

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

March 13, 1987

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

ROLL CALL: All members of the Committee were present. Also present was Greg Petesch, Director of Legal Services, Legislative Council.

CONSIDERATION OF SENATE BILL NO. 74: Sen. Joe Mazurek, Senate District #23, sponsor of SB 74, said the bill would exempt from taxation up to \$3,600 in public retirement benefits paid by another state and increase the exemption for private and corporate retirement benefits from \$360 to \$3,600. Sen. Mazurek explained that the current law definition of adjusted gross income doesn't include pensions from public employees, although private pensions received a \$360 exemption in 1983.

Sen. Mazurek stated the information on the fiscal note shows 17,328 persons who claimed the \$360 deduction, and who are receiving unfair treatment under current law. He said DOR receives more complaints about this issue than any other, and advised that the bill would have a \$2 million annual fiscal impact. Sen. Mazurek told the Committee SB 74 passed the Senate 47-3.

PROPOSERS OF SENATE BILL NO. 74: Mary Craig, Helena CPA, provided Exhibits #1 and #2, in support of the bill.

Lyle Zinger, formerly with Northwestern National Life Insurance, read from a prepared statement on "equity in taxation".

Norris Mavrey, a retiree from Illinois, told the Committee Illinois exempts all retirees on bona-fide retirement plans. He explained the elderly are like full time tourists, because they don't take jobs, but contribute to the economy. He advised that Montana should be trying to attract retirees.

Alma M. Taylor, Mountain Bell retiree, told the Committee she is paying just as much for food and shelter as federal retirees who get a \$3,600 deduction. (Exhibit #3)

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Jay Patrich, a retired Helena banker, said he hoped the Committee would take this opportunity to pass SB 74 this date.

Joe Upshaw, American Association of Retired Persons, and representative of retired federal and military employees, read from a prepared statement in support of the bill (Exhibit #4). He said new federal tax reform will remove many former tax benefits to retirees and, in the interest of equity and fairness, he asked the Committee to pass the bill out.

Bob Lee, Helena worker, asked for equal treatment of the private sector.

Boyd E. Lamm, said the present situation is discriminatory, and could result in a class action suit retroactive to 1981. He commented that \$100 has decreased to \$62 in value since that time.

OPPONENTS OF SENATE BILL NO. 74: There were no opponents of the bill.

QUESTIONS ON SENATE BILL NO. 74: Rep. Ream asked if there would not be a future problem with inequity, even if the bill were to pass, because of the differences in retirement plans. Sen. Mazurek replied he had no problem with this occurring. Mary Craig commented that it could happen.

Rep. Harp said the change in adjusted gross income as a result of the 1986 federal tax law changes make it necessary to change the language on page 1, lines 13-17, pertaining to the Code. Greg Petesch advised that another senate bill addresses this situation.

Rep. Williams asked what the average retirement income is for public employees. Sen. Mazurek replied it is about \$428 per month, and said no cost-of-living increases are built into state retirement. He explained the \$3,600 deduction was allowed because federal employees do not receive social security.

Rep. Ellison asked if independent businessmen who live off interest income are discriminated against. He explained he was referring to individuals who live off of stock or bond portfolios. There was no response.

Rep. Sands asked if the Governor's bill would supersede SB 74, if it were to pass. Sen. Mazurek replied he supposed it would.

Rep. Harrington responded to Bob Lee's comment and suggested that adjustments could be made in the future, if a problem were found.

Rep. Williams asked Sen. Mazurek if he were willing to amend the bill to allow only one \$3,600 deduction per taxpayer. There was no response.

Rep. Sands asked if anyone had figures comparing private pensions to federal pensions. There was no response.

CLOSING ON SENATE BILL NO. 74: Sen. Mazurek stated he had information on what other states are doing with regard to this issue, and that he had no objection to a \$3,600 limit (Exhibit #4).

CONSIDERATION OF HOUSE BILL NO. 858: Rep. Ben Cohen, House District #3, sponsor of HB 858, provided copies of an unsigned fiscal note, and said he had no problem with the note. He said the bill would allow land that was included in the national tree farm program prior to October 1, 1987, to be classified as timberland for property tax purposes.

Rep. Cohen said a group of people with small tracts of timberland under 15 acres were reappraised as residential lots, although they managed their property as timberland, and experienced up to 1600% increases in their tax rates. He explained the bill would grandfather in people involved with the tree farm system, and recommended that the effective date be changed to March 1, 1987, to prevent abuse of the tax break.

PROPOSERS OF HOUSE BILL NO. 858: Howard McDowell, volunteer staffer, Tree Farm Program, read from a prepared statement in support of the bill (Exhibit #1).

Fred Skoog, Lakeside, said the Department of State Lands has indicated there is a problem in managing the program. He explained that Montana has 417 affected timberland plots, and read from a prepared statement in support of the bill (Exhibit #2).

Don Allen, Montana Wood Products Association, stated his support of the bill.

OPPOSERS OF HOUSE BILL NO. 858: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 858: Rep. Ream asked how such land is taxed. Greg Groepper, DOR, replied it is taxed at 80 percent of the class 4 tax rate, and said the Committee needs to tell DOR how it should be done.

Rep. Williams asked if there were no limit to the minimum number of acres to operate an effective program. Mr. McDowell replied that, generally speaking, 10 acres is the minimum.

CLOSING ON HOUSE BILL NO. 858: Rep. Cohen advised the Committee that a true "green belt" is when forest lands are retained close to cities and towns.

DISPOSITION OF HOUSE BILL NO. 859: Rep. John Mercer, House District #50, sponsor of HB 859, requested that the bill be tabled without being heard.

Rep. Ellison made a motion that HB 859 be TABLED. The motion CARRIED unanimously.

CONSIDERATION OF SENATE BILL NO. 116: Sen. Bill Farrell, Senate District #31, sponsor of SB 116, said the bill would strengthen enforcement of special fuels collection laws, and provided copies of articles on gas tax collection problems (Exhibit #3). He stated the bill requires that each licensed distributor who sells gas to unlicensed distributors from out-of-state, to obtain a receipt at the destination, showing the amount of fuel delivered. Sen. Farrell explained a tax credit would be applied according to the information stated on the receipt. He said right now, there is no way of knowing how much of that fuel stays in Montana and is not taxed. Sen. Farrell also provided copies of reports on this issue.

PROPOSERS OF SENATE BILL NO. 116: There were no proponents of the bill.

OPPOSERS OF SENATE BILL NO. 116: Bill Gray, Sinclair Oil Company Excise Tax Manager, told the Committee he spent six years in fuels tax in Utah. He stated he opposed the bill as written, as he believes it would not achieve the purpose intended. Mr. Gray stated that if a trucker is an agent of a customer and is participating in dishonesty, the trucker is a party thereto.

Mr. Gray advised that Sinclair has developed an extensive accounting system, nationwide, to track fuel, but it can still be abused. He said DOR does a meticulous job in checking reports, and added that Tennessee and Utah require verification after-the-fact (Exhibit #8, page 3). Mr. Gray stated that, in attempts to communicate with the oil industry, none have said they are aware of serious problems, but he believes those companies should be involved in attempts to correct the situation.

TECHNICAL COMMENTS ON SENATE BILL NO. 116: Ward Shanahan, Chevron Corporation, alluded to page 3, lines 4-6, and said

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the definition of an exporter needs to be changed to remove an ambiguity in the law. He stated page 7, line 11 contains an identification problem, and that the bill should be amended to include licensed persons who export or import.

QUESTIONS ON SENATE BILL NO. 116: There were no questions from the Committee on SB 116.

CLOSING ON SENATE BILL NO. 116: Sen. Farrell said he realized the bill would cause extra paperwork, versus the option of collecting the tax up front, but he was trying to work out the situation without adding a financial burden to the state.

CONSIDERATION OF HOUSE BILL NO. 774: Rep. Kelly Addy, House District #94, said the bill addresses the problem which arose in Billings with casino's or 24-hour gambling parlors. He said the problem, which may have already been addressed in Rep. Driscoll's bill, is that other businesses who do not have gambling are unable to use loss-leaders and/or cut-rate, bargain lunches.

PROPOSERS OF HOUSE BILL NO. 774: There were no proponents of HB 774.

OPPOSERS OF HOUSE BILL NO. 774: There were no opponents of HB 774.

QUESTIONS ON HOUSE BILL NO. 774: There were no questions on HB 774.

CLOSING ON HOUSE BILL NO. 774: Rep. Addy made no closing comments.

Chairman Ramirez advised that HB 774 would be studied by the Local Option Subcommittee.

CONSIDERATION OF HOUSE BILL NO. 857: Rep. Bob Raney, House District #82, said the bill would generally revise the taxation of coal, reducing the coal severance tax and imposing a tax on the net profits derived from mining coal. He provided copies of a guest editorial from the Miles City Star and a picto-graph of the anticipated flow chart (Exhibits # 9 and #10).

Rep. Raney explained the bill would establish a 10% coal severance tax to mitigate impact, and its purpose is to find that portion being taken from the profit of coal companies, in order to arrive at a 10 percent tax, plus a profit tax by 1989. He advised that coal companies would be able to adjust their tax, based upon their profits. Rep. Raney said the key to computation of net profit is contained in section

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March 13, 1987

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6, on page 11, and that sections 9 and 11 address liens and enforcement of payment, respectively. He stated section 10 is a new section and that section 12 contains the "guts" of the bill.

PROPONENTS OF HOUSE BILL NO. 857: George Ochenski, Montana Environmental Information Center, stated his support of the bill.

Rep. Kelly Addy, House District #94, said the bill would give companies the incentive to renegotiate contracts for Montana coal.

OPPONENTS OF HOUSE BILL NO. 857: James Mockler, Montana Coal Council, said the bill would create a 10 percent severance tax until contracts are satisfied, and that would be it. He explained the bill does include all that's included in the lease price of coal, but the problem is that there is nothing left for profit. Mr. Mockler said he questioned the constitutionality of the bill, as no other companies in Montana will be required to pay a tax based upon profit.

Ken Williams, Entech and Western Energy, told the Committee he opposed the bill as coal companies are taxed twice on profits now.

QUESTIONS ON HOUSE BILL NO. 857: There were no questions on HB 857.

CLOSING ON HOUSE BILL NO. 857: Rep. Raney advised the Committee that the Legislative Council drafted the bill, and that DOR drafted the extensive amendments. He said he only wanted the state's share of the profits, and that if there are no profits the state would only receive the impact tax.

Chairman Ramirez advised that the bill would go into the Coal Tax Subcommittee for study.

ADJOURNMENT: There being no further business before the Committee, the meeting was adjourned at 10:30 a.m.


Representative Jack Ramirez,
Chairman

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar 13

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		✓	

Ex #1
3-13
SB74

#1
3-13-87
74

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE

ON S.B. 74: to increase the exemption for private retirement benefits from \$360 to \$3600.

March 13, 1987

Mr. Chairman, members of the committee, my name is Mary Craig, CPA, from Helena and coordinator of E.T. the group formed to get this legislation passed.

You've heard the pleas of the retirees for fair and just treatment of their retirement income.

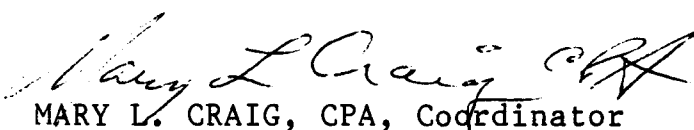
Private retirees from all spectrums of society - from incomes of \$2800 a year to \$28,000 a year - ask that they might receive the same consideration as their fellow MONTANANS.

There are 16 states where retirees are not taxed on their retirement income. In other states the amount excluded varies from our \$360 to up to \$20,000 in Colorado.

There are 17,000 people being discriminated against. This could be corrected by the passage of SB 74. Passing "74" now would be a positive move to show private pensioners that their voice is being heard.

Where would the money come from to make up the lost revenue? Teachers retirement is being supplemented by the lottery. Why not private retirees?

We therefore respectfully request you to vote "do pass" on this bill to increase private retirement exclusions from \$360 to \$3600!



MARY L. CRAIG, CPA, Coordinator
E.T. Equity in Taxation
PO Box 277, Helena, MT 59624
442-4666

E T

EXHIBIT #2
DATE 3-13-87
HB 74

EQUITY IN TAXATION

Q. What is "E.T.?"

A. E.T. stands for Equity in Taxation. Right now in Montana there is no equity in taxation for persons on a private retirement plan. Retirees from state government pay no Mont. tax on their PERS retirement. Federal retirees and others can exclude \$3600 of their retirement pension. However, persons on private plans can exclude only \$360!! That is not fair.

Q. How many people would be effected by this change?

A. During ¹⁹⁸⁴ 1983 there were ^{17,328} 15,270 persons who took advantage of the \$360 exclusion. Of course, with retirements occurring at an earlier age and more older people each year, this number is expected to grow.

Q. How can this tax law be made more equitable?

A. ET will ask the state legislature to change the law so that all private plan retirees will have the same exclusion as federal retirees - \$3600 per year.

Q. Has anyone tried to change this law before?

A. Yes. This has come up during several of the past sessions. In 1985, HB 231 was introduced and had a hearing but was tabled by the House Taxation Committee and got no farther. There was probably not enough publicity nor grass roots support to insure that it received favorable attention.

Q. How much would this change cost the state in lost revenue?

A. In ¹⁹⁸⁷ 1985 the Department of Revenue estimated that the loss to the state would be ^{1,956,000} \$1,351,608 per year. As the number of private retirees increases, that figure would also increase.

Q. How would the state make up the loss?

A. There are many ways the state can either cut costs or increase revenues without making drastic changes. This tax law change would be built into the revenue estimates just as other changes are. The point is that private retirees should never have been treated so poorly in the first place.

OPINION

THE BILLINGS GAZETTE

2-26-87

GAZETTE OPINION

State tax law inequitable

Any argument that has its roots in a faulty premise is likely to be as shaky as the San Andreas fault.

Montana, for example, has a law which gives federal retirees a \$3,600 exclusion from their taxable income. Retired state employees are exempted from paying taxes on any of their income.

But residents who draw their retirement checks from private business or professions receive only a \$360 exclusion.

Most likely, that law has its roots in the mistaken belief that employees who work for private firms have better retirement benefits than those on the federal payroll. Or perhaps the drafters of the law believed that it would make up for lower wages paid those who labor on behalf of the public.

In Montana both premises are shaky at best.

Wages in the state are among the lowest in the nation, and private pensions are hardly the stuff of which financial empires are built.

In 1984, there were 17,328 retirees from the private sector who claimed the \$360 exemption.

The state of Montana discriminates against those people solely on the basis of their place of employment.

The state discriminates against those people whose taxes pay the salaries of public employees in the first place.

There is no foundation for legislation there.

Still, there is hope. Senate Bill 74 would increase the exemption for retirees from the private sector to \$3,600.

That reform, of course, will cost the state an estimated \$1.9 million in lost revenue each year.

But there is a higher issue at stake here.

The Senate has recognized that, and the bill passed third reading.

And the debate will open again before the House Taxation Committee after mid-session recess. The House should follow the Senate's suit.

The current system is obviously unfair. That is the point the Legislature must focus on, not the faulty premise on which the current law was built.

OPINIONS

2-12-87

Retirees deserve equity in taxation

"ET," to backers of Sen. Joe Mazurek's Senate Bill 74, is not a movie character. "ET" in the legislative sense is equity in taxation.

Legislators and lobbyists are forever talking about equity in taxation, particularly when a sales tax is being discussed.

If legislators are sincere about equity Mazurek's bill should sail through both chambers.

Currently, there is no equity in taxation when it comes to people who retire from the private sector.

Montana law provides that retirees from state government do not have to pay state income taxes on their retirement income. Federal retirees can exclude \$3,600 of their pension from state taxes. Persons who are covered by private pension plans can deduct a measly \$360!

Mazurek's bill would rectify this inequity by allowing private plan retirees to have the same exclusion as federal retirees — \$3,600 a year.

We assume the rationale for exempting state employees' retirement from state income taxes has to do with the assumption that their pay and retirement benefits aren't as generous as those in the private sector. That reasoning probably also has something to do with the fact that federal retirees get a much larger exemption than do private sector retirees.

Whether that line of reasoning is correct or not is open to debate. What isn't open to debate is the fact that in 1985 there were 17,500 private sector retirees who were denied equity in taxation.

The state would lose an estimated \$2 million if private sector retirees were given the same break as federal retirees.

We think it's a loss the state can handle.

SB 74 should become a Montana law.

**AN
IR
VIEW**

Opinion and comment

Private pensioners deserve fair play

If you're retired on a private pension, you're being stewed by Montana tax law.

Private sector retirees in Montana can exclude only \$360 of their retirement income from state taxes.

Federal retirees can exclude \$3,600 of their pensions from state taxes.

And retired state employees, and school teachers, are not taxed at all on their public pensions.

Those differences make tax equity a joke in Montana.

Sen. Joe Mazurek of Helena has introduced a bill (SB 74) that would give private pensioners the same break enjoyed by federal retirees in Montana.

Mazurek's bill would raise the exclusion for private pensioners to \$3,600 from \$360. That's still not as good a break as state employees and school teachers get, but it's a lot better than the raw deal private sector retirees get now.

Public employees have been given a break on state taxes for years. Some people say the reason initially was that since public employees weren't paid much, a tax break would serve as a kind of deferred compensation.

That's not necessarily the case any longer, particularly with federal retirees, whose compensation is not a matter of state interest, anyway.

Besides, tax breaks should not be granted on the basis of whether a retiree worked for government or the private sector. Many private workers also earn low pay over the course of their careers, yet get

only a small break. To be fair, the break should be given on the basis of income.

There's an argument for not giving public sector retirees such large breaks, too. Those who have been paid from tax funds throughout their careers should be the last people to be given special tax breaks.

There is some squawking in Helena that Mazurek's bill would cost the state about \$2 million a year in lost revenue.

No one has put a figure on how much revenue the state already has given away with the tax breaks given to public retirees, but it has to be far more than \$2 million. The state already has given away the store, so an extra \$2 million in the name of simple fairness shouldn't matter that much.

SB 74 would elevate the tax status of private pensioners to that of federal retirees, by giving the private retirees the same \$3,600 deduction already enjoyed by the federal retirees.

It's a big step forward.

The Legislature should pass Mazurek's bill.

Next session, it can concentrate on giving all retirees the same break enjoyed by state retirees and teachers.

PENSION TAX equity doesn't get the attention it should. If you're retired from the public sector, or soon will be, contact your legislators and tell them you'd like to be treated like a first-class citizen. Ask your lawmakers to support SB 74.

FEB. 8, 1987

The Daily Inter Lake, Kalispell, Montana.

Opinion

Tax law unfair to some retirees

Montana tax law is decidedly unfair to retired persons living on private pensions.

The law now exempts \$360 of private pension retirement income from state taxes. Meanwhile, federal retirees are allowed to exclude \$3,600 of their pensions from state taxes. And retirees pay no state taxes whatsoever on income earned from state pension plans, including the Teachers Retirement System and Montana Public Employees Retirement System.

Why the disparity?

Obviously the public employees have been more effective lobbying in Helena.

But their rationale for retaining the inequity has worn a little thin. The theory, years ago, was that public employees were paid less than private employees, that they had poorer pension plans, and therefore needed the tax break.

In recent years, however, public

employee pension plans have improved dramatically, and so have employees' salaries. Now, public employees' salaries and pensions compare favorably with those of their counterparts in the private sector. Yet the law still gives favored treatment to workers who've been paid with tax dollars throughout their careers.

Well, there's an attempt being made to make things a little fairer. Senate Bill 74 would raise the exemption for private pension income to \$3,600, equal to the break for federal pensions, but still behind the one for state pension plans. There is at least one hitch: SB74 comes with a hefty price tag. It would cost the state at least \$1.5 million in lost revenue the first year. With lawmakers looking for revenue in every nook and cranny, any new plan that costs money faces tough going.

Of course, there's another way to achieve equity. That would be to reduce the

exemption allowed public-sector employees — a far less palatable option, certainly, for those who enjoy the break now. Such a suggestion is unlikely to find a sponsor.

There's no valid reason why any tax exemption for retirement income should be based on the source of the pension. Federal income-tax law makes no such distinction. The Montana income tax law is plainly discriminatory at the expense of retirees from private-sector jobs.

Why should a retiree earning \$12,000 from a private pension plan pay \$284 in state income taxes, while the state tax bill on the same size federal pension would be only \$133 and the bill on a state pension of the same amount would be absolutely nothing at all?

If retired persons are to get a tax break on their pension income, the break should be based on the amount of the income, not its source.

Editorial Board:Robert S. Gilluly, Editorial Editor
Terry T. Dwyer, Managing Editor
Steven A. Studt, Publisher**Other editors say**

Treat all pensions the same

Excerpted from Montana Standard (Butte)

If you are retired on a private pension, you're being stewed by Montana tax law.

Private sector retirees in Montana can exclude only \$360 of their retirement income from state taxes. Federal retirees can exclude \$3,600 of their pensions from state taxes. Retired state employees and school teachers are not taxed at all on their public pensions.

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pensation is not a matter of state interest, anyway.

Besides, tax breaks should not be granted on the basis of whether a retiree worked for government or the private sector. Many private workers also earn low pay over the course of their careers, yet get only a small break. To be fair, the break should be given on the basis of income.

There's an argument for not giving public sector retirees such large breaks, too. Those who have been paid from tax funds throughout their careers should be the last people to be given special tax breaks.

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No one has put a figure on how much revenue the state already has given to public retirees, but it has to be far more than \$2 million. The state already has given away the store, so an extra \$2 million in the name of simple fairness shouldn't matter that much.

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It's a big step forward. The Legislature should pass Mazurek's bill.

Helena Senior Citizens Club
Rocky Mountain Development Council
P.O. Box 721
Helena, MT 59624

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The Voice of Experience

Volume 4, Number 9

February, 1987

New Group Supports Bill

A new state organization known as E. T. (Equity in Taxation) and headed by Mary T. Craig of Helena is looking for donations for lobbying and other expenses in support of Senate Bill 74.

The bill, if passed, would equalize exclusions on retirement to put private retirees on a par with federal retirees, that is, with a retirement income exclusion of \$3600 instead of the present \$360 for private retirees. State employees pay no Montana tax on their PERS retirement.

For more information, call Mary Craig, 442-4666; Louis F. Marquardt, 442-1197, or Lyle Ziemer, 442-1603.

3-13-87
SB 74

EXHIBIT #3 SB 74
DATE 3-13-87
PAGE 74

Members of the House Taxation Committee:

I am Alma M. Taylor. I retired from Mountain Bell after working for them for over 31 years. During those years I paid a considerable amount of taxes both State and Federal. Now that I am retired I find I am being discriminated against just by having retired from the private sector of business and not the State or Federal sector. I have just returned from a trip to Israel where soldiers armed with machine guns mill among the crowds, where 24 german shepherd dogs guard the Keneset - and now in this great free country and state I am allowed to come before you to ask your favorable consideration of Senate-Bill 74. This bill will allow me to be treated at the same level of the Federal Government retiree who gets a \$3600 ^{exemption} ~~deduction~~ on their taxes - 10 times more than I receive at \$360. I pay just as much for food, property taxes, heat and light as are Federal retirees and for that matter State retirees; however, I realize their past salary considerations make a difference. All I am looking for and I believe all ^{private sector retirees} in this room are looking for is equity in taxation. It is for that reason that I ask you support of Senate Bill 74. Thank you.

5/13/87



EX 113-87

#4
3-13-87
SB 74

MR CHAIRMAN, MEMBERS OF THE COMMITTEE,

I AM JOE UPSHAW OF HELENA, A MEMBER OF THE AMERICAN ASSN OF RETIRED PERSONS, AND A RETIREE FOR SOME TEN YEARS. OUR ORGANIZATION HAS BEEN A LONG TIME SUPPORTER OF FAIR AND EQUITABLE TAXATION FOR OUR RETIRED CITIZENS, TO INCLUDE A LIMITATION ON TAXATION OF PRIVATE PENSIONS. OUR TAX LAW WRITERS CONSTANTLY SEEM TO FORGET THAT THE RETIREE IS LIVING ON A FIXED INCOME, HE HAS VERY FEW OPPORTUNITIES TO WRITE OFF TAXES UNDER THE GUISE OF TAX SHELTERS, AND COST OF LIVING RAISES FOR HIM HAVE BEEN ALMOST NON-EXISTENT DURING THE PAST FEW YEARS. I WOULD ALSO POINT OUT THAT THE NEW FEDERAL INCOME TAX LAW AND THE PROPOSED NEW STATE INCOME TAX LAW HAS OR WILL BE REMOVING MOST OF THE BENEFITS THAT THE RETIREE HAS HAD, NAMELY, THE Individual Retirement Accounts (cannot exist in these) REMOVAL OF THE DEDUCTION FOR REINVESTMENT OF DIVIDENDS ON PUBLIC UTILITIES IN THE AMOUNT OF \$1500, THE REMOVAL OF INCOME TAX AVERAGING WHICH WAS VERY BENEFICIAL TO THE RETIREE WHEN HIS INCOME WAS ABRUPTLY CHANGED AT THE TIME OF RETIREMENT, AND, FOR THOSE WHO HAVE INVESTED IN THE ECONOMY AND ARE DEPENDENT ON POSSIBLE GAINS OR PROFITS ON THEIR STOCK, THE CHANGE IN THE TAXABILITY OF LONG TERM GAINS HAS BEEN A DISASTER FOR MANY OF THE RETIREES. THESE ITEMS, AND OTHERS I HAVE NOT MENTIONED CONTINUALLY TEND TO DECREASE THE INCOME OF THE PERSON WHO HAS RETIRED WITH THE HOPES THAT HIS EXPECTED INCOME WOULD REMAIN STATIC.

IN THE INTERESTS OF EQUITY AND FAIRNESS, I WOULD HIGHLY RECOMMEND FAVORABLE ACTION ON THIS BILL.

Joe Upshaw



DATE 3-23-87
HB 858

MONTANA TREE FARM PROGRAM

P.O. Box 9412
Missoula, MT 59807
Ph: 406/549-5057

MONTANA TREE FARM COMMITTEE
BRIEF EXPLANATION OF THE TREE FARM PROGRAM
BEFORE THE
HOUSE TAXATION COMMITTEE
HEARING ON H.B. #858
(Presented by Howie McDowell, Staff Forester)

THE TREE FARM PROGRAM IN MONTANA

The American Tree Farm system gives public recognition to those private timberland owners who are doing a commendable job in the management of their forestland. Nationally, the American Forest Council sponsors the program. In Montana, it is co-sponsored by the Blackfoot Forest Protective Association and the Northern Montana Forestry Association. The program is directed by the Montana Tree Farm Committee, composed of representatives of the Tree Farmers, forest industry, public resource managing agencies, and private forest management consultants.

Tree Farms are recommended for certification by inspecting professional foresters and reinspected at five-year intervals. There are very broad national requirements to determine eligibility for certification in the Tree Farm System, as follows:

- a. A Tree Farm is an area of privately-owned forestland dedicated by its owner to the continuous growing and harvesting of forest crops.
- b. A Tree Farmer must have demonstrated both the desire and ability to protect his trees from fire, insects, disease, and destructive grazing.
- c. When harvesting trees, Tree Farmers will be guided by cutting practices that will tend to improve the growth of the remaining timber stand, and provide for satisfactory reproduction, either from natural seeding or planting.

Co-sponsored by
Blackfoot Forest Protective Association, Northern Montana Forestry Association

#12/2a
3-13-87
858

1615 S Black #105
Bozeman, MT 59715
(406) 586-9202
December 5, 1986

To: MONTANA LEGISLATORS,

I am writing to call your attention to a particular inequity resulting from the January 1, 1986 class thirteen property description law, 15-6-143 of the taxation code. The section requires that an owner of a timber tract must have more than 15 acres to have it classed as timberland. This resulted in our 10 acre timber-tract near Lakeside, south of Kalispell, being changed from timberland to suburban tract even though it is officially in the National Tree Farm Program. The market value was raised from 2,567 to 22,000 dollars giving a tax increase of nearly four times the '85 tax. *230.25 as appraised to 63,57 in 1985, 212.92 on labor & 756.55 on mill road & survey*

We have spent considerable money and much effort to improve the forest stand as required by the Tree Farm Program. If taxed at the rate used on suburban plots, any eventual profits from the sale of timber will be wiped out due to the years needed to produce commercial timber. In addition, as a suburban tract, we will be paying higher taxes on our ten acres than owners of timber tracts of more than 15 acres. The "more than 15 acre law" is therefore discriminatory against similar but smaller timber-tracts, particularly when such tracts are not subject to subdivision. *50 yrs.*

over 50 some tracts in Mt.
I believe that there are many similar cases in timbered areas. Such tracts have esthetics value and provide significant wild-life habitat, but not for long under the present tax structure. I submitted a written appeal and appeared before a tax appeal board in Flathead County. They were sympathetic, but said they had to follow the law.

I respectfully request that you use your influence at the upcoming session of the legislature to obtain revision of the tax code so that any timber tracts acceptable under the "National Tree Farm Program" can be classified as timberland. *Small timber tracts should not necessarily have to be in the Tree Farm Program to be classed as timberland, provided that they remain in timber.*

Sincerely,

Fred Skoog

- pg 1 -

3-13-87
HB 858

House Bill 858, Taxation by Rep. Ben Cohen (D)

312 B
Room 412 B; 9:00 AM - Fri. Mar 13

Have made the same land classes as Timber Land, but it is
to class timber-land in the future.

Staff Forester Horrie McDowell (also member of the MT Tree Farm Committee)
Donald M. Wood - Chairman "MT. Tree Farm Program"

Steven B. Laursen - Extension Forestry - Specialist

School of Forestry, Univ. of MT, Missoula

John Vincent

Barth Bradley

etc.

= Introduce yourself - Fred Skoog

Define
in
Tree Farm

Read from the Forestry Digest

By House McDowell
By Dr. Laursen - School of Forestry, Univ. of MT.

In my particular case, we became interested
in the "Nat'l. Tree Farm Program" in 1978.

We applied and were accepted into the program.
The land was then changed from "Suburban Tract"
to Timber-land by the State Dept. of Revenue
and assessed ~~at \$40.00~~^{at \$40.00} as such.

A bill effective Jan 1, 1986 (Class 13 property
description law under 15-6-143 of the Taxation
code required that an owner of a timber tract
must have ~~15 acres~~ more than 15 acres to
be classed as timberland.

DATE 3-13-17
PAGE 151

Read from letter of 12/5/86

I would like to point out that the "Nat'l. Tree Farm Program" does not include the acreages planted to X-mas trees. These acreages can realize an annual income whereas the "Tree Farm Tract" can only harvest & receive ^{significant} any income at 50 year intervals. It requires, under good conditions at least 50 yrs to produce a merchantable 10" diam. tree.

For this reason it is quite obvious that taxing ^{any} timber-land plots as suburban tracts completely eliminates any monetary gain. This can become a mighty expensive hobby in the long run and will probably mean the demise of ^{many} small timber plots.

The Dept of State Lands has indicated to me that they would find it nearly impossible to handle the approval and responsibility involved in the numerous small timber plots throughout Montana; Therefore, I agree, that only such tracts ~~that~~ ^{are} are ~~are~~ registered in the Nat'l. Tree Farm Program should be classified or graded as timber-tracts for tax purposes.

to
The reasoning here is that ^{official} "Tree Farms" are already under a well-managed and periodically inspected program.

There are now more than 58,000 Tree Farms covering more than ~~55,000~~ 88 million acres in the U.S. Mont. has 417 such timber plots. I am informed that there are ~~some~~ 50 some small tracts, similarly to my own, that are subject to this exempt tax.

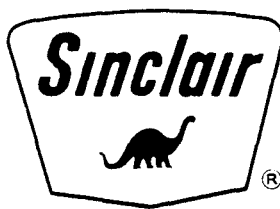
These tracts, of whatever size, are under management for growth, erosion control, insect and disease problems and wild-life habitat. The tree farmers are stewards of natural resources.

It seems to me that the small ^{National} Tree Farms ~~plots~~ of 15 acres or less are being discriminated against in the present tax structure. They must, however, remain in timber to be classified as ^{Timberland} ~~a timber tract~~ for tax purposes.

Thank you

Ed Helgeson

X#
2-13-87
m. Gray
5/16



#8
3-13-87
1/6

MONTANA SB 116
Collection of State Gasoline Excise Taxes

Comments of William B. Gray
Excise Tax Manager
Sinclair Oil Corporation
March 13, 1987

Sinclair Oil Corporation submits these comments on SB 116, Montana gasoline excise tax legislation intended to strengthen the tax compliance process. Sinclair favors excise tax collection and enforcement measures which promote fair competition between gasoline marketers and increases tax revenues due the state of Montana. However, Sinclair strongly opposes SB 116 because compelling evidence indicates the measure is seriously flawed and will not achieve these objectives. Moreover, Sinclair believes far better alternatives exist to address gasoline tax evasion problems.

Sinclair opposes SB 116 because:

1. Gasoline tax evasion will continue even after this legislation is adopted. SB 116 merely alters the manner in which dishonest marketers will avoid paying taxes.

2. The measure makes incorrect assumptions regarding the method of accounting for product movement and tax liability. Providing bills of lading to the state of Montana before tax payment due dates simply is not feasible and is an unrealistic expectation of the measure.

3. The bill creates an abnormal and awkward tax compliance system. Montana's gasoline tax procedures would be radically different from methods used by other state agencies and from established petroleum industry accounting practices (see attachment).

4. Substantial "cost of capital" expense would be incurred by distributors and exporters who would pay Montana gasoline taxes up front and then wait for refunds or credit. Also, administrative compliance costs will increase for the state of Montana and the petroleum industry due to reconciling enormous amounts of paperwork generated by the measure.

Sinclair Oil Corporation

901 WATERGATE OFFICE BUILDING
2600 VIRGINIA AVE. N.W., WASHINGTON, D.C. 20037

5. The administrative burden associated with SB 116 will discourage honest exporters from purchasing gasoline produced by Montana refiners. If adopted, this legislation could drive badly needed business away from Montana industry.

6. SB 116 adopts drastic tax compliance measures on a highly complex issue without first holding special hearings or notifying and working with industry to solve the problem.

7. Technically, Sinclair believes SB 116 needs substantial revision since it leaves many compliance questions unanswered and subject to various legal interpretations.

If the Montana legislature determines gasoline excise tax reform is needed, Sinclair recommends the following:

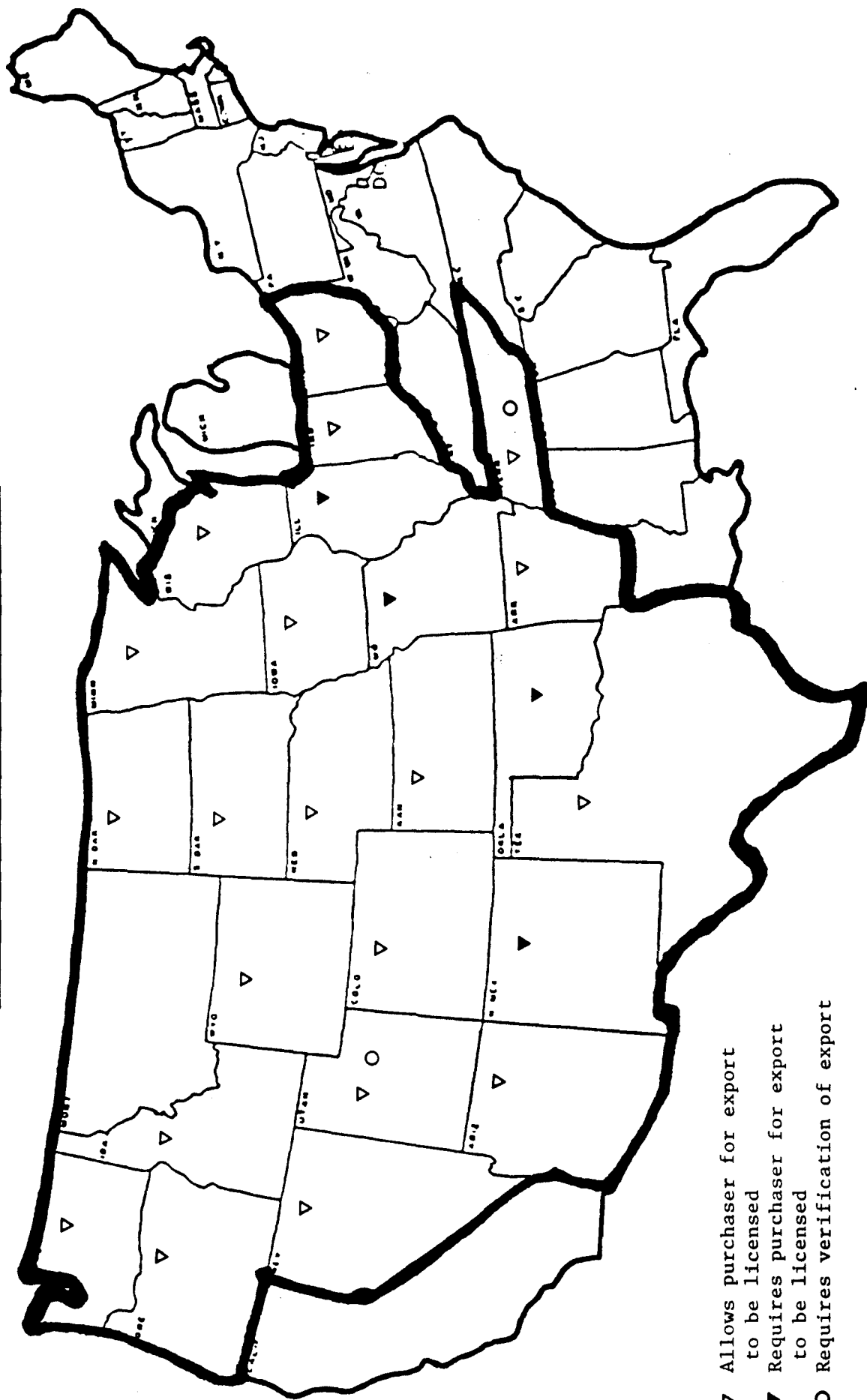
1. Gasoline exporters should be subject to stringent review, meet bonding requirements and be licensed in Montana. Gasoline distributors would only sell product to exporters possessing licenses. Exporters with poor or questionable business credentials from other states would be denied a license.

2. Licensing fees would be used to strengthen audit and collection procedures. Montana taxation officials would verify records with officials in other states and use tools already available to identify gasoline tax evaders.

3. The legislature could establish an ad hoc task force to review the gasoline tax evasion problem. The task force would hold public hearings and report their findings to the legislature next session with recommendations for specific action.

Sinclair believes these alternatives offer a much better prospect for improving overall gasoline tax compliance in Montana than SB 116. Furthermore, the bill will generate substantial problems for industry and the state which currently do not exist. Sinclair strongly urges members of this committee to oppose SB 116 and instead consider alternative measures to address the state's gasoline tax evasion problem.

MARKETING AREA FOR SINCLAIR OIL CORPORATION



- ▽ Allows purchaser for export to be licensed
- ▲ Requires purchaser for export to be licensed
- Requires verification of export

EXHIBIT #9
DATE 3/13/87
NO. 857

EX
3-12-87
Raney
HB 857

PROPOSED AMENDMENTS HB 857

Purpose: to provide quarterly reporting, preserve current cash flow and make the net profits portion of the tax workable.

1. Page 9, line 5.
Following: "coal shall" (preceding line)
Strike: "on or before March 31 of each year"
2. Page 9, line 6.
Following: "to the department" (preceding line)
Insert: "not later than 30 days following the end of each calendar quarter"
3. Page 9, line 9.
Following: "during the" (preceding line)
Strike: "year"
Following: "preceding"
Insert: "calendar quarter"
Following: "calendar quarter"
Strike: "January 1 of the year in which the statement"
4. Page 9, line 10.
Following: "the statement" (preceding line)
Strike: "is made."

Purpose: To eliminate unnecessary information from the return.

1. Page 9, line 17.
Following: "mine"
Insert: ";"
Strike: remainder of lines 17 through 22 in their entirety.

Purpose: To eliminate a deduction for freight on F.O.B destination contracts

1. Page 10, line 5.
Following: "transporting to the"
Strike: "place of sale"
Insert: "load out facility at the mine"

Purpose: To eliminate "catch all" type expense categories which are often allocations of general and administrative expenses and eliminate dated language.

1. Page 10, lines 6, 7, 8.
Strike: lines 6, 7 and 8 in their entirety
Renumber: subsequent subsections

Purpose: To eliminate from the tax return information which is not used in the net profit computation.

1. Page 10, lines 11, 12.

Strike: lines 11 and 12 in their entirety

Renumber: subsequent subsections

Purpose: To eliminate the reclamation cost deduction which is difficult to match against current production and to provide for a deduction for royalties which was eliminated in a previous amendment.

1. Page 11, line 2.

Following: "(17)"

Insert: the amount of royalties paid

Purpose: To clarify deduction for mining expense

1. Page 11, line 13.

Following: "(c) all"

Strike: "money spent"

Insert: "direct costs incurred"

2. Page 11, line 14.

Following: "needed and used"

Strike: "in the mining operations and developments"

Insert: "to the extract and prepare coal for shipment"

Purpose: To eliminate a deduction for freight on F.O.B. destination contracts

1. Page 11, line 18.

Following: "to the"

Strike: "place if sale and for marketing the coal"

Insert: "load out facility at the mine"

Purpose: To eliminate unnecessary provision and replace with a deduction clarification

1. Page 12, line 4.

Following: "(3)"

Strike: the remainder of lines 4 through 9 in their entirety

Insert: "No general and administrative costs are allowed as deductions including accounting, legal, data processing and clerical costs."

Purpose: To eliminate unnecessary section

1. Page 12, lines 10 through 16.

Strike: lines 10 through 16 in their entirety

Purpose: To provide assessment and payment dates

1. Page 12.

Following: line 16

Insert: NEW SECTION. Section 7. Assessment and payment dates. The department will issue assessments to each taxpayer with 20 days after receipt of each quarterly statement. Payment will be due within 10 days following the date the assessment notice is mailed."

Renumber: subsequent sections

Purpose: To provide administrative procedures to be sued for the collection and distribution of the net profits tax.

1. Page 12

Following: NEW SECTION. Section 7.

Insert: NEW SECTION. Section 8. Administration, collection and distribution of the net profits tax. The net profits tax shall be administered, collected, and distributed in the same manner as the coal severance tax unless specifically provided otherwise. This includes penalty and interest provisions."

Renumber: subsequent sections.

Purpose: To provide the department authority to assess additional tax without having to prove fraud.

1. Page 15, line 12.

Following: "part thereof"

Insert: "inaccurate,"

Purpose: To provide authority to set the net profits tax rate on a timely basis without going through the rule making process.

1. Page 15, line 23.

Following: "department"

Strike: "by rule"

Purpose: To provide quarterly tax rates and a computation method for the final net profits tax rate and the rate on new and incremental production.

1. Page 15, line 23.

Following: "The rate beginning"

Strike: "July 1, 1987"

Insert: "January 1, 1988"

2. Page 16, line 2.

Following: "production"

Insert: "each quarter"

3. Page 16, line 2.

Following: "new or"

Strike: "interim"

Insert: "incremental"

4. Page 16, line 3.

Following: "one-half of the"

Insert: "arithmetic average of the"

Following: "base production"

Insert: "for the preceding quarters"

5. Page 16

Following: line 3

Strike: "July 1, 1989"

Insert: "January 1, 1990"

6. Page 16, line 5.

Following: "equal to"

Strike: the remainder of line 5 and line 6 in their entirety

Insert: "one-half the arithmetic average of the net profits tax rates determined for the preceding quarters."

Purpose: To retain new production incentive tax credit language central credit expires and provide on effective date the coincides with tax filing dates.

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Following: "through"

Strike: "11 and"

Following: "effective"

Strike: "July 1, 1987"

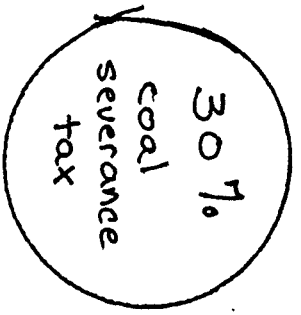
Insert: "January 1, 1988"

2. Page 16, line 19.

Following: "Sections"

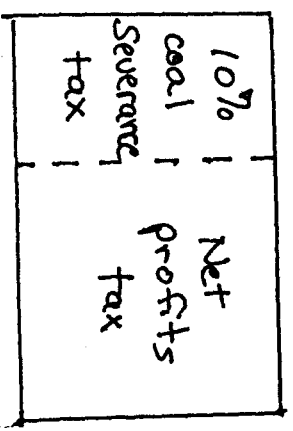
Strike: "12,"

1987

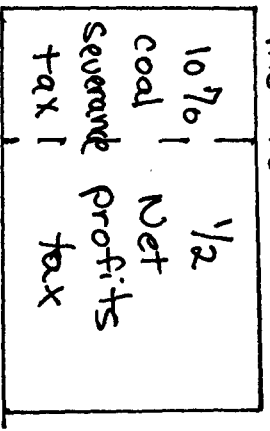


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1988



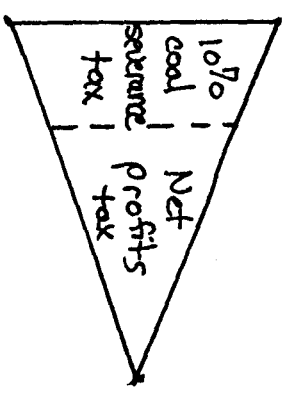
New and incremental



~
~

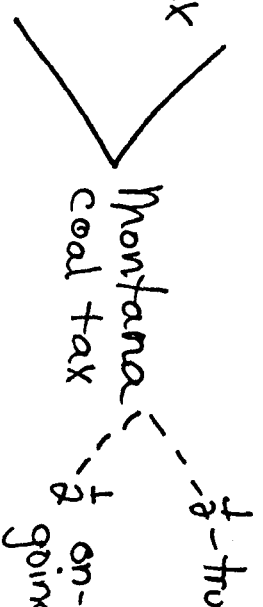
Window

1989 and beyond



1989 and beyond -

10% coal severance tax \approx the impact tax
 +
 Net profits tax \approx the indemnity tax



#10
3-13-87
857

opinions

Guest editorial

Milking the resource cow

During this session of the Montana Legislature, we are once again seeing conflicting theories of what makes an economy run. One primary example of this is the argument about lowering taxes for the oil, gas and coal industries.

There are some complicated angles to this issue, but on a more basic approach, what we have here are two different theories about what's best for the state's economy.

On the one hand we have the folks who say, "You have to spend money to make money." They want the taxes lowered. They are willing to take what they hope will be a temporary bite in tax revenue in an effort to build a stronger industry that would eventually provide more taxes and more private sector jobs. Obviously, industry generally favors lower taxes.

On the other hand, we have the people who feel a dire need for all the tax revenue they can get. They ask why folks want to legislatively cut revenue when it is already down as a natural function of the market. Of course, few people worry about cutting taxes when the industry is healthy.

Both sides have valid points. However, those who are contemplating this matter

might do well to keep a couple of thoughts in mind. First of all, there is only so much one can do to influence a state economy that functions as a tiny part of a worldwide system, particularly when it comes to promoting growth. It's easier to stifle it, but at any rate, there is a sort of natural order.

Secondly, the natural order usually means that the industry comes before the taxes. Lawmakers don't sit down and say, "Well, let's write up a tax in case anyone ever decides to raise alligators commercially in Montana." Instead, they say, "OK we've got this coal industry here. How much are we going to tax it?"

The industry is the provider — not the government that does the collecting. It's like milk cows. It's important that we get the milk, but we also have to feed the cows.

There is a middle ground between these two economic positions. Some innovative approaches should be tried on an extended basis, without slashing taxes so extensively that those depending on the revenue are severely crippled.

No doubt this is easier said than done, but we must be competitive.

— Miles City Star

EXHIBIT _____
DATE 3-13-82
HB 857

PROPOSED AMENDMENTS HB 857

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Insert: "each quarter"

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Insert: "January 1, 1988"

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Following: "Sections"
Strike: "12,"

3-13-
274

COMMITTEE

HB 774

3-13-87

ADDV

SB74

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

COMMITTEE

HB 857

3-13-87

RANEY

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE TAXATION

313
858

Hr 858

3-13-87

COHEN

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE TAXATION

5-13-87
74

SB 74

3-13-87

MAZUREK

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

JAMES M. MULCAHY
J. Douglas Thompson
CS-33
Ward J. Soules

Bill Lough, of
Judith Center

X
X

3-13-77
Jas 116

COMMITTEE

DATE 3-13-87

SPONSOR FARRELL

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

COMMITTEE

BILL NO.

DATE _____

SPONSOR

CS-33