HAND, - IF THIS BILL PASSES - WOULD ATTEMPT TO PROTECT AND PRESERVE THOSE SAME STREAMBANKS, WE VIEW PROTECTIONISM - AS IT APPLIES TO NATURAL RESOURCES - AND OPEN AND FREE PUBLIC USE OF THE SAME RESOURCE,

AS BEING INCONSISTENT AND INCOMPATIBLE.

4.) AND FINALLY, WE ARE OF THE OPINION THAT THE
PROCEDURE OF "DESIGNATION", OF CERTAIN LANDS
WILL ULTIMATELY LEAD TO ~~BE~~ FURTHER ENCROACHMENT
OF PRIVATE PROPERTY RIGHTS.

TESTIMONY before the Senate Taxation Committee, April 2, 1985, Helena, Montana, by Lorents Grosfield, cattle rancher from Big Timber, Montana.

Mr. Chairman, Members of the Committee:

I appear here today in opposition to HB 892. I believe that this bill, which is being hailed as a tax incentive program, is not an incentive program at all and is therefore quite misleading. The statistics from Oregon should bear that out--- the program's been in effect there for a few years already but only a little over 200 acres total have been enlisted in it. I would almost be willing to bet that most of those acres were already in some kind of riparian management program and the owner is using the program as a reward for past actions, rather than an incentive for future actions. (In other words, on page 5 of the bill, the lands are designated according to lines 8-10 and not according to lines 5-7.) Actually, as a landowner, I would be concerned that with only 200+ acres after several years, someone will soon be pushing for a more mandatory program.

At any rate, I believe there are four primary reasons that this bill has no real incentive and therefore will be essentially ineffective. First, it says I'll get a tax break on my riparian lands if I manage them in accordance with the provisions in the bill. But the natural question arises, "Where is the county budget going to be cut? What services are the county commissioners going to decide to trim as a result of lost revenue?" I submit that the answer is they are not going to cut any services but instead are going to raise the taxes on adjacent uplands; in other words, you're going to give me a break on my riparian lands, but up the taxes on my adjacent lands to offset the tax break--- you're going to take it out of my left pocket instead of my right. WHERE'S THE INCENTIVE?

Secondly, I submit that the cost to the county assessor's and treasurer's office to administer this program may well approximate the total amount of tax breaks in a given county, at least in the first few years of the program. Aren't county commissioners going to have to cover those expenses as well, with the net result that my taxes will not only be taken out of my left pocket instead of my right, but they'll be increased as well? THIS IS NO INCENTIVE.

Third, the amount of tax break you're going to give me is not enough to provide incentive to burden that land with a covenant--- in fact you're probably talking about nickles and dimes. For ex.

a half-mile of stream, it would cost a minimum of \$3000-5000, depending on the difficulty of the terrain. The annual interest alone, not to even mention the cost of the project, would be several times the annual tax savings. In fact, if you figure an area as wide as 400 feet along some stream, you have about one acre for every 100 running feet--- a half-mile gives you about 26.4 acres, and even if you use the \$2.63 figure from the fiscal note ~~(which I think is high)~~, it amounts to only ^{about} ~~\$47.48~~ ^{13.00}, whereas the interest alone would be at least \$400. I doubt that ~~\$65.00~~ ^{13.00} would pay for very much of any project along a half-mile of stream. WHERE'S THE INCENTIVE?

Fourth, and this has primarily to do with the timing of this bill, the Montana Supreme Court, and now this Legislature through H^R 265, are both trying to tell me that I've essentially lost my ability to control the use of the very lands that this bill addresses, namely my riparian lands under and along streams. If HB 265 passes ^{in a manner whereby} ~~and~~ I can no longer control the use by the public of those lands, and if this bill passes so that I can get out of paying taxes on them, what's really left to show that I even still own them? Thankyou very much, but I don't mind paying the taxes on these lands--- in fact, I consider those taxes cheap title insurance, and I'm not about to give up my "privilege" of paying them. Again, WHERE'S THE INCENTIVE?

This bill is being promoted as "The Riparian Lands Protection Act". I don't argue with the concept, but I would have thought that the promoters of this concept could have come up with a better program that really did involve some incentive to landowners. This bill leads landowners to believe they are getting a tax break, but it really is an attempt to get landowners to foot the entire bill for riparian management of lands the control over which may simultaneously be taken away from them. **THIS BILL DOES NOT GIVE LANDOWNERS A TAX BREAK.** I urge you to kill this misleading bill, and await a more effective and fair voluntary approach to the problem in some future Legislature, an approach with REAL incentive.

Thank you for your time, and for the privilege of involving myself in the legislative process.

WITNESS STATEMENT

Name Mons Tengen Committee On Sen Taxation
 Address Bellevue Date 4/2/85
 Representing 10k Stockgrowers, Woodgrowers, Graz. Dist Support _____
 Bill No. House 892 Oppose X
 Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Discriminatory & subsidizes poor managers. Good managers get no relief
 Costly: ~~costly~~ eliminates valuable tax base from taxation.
2. Thinly disguised land use planning proposal.
3. This is a "foot in the door" probably as the 100' strip
 will probably be expanded in future sessions.
4. Landowners are not asking for this sort of "relief".

Exhibit 13 -- HB 892
April 2, 1985

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

HB 892

Amendments to Third Reading, Second Printing Copy
Representative Harper

1. Page 1, line 16.
Strike: "12"
Insert: "13"
2. Page 1, line 19.
Strike: "12"
Insert: "13"
3. Page 3, line 9.
Strike: "12"
Insert: "13"
4. Page 3, line 12.
Strike: "12"
Insert: "13"
5. Page 3, line 20.
Strike: "12"
Insert: "13"
6. Page 4, line 15.
Strike: "12"
Insert: "13"
7. Page 6, line 4.
Strike: "12"
Insert: "13"
8. Page 7, line 3.
Strike: "12"
Insert: "13"
9. Page 8, line 14.
Strike: "12"
Insert: "13"
10. Page 8, lines 19 and 20.
Strike: "THE" on line 19 through the first "ACT" on line 20
11. Page 8, line 20.
Strike: "THE ACT"
Insert: "[sections 1 through 13]"
12. Page 11, line 11.
Strike: "12"
Insert: "13"
13. Page 12, line 10.
Strike: "1987"
Insert: "1988"

Exhibit 14 -- HB 892
April 2, 1985

Billings, Montana
March 12, 1985

Representative Hal Harper
Capitol Station
Helena, Montana 59620

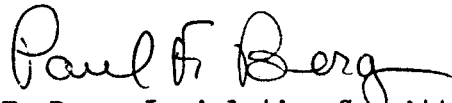
Dear Representative Harper:

Our 1,000-member Billings Rod and Gun Club and Southeastern Sportsman Association, representing 9 clubs and 5,000 members, support your H.B. 892, The Riparian Lands Protection Act.

Streambank vegetation provides excellent wildlife habitat and much of it would be protected from abuse by your bill. The cost would be small compared to the public and landowner benefits that would accrue from encouraging landowners to work with the Montana Department of Fish, Wildlife and Parks on this worthwhile wildlife conservation endeavor.

Please include this letter in your records for the upcoming full House hearing.

Sincerely yours,



Paul F. Berg, Legislative Committees
Billings Rod and Gun Club, and
Southeastern Sportsman Assoc.
3708 Harry Cooper Place
Billings, Montana 59106

Exhibit 15 -- HB 892
April 2, 1985

H.B. 704 3rd Reading Copy

Additional proposal amendments:

I
Line 6 and 7 Page 2

Delete was protested under the provisions of 15-8-113
through 15-8-115

Add: is the subject of a protest

II
Line 11 and 12 page 3

Delete was protested under the provisions of 15-8-113
through 15-8-115

Add is the subject of a protest

III
Line 12 and 13, page 4

Delete: was protested under the provisions of 15-8-113 through
15-8-115

Add: is the subject of a protest

ROLL CALL VOTE

SENATE TAXATION COMMITTEE
49 th Legislative Session -- 1985

Time _____ Date April 2, 1985 Room 413-415

Motion: that 115734 be amended
per Exhibit 3 from April 1
minutes. motion by Hirsch

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	✓		