

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

March 18, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on March 18, 1987, at 8 a.m. in Room 312B of the State Capitol.

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

CONSIDERATION OF HOUSE BILL NO. 880: Rep. Cal Winslow, House District #89, sponsor of HB 880, said the bill would provide for a uniform insurance premium tax, which is presently 2.75%.

PROPOSERS OF HOUSE BILL NO. 880: Robert Throssell, Chief Legal Counsel, Office of the State Auditor, said the state can't impose a discriminatory tax. and advised the Committee that North Dakota was sued by insurers on the same grounds which ended up with the Supreme Court holding the North Dakota law unconstitutional. Mr. Throssell explained that many premium tax payments have been received under protest, and that a number of states are moving toward flat rates for both foreign and domestic insurance companies (Exhibit #1).

Mr. Throssell stated credit is provided in the bill for several offices owned and maintained in Montana and would be available to any other company maintaining its corporate headquarters in the state (Exhibit #2). He advised that the bill provides for more frequent collection of the premium tax, as done in 27 other jurisdictions (Exhibits #3). Mr. Throssell commented it would be easier to estimate revenue with more frequent collection of the tax (Exhibit #4), and said the issue came to the attention of the State Auditor, once the Alabama case was decided.

Terry Cosgrove, a representative of several insurance companies in the state, stated his support of the bill with the proposed amendments.

Bob Baldwin, attorney for Metropolitan Life Insurance Company, Maplewood, NJ, said he believes the bill would properly resolve this situation in Montana, and provided copies of a proposed amendment to the bill, which would delete subsection (3) to eliminate discrimination problems (Exhibit #5).

Dick Saxe, Vice President of Governmental Relations, Prudential Insurance Company, Newark, NJ, told the Committee his company wants to pay its fair share, as does Metropolitan, but also wants equity. He explained that, to date, 9 states have changed their laws to eliminate tax discrimination, and said either of the two proposed amendments would pass constitutional muster.

Randy Gray, advised that as long as a statement of intent was included, he would support the bill.

OPPONENTS OF HOUSE BILL NO. 880: There were no opponents of the bill.

QUESTIONS ON HOUSE BILL NO. 880: Chairman Ramirez commented he was surprised no one appeared to speak on the amendment, especially since there is no fiscal note. He asked what the fiscal impact would be, if the credit were eliminated altogether. Mr. Throssell replied the difference would be \$136,840, but there is no way of knowing what the offset is in continuing the credit on real estate, when a title company and a small life insurance company both claim credit.

Chairman Ramirez asked how much credit would be applied if rent were made attributable to tax paid. Mr. Throssell replied he had no way to estimate that figure. He explained collection projections for FY88 are \$34 million, and for FY89 are \$25.6 million.

CLOSING ON HOUSE BILL NO. 880: Rep. Winslow advised that the bill was an important effort to keep the state out of court.

CONSIDERATION OF HOUSE BILL NO. 885: Rep. Charles Swysgood, House District #73, sponsor of HB 885, said the bill would provide for a 5 percent sales tax and eliminate the ad valorem tax on personal and residential property. He explained the bill provides for distribution and use of the sales tax and believes the only alternative to the state is a sales tax as a measure of across-the-board property tax relief.

Rep. Swysgood said page 4 defines gross receipts, the new section 2 on page 8 imposes the 5 percent tax, and exemptions in sections 9-23 begin on page 12 of the bill. He explained that section 65 addresses livestock tax, and page 66 pertains to percentage changes of 28-40 percent. He said page 82 provides that residences of \$17,500 market value, exclusive of land and improvements, are exempt, and that section 160 sets up a use and sales tax account.

Rep. Swysgood advised that 75 percent of revenue earned would go to the state and the the 6 mill statewide levy for the university system would be eliminated, returning 7.5% of the tax or \$15 million to local governments. He explained that the remaining 25% would go to the state general fund, and is estimated to be about \$50 million.

PROPOSERS OF HOUSE BILL NO 885: Kay Foster, Billings Area Chamber of Commerce, said the Chamber wished to go on record in support of broad-based statewide measures to give property tax relief. She commented the Chamber would rather see a credit than some exclusions as well as changes in block grants to local governments.

OPPOSERS OF HOUSE BILL NO. 885: There were no opposers of the bill.

QUESTIONS ON HOUSE BILL NO. 885: Rep. Ellison asked if some counties would lose, while others gained, if a flat percentage rate were used. Rep. Swysgood replied he realized there are some mechanical problems in the bill, but to revert to distribution based on population would create more problems.

Chairman Ramirez asked what the breakdown is between residential and personal property. Rep. Swysgood replied the counties would lose about \$100 million, which includes \$20 million benefits from railroads and other services. He commented that approximately \$35-40 million of the loss would be directly related to the \$17,500 residential deduction.

CLOSING ON HOUSE BILL NO. 885: Rep. Swysgood told the Committee he believes the bill has merit and that he hoped it would come out of committee.

DISPOSITION OF HOUSE BILL NO. 827: Rep. Hanson made a motion that HB 827 be TABLED at the request of Rep. Winslow. The motion CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 318: Chairman Ramirez reported that the Property/Sales Tax Subcommittee recommended HB 318 be Tabled, as it is too complicated, and the issue is also addressed by a senate bill.

Rep. Williams made a motion that HB 318 be TABLED. The motion CARRIED with all members voting aye, except Rep. Harp, who voted no.

DISPOSITION OF HOUSE BILL NO. 848: Chairman Ramirez advised the Subcommittee recommended the bill be tabled, and a

resolution be drafted for interim study by the Revenue Oversight Committee, to better determine fiscal impact.

Rep. Sands said he believes the bill addresses an important issue (double taxation), and that if it is killed now, it will remain dead for two years. He suggested the bill be referred to the Senate for additional work.

Rep. Williams advised he supported the Subcommittee recommendation and made a motion that HB 848 be TABLED. The motion FAILED in a tie vote (roll call vote attached).

Rep. Sands made a motion that HB 848 DO PASS.

Dave Bohyer read an amendment provided by Rep. Stang (Exhibit #6), and Rep. Sands made a motion that those amendments be approved. The motion CARRIED unanimously.

Rep. Sands made a motion that HB 848 DO PASS AS AMENDED.

Rep. Williams said he would oppose the motion because of the implications of the fiscal note. Rep. Sands commented the sponsors of the bill are from those counties most likely to be affected.

Rep. Ream stated that most of the fiscal impact would be to eastern Montana.

The motion made by Rep. Sands failed 7-9 on a roll call vote (attached).

Rep. Harp made a motion that HB 848 be TABLED. The motion CARRIED with all members voting aye, except Rep. Raney, who voted no.

DISPOSITION OF HOUSE BILL NO. 544: Rep. Ream made a motion that HB 544 DO PASS.

Rep. Raney made a motion to strike "21 cents" on page 1, line 16, and to insert "18 cents". Rep. Hanson reminded the Committee that the vending machine operators explained price increases are made in 5 cent increments.

The motion made by Rep. Raney FAILED 6-10 on a roll call vote (attached).

Rep. Sands said he recognized the need for some tax increases and that it seems more affordable in his district than any other kind of tax increase. Chairman Ramirez advised the Committee they must resist singling out one small group of taxpayers because it is predatory taxation, to which he is opposed.

TAXATION COMMITTEE

March 18, 1987

Page 5

Rep. Ellison made a substitute motion that HB 544 be TABLED. The motion failed on a tie vote (roll call vote attached).

Rep. Ream said he believed the bill should go to the House floor for debate, and made a motion that HB 544 DO PASS. The motion FAILED 6-10 on a roll call vote (attached), and the bill was passed out of committee on an adverse committee report.

DISPOSITION OF HOUSE BILL NO. 545: Rep. Ream made a motion that HB 545 DO PASS. The motion FAILED 7-9 on a roll call vote (attached).

Rep. Harp made a motion that HB 545 be TABLED. The motion CARRIED 9-7 on a roll call vote (attached).

DISPOSITION OF HOUSE BILL NO. 575: Chairman Ramirez stated the Subcommittee recommended that HB 575 do pass with the proposed amendments.

Rep. Williams made a motion that HB 575 DO PASS.

Rep. Gilbert made a motion to approve Rep. Kadas' amendments (Exhibit #7), which, he said, allow the same amount of mills if tax unit values decrease 5 percent or more from the previous tax year. The motion CARRIED unanimously.

Rep. Ellison made a motion that the Subcommittee amendments be approved. The motion CARRIED unanimously.

Chairman Ramirez advised the third set of amendments, pertaining to revaluation of damaged property without regard to the freeze, has not been drafted. Rep. Ellison made a motion that the proposed amendment be approved. The motion CARRIED unanimously.

Rep. Sands commented the Committee did not address property transferred out of a taxing unit. Greg Groepper replied it does not need to be addressed, because the property will be taxed where it resides, and a section of law allows for property destroyed by natural disasters.

Chairman Ramirez commented he is beginning to think property destroyed or moved out of a taxing jurisdiction does not need to be addressed, because those properties represent decreases. He said the Committee may want to insert language to reduce limits, on this basis.

Chairman Ramirez advised the Committee he would have the amendments prepared for executive session, scheduled for this evening, and would pass consideration of the bill for now.

DISPOSITION OF HOUSE BILL NO. 617: Rep. Raney made a motion that HB 617 DO PASS, and said the bill does not represent an increase, but does address people who make up \$12,000 to get a property tax break.

Greg Groepper replied DOR can't generalize about what persons with low incomes lived in before reappraisal, and said the law now applies only to a portion of property, while exemptions remain the same and property values are increasing. He explained the bill maintains the status quo of reductions that slipped through the cracks in 1985.

The motion made by Rep. Raney CARRIED unanimously.

DISPOSITION OF HOUSE BILL NO. 138: Rep. Raney made a motion that HB 138 DO PASS, and said the bill provides substantial relief to a majority of persons upset with reappraisal.

Rep. Harrington advised there is a problem, because no provisions have been made for replacement revenue.

Rep. Schye advised the bill doesn't provide tax relief to farm owners either.

Chairman Ramirez advised Rep. Raney that his concept has been incorporated into the sales tax bill. Rep. Raney replied that the 1985 session gave property tax relief to agricultural land owners.

Rep. Williams said he would hate to see the bill killed, even though there are no provisions for replacement of lost revenue, and made a motion that HB 138 be TABLED. The motion CARRIED 8-7 on a roll call vote (attached).

DISPOSITION OF HOUSE BILL NO. 768: Rep. Patterson advised that the Subcommittee recommended the bill be TABLED.

Chairman Ramirez made a motion that HB 768 DO PASS, and made a motion to approve the proposed amendments. He explained the bill is supposed to address capital assets and, finally, excludes inflation, while taxing true gains for assets held for three years or longer. He said the bill is really designed for the long-term investor.

Rep. Ellison commented the bill would take speculators out of the livestock market, and that would be a good deal.

Rep. Sands said he had concerns with traditionally tying capital gains treatment to the federal tax system, and then uncoupling them. He suggested that, if the Committee wants real reform, they still need to wait for federal reform changes to reveal how it will all be paid for. He asked the

Committee if they would prefer this benefit to overall tax reduction.

Chairman Ramirez advised he was willing to pay for the legislation with a surtax, and that he would prefer this benefit. He asked how tax appreciation that is not real can be justified when it is attributable only to inflation.

Rep. Ream commented that, in the fiscal note, it appears the fiscal impact would probably come from stocks and bonds, and asked if his assumption were correct, since Rep. Sands was talking about farms. There was no response.

Rep. Harp stated he was concerned with the amendment on page 3, pertaining to Internal Revenue Codes.

Reps. Ream and Harp asked for answers to their questions prior to executive action on the bill.

Dan Bucks, Deputy Director, DOR, said he prepared a list of information included in subchapter P of the S codes, and would provide it to the Committee on March 19. He commented he is pessimistic about the fiscal note.

Rep. Ream requested information on how a lifetime exclusion would work under the tax reform act.

Chairman Ramirez withdrew his motion and the Committee passed consideration on the bill for the day.

DISPOSITION OF HOUSE BILL NO. 444: Rep. Patterson said the Subcommittee recommended that HB 444 be TABLED, as it is an accountant's nightmare.

Chairman Ramirez advised he would accept the bill being temporarily tabled, until other windfall issues could be looked at.

Rep. Patterson made a motion that HB 444 be TABLED. The motion CARRIED with all members voting aye, except Reps. Ramirez, Ellison, Asay, and Gilbert, who voted no.

DISPOSITION OF HOUSE BILL NO. 858: Chairman Ramirez advised that the Property/Sales Tax Subcommittee has no recommendation for HB 858.

Rep. Ream made a motion that HB 858 DO PASS, and made a motion to withdraw his amendment because it is not workable. He included in his motion an amendment to change the effective date of the bill to March 1, 1987. The motion CARRIED unanimously.

TAXATION COMMITTEE

March 18, 1987

Page 8

Chairman Ramirez advised he is against the bill as the policy would discourage people from entering the tree farm program, in addition to paying higher tax rates.

Rep. Raney said it would be opening the state up to a huge tax loss and, at the same time, hurt those already involved in tree farming.

Rep. Sands said he was concerned with the fiscal note. Greg Groepper replied the threshold is now 15 acres, and that 1 acre and improvements are assessed at market value, of 80% of the class 4 tax rate. He explained the remaining acres would be taxed at 3.044, and leave improvements in class 14.

Rep. Ellison asked if that action would eliminate the need for a grandfather clause. Greg Groepper replied that, under the old green belt law, one must be a farmer or a tree grower. He added that the 15 acre threshold was set for timber at reappraisal.

Rep. Williams commented the bill involves 54 pieces of property and provides special tax privileges.

Chairman Ramirez made a motion to amend the bill by removing the grandfather clause and taxing 1 acre and improvements thereto at market value, as class 4 property, and that the maximum of 10 acres include that 1 acre. He then opted to make the issues separate motions.

The amendment to tax 1 acre and improvements at market value as class 4 property CARRIED. All members voted aye, except Rep. Raney, who voted no.

The amendment to delete the grandfather clause FAILED, with all members voting no, except Reps. Hanson, Gilbert, Ellison, Asay, Ramirez and Koehnke, who voted yes.

Chairman Ramirez made a motion that HB 858 DO PASS AS AMENDED. The motion FAILED. All members voted no, except Reps. Hanson, Gilbert, Patterson, Williams, Asay, and Ramirez, who voted yes.

The vote was reversed to give the bill an adverse committee report.

DISPOSITION OF HOUSE BILL NO. 880: Rep. Ellison made a motion that HB 880 DO PASS.

Chairman Ramirez suggested that the Committee strike "credit for property taxes". Rep. Ellison made a motion to approve that amendment. The motion CARRIED unanimously.




TAXATION COMMITTEE

March 18, 1987

Page 9

Rep. Ellison made a motion that HB 880 DO PASS AS AMENDED.  
The motion CARRIED unanimously.

ADJOURNMENT: There being no further business before the  
Committee, the meeting was adjourned at 12:15 p.m.

  
Representative Jack Ramirez,  
Chairman

DAILY ROLL CALL  
HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date Mar 18, 1987

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

MARCH 13

19 87

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 544

☐ do pass

☒ do not pass

☐ be concurred in

☐ be not concurred in

☐ as amended

☐ statement of intent attached

Representative Jack Ramirez, Chairman

FIRST reading copy ( WHITE )  
color

# STANDING COMMITTEE REPORT

MARCH 18

19 37

Mr. Speaker: We, the committee on HOUSE TAXATION

report HOUSE BILL NO. 617

☒ do pass

☐ do not pass

☐ be concurred in

☐ be not concurred in

☐ as amended

☐ statement of intent attached

Representative Jack Ramirez, Chairman

WHITE FIRST

WHITE

reading copy ( )  
color

## STANDING COMMITTEE REPORT

March 18 1987

Mr. Speaker: We, the committee on TAXATION

report House Bill No. 158

☐ do pass

☒ do not pass

☐ be concurred in

☐ be not concurred in

~~☐~~ as amended.

☐ statement of intent attached

Representative Jack Ramirez, Chairman

1. Title, line 5.

Following: "TO"

Strike: "OCTOBER"

Insert: "MARCH"

2. Page 1, line 19.

Following: (b) -

Insert: "subject to the provisions of subsection (7)."

Following: "to"

Strike: "October"

Insert: "March"

3. Page 2.

Following: line 23

Insert: "(7) If there are improvements on land described in subsection (a2(b), the improvements and 1 acre of land are to be assessed and taxed as property included in class four is assessed and taxed."

~~CONFIDENTIAL~~

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color

512.

## STANDING COMMITTEE REPORT

March 18

19 87

Mr. Speaker: We, the committee on HOUSE TAXATIONreport HOUSE BILL NO. 880☒ do pass  
☐ do not pass☐ be concurred in  
☐ be not concurred in☒ as amended  
☐ statement of intent attachedRepresentative Jack Ramirez, Chairman

Be amended as follows:

1. Page 7, line 23 through Page 8, line 5  
Strike: (3) in its entirety
2. <sup>subsection</sup> Renumber subsequent subsections

Statement of Intent attached

STATEMENT OF INTENT  
HOUSE BILL NO. 860

Page 2 of 2


March 18, 1987

A statement of intent is required for this bill because section 3 grants the commissioner of insurance authority to adopt rules to provide for the periodic payment of portions of the premium tax.

Currently the premium tax is paid by insurers once a year in March. The legislature recognizes the opportunity to collect the premium tax on a regular basis throughout the year and to generate additional income for the state by having this money available for investment. For this reason, the legislature grants the commissioner of insurance authority to adopt rules to establish a schedule for payment of portions of the premium tax during the year in which the tax liability is accrued.

The legislature intends that, in adopting rules, the commissioner of insurance establish payment schedules similar to the schedules used in other states. The legislature further intends that rules adopting a periodic schedule for payment of the premium tax not create an undue burden on insurance companies by requiring excessively frequent payments. Lastly, it is the intent of the legislature that rules adopted under this act conform as much as possible to the laws, rules, and procedures of this state governing the budgeting, appropriation, and expenditure of state funds.

a:SIHB860.TXT

  
Representative Jack Ramirez,  
Chairman

3/29

Sandra votes  
with Hoffman.

Paul Sandoz



# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 26

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 - DPAA

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 138

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	8	7
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Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion: Wms - table

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87

BILL NO. HB 544

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: Raney - amend to 18¢

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ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 544

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		8	8

TALLY

Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion:

Allison - table - failed outie  
voter

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 544

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:

Ream - DP - failed 6-10

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87

BILL NO. HB 545

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		7	9

Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion: Ram - DP

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87

BILL NO. HB 545

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		9	7

Joann Banschbach

Secretary

Rep. Jack Ramirez

Chairman

Motion:

Harp - Table

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 525

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		9	7

Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion:

*more appn*  
*Rep Ellison - DOR amend (f)*  
*(e)*



# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 776

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:

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. HB 848

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		8	8

Joann Banschbach  
Secretary

Rep. Jack Ramirez  
Chairman

Motion: W m- Table failed entire

# ROLL CALL VOTE

HOUSE TAXATION

COMMITTEE

DATE 3-18-87 BILL NO. LB 848

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:

Sands - DPAA

## HOUSE TAXATION

DATE 3-18-87 BILL NO. LB 851

TALLY

Rep. Jack Ramirez  
Chairman

Motion:

Form CS-31A  
Rev. 1985

#1  
3-18-87  
HB 880

WRITTEN TESTIMONY OF STATE AUDITOR'S OFFICE  
House Bill 880  
March 18, 1987

Purpose/Background

House Bill 880 provides for a uniform premium tax rate and allow that tax to be collected on a more frequent basis. Currently Montana charges a 2.75% tax on direct insurance premiums written in this state. By statute a domestic insurer can qualify for credits against this tax depending on the level of investment a domestic company makes in the state. Current law provides for annual payment of those taxes on March 1 of each year. Because of court decisions at the Federal and state level, actions of other state legislatures, and challenges to the Montana law, the State Auditor is requesting that the Montana Legislature amend Section 33-2-705, MCA, to equalize the tax treatment of insurance companies doing business in this state.

The leading case on this subject is Metropolitan Life Insurance Company v. Ward, decided by the U.S. Supreme Court in the Spring of 1985. The State of Alabama had enacted a premium tax statute that taxed out-of-state (foreign) insurance companies at higher rates than domestic insurance companies. The Alabama statute provided for the reduction of taxes on foreign companies if they made certain investments in the State of Alabama. Regardless of how much a foreign insurer invested in the State of Alabama, the company could not ever obtain the same tax rate as an Alabama company.

Montana statute, Section 33-2-705, MCA, provides for a 2.75% tax on net premiums for all insurers. A Montana domestic insurer can reduce the percentage of tax by investing portions of its admitted assets in Montana securities, such as bonds and mortgage loans on real estate. This same credit is not available for foreign insurers who do business in the state. A foreign insurance company is given a credit only if it invests more than 50% of its paid in capital stock in Montana securities. Then it may only off set the amount of other taxes paid the state and political subdivisions. In practice, Montana law allows only Montana companies to benefit from investing in Montana. Montana law is similar to the Alabama law in that everything else being equal, a foreign insurer will always pay more premium tax than a domestic insurer.

The U.S. Supreme Court determined that the arguments made in support of Alabama's premium tax statute were not sufficient to

overcome the equal protection clause of the U.S. Constitution. The first purpose given by the state of Alabama in support of its statute was that it encouraged the formation of new domestic insurance companies. The Court, relying on its previous decisions on the subject, held that a state may not constitutionally favor its own residents by taxing foreign corporations at a higher rate solely because of their residence. The Court went on to hold that a state could not encourage investment by imposing higher taxes on non-resident corporations solely because they were non-residents. In rejecting the second argument advanced by Alabama, the Court found that the investment incentive provisions of the statute did not enable a foreign insurance company, no matter how much they invested, to eliminate the discriminatory effect of the law. The encouragement of capital investment in a state's assets and governmental securities when furthered by discrimination serves no legitimate state purpose.

The State of North Dakota, was sued by Metropolitan Life Insurance Company, Prudential Insurance Company and Massachusetts Mutual Life because of its tax statutes. In North Dakota foreign insurance companies were taxed at a rate of 2.5% on the gross amount of premiums. Domestic insurance companies were subject to the state corporation income tax at a graduated rate of between 2% and 7%. Because of the different tax rates and methods of calculating the taxes, domestic insurance companies were taxed at a lower rate. Testimony in the North Dakota case established that foreign insurance companies paid at a rate as much as 120 times higher than a domestic insurance company. Relying on the U. S. Supreme Court decision in Metropolitan v. Ward, the North Dakota Supreme Court ruled that the state's taxing system was in violation of the equal protection clauses of both the Federal and North Dakota Constitutions.

Montana has not yet been sued over its premium tax statute. The Commissioner of Insurance has received protests based on the alleged discriminatory elements of the state's premium tax as a first step in challenging the matter in court. As an executive officer, the State Auditor and Commissioner of Insurance is charged with enforcing the law as it is written. If a company claims a refund based on an incorrect calculation of the tax, the Commissioner of Insurance has authority to make the necessary adjustments. When a challenge is made because a statute is unconstitutional, it is up to the executive officer to enforce that statute until a court decides the issue. The Commissioner of Insurance has asked that House Bill 880 be introduced to prevent what she believes is an imminent legal challenge to Montana's premium tax statute.

## Section by Section Explanation

Sections 1 and 2 of the bill are technical changes to other code sections because of the changes that are being made to Section 33-2-705, MCA. When certain subsections of Section 33-2-705, MCA, are deleted it is necessary to conform the cross-referenced code sections.

Section 3 provides for a uniform premium tax rate of 2.75%. Any references to wet marine and transportation insurance that had been taxed at a different rate are deleted. Provisions allowing for credits or lowered tax rates for domestic insurers are also deleted from Section 33-2-705, MCA. The result of these deletions is to provide for a uniform 2.75% tax rate on all net premiums for insurance written in this State.

Section 3 does provide for a credit for investment in Montana. Each insurer will be allowed to deduct as a credit against the premium tax due, real property taxes paid by an insurer on land and buildings in this state used in conducting the business of insurance. By providing this credit, the State of Montana can offer an incentive to those companies which establish offices in this state. The benefits of having an office in this state are not limited to the investment in real estate. By maintaining an office in this state, a company will establish an accessible location its Montana customers can contact. This hopefully will result in better service to and consideration of resident's insurance needs and problems. By encouraging companies to locate in the state, large insurance companies will have contact with the state, its people and its way of doing business. The more an insurance company knows about the risks it is covering, the better able it will be to respond to specialized needs of its insured. Far too often in the latest insurance crisis the Commissioner of Insurance found that decisions about Montana and its business climate were being made in corporate headquarters without any knowledge of the actual situation in the state. By encouraging insurance companies to locate here, the state can attempt to breakdown some of the myths that exist about Montana and its people.

Section 3 also provides that the Commissioner may, by rule, collect the premium tax on a more frequent basis during the tax year. As the law is currently written, the taxes owed to the State of Montana are paid March 1 of each year. For a more orderly tax collection and to increase revenue in the State by early collection and investment of the taxes, this bill proposes to increase the frequency of the tax collection.

The final provision of Section 3 amends 33-2-705 to include a penalty provision. Under current law, the Commissioner may revoke or suspend a company's license if it fails to pay its taxes. The new penalty section gives the Commissioner the option of imposing a fine of up to \$100 a day for each day the tax is late or 1% of the amount owed in taxes, whichever is greater.

The majority of companies comply with the law and submit their premium tax to the State of Montana on time. As with any taxing scheme there are those companies, for whatever reason, that are late in their payment. This penalty provision will allow the Commissioner to collect the tax and a reasonable fine if a company fails to meet the dates set by statute. Currently the only penalty available is the revocation of a company's license. This remedy is useful in some cases but does not address the issue of the loss of revenue to the state.

Section 4 provides for an appropriation of \$18,208 in Fiscal Year 1988 and an additional amount of \$17,108 for Fiscal Year 1989. This appropriation is to provide a position to assist in implementing the more frequent collection of the premium tax. Also there is money for publication, mailing and printing associated with implementing the more frequent collection of the premium tax. The increased revenue from the frequent payment of the tax more than offsets the request for the position to monitor the collections.

At the present time, the state collects in excess of \$23,000,000 in premium taxes. Assuming that this could be collected in four equal installments throughout the year, the state would gain interest income by investing the money. Attached is an analysis of the financial benefit to the state by instituting a more frequent collection of the premium tax.

Section 5 provides for a severability clause which in the case of tax statute may be critical. Any of the changes this Legislature may make, such as the more frequent payment provision or the penalty provision, need to be separated from the underlying tax aspect of the bill. The state cannot run the risk of losing revenue if a problem arose on one of the other sections of the bill.

Section 6 provides for an applicability date so as to avoid any confusion. Since by law newly enacted legislation takes effect October 1, 1987, it is not unreasonable to make it apply to premiums paid in 1987. Under any circumstances the insurance companies would not be liable for these taxes before March 1, 1988.



Section 7 provides for an earlier effective date so that the rule making procedure can be started sooner than the effective date of the bill itself. This will allow for sufficient time to adopt workable rules to implement the more frequent collection of the premium tax. By starting the rule making process this year, the partial payments of the tax can begin in 1988.

#### Summary

The State of Montana is faced with the potential of expensive and protracted litigation over its premium tax statute. The U.S. Supreme Court and the court of a neighbor state have determined that the domestic preference tax is a violation of the equal protection clause of Federal and state Constitutions. Other state's legislatures have acted to equalize the premium tax in their states. Foreign insurance companies have placed the Commissioner of Insurance on notice that they intend to challenge Montana's premium tax scheme. It is time Montana took the necessary steps to conform its statutes with constitutional law. This bill provides a way of equalizing the premium tax rate while allowing for credit to those companies willing to come to this state and invest in property necessary to conduct their business. The more frequent collection of the tax can provide additional revenue for the state.

## IMPACT OF HB 880 ON DOMESTIC INSURERS

Based on 1985 Premium Taxes

	Tax Paid Current Law	Tax Due at 2.75%	Difference
Mountain States Insurance Co.	60,788	133,733	72,945
Farmers Union Mutual Ins. Co.	95,450	149,993	54,543
First Montana Title Ins. Co.	0	8,301	8,301
Great Western Life Ins. Co.	4,741	5,795	1,054
Total	160,979	297,822	136,840

Mountain States. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. It may be able to restructure its ownership of its home office building and qualify for the real estate credit in the proposed law.

Farmers Union. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. This company does own an office building housing its operation which would qualify for the real estate credit in the proposed law.

First Montana Title. Under current law this company claims a credit for real estate taxes it pays. (33-2-705(2)(b)) The real estate is property it owns as a result of title actions and foreclosures. Under the proposed changes this credit will no longer exist.

Great Western Life. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. It does not have an office building in state and would not qualify for the credit in the proposed law.

NOTE: Several foreign insurers also claim a credit under 33-2-705 (2)(b) but not in amounts that impact the overall premium tax revenues.

Under Section 33-2-705(2) a domestic insurer has the option of electing to take the investment credit and reduce the percentage rate of the premium tax or meet the 50% of paid in capital stock and off-set the real property taxes it pays. A foreign insurance company does not have the choice and must qualify for the 50% of paid in capital stock to then off-set any real property taxes it has paid in the state.

PAYMENT MORE FREQUENTLY THAN ANNUALLY  
27 JURISDICTIONS

State	Amount of Tax Due	Tax Payment
California	1/4	P
Colorado	1/4	E
Connecticut	1/2	E
D.C.	1/4	P
Florida	1/4	E
Georgia	1/4	E
Hawaii	1/12	E
Illinois	1/4	E
Indiana	1/4	E
Kentucky	1/3	E
Maine	1/4	E
Maryland	1/2	E
Massachusetts	formula	E
Michigan	1/2	E
Minnesota	1/4	E
New Hampshire	1/2	P
New York	1/4	E
North Carolina	1/4	R
Ohio	1/4	P
Oklahoma	1/4	E
Oregon	1/2	P
Rhode Island	1/3	E
Tennessee	1/2	S
Vermont	1/4	P
West Virginia	1/4	E
Wisconsin	1/4	E
Puerto Rico	1/2	S

- E Estimated tax for current year
- P Based on previous year's tax
- R Based on retaliatory tax
- S Semi annual return for current year

ESTIMATED REVENUE WITH  
MORE FREQUENT COLLECTION OF PREMIUM TAX

Assumptions:

1. That property and casualty premiums will increase at the rate of 6.9% through fiscal years 87,88, and 89.
2. That life and health premiums will increase at the rate of 3.7% through fiscal years 87,88, and 89.
3. That total premiums for calendar year 87 will be \$23,195,000 and for 88 \$24,545,000.
4. That the interest earned on accelerated premium tax collections will be at the rate of 6.37% in fiscal year 88 and 7.11% in fiscal year 89 (per Revenue Estimate Committee).
5. That the proposed changes in House Bill 880 are adopted eliminating the credits now in statute.

FISCAL YEAR 88

3/1/88	Collection of 87 prem. taxes	23,195,000
4/15/88	Quarterly collection 88 prem. tax	5,798,750
6/15/88	Quarterly collection 88 prem. tax	5,798,750
6/30/88	Interest on 4/15/88 collection	76,943
6/30/88	Interest on 6/15/88 collection	15,186
Total		34,884,629
Additional Interest from early collection		92,129

FISCAL YEAR 89

9/15/88	Quarterly collection 88 prem. tax	5,798,750
12/15/88	Quarterly collection 88 prem. tax	5,798,750
3/1/89	Collection of balance 88 prem. tax	1,350,000
3/1/89	Interest on 9/15/88 collection	187,508
3/1/89	Interest on 12/15/88 collection	84,717
4/15/89	Quarterly collection of 89 prem. tax	6,136,250
6/15/89	Quarterly collection of 89 prem. tax	6,136,250
6/30/89	Interest on 4/15/89 collection	90,843
6/30/89	Interest on 6/15/89 collection	17,930
Total		25,600,998
Additional Interest from early collection		380,988

TABLE OF RETALIATORY AND PREMIUM TAX STATUTES

<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>		<u>Retaliatory Tax Statutes</u>
	Domestic	Foreign				
Alabama	1	3 (Life) 4 (P&C)	Tax Rates Investment Incentives	Ala. Code §§ 27-4-4, 27-4-5.	Ala. Code § 27-3-29.	
Alaska	2.7	2.7	None	Alaska Stat. §§ 21.09.210, 21.66.110 & 21.69.390(c).	Alaska Stat. § 21.09.270.	
Arizona	1.7	1.7	None	Ariz. Rev. Stat. Ann. §§ Ann. 20-224, 20-224.01, 20-1566.	Ariz. Rev. Stat. § 20-230.	
Arkansas	2.5	2.5	Tax Base	Ark. Stat. Ann. § 66-2302.	Ark. Stat. Ann. § 66-2225.	
California	2.35	2.35	None	Cal. Rev. & Tax § 12202.	Cal. Ins. Code § 685.	
Colorado	2.25 <sup>A</sup>	2.25	See Footnote A below.	Colo. Rev. Stat. § 10-3-209.	Colo. Rev. Stat. § 10-3-209(2).	
Connecticut	2	2	None	Conn. Gen. Stat. §§ 12-202 & 12-210.	Conn. Gen. Stat. § 12-211.	
Delaware	1.75	1.75	None	Del. Code Ann. tit. 18 § 702 to 704.	Del. Code Ann. tit. 18 § 531.	
District of Columbia	2	2	None	D.C. Code Ann. § 35-105.	None	

<sup>A</sup> For companies maintaining a home or regional home office, the tax rate shall be 1%.

<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>		<u>Retaliatory Tax Statutes</u>
	<u>Domestic</u>	<u>Foreign</u>				
Florida	2 <sup>B</sup> 1 (Annuities) 2 1 (Annuities) 1 (Annuities)		Tax Base	Fla. Stat. §§ 624.509, 624.510, 624.512, 624.513, 624.514.	Fla. Stat. §§ 626.711.	
Georgia	2.25	2.25	Investment Incentives	Ga. Code Ann. § 33-8-4.	Ga. Code Ann. § 33-8-7.	
Hawaii	1.918 (Life) 2.9647(P&C)	3.197 (Life) 4.2824(P&C)	Tax Rates	Hawaii Rev. Stat. § 431-318.	None	
Idaho	3	3	Investment Incentives	Idaho Code §§ 41-402, 41-403.	Idaho Code § 41-340.	
Illinois	0 <sup>C</sup>	2	Tax Base	Ill. Rev. Stat. ch. 73 §§ 409 and 413.	Ill. Rev. Stat. ch. 73 §§ 444 and 444.1.	
Indiana	2 <sup>D</sup>	2	Tax Base	Ind. Code § 27-1-18-2.	Ind. Code § 27-1-20-12.	
Iowa	2	2	None	Iowa Code §§ 432.1 & 515.24.	Iowa Code § 505.14.	
Kansas	1	2	Tax Rates	Kan. Stat. Ann. § 40-252.	Kan. Stat. Ann. § 40-253.	

<sup>B</sup> Companies maintaining their home office in Florida need not pay any premium tax.

<sup>C</sup> A domestic company not meeting certain requirements is taxed at a rate of 2%.

<sup>D</sup> A domestic company may elect to pay corporate income tax instead of premium tax.

<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>		<u>Retaliatory Tax Statutes</u>	
	<u>Domestic</u>	<u>Foreign</u>					
Kentucky	0 <sup>E</sup> 2 (Other)	2	Tax Base	Ky. Rev. Stat. §§ 136.320, 136.330, 136.340, 136.350, 136.360.		Ky. Rev. Stat. § 304.3-270.	
Louisiana	F	F	Investment Incentives	La. Rev. Stat. Ann. §§ 22:1061, 22:1062, 22:1065, 22:1067 & 22:1068.		La. Rev. Stat. Ann. § 22:1079.	
Maine	1	2	Tax Rates	Me. Rev. Stat. Ann. tit. 36 §§ 2511, 2513.		Me. Rev. Stat. Ann. tit. 24-A § 428.	
Maryland	2 1 (annuities)	1 (Annuities)	None	Md. Ann. Code art. 81 § 136.		Md. Ann. Code art. 48A § 61.	
Massachusetts	2	2	None	Mass. Gen. Laws ch. 63 §§ 20, 23 & 29.		Mass. Gen. Laws ch. 63 § 24A.	
Michigan	Corporate Income Tax	2 (Life & Liability) 3 (Prop.)	Tax Base	Mich. Comp. Laws §§ 208.22, 208.31, 208.40 & 500.440.		Mich. Comp. Laws § 500.476.	
Minnesota	2	2	None	Minn. Stat. § 60A.15.		Minn. Stat. § 60A.19(b).	
Mississippi	1.5 2 (Annuities)	3 2 (Annuities)	None	Miss. Code Ann. §§ 27-15-103, 27-15-109, 27-15-119.		Miss. Code Ann. §§ 27-15-123; 27-15-125 and 27-15-127.	

<sup>E</sup> Domestic life companies are taxed on capital and reserves rather than premiums.

<sup>F</sup> Louisiana rates for foreign and domestic companies are \$140 for the first \$7,000 in premiums plus \$225 for each additional \$10,000 or fraction thereof.

<u>State</u>	<u>Premium Tax Rates</u> (in percentages)		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>		<u>Retaliatory Tax Statutes</u>	
	Domestic	Foreign					
Missouri	2	2	None	Mo. Rev. Stat. § 148.370.		Mo. Rev. Stat. § 375.916.	
Montana	2.75	2.75	Investment Incentives	Mont. Code Ann. § 33-2-705.		Mont. Code Ann. § 33-2-709.	
Nebraska	G	G	None	Neb. Rev. Stat. §§ 77-908, 77-909, 81-523.		Neb. Rev. Stat. § 44-150.	
Nevada	3 <sup>H</sup>	3 <sup>H</sup>	Tax Credits	Nev. Rev. Stat. §§ 680B.027 & 680B.050.		Nev. Rev. Stat. § 680A.330.	
New Hampshire	2	2	None	N.H. Rev. Stat. Ann. § 400-A:32.		N.H. Rev. Stat. Ann. § 400-A:35.	
New Jersey	2 1 (Group)	2	None	N.J. Rev. Stat. §§ 54:16-2, 54:17-4, 54:18A-2 & 54:18A-3.		N.J. Rev. Stat. § 17:32-15.	
New Mexico	3	3	Investment Incentives	N.M. Stat. Ann. § 59A-6-2.		None	
New York	Combination of franchise and premium tax, not to exceed 2.6% of taxable premiums.			N.Y. Tax Law § 1502 to 1510; N.Y. Ins. Law § 9104 & 9105.		N.Y. Ins. Law § 1112.	
North Carolina	1.75	1.75	None	N.C. Gen. Stat. § 105-228.5.		N.C. Gen. Stat. § 58-152.	

G .5% group health  
.6% for P/C

H 1% for all others, same for domestic & foreign  
2.5% on amounts received after July 1, 1987.



<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>		<u>Retaliatory Tax Statutes</u>	
	<u>Domestic</u>	<u>Foreign</u>					
North Dakota	2(Life) 1(P&C) .5 (Health)	2(Life) 1(P&C) .5 (Health)	None	N.D. Cent. Code § 26.1-03-17.		N.D. Cent. Code § 26.1-11-06.	
Ohio	Franchise Tax	2.5	Tax Base	Ohio Rev. Code Ann. §§ 5725.18 & 5729.03.		Ohio Rev. Code Ann. §§ 3905.41 and 5729.06.	
Oklahoma	Corporate Income Tax only	4	Tax Base Investment Incentives	Okla. Stat. tit. 36, §§ 624 & 625, tit. 68, § 2355.		Okla. Stat. tit. 36, § 628.	
Oregon	<sup>K</sup> 0	2.25	Tax Rates	Or. Rev. Stat. §§ 317.070 & 731.816.		Or. Rev. Stat. §§ 731.854 & 731.859.	
Pennsylvania	2	2	None	Pa. Stat. Ann. tit. 72, § 5-902.		Pa. Stat. Ann. tit. 40, § 10213.	
Puerto Rico	<sup>L</sup> 4	4 (Annuities)	Tax Rates	P.R. Laws Ann. tit. 26 §§ 702 & 702a.		P.R. Laws Ann. tit. 26 § 335.	
Rhode Island	2	2	None	R.I. Gen. Laws § 44-17-1.		R.I. Gen. Laws § 27-2-17.	
South Carolina	.75 (life) 1.25 (other)	.75 (life) 1.25% (other)	None	S.C. Code Ann. §§ 38-5-320, 38-5-330, 38-5-340, 38-5-350, 38-5-380, 38-5-410, 38-5-420.		S.C. Code Ann. § 38-5-480.	

<sup>J</sup> Or premium tax of 2.5%, whichever is lower.

<sup>K</sup> Domestic insurers pay 2.25% if controlled by foreign insurers.

<sup>L</sup> Domestic companies maintaining a home office in Puerto Rico pay no premium tax.

<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>	<u>Retaliatory Tax Statutes</u>
	<u>Domestic Foreign</u>				
South Dakota	2.5	2.5	Credit for home office in state.	S.D. Codified Laws Ann. §§ 10-44-2 & 10-44-4.	S.D. Codified Laws Ann. § 58-6-70.
	1.25 (Annu- ities)	1.25 (Annu- ities)			
Tennessee	1.75 (Life) <sup>M</sup>	2 (Life)	Tax Rates	Tenn. Code Ann. §§ 56-4-205 & 56-4-210.	Tenn. Code Ann. § 56-4-218.
	2.5 (P&C)	2.5 (P&C)			
Texas	3.5	3.5	Tax Base Investment Incentives	Tex. Ins. Code Ann. arts. 4.02 to 4.06, 4.10 & 4.11.	Tex. Ins. Code Ann. art. 21.46.
Utah	2.25	2.25	Tax Offsets	Utah Code Ann. § 31A-3-201.	Utah Code Ann. § 31A-3-401.
Vermont	?	2	None	Vt. Stat. Ann. tit. 32 § 855t.	Vt. Stat. Ann. tit. 8 § 3367 & tit. 32 § 8555.
Virginia	2.25 (Life)	2.25 (Life)	None	Va. Code	Va. Code § 38.2-1026.
	2.75 (P&C)	2.75 (P&C)			
Virgin Islands	?	2	None	V.I. Code Ann. tit. 22 § 603.	None
Washington	2	2	None	Wash. Rev. Code Ann. § 48.14.020.	Wash. Rev. Code Ann. § 48.14.040.

<sup>M</sup> Domestic rates apply only if the company maintains its principal office in the state.

<u>State</u>	<u>Premium Tax Rates (in percentages)</u>		<u>Forms of Differential Treatment</u>	<u>Premium Tax Statutes</u>	<u>Retaliatory Tax Statutes</u>
	<u>Domestic</u>	<u>Foreign</u>			
West Virginia	3.5	3.5	Investment Incentives	W.Va. Code §§ 33-3-14, 33-3-14a, 33-3-14b & 29-3-22.	W.Va. Code § 33-3-16.
Wisconsin	2 (Life)	2 (Life & Casualty 2.375 & Fire)	Tax Rates	Wis. Stat. §§ 76.60, 76.63 to 76.65.	Wis. Stat. §§ 76.66 & 76.67.
Wyoming	2.5	2.5	Investment Incentives	Wyo. Stat. §§ 26-4-103 & 26-4-104.	Wyo. Stat. § 26-3-130.

#2  
3-18-87  
880

## IMPACT OF HB 880 ON DOMESTIC INSURERS

### Based on 1985 Premium Taxes

	Tax Paid Current Law	Tax Due at 2.75%	Difference
Mountain States Insurance Co.	60,788	133,733	72,945
Farmers Union Mutual Ins. Co.	95,450	149,993	54,543
First Montana Title Ins. Co.	0	8,301	8,301
Great Western Life Ins. Co.	4,741	5,795	1,054
Total	160,979	297,822	136,840

Mountain States. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. It may be able to restructure its ownership of its home office building and qualify for the real estate credit in the proposed law.

Farmers Union. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. This company does own an office building housing its operation which would qualify for the real estate credit in the proposed law.

First Montana Title. Under current law this company claims a credit for real estate taxes it pays. (33-2-705(2)(b)) The real estate is property it owns as a result of title actions and foreclosures. Under the proposed changes this credit will no longer exist.

Great Western Life. Under current law this company claims a credit for its investment in Montana securities. (33-2-705(2)(a)) Under the proposed changes this credit will no longer exist. It does not have an office building in state and would not qualify for the credit in the proposed law.

NOTE: Several foreign insurers also claim a credit under 33-2-705 (2)(b) but not in amounts that impact the overall premium tax revenues.

Under Section 33-2-705(2) a domestic insurer has the option of electing to take the investment credit and reduce the percentage rate of the premium tax or meet the 50% of paid in capital stock and off-set the real property taxes it pays. A foreign insurance company does not have the choice and must qualify for the 50% of paid in capital stock to then off-set any real property taxes it has paid in the state.

#3  
3-18-87  
880

PAYMENT MORE FREQUENTLY THAN ANNUALLY  
27 JURISDICTIONS

State	Amount of Tax Due	Tax Payment
California	1/4	P
Colorado	1/4	E
Connecticut	1/2	E
D.C.	1/4	P
Florida	1/4	E
Georgia	1/4	E
Hawaii	1/12	E
Illinois	1/4	E
Indiana	1/4	E
Kentucky	1/3	E
Maine	1/4	E
Maryland	1/2	E
Massachusetts	formula	E
Michigan	1/2	E
Minnesota	1/4	E
New Hampshire	1/2	P
New York	1/4	E
North Carolina	1/4	R
Ohio	1/4	P
Oklahoma	1/4	E
Oregon	1/2	P
Rhode Island	1/3	E
Tennessee	1/2	S
Vermont	1/4	P
West Virginia	1/4	E
Wisconsin	1/4	E
Puerto Rico	1/2	S

E Estimated tax for current year

P Based on previous year's tax

R Based on retaliatory tax

S Semi annual return for current year

#4  
3-18-87  
880

7

ESTIMATED REVENUE WITH  
MORE FREQUENT COLLECTION OF PREMIUM TAX

Assumptions:

1. That property and casualty premiums will increase at the rate of 6.9% through fiscal years 87,88, and 89.
2. That life and health premiums will increase at the rate of 3.7% through fiscal years 87,88, and 89.
3. That total premiums for calendar year 87 will be \$23,195,000 and for 88 \$24,545,000.
4. That the interest earned on accelerated premium tax collections will be at the rate of 6.37% in fiscal year 88 and 7.11% in fiscal year 89 (per Revenue Estimate Committee).
5. That the proposed changes in House Bill 880 are adopted eliminating the credits now in statute.

FISCAL YEAR 88

3/1/88	Collection of 87 prem. taxes	23,195,000
4/15/88	Quarterly collection 88 prem. tax	5,798,750
6/15/88	Quarterly collection 88 prem. tax	5,798,750
6/30/88	Interest on 4/15/88 collection	76,943
6/30/88	Interest on 6/15/88 collection	15,186
Total		34,884,629
Additional Interest from early collection		92,129

FISCAL YEAR 89

9/15/88	Quarterly collection 88 prem. tax	5,798,750
12/15/88	Quarterly collection 88 prem. tax	5,798,750
3/1/89	Collection of balance 88 prem. tax	1,350,000
3/1/89	Interest on 9/15/88 collection	187,508
3/1/89	Interest on 12/15/88 collection	84,717
4/15/89	Quarterly collection of 89 prem. tax	6,136,250
6/15/89	Quarterly collection of 89 prem. tax	6,136,250
6/30/89	Interest on 4/15/89 collection	90,843
6/30/89	Interest on 6/15/89 collection	17,930
Total		25,600,998
Additional Interest from early collection		380,988

Ex  
3-18-87  
Proposed  
p. 2  
HB 880

#5  
3-18-87  
880

PROPOSED AMENDMENT

HB 880

Page 7, Line 25:

Following the word "insurer" insert: ", whether direct  
or in the form of rent,"

Page 7, Line 25:

Delete: "owns"

Insert: "occupies"

PROPOSED AMENDMENT

HB 880

Page 7, Lines 23-25:

Delete: All of (3)

Page 8, Lines 1-5:

Delete: All of (3)

Page 8, Line 6:

Delete: "(4)"

Insert: "(3)"

Page 8, Line 16:

Delete: "(5)"

Insert: "(4)"

Page 8, Line 24:

Delete: "(6)"

Insert: "(5)"

Page 9, Line 2:

Delete: "(7)"

Insert: "(6)"

Page 9, Line 8:

Delete: "(8)"

Insert: "(7)"

#5  
3-18-87  
880

HB 880  
etc  
3-18-87



3-18-87  
Sub  
Amend  
HB 575  
EX

Adopted  
#5  
3-18-87  
575

AMENDMENTS TO HOUSE BILL NO. 575

INTRODUCED COPY

1. Page 3, line 16.

Following: line 16

Insert: "(c) transfer of property into a taxing unit;

"(d) subdivision of real property;

"(e) reclassification of property;"

RENUMBER SUBSEQUENT SUBSECTIONS

2. Page 4, line 3.

Following: line 3

Insert: "(b) transfer of the property into a taxing unit;

"(d) reclassification of the property;"

RENUMBER SUBSEQUENT SUBSECTIONS

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amendhb575

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# 575  
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# 7  
3-18-87  
575

Amend House Bill No. 575, Introduced Copy

1. Page 3, line 6.

Following: "each"

Strike: "levy category"

Insert: "taxing unit"

2. Page 3, line 7.

Following: "each"

Strike: "levy category"

Insert: "taxing unit"

3. Page 3, line 9.

Following: "each"

Strike: "levy category"

Insert: "taxing unit"

4. Page 5, line 13.

Following: "year"

Insert: "unless the taxing unit's taxable valuation decreases by 5% or more from the previous tax year. If a taxing unit's taxable valuation decreases by 5% or more from the previous tax year, it may levy additional mills to compensate for the decreased taxable valuation, but in no case may the mills levied exceed a number calculated to equal the revenue from property taxes for the 1986 tax year in that taxing unit."

5. Page 5.

Following: line 22

Insert: "(e) tax increment financing districts;

Re-number: subsequent subsections

HB  
880

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 880

DATE March 18, 1987

SPONSOR Winslow

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Terry B. Prosser	Helena	✓	
Robert R. Ballen	Maplewood, N.J.	✓	
Richard H. Saxe	Fair Haven, N.J.	✓	

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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## COMMITTEE

DATE March 18, 1987

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