

MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

February 13, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on February 13, 1987, at 8 a.m. in Room 312B of the State Capitol.

ROLL CALL: All members were present. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 583: Rep. Gene Donaldson, House District #43, sponsor of HB 583, said the bill would continue application of fees for the Public Service Commission (PSC), from utility fees, as present legislation is scheduled to sunset at the end of the current biennium.

Rep. Donaldson said the legislation would result in a \$1.6 million cost savings to the general fund, and suggested the funds be deposited to the PSC and be funded by the general fund. He told the Committee he had great concerns about earmarking, and said the Legislature is not providing the scrutiny that general funds are due. Rep. Donaldson explained that special revenue accounts clutter the appropriations process a great deal.

Rep. Donaldson advised he would have an amendment later this date, which would be somewhat complicated in that it is tied to the Consumer Council. He commented that if it won't work, the bill be sunset in two years.

PROPOSERS OF HOUSE BILL NO. 583: Howard Ellis, District 5 member of the PSC, stated he was in full support of the bill, as it is proposed to be amended. He commented this is an acceptable public policy and is standard procedure in all but 9 states.

John Lahr, Montana Power Company, stated his support of the bill, and said HB 45, passed during the June, 1986, special session, instituted use of fees for this purpose.

John Alke, Montana-Dakota Utilities, stated his support of the bill, with the proposed amendment.

Gene Phillips, Pacific Power and Light and Northwest Power, urged the Committee to support the bill.

John Allen, Great Falls Gas Company, stated his support of the bill and the proposed amendment to separate gross revenue from sales to utilities. HE said it is appropriate that current levels of taxation for communities remain the same.

Tom McGree, Mountain Bell, said he supported the bill, with the proposed amendment.

OPPONENTS OF HOUSE BILL NO. 583: There were no opponents of the bill.

TECHNICAL COMMENTS ON HOUSE BILL NO. 583: Dan Bucks, Deputy Director, DOR, explained that the new section 5, extending rulemaking authority, is meaningless, as DOR currently has no rulemaking authority in this area. He stated it is important that the bill is effective upon passage and approval, as underlying statistics must be adjusted quarterly for tax rates, if there is a change in underlying revenue. He advised that if the bill is made retroactive, DOR may be required to recalculate taxes for the final quarter of the current FY, and an alternative is to provide for an applicability date of the FY beginning July 1, 1987.

QUESTIONS ON HOUSE BILL NO. 583: Rep. Ream asked how surplus fees from one year would be carried over to the next year. Rep. Donaldson replied he was not as concerned as Mr. Alke because DOR can make adjustments as necessary.

Rep. Ream asked why general funding was proposed. Rep. Donaldson replied that in Alabama 91% of funds are earmarked, and that he did not want Montana to have this problem. He said it is a fact that general fund agencies are looked at more closely.

Rep. Sands said the amendment doesn't sound much different from what the bill proposes now.

CLOSING ON HOUSE BILL NO. 583: Rep. Donaldson stated the bill merely provides for an automatic tax on consumers.

CONSIDERATION OF HOUSE BILL NO. 444: Rep. Jack Ramirez, House District #87, sponsor of HB 444, said the bill represents one of the most important political decisions of the session, as it would eliminate the so-called "windfall". Rep. Ramirez explained that the definition of windfall is a tax increase that occurs without a vote of the legislature, and he said the only windfall is to state government at the expense of taxpayers.

Rep. Ramirez advised that the change in federal tax law offset the expansion of the tax base by lowering tax rates. He said Montana is tied to federal tax rates, but Montana rates are not tied to federal rates, so the same rate is applied against a broader base. He commented he hoped the change would be replaced by a reduction in federal income tax, and projected a 20-23% increase in state income tax.

Rep. Ramirez stated that: (1) it is not fair to accept a tax increase of this magnitude without a vote; (2) it doesn't affect all taxpayers the same and seems primarily to involve middle and higher income taxpayers with a 50-70% increase; (3) no one seems to know who will get federal income tax reductions, which could mean double jeopardy for some taxpayers; (4) the theory behind federal income tax reform is that it will stimulate the economy, but \$120 million was shifted to corporate income taxpayers; (5) if Montana takes the tax increment and other states don't, it may be at an economic disadvantage with other states; and (6), if so, how much and what needs to be done.

Rep. Ramirez explained that is where HB 444 comes in, with its overall 20% reduction. He stated that both he and DOR know 20% is inaccurate, and said it is a starting point. Rep. Ramirez commented that if the Governor's proposal is adopted instead, there will be a problem in either case.

Rep. Ramirez advised the Committee that all political questions are discussed in detail in "Issues Raised for States by Federal Tax Reform", published by the National Conference of State Legislatures (NCSL) and the Association of Budget Directors.

Rep. Ramirez said he questioned estimates of 4-5% on personal income growth rates, as last year those rates declined slightly. He advised that another area of uncertainty is the possibility of changes in federal law affecting capital gains.

Rep. Ramirez proposed that the bill be amended by approximately one-half of the original estimates, and that the other half of the anticipated windfall not be spent, as it may not be there. He added that more information is necessary before the bill can be amended, and said the problem with the corporation tax is that there were no federal reductions and many businesses have already been driven from the state.

PROPOSERS OF HOUSE BILL NO. 444: Keith Anderson, Montana Taxpayers Association, told the Committee that Congress passed federal tax reform in 1986 in an attempt to create fairness, and if state rates are not adjusted, Montana will receive anticipated windfall. He commented that the state is finally competitive nationally with regard to income tax. and read from a prepared statement in support of the bill (Exhibit #2). Mr. Anderson said Montana has dropped from 17th to 23rd on the statistical ladder for personal income tax. He commented that if personal income taxes are increased, it should be done in a forthright manner.

OPPOSERS OF HOUSE BILL NO. 444: Don Judge, AFL-CIO, read from a prepared statement in support of the bill (Exhibit

#3), and said he believes it is important to recognize that in 1980 the federal government gave the states the responsibility for their own programs, without the accompanying funding mechanisms. He explained that federal tax reform simply follows up that action to provide revenue sources to fund these programs. He urged the Committee to give the bill a do not pass recommendation.

Phil Campbell, Montana Education Association, stated there is not much choice but to keep the funds at the state level, as schools will need \$16 million desperately over the next two years.

Terry Minnow, Montana Federation of Teachers and State Employees, said it doesn't make sense to cut \$65 million in revenue in view of the state's budgetary needs.

Rep. Ream stated he believed the tax is actually regressive, and that Mr. Vasquez, Policy Economics, Washington, D.C., said Montana is the most regressive of the states in which he has worked, because of federal deductibility.

Rep. Ream said federal reform has made Montana state income tax more progressive and closing windfalls available to upper income residents of Montana is a question of fairness, as stated by Rep. Ramirez.

Dan Bucks, Deputy Director, DOR, read from a prepared statement on behalf of John LaFaver, DOR Director, for the Office of the Governor.

Rep. John Vincent, House District #80, said there is no minimum tax in Montana and, consequently, many people in Montana don't pay personal income tax. He commented that Congress is unlikely to move on capital gains until a new president is elected.

Rep. Vincent said Utah will take all its windfall and increase income tax, as well as the tax on pop and candy to save education. He explained federal tax reform will have no effect on South Dakota, Wyoming, and Washington, who have no income tax. Rep. Vincent advised that Oregon and Montana stand to receive substantial gain, that Idaho will receive about \$17 million because of its fair tax structure. He said he hoped the quality of special services in the state won't be endangered by this legislation.

TECHNICAL COMMENTS ON HOUSE BILL NO. 444: Gary Carlson, Montana Society of CPA's, said he believed rates would go no further than one-tenth of one percent. He stated his concern with building a revenue data base to show shifts between rate groups, and told the Committee the Society converted 1985 actual returns to manipulations of 1986, to

show revenue gains to Montana. Mr. Carlson explained it is a large job, which he hopes to have completed soon. (Exhibit #4a)

QUESTIONS ON HOUSE BILL NO. 444: Rep. Sands asked how different reductions were arrived at on page 1, line 22 of the bill. Dan Bucks replied those figures were calculated by taking projected additional revenue from federal tax reform over the base revenue of the budget office to get the percentage of increase in revenue for 1987. He explained that figure was then multiplied by existing rates and the resulting figures subtracted from the old rate. Rep. Ramirez added that as the revenue is phased in, calendar year adjustments will need to be made.

Rep. Sands asked how corporate license tax would be handled. Dan Bucks replied the same procedure would apply.

Referring to projections on the Accelerated Cost Recovery System, Rep. Harp asked Rep. Ramirez if he were asking for a vote on 1981 action which allowed federal acts to filter down to the state and simultaneously collect \$131 million in surplus funds. Rep. Ramirez replied affirmatively.

Rep. Raney stated it seems regressive to reduce each tax class by 16%, and that it would be more progressive to reduce the tax for lower incomes by 25%, and that for higher incomes by 15%. Rep. Ramirez replied that if each class pays 20%, it will be based upon the amount of income and the tax bracket.

Rep. Patterson asked if DOR has the authority to change the rates. Rep. Ramirez replied it did not.

Rep. Harp asked if effective rates would change by nearly 7% if marginal rates are not addressed. Rep. Ramirez replied that would be true.

Rep. Asay asked Gary Carlson if his study would identify areas where rate changes need to be made. Mr. Carlson replied he hoped to show exact numbers within the data base of the study, by the end of February or the first of March.

Rep. Asay asked Rep. Vincent if it were proper to determine where funds were coming from before they are accepted. Rep. Vincent replied that would seem appropriate.

CLOSING ON HOUSE BILL NO. 444: Rep. Ramirez advised there is an effect to states with no income tax, if Montana raises its income tax. He said the bill doesn't affect federal changes to pick up wealthy taxpayers, and merely adjusts rates.

Rep. Ramirez advised the Committee they must avoid using averages, as there are no average taxpayers, that they are

all unique. He commented that he was not saying legislative action taken in 1981 was not correct. As an example, he said a property owner who purchased a farm in 1940 for \$50,000 and decided to sell it at retirement for \$200,000, would have that increase taxed at ordinary income rates although he or she made no money in terms of real dollars.

Rep. Ramirez said he was not saying there won't be an income tax increase, but if there is, it should be forthright.

DISPOSITION OF HOUSE BILL NO. 47: Rep. Harrington made a motion that HB 47 DO PASS, because it was requested by the county treasurers and assessors and DOR hopes it will resolve the situation.

Rep. Williams stated his concurrence.

Rep. Raney advised that 20% on page 3, line 7, should be "20% or \$100, whichever is greater".

Rep. Williams made a motion to amend the bill as requested by Rep. Raney.

Rep. Asay made a substitute motion to amend the bill to "20% or \$50, whichever is greater". The motion CARRIED unanimously.

Rep. Asay made a motion to approve the necessary corresponding technical amendment on page 3, line 14. The motion CARRIED unanimously.

Rep. Asay made a motion that HB 47 DO PASS AS AMENDED. The motion CARRIED, with all members voting aye except Reps. Ramirez, Gilbert, and Ellison, who voted no.

DISPOSITION OF HOUSE BILL NO. 32: Rep. Asay made a motion that HB 32 DO NOT PASS, because it is not well spelled out how funding will be handled.

Rep. Williams stated his agreement.

Rep. Harp made a substitute motion to TABLE HB 32. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 56: Rep. Asay made a motion that HB 56 DO PASS.

Rep. Gilbert made a motion to approve proposed amendments (Exhibit #3). Rep. Williams stated he would support the amendments. The motion CARRIED unanimously.

Rep. Asay made a motion to approve Rep. Cobb's amendment on page 3, line 10, following "Montana", adding "providing that such job search".

Rep. Sands stated he would prefer not to have such language in the bill.

Rep. Hanson asked if the same language were not included on lines 5-7, page 3 of the bill. Rep. Ramirez replied the language is included to put focus into the program.

Rep. Gilbert's motion to amend CARRIED. All members voted aye except Reps. Raney, Patterson, Sands, Schye, and Koehnke.

Rep. Asay made a motion to amend page 3, line 18, by inserting "pertinent to" following "INDIVIDUALS". The motion CARRIED with all members voting aye, except Rep. Sands.

Rep. Williams made a motion to strike "with" through "county", following "resources", on page 3, lines 1-3. The motion CARRIED with all members voting aye except Rep. Hanson.

Rep. Asay made a motion that HB 56 DO PASS AS AMENDED. The motion CARRIED with all members voting aye, except Reps. Sands and Harp.

DISPOSITION OF HOUSE BILL NO. 97: Rep. Asay made a motion that HB 97 DO PASS, and said infrastructure needs to be addressed with action.

Rep. Sands asked how much the program would cost. Rep. Asay replied it would be \$8-10 million annually.

Rep. Sands asked how much was in the budget for 1987. Rep. Asay replied he didn't know, but that designated dollars could become general funds, of which he would like to preserve a portion.

Rep. Ramirez advised that in view of the problems with infrastructure, he would ask the Committee to table his bills.

Rep. Williams stated his concurrence with this action.

Rep. Ream stated he was concerned about deleting provisions on local impact.

Rep. Gilbert said he had serious questions about the situation and made a substitute motion that HB 97 DO NOT PASS.

Rep. Asay commented some mechanics are needed in the bill to deal with the situation.

Rep. Ream made a substitute motion for all motions pending that HB 97 be TABLED. The motion CARRIED. All members voted aye except Reps. Raney, Williams, Asay, Hanson, and Koehnke, who voted no.

DISPOSITION OF HOUSE BILL NO. 270: Chairman Ramirez advised the Committee he would prefer to amend, then table the bill, and made a motion to approve proposed amendments (Exhibit #4). The motion CARRIED unanimously.

Chairman Ramirez made a motion that HB 270 be TABLED AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 272: Chairman Ramirez made a motion that HB 272 be TABLED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 539: Rep. Hoffman made a motion that HB 539 DO PASS.

Rep. Williams made a motion to delete "(7)" on page 4, lines 8-11, and to correspondingly amend the title of the bill. The motion CARRIED unanimously.

Rep. Ellison made a motion to pass consideration for the day on HB 539. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 556: Rep. Harp made a motion that HB 556 DO NOT PASS.

Rep. Patterson made a substitute motion that HB 556 be TABLED. The motion CARRIED with all members voting aye except Reps. Harrington, Keenan, Ramirez, and Asay, who voted no.

DISPOSITION OF HOUSE BILL NO. 513: Rep. Williams made a motion that HB 513 DO PASS, and then made a motion to amend the bill by inserting "applies only to settlement proceeds received during CY 1993". The motion CARRIED unanimously.

Rep. Williams made a motion that HB 513 DO PASS AS AMENDED. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL 274: Rep. Asay made a motion that HB 274 DO PASS, and then made a motion to approve amendments to the bill (Exhibit #5), for graduated reductions in the severance tax to 15% in 1990.

Rep. Williams asked if there were a new fiscal note to reflect the amendments. Rep. Asay replied there was not.

Rep. Williams asked if the amendments would make HB 274 more like Rep. Hanson's bill, HB 252. Rep. Asay replied it would.

The motion to amend FAILED on a roll call vote, 9-7 (attached).

Rep. Raney made a motion to amend page 8, changing all 10% figures to 13%, setting 13% for base consumption, and adding "0" on line 9, as indicated by a coal purchaser. The motion FAILED on a roll call vote, 9-7 (attached).

Rep. Williams made a substitute motion to TABLE HB 274. The motion CARRIED on a roll call vote, 13-3 (attached).

DISPOSITION OF HOUSE BILL 456: Rep. Gilbert made a motion that HB 456 DO PASS, for purposes of discussion, and a second motion that the Committee approve the amendments in the gray bill.

Rep. Williams stated he opposed the amendments because there were too many to digest, and were not recommended by the Coal Tax Subcommittee.

Rep. Brown presented a rewritten (black) bill (Exhibit #6), and said he tried to put the merits of HB's 252 and 274 into HB 456, as an effort to compromise. He explained that the severance tax would reach 15% in the third year, and that type A coal would drop to 15.4% the second year.

Rep. Brown stated he could live with the 10% severance tax proposed by Rep. Asay, if that were the wish of the Committee, but he chose 13% as it seemed to be the best level for type B coal. Rep. Brown advised that the bill would allow 0-500,000 tons of coal to be purchased at 15%, 3-6 million tons at 14.5%, 6-8 million tons at 14%, 8-10 million tons at 13.5%, and 10 million or more tons at 13%. He said there is no ingenuity in the tax structure, that some language may need fine-tuning, and that he has no problems with the bill.

Rep. Brown made a motion to approve the amendments proposed in the "black" bill, which CARRIED unanimously.

Rep. Brown advised that the bill allows credit rather than refunds, that a tax rate runs for a full year, and that even though amounts purchased may differ from quarter to quarter, the credit carries over to the first quarter of the next year.

Rep. Asay made a motion to amend the bill to allow for 1/2% increases in the severance tax, up to 12%. The motion FAILED on a roll call vote, 6-10 (attached).

Rep. Harp made a motion that HB 456 be tabled. The motion CARRIED on a roll call vote, 9-7 (attached).

DISPOSITION OF HOUSE BILL 252: Rep. Hanson made a motion that HB 252 DO PASS.

Chairman Ramirez made a motion to amend the last rate to 13% on page 8, line 12, to apply to increments on line 14.

Rep. Harp advised that he opposed the motion, and said Rep. Hanson's bill is easy to understand, could be passed by the House and Senate, and be signed by the Governor. He commented that the coal industry is aware of the revenue anticipated by the state, adding that it would be tragic to come out of the session with no severance tax reduction.

Rep. Asay stated that he thought Rep. Harp was mistaken, and said that the coal industry, itself, is leery. He said the minimum the Committee could do is to support a 14% severance tax.

Chairman Ramirez stated that a 15% severance tax is a pretty thin margin for error, and that the impact to government needs to be minimized. He suggested that the Committee take into account the needs of miners and the coal industry, by endorsing a 13% severance tax.

Rep. Raney asked how Wyoming made its \$3 change and survived. He commented that the state needs encouragement in the form of corporate willingness to work on the situation.

Rep. Keenan said she would like to consider some guarantee from the coal industry, that there will be jobs for miners. She added that transportation may also need to be addressed.

The motion to amend, made by Chairman Ramirez FAILED 6-10 (roll call vote attached).

The motion to amend, made by Rep. Asay FAILED in a tie vote (roll call vote attached).

Rep. Raney made a substitute motion that HB 252 be TABLED. The motion FAILED, 10-5 (roll call vote attached).

The Committee reverted back to Rep. Hanson's motion that HB 252 DO PASS. The motion CARRIED, 10-5 (roll call vote attached). Rep. Asay abstained.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 11:40 a.m.


Representative Jack Ramirez,
Chairman

DATE 2-12-87
RE

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-13-87

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN	✓		
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

STANDING COMMITTEE REPORT

FEBRUARY 13 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 47

☒ do pass
☐ do not pass


☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

Be amended as follows:

1. Page 3, line 7
Following: "20¢"
Insert: "or \$50 whichever is greater"
2. Page 3, line 14
Following: line 13
Strike: "20¢"


FIRST reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 13

19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 56

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Be amended as follows:

1.

Representative Jack Ramirez Chairman

1. Page 1, line 20

Following: "resources"

Insert: "affected by coal mining"

2. Page 3, lines 1 through 3

Following: "resources" on line 1

Strike: remainder of line 1 through "county" on line 3

3. Page 3, line 3

Following: "employment"

Strike: "in the mining of Montana coal"

4. Page 3, line 10

Following: "Montana"

Insert: ", providing that such job search, training, and work programs have specific and measurable goals and objectives and have provisions for monitoring by the department of labor and industry"

5. Page 3, line 14

Following: "information"

Insert: "developed by public or private agencies or individuals"

6. Page 3, lines 15 and 16

Following: "resources" on line 15

Strike: "developed by public or private agencies or individuals"

Insert: "affected by coal mining"


FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 13 19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 252

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

MA

FIRST

reading copy (WHITE)
color

STANDING COMMITTEE REPORT

FEBRUARY 13 19 87

Mr. Speaker: We, the committee on HOUSE EXALTION

report HOUSE BILL NO. 312 513

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

Representative Jack Ramirez, Chairman

Be amended as follows:

1. Page 2, line 12
Following: "(2)"
Strike: "Settlement"
Insert: "After all mandatory distributions have been made to
state and local taxing jurisdictions, remaining settlement"
2. Page 2, line 21
Following: "applies"
Insert: "only"
3. Page 2, line 22
Following: "received"
Strike: "after January 1, 1987"
Insert: "during calendar year 1993"

MS

FIRST

WHITE

reading copy ()
color

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE

2-13

BILL NO.

HB 252

2-13-87
25*

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK		✓	
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL		✓	
GILBERT, REP. BOB		✓	
HANSON, REP. MARION		✓	
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY			✓
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB			✓
REAM, REP. BOB			✓
SANDS, REP. JACK			✓
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL			✓
TALLY		6	10

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion:

Ramirez amend
last rate to 1390

failed

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13

BILL NO. 4B

252

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK		✓	
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL		✓	
GILBERT, REP. BOB		✓	
HANSON, REP. MARION		✓	
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY			✓
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB		✓	
REAM, REP. BOB			✓
SANDS, REP. JACK		✓	
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL			✓
TALLY		8	8

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

tie vote

Motion:

Asay - to amend prodigo ton to
1390

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE

2-13

BILL NO.

HB

252

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK		✓	
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB		✓	
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN			✓
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK			✓
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL			✓
TALLY		5	11

Joann Banschbach

Secretary

Rep. Jack Ramirez

Chairman

Motion:

Raney Table - failed

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13 BILL NO. HB 252

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM	✓		
ELLISON, REP. ORVAL		✓	
GILBERT, REP. BOB		✓	
HANSON, REP. MARION		✓	
HARP, REP. JOHN		✓	
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT		✓	
KENNAN, REP. NANCY			✓
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB			✓
REAM, REP. BOB			✓
SANDS, REP. JACK		✓	
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL		✓	
TALLY	1	10	5

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion:

DP - Hanson

passed

DATE 2/13/87
 HB 274

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13-87 BILL NO. HB 274

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK			✓
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		7	9

Joann Banschbach
 Secretary

Rep. Jack Ramirez
 Chairman

Motion: Asay - amend (EX) failed
9-7

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13

BILL NO. ^{LB} 274

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB			✓
HANSON, REP. MARION			✓
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT			✓
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN			✓
RANEY, REP. BOB		✓	
REAM, REP. BOB			✓
SANDS, REP. JACK			✓
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		7	9

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion:

*Raney - not to
amend p. 18 to 1390*

failed

ROLL CALL VOTE

DATE 2-13-77
 HB 274

HOUSE TAXATION

COMMITTEE

DATE 2-13 BILL NO. HB 274

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			✓
ASAY, REP. TOM			✓
ELLISON, REP. ORVAL			✓
GILBERT, REP. BOB		✓	
HANSON, REP. MARION		✓	
HARP, REP. JOHN		✓	
HARRINGTON, REP. DAN		✓	
HOFFMAN, REP. ROBERT		✓	
KENNAN, REP. NANCY		✓	
KOEHNKE, REP. FRANCIS		✓	
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB		✓	
REAM, REP. BOB		✓	
SANDS, REP. JACK		✓	
SCHYE, REP. TED		✓	
WILLIAMS, REP. MEL		✓	
TALLY		13	3

Joann Banschbach
 Secretary

Rep. Jack Ramirez
 Chairman

Motion: Wms - Table

2-13-87
456

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13

BILL NO. HB 456

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK		✓	
ASAY, REP. TOM		✓	
ELLISON, REP. ORVAL		✓	
GILBERT, REP. BOB			✓
HANSON, REP. MARION		✓	
HARP, REP. JOHN			✓
HARRINGTON, REP. DAN			✓
HOFFMAN, REP. ROBERT		✓	
KENNAN, REP. NANCY			✓
KOEHNKE, REP. FRANCIS			✓
PATTERSON, REP. JOHN		✓	
RANEY, REP. BOB			✓
REAM, REP. BOB			✓
SANDS, REP. JACK			✓
SCHYE, REP. TED			✓
WILLIAMS, REP. MEL			✓
TALLY		6	10

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion:

Asay - mot to amend HB 456
beg @ 1470 w/ 570 increm
down to 1270.
passed

ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 2-13 BILL NO. HB 456

NAME	ABSTAIN	AYE	NAY
RAMIREZ, REP. JACK			7
ASAY, REP. TOM		7	
ELLISON, REP. ORVAL		7	
GILBERT, REP. BOB			7
HANSON, REP. MARION		7	
HARP, REP. JOHN		7	
HARRINGTON, REP. DAN			7
HOFFMAN, REP. ROBERT		7	
KENNAN, REP. NANCY			7
KOEHNKE, REP. FRANCIS			7
PATTERSON, REP. JOHN		7	
RANEY, REP. BOB			7
REAM, REP. BOB		7	
SANDS, REP. JACK		7	
SCHYE, REP. TED			7
WILLIAMS, REP. MEL		7	
TALLY		9	7

Joann Banschbach
Secretary

Rep. Jack Ramirez
Chairman

Motion:

Have Table

2-13-87

2-13-87

HARP YES NO

1 ALL AMENDMENTS

AND THE BILL VOTE

456 + 274

HARP VOTES YES

ON HB 252

WITHOUT ANY AMENDMENTS

2-13-87

All COAL TAX
buts. Sands
votes with Hanson

Jack Smith



#3
2-13-87
444

Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

TESTIMONY OF DON JUDGE ON HOUSE BILL 444 BEFORE THE HOUSE TAXATION COMMITTEE,
FEBRUARY 13, 1987

Good morning. My name is Don Judge and I am here today to testify on behalf of the Montana State AFL-CIO in opposition to House Bill 444.

This bill amends Montana's corporate and personal income tax laws to prevent the state from realizing any revenue increases from the Federal Tax Reform Act of 1986.

Mr. Chairman, our organization strongly opposes this bill. House Bill 444 amounts to an income tax give-away program that this state cannot afford. The problems of Montana's burgeoning budget deficit are well known. Current estimates place our budget deficit at between \$100 million and \$400 million for the 1988-1989 biennium. At a time when program cuts are being made in all areas of government service, it does not make sense to further exacerbate the budget shortfalls. Also, the legislature is currently finding it necessary to consider additional revenue measures; many of which are regressive and harmful to Montana's working men and women.

According to the fiscal note attached to this bill, in FY 88 the State of Montana would lose \$24,570,000 in income and corporate tax revenues. In FY 1989, that figure increases to \$41,436,000. This amounts to a back-breaking loss of \$66,000,000 in just a short two-year period. At a time when our state is swimming in a virtual sea of red ink, this bill is not a responsible fiscal move.

"New Federalism" policies of the Reagan administration have shifted the burden for community services increasingly onto state and local governments without providing the revenues needed to meet those demands. The elimination of federal revenue sharing and massive cuts in social program expenditures at the national level are just two examples of the "New Federalism."

If Montana's traditional commitment to education and vital community services is to continue, then we can ill afford to forego \$66,000,000 in legitimate tax revenues.

Finally, House Bill 444 shifts the tax burden from large corporations and wealthy individuals onto those who are least able to pay. This bill makes the state's tax system more regressive by taxing low income people more than wealthy individuals as a proportion of their incomes. For example, under the provisions of this bill an individual earning \$8,000 a year in taxable income in 1988 would have his or her taxes reduced by .954 percent. However, a person earning in excess of \$35,000 of taxable income would have his or her taxes reduced by 1.749 percent. This definitely is not progressive tax reform.

Amerdmts to HB56

1. Page 1, line 20.
Following: "resources"
Insert: "affected by coal mining"

2. Page, lines 1 through 3
Following: "resources" on line 1
Strike: remainder of line 1 through "County" on line 3

3. Page 3, line 8
Following: "employment"
Strike: "in the mining of Montana coal"

4. Page 3, line 10

Following: "Montana"
Insert: ", providing that such job search, training, and work programs have specific and measurable goals and objectives and have provisions for monitoring by the department of labor and industry"

5. Page 3, line 14.
Following: "information"
Insert: "developed by public or private agencies or individuals"

6. Page 3, lines 15 and 16.
Following: "resources" on line 15
Strike: "developed by public or private agencies or individuals"
Insert: "affected by coal mining"

Technical WITNESS STATEMENT

2-13-87
HB 444

NAME Mary B CARLSON BILL NO. HB 444
ADDRESS Helena MT DATE 2/13/87
WHOM DO YOU REPRESENT? MT Society of CPA's
SUPPORT _____ OPPOSE _____ AMEND XX

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Suggest rate table utilize rates
no more 1/07% not 1/000% —

Administrative matter —

Taxpayer preparation of their "own"
return would result in mathematical
errors by utilization of a
decimal larger than 1/0%

Mr. Chen + members / Committee
Gary Carlson

Date 2/13/87	Prepared By	Work Paper No
	Reviewed By	

MSCPA

EXHIBIT 4a
DATE 2-13-87
NO 444

Comments HB 444 Ramsey -

Rate Adjustments - eliminate Windfall

1. Rates should be utilizing rates of no more than 1/10%
 - easy for PAID Preparers because of computer age
 - not easy for taxpayer doing their own tax return

Revenue (Shifting of Burden)?

2. MSCPA is working on development of a DATA BASE of Individual TX Retns which is consisting specific Retns from 1985 taxable income to taxable income under TRA '86

From the data BASE in process MSCPA can determine more exactly the applicability of the selected rates by utilizing the proposed rates - calculating the tax and comparing to 1985 tax liability of Actual Return.

AMENDMENT TO HB 274
(WHITE)

#5
2-13-89
HB 274

1. Page 8, line 9.

Strike: "0%"

Insert: "10%"

2. Page 8, line 10.

Strike: "23 1/2%"

Insert: "25%"

3. Page 8, line 11.

Strike: "17%"

Insert: "20%"

4. Page 8, line 12.

Strike: "10%"

Insert: "15%"

Following: "1990"

DRAFT

#6
2-13-86
456

HOUSE BILL NO. 456

INTRODUCED BY D. BROWN, IVERSON, MARKS, RAMIREZ,
ASAY, HARP, BRANDEWIE, GILBERT, ELLISON, STRATFORD,
HANNAH, ABRAMS, PATTERSON, DEVLIN, SWITZER, COMPTON,
MCCORMICK, MANUAL, POFF, KOEHNKE, HAGER, BISHOP,
C. SMITH, DRISCOLL, JENKINS, SANDS, HIRSCH,
O'CONNELL, DAILY, HOLLIDAY, WINSLOW, MCLANE

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE
RATE STRUCTURE OF THE MONTANA COAL SEVERANCE TAX; IMPOSING
IN 1989 A SLIDING SCALE RATE SCHEDULE FOR SURFACE-MINED
SUBBITUMINOUS COAL BASED ON THE AMOUNT OF COAL PURCHASED;
~~EXTENDING-THE-"WINDOW--OF--OPPORTUNITY"--FOR--THE--NEW--COAL~~
~~PRODUCTION--INCENTIVE--TAX-CREDIT-TO-JULY-17-1988;~~ REQUIRING
THE COAL TAX OVERSIGHT SUBCOMMITTEE TO CONDUCT A FEASIBILITY
STUDY ON THE ESTABLISHMENT OF A MONTANA COAL DEVELOPMENT
INSTITUTE; AMENDING SECTIONS 15-23-701, 15-35-101,
15-35-102, THROUGH 15-35-104, 15-35-105, AND 15-35-202
THROUGH 15-35-204, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE
DATE, A DELAYED EFFECTIVE DATE, AND AN APPLICABILITY DATE."

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

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 15-23-701, MCA, is amended to read:

1 "15-23-701. Reporting gross yield from coal. (1) Each
2 person engaged in mining coal must, on or before March 31
3 each year, file with the department of revenue a statement
4 of the gross yield from each coal mine owned or worked by
5 such person in the preceding calendar year and the value
6 thereof. The statement shall be in the form prescribed by
7 the department, which may be coordinated with the form used
8 under 15-35-104 and must be verified by an officer of the
9 firm. The statement shall include:

10 (a) the name and address of the owner or lessee or
11 operator of the mine;

12 (b) the location of the mine;

13 (c) the tons of coal extracted, treated, and sold from
14 the mine during the taxable period;

15 (d) the gross yield or value in dollars and cents
16 derived from the contract sales price as defined in
17 15-35-102~~(1)~~.

18 (2) Whenever value is imputed under 15-35-107(1)(b),
19 that value shall be used for purposes of reporting the value
20 of the gross yield of coal under this section."

21 Section 2. Section 15-35-101, MCA, is amended to read:

22 "15-35-101. Legislative findings and declarations of
23 purpose. (1) The legislature finds that while coal is
24 extracted from the earth like metal minerals, there are
25 differences between coal and metal minerals such that they

1 should be classified in different categories for taxation
 2 purposes. The legislature finds that while coal can be
 3 utilized like petroleum products, there are differences
 4 between coal and petroleum such that they should be
 5 classified in different categories for taxation purposes.
 6 The legislature further finds that:

7 (a) coal is the only mineral which can supply energy
 8 while being easily found in abundance in Montana;

9 (b) coal is the only mineral which is so often
 10 marketed through sales contracts of many years' duration;

11 (c) coal, unlike most minerals, varies widely in
 12 composition and consequent value when marketed;

13 (d) coal in Montana is subject to regional and
 14 national demands for development which could affect the
 15 economy and environment of a larger portion of the state
 16 than any other mineral development has done;

17 (e) subbituminous coal and lignite coal in Montana,
 18 when-subbituminous-and-recoverable-by-strip-mining,
 19 sufficient-demand-that-at-least-one-third-of-the-price-it
 20 commands-at-the-mine-may-go-to-the-economic-rents-of
 21 royalties-and-production-taxes have sufficiently different
 22 markets and value and therefore require different production
 23 taxes;

24 (f) coal-in-the-lignite-form-is-in-less-demand-and
 25 producers-of-lignite-are-able-to-pay-lesser-amounts-of

1 ~~royalty-and-production-tax-than-producers--of--subbituminous~~
2 ~~can-pay;~~

3 ~~(g)~~(f) coal produced in underground mines has higher
4 production costs and underground producers are able to pay
5 lesser amounts of royalty and production tax than strip-mine
6 producers can pay;

7 ~~(h)~~(g) coal production in Montana has been subject to
8 an uncoordinated array of taxes which overlap one another
9 and yield revenue in an inconsistent and unpredictable
10 manner.

11 (2) The legislature declares that the purposes of this
12 chapter are to:

13 (a) allow the severance taxes on coal production to
14 remain a constant percentage of the price of coal;

15 (b) stabilize the flow of tax revenue from coal mines
16 to local governments through the property taxation system;

17 (c) simplify the structure of coal taxation in
18 Montana, reducing tax overlap and improving the
19 predictability of tax projections; and

20 (d) accomplish the foregoing purposes by establishing
21 categories of taxation which recognize the unique character
22 of coal as well as the variations found within the coal
23 industry."

24 Section 3. Section 15-35-102, MCA, is amended to read:

25 "15-35-102. Definitions. As used in this chapter, the

1 following definitions apply:

2 (1) "Agreement" means a signed contract that is valid
3 under Montana law between a coal mine operator and a
4 purchaser or broker for the sale of coal that is produced in
5 Montana.

6 (2) "Base consumption level: Type A" for a purchaser
7 means the greater of:

8 (a) the arithmetic average volume of coal purchased
9 during calendar years 1983 and 1984 from all Montana coal
10 mine operators; or

11 (b) 90% of the maximum tonnage provided for in any
12 agreement executed prior to January 1, 1985, for which the
13 highest scheduled minimum quantity of coal stipulated by the
14 terms of the agreement as they existed on January 1, 1985,
15 has not been purchased at any time during the term of the
16 agreement, plus the arithmetic average volume of coal
17 purchased during calendar years 1983 and 1984 from all
18 Montana coal mine operators under all other agreements.

19 (3) "Base consumption level: Type B" for a purchase
20 means the lesser of:

21 (a) the volume of coal purchased during calendar year
22 1986 from all coal mine operators; or

23 (b) the greater of:

24 (i) the arithmetic average volume of coal purchased
25 during calendar years 1983 and 1984 from all Montana coal

1 mine operators; or

2 (ii) 90% of the maximum tonnage provided for in any
 3 agreement executed prior to January 1, 1985, for which the
 4 highest scheduled minimum quantity of coal stipulated by the
 5 terms of the agreement as they existed on January 1, 1985,
 6 has not been purchased at any time during the term of the
 7 agreement, plus the arithmetic average volume of coal
 8 purchased during calendar years 1983 and 1984 from all
 9 Montana coal mine operators under all other agreements.

10 ~~(3)~~(4) "Base production level: Type A" for a coal mine
 11 operator means the arithmetic average volume of coal
 12 produced in Montana and sold to a purchaser in calendar
 13 years 1983 and 1984.

14 (5) "Base production level: Type B" for a coal mine
 15 operator means the lesser of:

16 (a) the arithmetic average volume of coal produced in
 17 Montana and sold to a purchaser in calendar years 1983 and
 18 1984; or

19 (b) the volume of coal produced in Montana and sold to
 20 a purchaser in 1986.

21 ~~(4)~~(6) "Broker" means any person who resells Montana
 22 coal.

23 ~~(5)~~(7) "Contract sales price" means either the price
 24 of coal extracted and prepared for shipment f.o.b. mine,
 25 excluding that amount charged by the seller to pay taxes

1 paid on production, or a price imputed by the department
2 under 15-35-107. Contract sales price includes all royalties
3 paid on production, no matter how such royalties are
4 calculated. However, with respect to royalties paid to the
5 government of the United States, the state of Montana, or a
6 federally recognized Indian tribe, the contract sales price
7 includes only:

8 (a) for quarterly periods ending on and after
9 September 30, 1984, 15 cents per ton plus 75% of the
10 difference between 15 cents per ton and the amount of such
11 federal, state, and tribal government royalties actually
12 paid;

13 (b) for quarterly periods ending on and after
14 September 30, 1985, 15 cents per ton plus 50% of the
15 difference between 15 cents per ton and the amount of such
16 federal, state, and tribal government royalties actually
17 paid;

18 (c) for quarterly periods ending on and after
19 September 30, 1986, 15 cents per ton plus 25% of the
20 difference between 15 cents per ton and the amount of such
21 federal, state, and tribal government royalties actually
22 paid; and

23 (d) for quarterly periods ending on and after
24 September 30, 1987, 15 cents per ton.

25 ~~(6)~~(8) "Department" means the department of revenue.

1 ~~(7)~~(9) "Energy conversion process" includes any
 2 process by which coal in the solid state is transformed into
 3 slurry, gas, electric energy, or any other form of energy.

4 ~~(8)~~(10) "Incremental production: Type A" means that
 5 quantity of coal produced annually by a coal mine operator
 6 and sold to a qualified purchaser: Type A that exceeds the
 7 base production level: Type A of the coal mine operator for
 8 that purchaser, but only to the extent the quantity of coal
 9 exceeds that purchaser's base consumption level: Type A from
 10 all Montana producers.

11 (11) "Incremental production: Type B" means that
 12 quantity of coal produced annually by a coal mine operator
 13 and sold to a qualified purchaser: Type B that exceeds the
 14 base production level: Type B of the coal mine operator for
 15 that purchaser, but only to the extent the quantity of coal
 16 exceeds that purchaser's base consumption level: Type B from
 17 all Montana producers.

18 (12) "Lignite coal" means coal having a heating
 19 quality, measured in Btu's per pound, of 7,000 or less.

20 ~~(9)~~(13) "Produced" means severed from the earth.

21 (14) "Purchase" means the actual transfer of possession
 22 of coal from the producer to the purchaser. A contract or
 23 agreement to purchase coal is not a purchase.

24 ~~(10)~~(15) "Purchaser" means a person who purchases or
 25 contracts to purchase Montana coal directly from a coal mine

operator or indirectly from a broker and who utilizes that coal in any industrial, commercial, or energy conversion process. A coal broker or any other third party intermediary is not considered a purchaser under the provisions of this chapter only when he is purchasing for one or more users of the coal, whose total combined purchases on behalf of those users does not exceed 500,000 tons of coal a year.

~~(11)~~(16) "Qualified purchaser: Type A" means a purchaser whose purchases of Montana coal in any given year exceed his base consumption level: Type A. A purchaser of Montana coal who enters into a coal agreement with another purchaser or a broker that causes a reduction in the base consumption level: Type A of a purchaser is not a qualified purchaser: Type A.

(17) "Qualified purchaser: Type B" means a purchaser whose purchases of Montana coal in any given year exceed his base consumption level: Type B. A purchaser of Montana coal who enters into a coal agreement with another purchaser or a broker that causes a reduction in the base consumption level: Type B of a purchaser is not a qualified purchaser: Type B.

~~(12)~~(18) "Strip mining" or "surface mining" is defined in 82-4-203.

(19) "Subbituminous coal" means coal having a heating quality, measured in Btu's per pound, in excess of 7,000.

1 ~~(13)~~(20) "Taxes paid on production" includes any tax
 2 paid to the federal, state, or local governments upon the
 3 quantity of coal produced as a function of either the volume
 4 or the value of production and does not include any tax upon
 5 the value of mining equipment, machinery, or buildings and
 6 lands, any tax upon a person's net income derived in whole
 7 or in part from the sale of coal, or any license fee.

8 ~~(14)~~(21) "Ton" means 2,000 pounds.

9 ~~(15)~~(22) "Underground mining" means a coal mining
 10 method utilizing shafts and tunnels and as further defined
 11 in 82-4-203.

12 (23) "Value" means the contract sales price.

13 (24) "Small purchaser" means a purchaser whose total
 14 purchases of coal from all Montana producers during the year
 15 is 500,000 tons or less."

16 Section 4. Section 15-35-103, MCA, is amended to read:

17 "15-35-103. Severance tax -- rates imposed --
 18 exemptions. (1) A severance tax is imposed on each ton of
 19 coal produced in the state.

20 (2) (a) Except as provided in subsections (3) through
 21 (8), the tax must be imposed in accordance with the
 22 following schedule:

23 Heating quality	Surface	Underground
24 (Btu per pound	Mining	Mining
25 of coal):		

1	Under 7,000	12 cents or	5 cents or
2		20% of value	3% of value
3	7,000-8,000	22 cents or	8 cents or
4		30% of value	4% of value
5	8,000-9,000	34 cents or	10 cents or
6		30% of value	4% of value
7	Over 9,000	40 cents or	12 cents or
8		30% of value	4% of value

9 ~~"Value"-means-the-contract-sales-price-~~

10 ~~(2)~~(b) The formula which yields the greater amount of
 11 tax in a particular case shall be used at each point on this
 12 schedule.

13 (3) For the period beginning July 1, 1987, and ending
 14 June 30, 1988, a severance tax credit is allowed on coal
 15 tonnages produced in the state as follows:

16 (a) for tonnages considered incremental production:

17 Type B;

18 (i) surface mined subbituminous coal, a tax credit
 19 equal to an effective rate of 13% of value;

20 (ii) surface mined lignite coal, a tax credit equal to
 21 an effective rate of 10% of value; and

22 (b) for tonnages considered incremental production:

23 Type A for either surface mined subbituminous coal or
 24 surface mined lignite in accordance with the taxes provided
 25 in subsection (2) and further subject to the production

1 incentive-tax credit provided in Title 15, chapter 35, part
2 2.

3 (4) For the period beginning July 1, 1988, and ending
4 on June 30, 1989, the severance tax is imposed on all coal
5 tonnages produced in the state as follows:

6 (a) for tonnages considered incremental production:
7 Type B;

8 (i) surface mined subbituminous coal, 13% of value;

9 (ii) surface mined lignite coal, 10% of value;

10 (b) for tonnages considered incremental production:
11 Type A for either surface mined subbituminous coal or
12 surface mined lignite, the tax is 23% of value subject to
13 the production-incentive tax credit provided in Title 15,
14 chapter 35, part 2; and

15 (c) for all tonnages not covered under subparagraphs
16 (a) and (b) above, the tax is 23% of value.

17 (5) For the period beginning on July 1, 1989, and
18 thereafter the severance tax is imposed on all coal tonnages
19 produced in the state in accordance with the following:

20 (a) for surface mined subbituminous coal, other than
21 such coal purchased by a small purchaser, 15% of value;

22 (b) for surface mined lignite coal, 10% of value;

23 (c) for surface mined subbituminous coal purchased by
24 a small purchaser, 14% of value.

25 (6) The rate of the tax for coal produced in the state

1 from underground mines is as follows:

2 (a) for lignite coal, 3% of the contract sales price
3 for all such coal produced; and

4 (b) for subbituminous coal, 4% of the contract sales
5 price for all such coal produced.

6 ~~†3†~~(7) A person is not liable for any severance tax
7 upon 50,000 tons of the coal he produces in a calendar year,
8 except that if he produces more than 50,000 tons of coal in
9 a calendar year, he will be liable for severance tax upon
10 all coal produced in excess of the first 20,000 tons.

11 ~~†4†~~(8) A new coal production incentive tax credit may
12 be claimed on certain coal as provided in ~~15-35-202~~ Title
13 15, chapter 35, part 2.

14 Section 5. Section 15-35-104, MCA, is amended to read:

15 "15-35-104. Quarterly statement and payment of tax.

16 (1) Each coal mine operator shall compute the severance tax
17 due on each quarter-year's worth of production on forms
18 prescribed by the department.

19 (2) The statement shall indicate

20 (a) the tonnage produced~~7~~;

21 (b) the average Btu value of the production~~7~~;

22 (c) the contract sales price received for the
23 production~~7~~;

24 (d) such information as is necessary for the
25 department to determine all incremental production: Type A;

1 (e) such information as is necessary for the
 2 department to determine all incremental production: Type B;
 3 and

4 (f) such other information as the department may
 5 require.

6 (3) The completed form in duplicate, with the tax
 7 payment, shall be delivered to the department not later than
 8 30 days following the close of the quarter. The form shall
 9 be signed by the operator if the operator is an individual
 10 or by an officer of the coal mine operator if the operator
 11 is a business entity.

12 (4) A person operating more than one coal mine in this
 13 state may include all of his mines in one statement.

14 (5) The department may grant a reasonable extension of
 15 time for filing statements and payment of taxes due upon
 16 good cause shown therefor."

17 NEW SECTION. Section 6. Incentive credit to coal
 18 producer on behalf of purchaser. (1) Effective July 1, 1989,
 19 the severance tax rate applicable to surface mined
 20 subbituminous coal is 15%, as provided in 15-35-103, and
 21 payable by the producer.

22 (2) A producer on behalf of the purchaser of Montana
 23 produced, surfaced mined subbituminous coal is entitled to a
 24 purchaser's credit according to the following formula:

25 $PC = [(TCP * CSP * 0.15) - (TCP * CSP * ATR)] * PT/TPT$

1 Where:

2 (a) TCP is the total amount of surface mined
3 subbituminous coal produced in Montana and purchased by the
4 purchaser during the year;

5 (b) CSP is the contract sales price of the coal
6 described in subsection (2)(a);

7 (c) ATR is the applicable tax rate to be determined
8 from the schedule under subsection (3).

9 (d) PT is tonnage of surface mined subbituminous coal
10 each purchaser has purchased from the producer during the
11 year.

12 (e) TPT is the total tonnage surface mined
13 subbituminous coal each purchaser has purchased from all
14 Montana producers during the year.

15 (3) The applicable tax rate to be used in determining
16 the purchaser's credit as provided in subsection (2) is as
17 follows:

18 (a) 15.0% for purchasers who purchase less than 3
19 million tons of coal from all Montana producers during the
20 year;

21 (b) 14.5% for purchasers who purchase 3 million tons
22 or more, but less than 6 million tons of coal from all
23 Montana producers during the year;

24 (c) 14.0% for purchasers who purchase 6 million tons
25 or more, but less than 8 million tons of coal from all

1 Montana producers during the year;

2 (d) 13.5% for purchasers who purchase 8 million tons
3 or more, but less than 10 million tons of coal from all
4 Montana producers during the year;

5 (e) 13.0% for purchasers who purchase 10 million tons
6 or more of coal from all Montana producers during the year.

7 (4) For the purposes of this section, "coal" means
8 Montana produced surfaced mined subbituminous coal, and
9 "year" means the state fiscal year.

10 NEW SECTION. Section 7. Application for purchaser's
11 incentive credit -- duty of department. (1) Each purchaser
12 of Montana produced, surface mined subbituminous coal may
13 ~~be~~ be entitled to a purchaser's incentive credit
14 as provided in [section 6].

15 (2) a producer on behalf of a purchaser shall claim
16 the credit earned as provided in section 6 on his tax return
17 due for the first quarter following the end of the fiscal
18 year.

19 (3) If a producer has no taxable production during the
20 fiscal year in which the credit was determined and reported
21 by the department, the department shall refund the amount of
22 the unused credits to the producer.

23 (4) Within 30 days following the producer's claim for
24 credit the producer shall pay or credit to the purchaser its
25 pro rata share of the eligible credit.

(5) For the purpose of determining the appropriate amount of the purchaser's incentive credit, purchasers may not combine their purchases to increase the amount of their credit unless it can be demonstrated to the satisfaction of the department that each purchaser owns at least 30% of the facilities or projects in which the eligible coal produced and purchased in Montana was used.

Section 8.. Section 15-35-202, MCA, is amended to read:

"15-35-202. New coal production incentive tax credit allowed -- application limited. (1) A Except as provided in subsections (3) and (4), a coal mine operator is entitled to a new coal production incentive tax credit of 33 1/3% of the tax imposed under 15-35-103(2) on any incremental production: Type A produced and sold during calendar years 1985 and 1986.

(2) A Except as provided in subsections (3) and (4), a coal mine operator is entitled to a new coal production incentive tax credit of 33 1/3% of the tax imposed under 15-35-103(2) on incremental production: Type A for--the entire---term---of--an--agreement,--except--as--provided--in subsection--(3)--, if the incremental production: Type A resulted from coal purchases under:

(a) an existing agreement which was extended between January 1, 1985, and June 30, 1987, for at least a 5-year period; or

1 (b) a new agreement that was executed between January
2 1, 1985, and June 30, 1987.

3 (3) For the period beginning July 1, 1988, and ending
4 June 30, 1989, a coal mine operator is entitled to a new
5 coal production incentive tax credit of 33 1/3% of the tax
6 imposed under 15-35-103(4) on the incremental production:
7 Type A if the incremental production: Type A resulted from
8 coal purchasers under:

9 (a) an existing agreement which was extended between
10 January 1, 1985, and June 30, 1987, for at least a 5-year
11 period; or

12 (b) a new agreement that was executed between January
13 1, 1985, and June 30, 1987.

14 ~~(3)~~(4) No credit may be claimed for coal produced
15 prior to January 1, 1985, or produced after June 30, 1989."

16 Section 9. Section 15-35-203, MCA, is amended to read:

17 "15-35-203. Calculation and application of credit. (1)
18 The amount of new coal production incentive tax credit that
19 a coal mine operator may claim against the tax imposed in
20 15-35-103 is calculated by:

21 (a) determining the incremental production: Type A for
22 each of his qualified purchasers: Type A that was produced
23 during a calendar year;

24 (b) determining the arithmetic average severance tax
25 per ton calculated prior to application of the credit on

1 coal sold to each qualified purchaser: Type A during the
2 calendar year;

3 (c) multiplying the incremental production: Type A for
4 a calendar year for a purchaser by the average severance tax
5 per ton for that purchaser and multiplying the total by
6 ~~33-1/3%~~ the applicable amount as provided in 15-35-202; and

7 (d) totaling the amount so calculated for all
8 qualified purchasers: Type A.

9 (2) When filing the quarterly statement required in
10 15-35-104, a coal mine operator may claim against the coal
11 severance tax calculated for that quarter an amount equal to
12 25% of the new coal production incentive tax credit allowed
13 on incremental production: Type A that occurred during the
14 previous calendar year.

15 (3) If in any calendar year a purchaser exceeds his
16 base consumption level: Type A and he has purchased from
17 more than one Montana coal mine operator during the year,
18 the credit on the incremental production: Type A must be
19 divided among the operators on a pro rata basis. To
20 determine each coal mine operator's pro rata share of the
21 tax credit, each operator shall divide his incremental
22 production: Type A by the sum of all coal mine operators'
23 incremental production: Type A for that purchaser and
24 multiply the quotient by the purchases in excess of the base
25 consumption level: Type A for that purchaser.

1 (4) Neither a coal mine operator nor a purchaser is
 2 entitled to a direct payment for the credit allowed in
 3 15-35-202. A credit terminates if not taken during the year
 4 following the year in which the incremental production: Type
 5 A or Type B occurred.

6 (5) A tax credit on Type B incremental tonnage will be
 7 equal to the tax computed at the rate applied to
 8 nonincremental tonnage less the tax computed at the 13%
 9 incremental rate.

10 (6) Type B credit under 15-35-103(3) shall be claimed
 11 by the coal mine operator for each applicable fiscal year in
 12 the first quarter following the end of the fiscal year.

13 ~~(5)~~(7) Each coal mine operator must reduce the
 14 delivered price of coal sold to each qualified purchaser by
 15 an amount equal to the credit received on incremental
 16 production: Type A ^{and Type B} sold to that purchaser."

17 Section 10. Section 15-35-204, MCA, is amended to
 18 read:

19 "15-35-204. Reporting requirements for credit -- duty
 20 of department. (1) Every Montana coal mine operator must
 21 provide to the department:

22 (a) on or before April 30, 1985, a list showing the
 23 amount of coal produced and sold in calendar years 1983 and
 24 1984 to every purchaser, including purchasers who obtained
 25 coal from the coal mine operator through a broker; and

1 (b) with the quarterly statement required by
2 15-35-104, a list of the number of tons produced and sold to
3 every purchaser during the quarter and the severance tax
4 calculated prior to the application of the credit on these
5 tons.

6 (2) To be eligible for the tax credit provided for in
7 15-35-202, a coal mine operator must furnish to the
8 department:

9 (a) on or before April 30, 1985, copies of all
10 existing coal sales agreements;

11 (b) with the quarterly statement required by
12 15-35-104, a copy of any new coal sales agreements or
13 extensions of existing agreements executed during the
14 quarter;

15 (c) on or before January 31 of each year:

16 (i) a list of incremental production: Type A for all
17 qualified purchasers during the previous calendar year;

18 (ii) a written statement from each qualified purchaser:
19 Type A verifying the volume of coal purchased in that year
20 from all Montana coal mine operators; and

21 (iii) the necessary information on incremental
22 production: Type A purchased through a broker to verify that
23 such incremental production: Type A did not cause a
24 reduction in the base consumption level: Type A of any other
25 purchaser of Montana coal; and

1 (d) any other data, reports, evidence, or production
2 data that may be necessary for the department to determine
3 whether a purchaser is a qualified purchaser: Type A and the
4 base consumption level: Type A for each purchaser.

5 (3) By July 1, 1985, the department shall prepare and
6 publish for informational purposes only an unaudited
7 compilation of the base production level: Type A for each
8 coal mine operator and a compilation of the base consumption
9 level: Type A for each purchaser.

10 (4) Any coal mine operator or purchaser may, for the
11 purpose of determining the eligibility of coal production
12 for the new production incentive tax credit, file with the
13 department a petition for a declaratory ruling as provided
14 in 2-4-501. The department shall issue a ruling on the
15 petition within 90 days of the date the petition was filed
16 with the department."

17 NEW SECTION. Section 11. Policy and purpose. (1)
18 During the regular session of the 49th legislature, the New
19 Coal Production Incentive Tax Credit Act of 1985 was passed
20 and approved. The act contained language entitling coal mine
21 operators to a credit of 33 1/3% of the tax imposed under
22 15-35-103 on certain incremental production of coal. The
23 credit was applicable to severance taxes imposed on the
24 incremental production for "the entire term of the
25 agreement". At the time the act was adopted, a severance tax

1 of 30% of the contract sales price was the rate from which
2 the 33 1/3% credit was to be taken. The effect of the act
3 was to provide a 20% severance tax rate for the incremental
4 production for the life of any agreement resulting in
5 incremental production.

6 (2) With the adoption and approval of House Bill No.
7 456, ch. ___, L. 1987, it is the policy of the legislature
8 to reduce the severance tax rate applicable to Montana
9 surfaced mined coal, first on a temporary basis and
10 eventually, on a permanent basis. The obligation extended by
11 the 49th legislature continues to be met with the adoption
12 of House Bill No. 456, ch. ___, L. 1987, because the
13 severance tax rate applicable to incremental production
14 resulting from the act continues to be imposed at or below
15 the 20% rate guaranteed by the act.

16 (3) In addition to the policy described in subsection
17 (2), it is the intent of House Bill No. 456, ch. ___, L.
18 1987, to eventually reduce the severance tax rate on all
19 surface mined coal in Montana to a level not exceeding 15%
20 of the value of the coal. The purpose of the reduction in
21 the severance tax rate is to promote additional production
22 into the 1990s and beyond.

23 NEW SECTION. Section 12. Coal tax oversight
24 subcommittee to conduct feasibility study. (1) The coal tax
25 oversight subcommittee created in 5-18-201 shall, during the

1 1987-88 interim, conduct a feasibility study of the merits
2 of establishing a Montana coal development institute.

3 (2)The scope of the study should focus on the
4 advisability of:

5 (a) establishing the institute for the purpose of
6 selecting and funding specific projects that show promise
7 for increasing the marketability of Montana coal through
8 innovative research and development;

9 (b) establishing a board of directors for the
10 institute. The majority of the board may be comprised of
11 members from the coal industry and the remaining members
12 from other private or public enterprises.

13 (c) identifying potential sources of funding for the
14 institute. Such sources may include but should not be
15 limited to a nominal fee or surcharge, not to exceed 5 cents
16 per ton, on coal purchased in Montana.

17 (d) using existing research and development facilities
18 for conducting the institute's activities;

19 (e) requiring that any project submitted to the
20 institute for possible selection and funding have prior
21 funding or the potential for funding from other public or
22 private sources; and

23 (f) giving priority attention to cooperative
24 agreements between the institute and federal, state, or
25 private entities.

J3-87
456

1 (3) The subcommittee shall submit its findings,
2 conclusions, and recommendations to the 51st legislature no
3 later than the fifth legislative day.

4 NEW SECTION. Section 13. Extension of authority. Any
5 existing authority of the department of revenue to make
6 rules on the subject of the provisions of this act is
7 extended to the provisions of this act.

8 NEW SECTION. Section 14. Codification instruction.
9 (1) Sections 6 and 7 are intended to be codified as an
10 integral part of Title 15, chapter 35, part 1, and the
11 provisions of Title 15, chapter 35, apply to sections 6 and
12 7.

13 (2) Section 11 is intended to be codified as an
14 integral part of Title 15, chapter 35, part 2, and the
15 provisions of Title 15, chapter 35, apply to section 11.

16 NEW SECTION. Section 15. Effective date. This act is
17 effective on passage and approval.

-End-

SECTION BY SECTION EXPLANATION OF HOUSE BILL 456

Black Copy - Amend Title Regarding
"Window Credit"

#6
2-13-87
456

- Section 1. Simply strikes reference to agreement as dictating contract sales price.
- Section 2. Adopts the legislative findings in House Bill 252 and House Bill 274.
- Section 3. Definitions: Two new terms are added to distinguish new "incremental" tonnage contained in the Governor's window of opportunity legislation in Type "A" and new incremental tonnage proposed in Representative Asay's bill and referred to as Type "B".
- In Section 3, the terms "base consumption level" and "base production level" are defined for Type A (Governor) and Type B (Asay).
- For the new incremental tonnage (Type B) from 1985 to 1987 the definition of base consumption level and base production level have been changed as proposed in House Bill 252 and House Bill 274. Instead of "greater" than language contained in existing Type A language, we are using the "lesser" of 1986 production language. This is the key element in the Asay Prodigal Ton proposal in House Bill 274.
- (2) The bill contains two definitions of "incremental production" which are referred to as Type "A" (Governor) and Type "B" (Asay).
- (3) Qualified purchaser is defined twice in terms of Type A and Type B.

the tonnage purchased from all Montana producers.

In the first quarter following the fiscal year, the producer, on behalf of the purchaser, is eligible for a credit or rebate from the 15% rate he has paid the previous fiscal year.

- 14.5% for tonnage purchases of 3-6 million tons.
- 14% for tonnage purchases of 6-8 million tons per year.
- 13.5% for tonnage 8-10 million tons per year.
- 13% for tonnage purchases in excess of 10 million tons per year.

(b) The permanent tax rate for all surface-mined lignite coal is 10% of all tonnage produced and purchased after July 1, 1989.

(c) Provision is made for small purchasers (up to 500,000 tons per year) at a 14% rate.

(6) The rates for underground mining remain the same, as existing law.

(7) Small producer exemption remains the same.

Section 5. Quarterly Payment

(1) Adds two paragraphs requiring information for Type A (Governor) incremental and Type B (Asay) incremental tonnage.

Section 6. This section implements the purchaser's incentive credit by use of a formula allowing credit at the end of the fiscal year.

The formula for the credit or rebate is as follows:

- Compute the tax the same way as before - Tons X Price X Rate. For rate, use 15%.
- Compute tax same way under schedule. For example, use 14%.

Sections 8, 9 and 10.

Merely brings the Governor's Window of Opportunity and sliding scale in conformity with the rest of the bill.

Section 11. This is the Policy and Purpose section.

Section 12. Coal Feasibility Study.

Budget projections as of 1/23/87 contained in fiscal note for HB-252 state that coal severance tax collections under current law will be \$78,663,000 in FY 1988, and \$81,856,000 in FY 1989. If these projections are lowered there will be a corresponding drop in fiscal impacts for the three bills.

	<u>HB-456</u>	<u>HB-252</u>	<u>HB-274</u>
FY 1988	\$77.9	\$77.9	\$77.4
FY 1989	\$72.2*	\$67.3	\$62.5**

*assumes additional tonnage purchased of 3 million tons

**does not include sponsor's amendments as of 2/11/87

HB-456 COMPROMISE

HB-252

HB-274

*Continues Governor's "window of opportunity" credit for purchases made 1/85 to 6/87; allows continuation of one-third tax credit 7/87 to 6/88 (20%) and 7/88 to 6/89 (15.4%)(Type-A coal)

*Adds Asay incremental tonnage formula for 2 year period - 7/1/87 to 6/30/89; lowers threshold base consumption level and provides credit

*23% rate for all non-incremental production for one year period - 7/1/88 to 6/30/89

*Effective 7/1/89 eliminates all incremental coal tonnage Type-A and Type-B; reduces rate to a maximum rate of 15%; implements sliding scale reductions based on increased tonnage purchased above 3 million tons. Credit is allowed

*Continues Governor's "window of opportunity" credit for purchases but reduces rate and revises formula for new and old coal to 15% instead of 20%

*Reduces tax on non-incremental tonnage according to following timetable:
25% - 7/1/88

*20% - 7/1/89
15% - 7/1/91

*Changes formula on old and new coal in same manner as HB-252

*Rate for incremental "Prodigal tonnage" with base consumption level to 10% beginning July 1, 1987 and continuing in perpetuity

*Qualified new purchases with no base consumption level will pay according to this schedule for the same incremental coal:
1/1/87 to 1/1/89 - 20%
1/1/89 to 1/1/90 - 17%
1/1/90 and beyond - 10%

*Non-incremental schedule:
25% - 7/1/88
20% - 7/1/89
15% - 7/1/90
10% - 7/1/91 and beyond

2-13-87 274
2-13-87 252
456

HB-456 COMPROMISE

HB-252

HB-274

based on purchaser's total
Montana purchases:
3-6 million tons - 14½%
6-8 million tons - 14 %
8-10 million tons - 13½%
10 million tons
and above - 13 %

*Small producer (0 to 500,000
tons) entitled to 14% rate as
of 1/1/89

*Producer pays tax; credits
to producer with language
directing return to purchaser

*Producer pays tax; credits
to producer for incremental
production

*Producer pays tax; credits
to producer for incremen-
tal production

*Permanent rate: 15% down to
13% based on total purchases

*Permanent rate: 15%

*Permanent rate for
incremental and non-
incremental coal: 10%

*Study directed at promoting
industry controlled coal
research and development effort
to promote Montana coal use

2-13-87
444

STATEMENT OF JOHN D LAFAYER
House Taxation Committee
February 12, 1987

Mr. Chairman, I am John LaFaver, State Director of Revenue. I am appearing here this morning on behalf of of the Administration to oppose HB444.

There are a few points that need to be understood in dealing with the so-called "windfall" from federal tax reform.

First, we must look at the impact of changes in federal law over the past six years to see if, in fact, a windfall has occurred. Many of you remember 1981 when federal law changes served to lower state tax revenues. As a result of that federal action, Montana state revenues will have fallen over \$80 million by 1989.

The new federal tax reform will serve to pay back some of that loss. We estimate that state revenues will increase \$35 to \$50 million annually. These moneys are not "windfall". They are "restoration" of a tax base eroded by past federal action.

Second, while proposals to cut taxes may make good headlines, they are scarcely responsible in view of the very difficult financial situation we face.

Finally, it must be understood that most Montanans will pay lower total taxes as a result of federal tax reform. Some of our tax dollars that previously went to Washington will stay here in Montana to help balance our budget and pay for some of the mandates the federal government has placed on us.

So Montanans will pay less total income taxes while more of our tax dollars will stay here.

For these reasons, we advocate that this restoration of the state tax base be utilized in maintaining needed services while assuring lower tax burdens for Montanans.

County of Yellowstone



TREASURER

P.O. Box 35010
Billings, Mt. 59107

January 27, 1987

Representative Jack Ramirez
Helena, Mt. 59601

Re: HB 47

Dear Jack,

I have reviewed HB 47 drafted at the request of the Department of Revenue. Please note we have plenty of laws and penaltys on the books now to collect taxes, all the treasurers need to do is enforce them. New laws don't collect taxes, neither will these amendments tacked onto existing statutes.

Even tho some county treasurers find this bill beneficial to their countys, I am against this amendment. Read the following statutes:

Number one it is in direct conflict with 15-1-101 which reads:

- (g) The term "improvements" includes all buildings, structures, 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.

Jack this provision guarantees the tax against the mobile home will be paid with the real property. Moving the mobile home off land leaves the lien on the land where the tax should be, not against the lienholder who repo's it.

RICHARD J. LLEWELLYN

ATTORNEY AT LAW
Power Block, Level 4
P.O. BOX 737
HELENA, MONTANA 596 24
(406) 449-6524

DATE 2-13-87
47

February 4, 1987

Honorable Jack Ramirez
Montana House of Representatives
State Capitol Station
Helena, MT 59620

Re: HB 47

Dear Representative Ramirez:

As you recall, I represent the Montana Manufactured Housing Association. The Association's membership consists of manufacturers and sellers of manufactured housing, along with various primary and secondary lenders (banks, acceptance corporations, etc.).

Presently pending before your House Taxation Committee is HB 47, entitled "An Act Increasing the Penalties For Moving A Mobile Home With Unpaid Property Taxes," etc. The MMHA and its members have a problem with HB 47 as it is presently written.

Most mobile homes are sold subject to financing, with the dealer's or lender's security interest being filed of record. Under present law (Section 15-16-113, MCA), the county treasurer is supposed to annually collect the taxes due on all personal property, including mobile homes. If the taxes aren't timely paid, such property is to be seized and sold, after first notifying all lienholders and secured parties.

If taxes were collected by all treasurers annually on mobile homes as required by Section 15-16-113, the Association's members would be happy. Those purchasers of mobile homes, who didn't pay their taxes, would have their units subjected to the tax sale process, and notice of sale would be sent to all lienholders and secured parties. If the secured party had acquired the commercial obligation from a dealer in the usual situation involving "recourse paper," the notice of sale would shortly reach the dealer (who is obligated to make good any loss resulting to the lender from the purchaser's default on the obligation). At that time, the lender or dealer could pay the

February 4, 1987

Page -2-

one year's delinquent taxes, rescue the unit from sale, and repossess the same.

Unfortunately, not all treasurers collect mobile home taxes annually. Instead, some treasurers increasingly rely on the provisions of law as set forth in Sections 15-24-201, et seq., MCA, rather than making any annual attempt to collect the taxes. Such treasurers take the position that they will simply wait until application is made for a mobile home movement permit, and then collect the taxes from the applicant. As a result, they knowingly allow personal property tax arrearages to accrue, and they then collect the taxes from someone other than the taxpayer.

Given the generally miserable economic conditions now prevailing in much of Montana, the applicant for a movement permit is very often a secured party who has repossessed the mobile home from a buyer who has defaulted on the purchase payments. When the secured party makes application for a movement permit, he or it is often advised that no permit will be issued until several years worth of back taxes (which the treasurer hasn't made any attempt to collect under Section 15-16-113) are paid. We have reviewed situations involving as much as six years worth of tax arrearage, involving thousands of dollars which a secured party, rather than the taxpayer who owed the taxes, was forced to pay. The lender or dealer, who in many cases is going to take a substantial loss anyway, then faces an even greater loss.

In better times, this might not be a big deal, and the economic burden of a treasurer's failure to do what the law requires (annually collect all unpaid personal property taxes) might be easier for the Association's members to accept. Such is not the case in this economy; sales of manufactured housing are down well over 50% in the last two years and a number of dealers have either gone out of business or are contemplating closure. Local jobs are then lost and the tax base is further eroded.

The Association has therefore proposed an amendment to HB 47, which I enclose. As you can see, what the Association hopes for is not a free ride; instead, it merely wants to see the treasurers do their jobs and collect personal property taxes from the taxpayers who owe them and not from those parties who are already incurring significant losses. Under our proposed amendment to HB 47, a secured party who repossesses a mobile home would pay one year's worth of delinquent taxes, and the treasurer could still collect the remainder from the delinquent taxpayer by one of the other methods provided by law (by suit or by seizing and selling other property of the taxpayer).

February 4, 1987
Page -3-

The Association appreciates any consideration you might give our proposal.

Sincerely,



Richard J. Llewellyn

RJL/sb

Enc:

cc: MMHA

PROPOSED AMENDMENT TO HB 47 (at top of page 3, line 1 , of the introduced bill).

(5) PAYMENT OF ALL DELINQUENT TAXES DUE ON A MOBILE HOME SHALL BE THE CONTINUING RESPONSIBILITY OF THE PERSON ASSESSED. HOWEVER, IF A MOBILE HOME IS REPOSSESSED OR FORECLOSED UPON BY A SECURED PARTY WHO HAD A PROPERLY PERFECTED AND FILED SECURITY INTEREST DURING THE YEARS FOR WHICH THE TAXES ARE DELINQUENT, THE SECURED PARTY SHALL ONLY BE LIABLE FOR PAYMENT OF ONE YEAR'S DELINQUENT TAXES. UPON SUCH PAYMENT, A MOVEMENT DECLARATION OF DESTINATION SHALL BE ISSUED TO THE SECURED PARTY.

~~(5)~~ (6) (present paragraph 5 of HB 47 is renumbered and continues as in present bill)



Montana
Manufactured
Housing
Association

413 Terry Avenue
Billings, MT 59101
Phone 406/250-9977

2-13-87
47
ACTION NEEDED NOW

JANUARY 16, 1987

To all dealers and financial members,

Enclosed is a letter to the legislature that explains our problems with back taxes and an amendment to the legislative bill we hope they will pass. Our attorney, Richard Llewellyn, will be working with them on it but it would really help if you would make copies and send it to any legislators that you know under your own signature.

I will have our attorney send it to all the members of the taxation committees, but it would still be good to enlist the help of personal friends. You can send them simply addressed to the, State of Montana Capitol Building, Helena, Mt. 59601.

DESIRED AMENDMENT TO HOUSE BILL #47

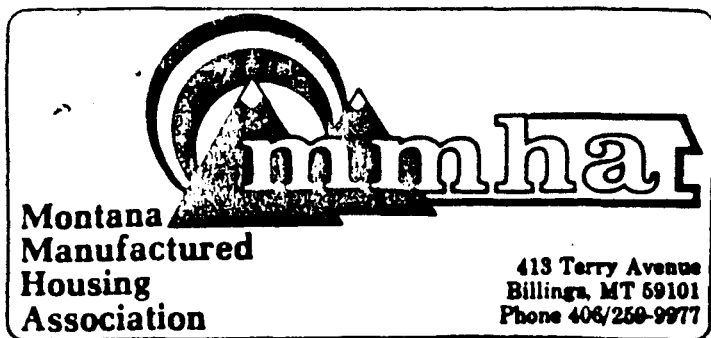
In order to protect secured parties from having to pay more than one years back taxes on homes that are repossessed or foreclosed on we need to have the following language added to House Bill# 47. Would you please contact your legislator immediately and ask him to support the amendment.

At the end of Section 1 paragraph (4) add a section (5) as follows:

(5) All delinquent taxes due on a mobile home shall continue to be the responsibility of the party assessed. In the case of a mobile home that has been repossessed or foreclosed upon by the secured party of record the secured party shall not be liable for more than the current years tax. A moving declaration shall be issued upon receipt of the tax due. I realize that during this time of very tight money some legislators will be opposed, but remind them that if our businesses fail because of unfair laws they will not have our taxes to pay for government. The delinquent taxes are not our responsibility. If the elected officials do their duty, under Section 15-16-113, the taxes would never become more than thirty days in arrears before the responsible party would have to pay or lose the property.

The only way we can effect legislation and get their attention is to communicate our deep concerns. If you don't all take it upon yourselves to help we won't get this passed.

Please don't lay this aside until tomorrow. Act today !!!!



MONTANA LEGISLATORS

PLEASE CONSIDER

THIS AMENDMENT

DESIRED AMENDMENT TO HOUSE BILL #47

In order to protect secured parties from having to pay more than one years back taxes on homes that are repossessed or foreclosed on we need to have the following language added to House Bill# 47. Would you please consider this before taking final action on this bill.

At the end of Section 1 paragraph (4) add a section (5) as follows:

(5) All delinquent taxes due on a mobile home shall continue to be the responsibility of the party assessed. In the case of a mobile home that has been repossessed or foreclosed upon by the secured party of record the secured party shall not be libel for more than the current years tax. A moving declaration shall be issued upon receipt of the tax due.

I realize that during this time of very tight money some legislators will be opposed, but I remind you that if our businesses fail, because of unfair laws, you will not have our taxes to pay for government. The delinquent taxes are not our responsibility. If the elected officials do their duty, under Section 15-16 113, the taxes would never become more than thirty days in arrears before the responsible party would have to pay or loose the property.

If all the taxes, that are due, were collected there would not be anywhere near the shortfall of revenue that the state now has. Please give this amendment your serious consideration.

Sincerely,

1 HHS BILL NO. 47
2 INTRODUCED BY HARRINGTON

3 BY REQUEST OF THE DEPARTMENT OF REVENUE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT INCREASING THE
6 PENALTIES FOR MOVING A MOBILE HOME WITH UNPAID PROPERTY
7 TAXES; ALLOWING DISTRIBUTION OF DELINQUENT TAXES, SPECIAL
8 ASSESSMENTS, PENALTIES, AND INTEREST TO LOCAL GOVERNMENTS;
9 AND AMENDING SECTIONS 15-24-202 AND 15-24-204, MCA; AND
10 PROVIDING EFFECTIVE DATES."

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

12 Section 1. Section 15-24-202, MCA, is amended to read:
13 "15-24-202. Payment of tax -- interest and penalty --
14 display of tax-paid sticker. (1) The owner of a mobile home
15 or house trailer which is not taxed as an improvement, as
16 improvements are defined in 15-1-101, shall pay the personal
17 property tax in two payments, except as provided in
18 15-24-206. The first payment is due within 30 days from the
19 date of the notice of taxes due. The second payment is due
20 no later than September 30 of the year in which the property
21 is assessed. Taxes assessed against a mobile home after the
22 second payment date must be prorated to reflect the
23 remaining portion of the tax year. The prorated taxes must
24 be added to the following year's tax roll and, except as
25

1 provided in 15-24-206, are due with and must be collected
2 with the first payment due in that year.

3 (2) Tax, other than the prorated tax described in
4 subsection (1), due on a mobile home or house trailer not
5 taxed as an improvement that is not paid on or before
6 September 30 of the year that the property is assessed is
7 delinquent and is subject to the same interest and penalty
8 as delinquent property taxes under 15-16-102. Interest
9 begins to accrue as of September 30 of the year the property
10 is assessed.

11 (3) The department of revenue shall issue tax-paid
12 stickers to the county treasurers. The treasurers shall
13 issue the stickers to the owners of mobile homes and
14 house trailers if the taxes and any interest and penalty owed
15 are paid in full. An owner shall then display the sticker,
16 which must be visible from the exterior of the mobile home
17 or house trailer. No mobile home movement permitted long
18 of destination provided for in 15-24-206 may be issued
19 unless the taxes have been paid in full to the county
20 treasurer.

21 (4) The tax-paid sticker and receipt are not required
22 for mobile homes which are classified as improvements to
23 land, but payment of the assessed property taxes and display
24 of a mobile home movement declaration of destination are
25 required before moving the mobile home.

1516-503

1 (5) On the movement of a mobile home or house trailer,
 2 in violation of this part, the county treasurer for the
 3 county where the mobile home or house trailer first comes to,
 4 rest shall issue a written notice to the owner, showing the
 5 amount of delinquent taxes, special assessments, penalties,
 6 and interest due. In addition to the penalties provided in
 7 15-16-102, 20% must be added to the delinquent taxes as
 8 penalty for violation of this part. On receipt of the
 9 delinquent taxes, special assessments, penalties, and
 10 interest, the county treasurer shall forward all delinquent
 11 taxes, special assessments, penalties, and interest
 12 collected under 15-16-102 to the county treasurer for the
 13 county of origin. The county of destination shall retain the
 14 20% penalty."

15 Section 2. Section 15-24-204, MCA, is amended to read:
 16 "15-24-204. Failure to display or produce declaration,
 17 sticker, or receipt -- penalty. (1) Whoever makes a false or
 18 fraudulent declaration of destination or, when required,
 19 fails to execute a declaration of destination or fails to
 20 display or produce a declaration of destination or tax-paid
 21 receipt, if a tax-paid receipt is required, is guilty of a
 22 misdemeanor and upon conviction is punishable by
 23 imprisonment in a county jail for not more than 6 months or
 24 by a fine of not more than \$500, or both.

25 (2) Whoever fails to display a property-tax-paid

1 sticker or to produce a property-tax-paid receipt from 15
 2 days after the due date for personal property taxes of 1
 3 year to the due date for personal property taxes of the next
 4 year, when the display of a tax-paid receipt is required,
 5 commits a misdemeanor punishable by a fine of not less than
 6 \$10 or more than \$50 or confinement in the county jail for
 7 not more than 30 days or both such fine and imprisonment.
 8 The sticker and receipt are not required for mobile homes
 9 which are classified as improvements to land."

10 NEW SECTION. Section 3. Extension of authority. Any
 11 existing authority of the department of revenue to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 4. Authority to proceed with
 15 rulemaking. The department of revenue may initiate
 16 rulemaking proceedings under section 3 on or after passage
 17 and approval of this act, but no rules under section 3 may
 18 be made effective prior to the effective date of sections 1
 19 and 2.

20 NEW SECTION. Section 5. Effective dates. (1) Sections
 21 3 through 5 are effective on passage and approval.

22 (2) The remaining sections are effective July 1, 1987.

-End-

TELEPHONE (406) 252-7303

Terry L. Seiffert
Attorney at Law
SUITE 202
3302 4TH AVENUE NORTH
P. O. BOX 31181
BILLINGS, MONTANA 59107

November 22, 1985

George Swords
413 Terry Avenue
Billings, MT 59101

Dear George:

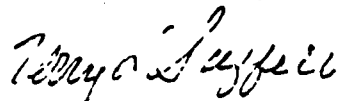
Pursuant to our discussion of last week you had a question as to the potential liability of a mobile home broker for a secured party of the mobile home if a tenant should default on the payment of rent and leave the mobile. In the Montana Residential Landlord Tenant Act it would appear that any provisions therein would not be applicable to the secured party unless it can be established that the secured party or seller subsequently became a tenant. Thus, I know in one situation where the tenant vacated and the secured party took over possession of the mobile home and made a payment on the rent, thus becoming a tenant and would fall within the provisions of the landlord tenant act pertaining to the evictions, etc..

However, under most situations if the tenant vacates and the secured party does not come in and take over on the lease, it would be very doubtful whether the act would apply, since the secured party would not in fact be a party to the agreement.

However, it would appear that the mobile home lot owner could place an agister's lien on the mobile home under the provisions of 71-3-1201 M.C.A. subsection (2) as that section reflects if a person is lawfully in possession of personal property and renders service - ie - protection for the property or safekeeping, that person has a special lien thereon dependent on possession for the compensation due him from the owner or lawful claimant for such service and for material if any furnished in connection therewith. Thus, it would appear that the mobile home lot owner could assert an agister's lien for the storage of the mobile home thus requiring the secured party to pay on that storage in order to obtain the return of the mobile.

I hope this answers your questions in this matter.

Very truly yours,



Terry L. Seiffert
Attorney at Law

TLS:sh

1516-503

1 (5) On the movement of a mobile home or house trailer,
 2 in violation of this part, the county treasurer for the
 3 county where the mobile home or house trailer first comes to,
 4 rest shall issue a written notice to the owner, showing the
 5 amount of delinquent taxes, special assessments, penalties,
 6 and interest due. In addition to the penalties provided in
 7 15-16-102, 20% must be added to the delinquent taxes as
 8 penalty for violation of this part. On receipt of the
 9 delinquent taxes, special assessments, penalties, and
 10 interest, the county treasurer shall forward all delinquent
 11 taxes, special assessments, penalties, and interest
 12 collected under 15-16-102 to the county treasurer for the
 13 county of origin. The county of destination shall retain the
 14 20% penalty."

15 Section 2. Section 15-24-204, MCA, is amended to read:

16 "15-24-204. Failure to display or produce declaration,
 17 sticker, or receipt -- penalty. (1) Whoever makes a false or
 18 fraudulent declaration of destination or, when required,
 19 fails to execute a declaration of destination or fails to
 20 display or produce a declaration of destination or tax-paid
 21 receipt, if a tax-paid receipt is required, is guilty of a
 22 misdemeanor and upon conviction is punishable by
 23 imprisonment in a county jail for not more than 6 months or
 24 by a fine of not more than \$500, or both.

25 (2) Whoever fails to display a property-tax-paid

1 sticker or to produce a property-tax-paid receipt from 15
 2 days after the due date for personal property taxes of 1
 3 year to the due date for personal property taxes of the next
 4 year, when the display of a tax-paid receipt is required,
 5 commits a misdemeanor punishable by a fine of not less than
 6 \$10 or more than \$50 or confinement in the county jail for
 7 not more than 30 days or both such fine and imprisonment.
 8 ~~The sticker and receipt are not required for mobile homes~~
 9 ~~which are classified as improvements to land."~~

10 NEW SECTION. Section 3. Extension of authority. Any
 11 existing authority of the department of revenue to make
 12 rules on the subject of the provisions of this act is
 13 extended to the provisions of this act.

14 NEW SECTION. Section 4. Authority to proceed with
 15 rulemaking. The department of revenue may initiate
 16 rulemaking proceedings under section 3 on or after passage
 17 and approval of this act, but no rules under section 3 may
 18 be made effective prior to the effective date of sections 1
 19 and 2.

20 NEW SECTION. Section 5. Effective dates. (1) Sections
 21 3 through 5 are effective on passage and approval.

22 (2) The remaining sections are effective July 1, 1987.

-End-

COMMITTEE

DATE Feb 13, 1987

OPPOSE

X

CS-33

