

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

February 20, 1987

The twenty-eighth meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on February 20, 1987 by Chairman George McCallum in Room 325 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senator Hager.

CONSIDERATION OF SB 36: Senator Smith, Senate District 10, presented this bill to the committee. He said this bill is almost identical to SB 30, the only difference is the makeup of the commission. This is a referendum to put on the ballot to let the people decide whether they want the Department of Revenue to continue to assess property or whether it should be turned back to the elected officials within each of the counties. Before this change in the constitution, there was inequity in the assessing when it was done at the county level. Thirty counties did do a good job of assessing property, another twenty-six counties did not. The problem at that particular time was not because of the State Board of Equalization but because the legislature did not act and give the Board some power to make sure there was equalization. The system that we have now is even worse. Unless this legislature does something about the property tax and the present system, something similar to CI-27 will be back. He does not feel the present system is working well. The state of Montana and the taxpayers of the state cannot afford to continue to pay the salaries of the 440 people employed in that division. He furnished the committee with a letter from the Office of the Legislative Fiscal Analyst regarding state expenditures relating to property tax reappraisal and the State Tax Appeal Board. See attached Exhibit 1. He also furnished the committee with the "Performance Audit, Property Assessment Division, Department of Revenue", which is attached as Exhibit 2.

PROPOSERS: Marvin Barber, representing the Montana Assessors Association, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 3.

Giles Gregoirs, North Montana Stockgrowers Association, gave testimony in support of this bill. He furnished the committee with photographs and information written on the

photographs giving assessment value and describing what the photograph was. These photographs are attached as Exhibit 4.

Lyle Quick, Commissioner, McCone County, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 5.

John Duncan, rancher and farmer of Liberty County, gave testimony in support of this bill. He endorses this bill to submit to the qualified electors of Montana an amendment to remove the responsibility for property tax appraisal, assessment and equalization from the state and to restore it back to the counties. This will bring the control back to the grass roots. He said we have been subjected to some very severe and inaccurate assessments, made by our present system, which has caused much dissatisfaction among Montana taxpayers. It is time for a change.

Lorna Frank, representing the Montana Farm Bureau, gave testimony in support of this bill. A copy of her testimony is attached as Exhibit 6.

Ray White, Gallatin County Commissioner, gave testimony in support of this bill. He testified on behalf of many constituents in Gallatin County and other county commissioners. He supports this bill because the present system is not working. When this system went into place in 1973/74 it did work, the last 2-5 years it has been absolute chaos. He said this would help to alleviate the state budget deficit as is indicated in the fiscal note, which shows expenditures in excess of \$10 million. The fiscal note says that the \$10 million will become the counties responsibility. At the county level, this will not cost \$10 million. If this passes, we would need at the county levy around one additional mill levy. He would suggest an amendment to this bill allowing the makeup of the commission to be appointed by the Governor. He does not believe there should be different units appointing these people. His county would support any bill that would give local government involvement.

Don Jenni, Fergus County Farm Bureau, gave testimony in support of this bill. He believes the local government should have control to maintain equity. Putting this on a referendum to the people would give the people the final say.

Senator Tveit, Senate District 11, gave testimony in support of this bill. He gave some instances where he did not feel the current appraisals were fair. He feels the appraisals

should go back to the counties where the people are close at hand. The message was clear in CI-27, the people are concerned and upset with the state government and upset with the appraisal process being handled by the Department of Revenue.

Toni Hagens, Hill County Commissioner, gave testimony in support of this bill. He supports this bill in reflection of anger and frustration the counties feel over having to shoulder the blame, on a daily and continuing basis, over a procedure which they have no control. The reappraisal process has simply added fuel to the fire. Given the adequate resources, he feels the counties can be more accurate, more efficient and certainly more responsive to public concerns.

John Rabenburg, Wolf Point Chamber of Commerce, gave testimony in support of this bill. He feels the local governments would do a much better job of appraising and assessing property than the state.

Julie Hacker, Missoula County Freeholders, gave testimony in support of this bill. A copy of her statement is attached as Exhibit 7.

Gordon Morris, Montana Association of Counties, gave testimony in support of this bill. He would like to go on record in disagreement with the statement made on page 2 of the fiscal note, item #7. He does agree with the statement made on page 4 with regard to long-range effect on local revenue and expenditures.

Norman Nelson, Sheridan County, representing himself, gave testimony in support of this bill. He gave a summary of his frustration with the appeal process and furnished the committee with information on his appeal, which is attached as Exhibit 8.

Kay Norenberg, WIFE, stood in support of this bill.

Kenneth A. Coulter, Garfield County Commissioner, gave testimony in support of this bill. In his county there has been a great amount of appeals, which has incurred extra costs to the county and provided frustration to the people who work for the county in dealing with this situation. They have encountered many mistakes. If the appraising is returned to the counties, the small counties with low values will have a funding problem and in light of I-105 he is not sure if an increase in mill levy is acceptable at this time.

Jo Brunner, representing Montana Grange and Montana Cattlefeeders, gave testimony in support of this bill. A copy of her statement is attached as Exhibit 9.

Knud Grosen, Big Sandy, stood in support of this bill.

Bob Correa, Gallatin Agriculture Preservation Association, stood in support of this bill.

David McMiller, Richland County Commissioner, stood in support of this bill.

Art Nelson, Lavina, Montana, gave testimony in support of this bill. He said it is almost impossible to assess property accurately from Helena. At the county level they are more aware of the local economy and who would be better than the people of the local government to assess local property. The process has got to be back in the hands of the people themselves.

Bill Barba, Polson, Montana, representing the Lake County Board of County Commissioners, gave testimony in support of this bill. A copy of his testimony is attached as Exhibit 10.

John Allhands, Madison County Commissioner, gave testimony in support of this bill. He said the appraisal office has appraised a building in his area for \$3.5 million and the highest offer that they can get for the building is \$300,000 to \$400,000.

OPPONENTS: Don Peoples, Chief Executive, Butte Silver Bow, gave testimony in opposition to this bill. Butte Silver Bow has been pleased with the control of the appraisal system by the Department of Revenue. He feels the supporters of this bill have overlooked one item. With this bill there will obviously be an additional cost to the counties and he thinks that is a serious problem and one that he does not think is worth the additional expenditure to bring it back to local control. This system has worked adequately. There is a possibility of returning welfare back to the assumed counties. In his particular county that would mean a total of approximately 60 mills a year. Add another 10 mills on for property appraisal and we have got a giant problem. Stauffer Chemical appraised at \$4 million prior to 1972. The state appraisal after 1972 brought that valuation up to \$24 million and that valuation has held. The Anaconda Mineral Company was appraised at \$10 million and those facilities are now appraised at \$120 million and even after protest that value has held. We feel an important factor is the process of equalization. With the state in charge, all counties are in an equal playing field. Local control of assessment will return us to an uneven playing field very quickly

Greg Groepper, Administrator of the Property Assessment Division, Department of Revenue, gave testimony in opposition to this bill. He said it is somewhat curious to note that many of the people that stood as proponents in support of this bill are from counties suing the state of Montana on the assessor's salaries. He furnished the committee with a copy of information from the Governor's Council on Management, attached as Exhibit 11, which says the state should run off a central computer to save money and provide fairness. It is easy to forget 100 years of Montana history under local control. He spent a great deal of time the last week reading the constitutional convention minutes, in which it is stated that the system this bill is proposing we go back to, is a failure and utterly inadequate. He also furnished the committee with a report by Terry Cohea entitled "Property Tax Assessment: A Century-Long Struggle for Structured Discretion", which is attached as Exhibit 12. He reviewed some of the information from the report with the committee and relayed some inadequacies in the old system with regard to assessment. He requested that the committee review the Department's response to the audit of the Property Assessment Division furnished by Senator Smith. The elected county assessor is responsible not only to the Department of Revenue but to the county commissioners. They have audited 26 county assessment officials, which in some audits there were as many as 72 exceptions to procedure in Montana law. He thinks this will reduce the general fund expenditure but will increase the property tax burden at the local level. In view of I-105, which freezes property tax on certain property, he questions whether an increase at the county level is possible for this. With regard to school funding, if there is not a guaranteed fair distribution in 56 counties, there will be trouble with the school protection clause of the constitution.

Senator Eck, Senate District 40, gave testimony in opposition to this bill. She said the people elected as county assessors do not have the capability of doing assessments. She was involved with the original process of determining that the assessing should be taken from the county and turned over to a central assessing division. She realizes that there are problems but returning this back to the counties would double the problems. She is not in support of putting this to a vote before the people.

Eric Feaver, MEA, gave testimony in opposition to this bill. He said they believe this bill will damage equity in property tax collections in this state.

Claire Wilken, Golden Valley County Appraiser and Secretary/Treasurer of the Montana Appraisal Association, gave testimony in opposition to this bill. A copy of her written statement is attached as Exhibit 13.

Ed McHugh, Helena, representing the McHugh family, gave testimony in opposition to this bill. He said he has 33 pieces of property that were taxed individually this year. Of the 33 pieces of property, 32 were revised after talking with the appraiser. He pointed out some inequities in the present system. He said the system can be improved but he does not want to see the assessing going back to the county.

Sally Smith, Chairman of the Montana Appraisers Association, gave testimony in opposition to this bill. A copy of her statement is attached as Exhibit 14.

Ray Stubberud, Montana Appraisers Association, gave testimony in opposition to this bill. A copy of his statement is attached as Exhibit 15.

Senator Smith closed.


CONSIDERATION OF SB 30: Senator Crippen, Senate District 45, presented this bill to the committee in the absence of Senator Hager, chief sponsor. He stated that the bill does basically the same as SB 36, presented by Senator Smith, except for the make-up of the commission is different, as set forth on page 2 of the bill. He read the title of the bill to the committee.

PROPONENTS: See attached visitors' register.

OPPONENTS: See attached visitors' register.

QUESTIONS FROM THE COMMITTEE: None.

ADJOURNMENT: The meeting adjourned at 10:10 A.M.


SENATOR GEORGE McCALLUM, Chairman

ah

ROLL CALLTAXATION

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-20-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER			✓
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

COMMITTEE ON

DATE

7-20-87

Senate Jarakot

VISITORS' REGISTER

SB 30/SB 36

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Sally Smith	Montana Appraisers Assoc.	S.B. 30/36		✓
CLAIRE WIKEN	" " "	"		✓
Raymond M. Stubbend	" " "	30/36		✓
RICK BILADENH	" " "	30/36		✓
Ellen BYRNES	Montana ASSESSOR ASSOC	31/36	✓	
Judy Fritz	" " "	30/36	✓	
Raf White	Galatin Co Comm.	513 30/36	✓	
Gene T. Egan	W.L. Stockgrowers	"		
John Osterberg	Wolf Creek Club of Lion	SB 30/36	✓	
Leo Pearson	North Mont. Horseman Ass.	513 36	✓	
Marvin Olson	Mt. Assessors Assoc	SB.	✓	
Bill McPhee	Mt assessors assoc.	30/36	✓	
John W. Duncan	Duncan Ranch Co.	30/24	✓	
Gertie Chulter	Fallon County Assessor	30/36	✓	
Jo L. Karlenko	Mt Assessor Assoc	30/36	✓	
Marvin Barber	Mt assessor assoc	30/36	✓	
Sharon Hartel	Mt Assessors Assoc.	30/36	✓	
Pattie Jackson	Mt. Assessors Assoc.	30/36	✓	
Chuck Krause	Mt Assessors Assoc	30/36	✓	
Bill Baird	POTOMAC MT.	SB 36	✓	
David McMillen	Richland Co. Commission	SB 36	✓	
Sally K. Allhands	Assessors	SB 36	✓	
John Allhands	Mt Co Comm.	SB 36	✓	
Don Jenni	Fergus Co Farm Bureau	SB 36	✓	
A.R. (Tom) Magner	Hill Co. / Mt. Ass. Comm.	SB 30/36	✓	
Marvin A. Nelson	Shelby Co. Self	SB 30/36	✓	

(Please leave prepared statement with Secretary)

DATE. February 20, 1987

COMMITTEE ON Senate Taxation

SB 30 / SB 36

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
LORNA FRANK	MT. FARM Bureau	SB-36/30	✓	
Kay Norenberg	WIFE	SB 36	✓	
Gordon Morris	MACE	36/30	✓	
J. Brunner	Trance - Cullfiden	30	✓	
Duke Lacher	Mesa Co. Tractholders	36/30	✓	
Vera Cahoon	Mesa Co. Tractholders	30/36	✓	
Samuel A. Butler	Hwy 66 Comm.	36	✓	
Fester Engdahl	Garfield Comm.	36	✓	
Edward H. Jones	Pugget	36/30	✓	
Arthur M. Nelson	Lacuna	30/36	✓	
Robert Corbin	Callahan Agriculture Preservation Assoc	30/36	✓	
Kati Williams	Sensen Williams	30-36	✓	
Afred Karimiche	Brockton Mont.	30/36	✓	
Carmel Buena	Kellomela County	30/36	✓	
Harry Lang	Fallon County	36	✓	
KATHY & KNUD GROSEN	BIG SANDY	36	✓	
Ed McHugh	Nilema			
Eri Flan	NEN			✓
Clara King	McDon County comm	36	✓	
Ray Harper	D.O.R.	36		✓
"	"	30		✓



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

JUDY RIPPINGALE
LEGISLATIVE FISCAL ANALYST

January 29, 1987

Senator Ed Smith
Seat #2
Montana State Senate

Dear Senator Smith:

This responds to your request of January 20, 1987 for state expenditures relating to property tax reappraisal and the State Tax Appeal Board.

Table 1 attached lists the total state expenditures for the property appraisal and assessment function performed by the Department of Revenue since it became a state responsibility under Montana's 1972 Constitution. Not included in these expenditures are costs relating to the administration of net and gross proceeds taxes. As Table 1 shows, the state has expended \$134.9 million, 96 percent general fund, in the fiscal years 1973 through 1986 for the property appraisal and assessment function.

The state has expended \$3.0 million general fund for the State Tax Appeal Board in fiscal years 1974 through 1986. No expenditures were incurred in fiscal 1973 because the State Tax Appeal Board was statutorily created on July 1, 1973.

If you have further questions, please stop by or call the office.

Sincerely,

A handwritten signature in cursive script, reading "Pamela D. Joehner".

Pamela D. Joehner
Senior Fiscal Analyst

PJ1:bn:ss29.

SENATE TAXATION

EXHIBIT NO. 1

DATE 2-20-87

BILL NO. SB-36

Table 1
State Expenditures Relating to Property Tax Functions
Fiscal Years 1973 through 1986

Fiscal Year	Property Assessment			- State Tax - Appeal Board
	General Fund	Other Funds	Total Funds	General Fund
1973	\$ 211,901	\$ -0-	\$ 211,901	\$ -0-
1974	940,570	2,927,519	3,868,089	141,517
1975	5,512,446	320,247	5,832,693	171,736
1976	6,618,614	48,986	6,667,600	181,506
1977	6,771,955	251,172	7,023,127	181,486
1978	7,660,394	438,547	8,098,941	172,958
1979	6,703,697	366,207	7,069,904	239,308
1980	6,863,339	282,778	7,146,117	238,742
1981	7,362,774	52,378	7,415,152	248,103
1982	23,467,308	-0-	23,467,308	255,960
1983	24,879,500	-0-	24,879,500	255,086
1984	10,494,852	-0-	10,494,852	291,059
1985	11,121,733	9,000	11,130,733	295,575
1986	11,563,146	25,000	11,588,146	320,338
Total	<u>\$130,172,229</u>	<u>\$4,721,834</u>	<u>\$134,894,063</u>	<u>\$2,993,374</u>

SENATE TAXATION

EXHIBIT NO. 1

DATE 2-20-87

BILL NO. SB-36

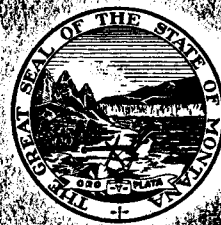
State of Montana
Office of the Legislative Auditor

Performance Audit

Property Assessment Division
Department of Revenue

This report contains recommendations for improvements in the controls over the property valuation process and the property reappraisal program. Major recommendations concern:

- ▶ Improving management controls over the property valuation process and the property appraisal program.
- ▶ Enacting legislation to place the assessment function under direct control of the Department of Revenue.
- ▶ Improving controls over division and county data processing.



Direct comments/inquiries to:
Office of the Legislative Auditor
Room 135, State Capitol
Helena, Montana 59620

SENATE TAXATION

EXHIBIT NO. 2

DATE 2-20-87

BILL NO. 58-36

For the record, I am Marvin Barber, representing the Montana Assessors Association.

THE FOLLOWING IS MY TESTIMONY

We conducted a written poll of all the counties posing the question of returning the assessing and appraising to the local government. The results are as follows:

return to counties	41
stay with DOR	7
undecided	8

Four of the undecided are newly elected officials, and three of the eight are appointed by the DOR, not elected by the voters. Those who desire to return to the county are very concerned, what method will be used to fund the offices. They realize these things aren't easy and must be dealt with by the people in charge of the budget.

I would like to respond to some of the testimony given by the DOR, previously and probably will be given again, as to the problems of not being able to control the elected assessors.

(1) It has been stated by the DOR and the Legislative Audit Committee, that this is one of the problems in making the system work. They claim that they cannot remove an elected official from office. This is false, this was done in a county a few years ago, and at this point in time, they have removed the Assessor and Appraiser from their offices in Cascade County.

(2) The comments regarding the Assessors unable to pass the school for appraisers, leaves some gray area, as the assessors haven't had any previous knowledge of the appraisal process. They haven't worked in the field, as most of the appraisers are allowed to do before they attend schools, unless they are already trained when they apply for a job. The same would apply, if an appraiser attends an assessors school.

They also stated that they can remove an appraiser if they are not performing the work properly, if this is so, why did it take more than a year to accomplish this in my area a few years ago. If an assessor doesn't to his or her job, the democratic

SENATE TAXATION

EXHIBIT NO. 3

DATE 2-20-87

method of voting will handle that without contest.

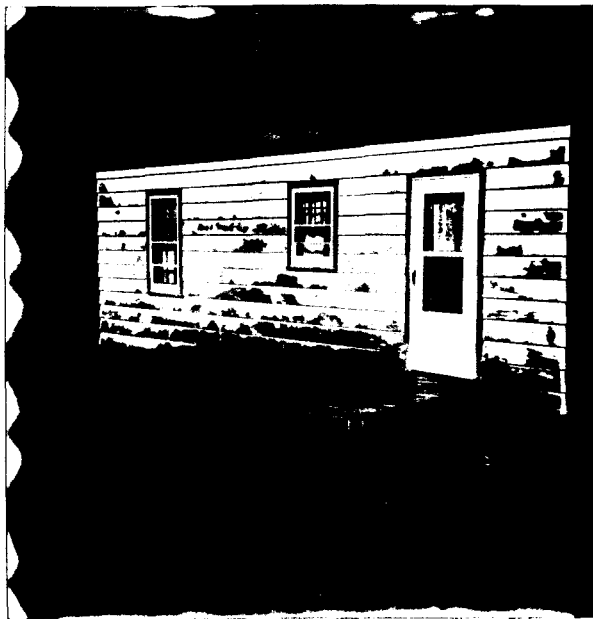
(3) The assessors and appraisers used the same manual furnished by the DOR. Why, then did we have approximately 800 reviews and 100 appeals of real property and only one of personal property in my county. We all used the same guide lines.

(4) The need for the number of industrial appraisers seems unreal, we have only four industries in our county. Many of the counties are the same and some probably one elevator.

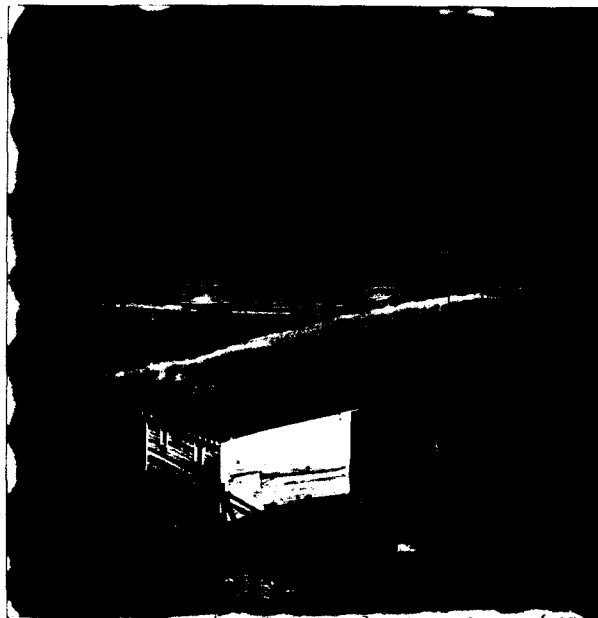
I would like to present an example of the professionalism they are stating, in regard to the industrial appraisers. We have one elevator company, and the land under the elevator is owned by the railroad. The Industrial Appraiser not only appraised the land under the elevator, but he added the value of a 300 X 400 ft. warehouse to the value of the elevator company. This warehouse was a block away on the railroad property. The appraiser did not enter the plant and review his appraisal with the owner or any ^{one} else. We realize mistakes can be made, but had it not been for the owner asking for a review due to the drastic increase in value, this appraisal would have been in twice, plus the land.

In closing, we would ask a do pass for this bill. The DOR has had thirteen years to build a better mouse trap, and it still isn't working.

Thank You,
Marvin Barber
Marvin Barber



#503⁰⁰ - "deck - patio" on
vacant house - upper ranch



May have with stanchions
quite opposed as a chicken
house!



#503⁰⁰ - "deck - patio" on
vacant house - upper ranch

Furnished by Giles Gregoirs

SENATE TAXATION

EXHIBIT NO. 4

DATE 2-20-87



SEE Reverse
Furnished By Giles Gregoirs

SENATE TAXATION

EXHIBIT NO. 4

DATE 2-20-87

BILL NO. SB-36

NAME: Lyda Quick DATE: _____

ADDRESS: Box 384 Circle MT 59215

PHONE: 485-3505

REPRESENTING WHOM? Mc Conn

APPEARING ON WHICH PROPOSAL: SB 36

DO YOU: SUPPORT? ✓ AMEND? OPPOSE?

COMMENT: _____

SENATE TAXATION
EXHIBIT NO. 5
DATE 2-20-87
BILL NO. SB-36

Mr. Chairman and Committee Members:

My name is Lyle Quick. I am a Commissioner from McCone County and will speak on behalf of that board. I am presently serving in my eleventh year of public service. I mention my tenure only to demonstrate to you that my decision to support and promote this legislation has been based on years of experience and I think adequate time to analyze the situation intelligently.

I can truthfully say that I would like nothing better than to have our present property assessment system work and work well for the good of all the people we serve. The fact is it has not and will not work until property assessment duties are restored to the counties. We have reached a point in time when we must decide which level of government can most efficiently and effectively preform the duties of these offices. I am certain, given the responsibility and authority, we in county government can do better. When approximately 96% of the money is raised and spent in McCone County I resent the fact that we must rely on a huge bureaucracy in Helena telling us how to appraise and assess our property. To me this is without logic.

I would like to relate to you our most recent fiasco in property appraising, assessing and tax collection in my county. Last year we had 2,250 tax statements. Of this number 189 were appealed with a large portion being lowered as a result. It is most likely that those property owners that did not appeal in 1986 will in 1987, causing an even greater workload to bring property assessments in to balance.

There were 342 of the 2,250 statements that had to be corrected and 133 of the corrections were made after the roll books were turned

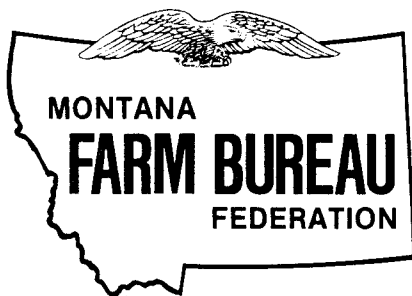
SENATE TAXATION
EXHIBIT NO. 5
DATE 2-20-87
BILL NO. 58-36

over to the County Treasurer. That caused an estimated 20,000 bookkeeping entries throughout the system costing the state and the county approximately \$15,000 to correct and the corrections are still going on. McCone County, in order to meet State Law, was forced to hire and pay for a replacement employee to assist in the Assessor's office due to the fact that the state would not fill the vacancy. It is my feeling that these problems stem from lack of cooperation and concern from Helena for the problems at the county level.

Senate Bill 36 will give the voter a chance to amend the Constitution and decide if they want Helena or their counties to appraise and assess their property.

I appreciate the opportunity to come before you and hope that you will look favorably upon this legislation. If you have any questions or need more information in the future I will be most happy to respond.

Thank you.



P.O. Box 6400
~~502 South 19th~~

Bozeman, Montana 59715
Phone (406) 587-3153

TESTIMONY BY: Lorna Frank
BILL # SB-30 & 36 DATE 2/20/87
SUPPORT XXX OPPOSE

Mr. Chairman, members of the committee, for the record, my name is Lorna Frank, representing Montana Farm Bureau.

We support the concept of SB-30 and SB-36, to return the assessment and appraisal back to the counties under the direction of a state county equalization commission. We believe this should be a part of any tax reform.

We feel that with the state county equalization commission this will eliminate the problem that we had prior to the state taking over the program, with the taxes being different in each and every county.

The final say would be by the people of Montana at the general election in 1988. You may want to consider having staggered terms for the commission so there would be some continuity to the commission. We believe the commission make up out lined in SB-36 would best accomplish this.

Thank you.

SENATE TAXATION

EXHIBIT NO. 6

DATE 2-20-87

BILL NO. SB-36

SIGNED: Lorna Frank

(This sheet to be used by those testifying on a bill.)

NAME:

Julie Hacker

DATE:

2/20/87

ADDRESS:

SP Bx 335

PHONE:

244-5521

REPRESENTING WHOM?

Wpa Co. Farmers

APPEARING ON WHICH PROPOSAL:

SB 30, 36

DO YOU:

SUPPORT?

✓

AMEND?

OPPOSE?

COMMENTS:

1. Appraisal discrepancies on farmstead Acre
\$2500 — \$12,500 valuation
2. Return to co. where borrower is
directly accountable to the notes
3. Tax appeal process overloaded due to
inaccurate work by state appraisers
4. Please give this measure a do pass!

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION

EXHIBIT NO.

7

DATE

2-20-87

BILL NO.

SB-36

1985

1985 ASSESSMENT NOTICE
CLARA TANGE, COUNTY ASSESSOR
SHERIDAN COUNTY, MONTANA
100 WEST LAUREL AVENUE
PLENTYWOOD, MT 59254

PARCEL #: 381.00

REAL TAX ROLL

SCHOOL CODE 1

#1A

PROPERTY DESCRIPTION:

BLUE SKY FARMS, INC
WESTBY, MT 59275

SE4, 23; E2, 25; W2, 26;
ALL 36-35-57 1440A

1950

SD 3-3

ASSESSMENT CATEGORY	DESCRIPTION	QUANTITY	MARKET VALUE	TAX %	TAXABLE VALUE
1401	TILLABLE NON IRRIGATED	1303.00	25,521	30.000	7,
1601	GRAZING	137.00	408	30.000	
3111	IMP ON AGRICULTURAL LAND #2		31,536	8.550	2,
3111	IMP ON AGRICULTURAL LAND #1		34,818	8.550	2,
TOTAL			92,333		13,

IF ANY DISAGREEMENTS ARE FOUND WITH
THIS ASSESSMENT THEY MUST BE REPORTED
TO THE ASSESSOR WITHIN TEN DAYS.

THE COUNTY TAX APPEALS BOARD WILL MEET THE 3RD MONDAY IN APRIL TO HEAR
ASSESSMENT AND CLASSIFICATION APPEALS AND REMAIN IN SESSION UNTIL THE
BUSINESS IS DISPOSED OF BUT NOT LATER THAN THE LAST MONDAY IN JUNE.
APPLICATIONS FOR VALUATION REDUCTION OR RECLASSIFICATION ARE AVAILABLE
AT THE COUNTY ASSESSOR'S OFFICE AND MUST BE FILED ACCORDING TO THE
RULES SET FORTH ON OR BEFORE THE 1ST MONDAY IN JUNE OR 15 DAYS AFTER
RECEIVING A NOTICE OF CLASSIFICATION AND APPRAISAL FROM THE DEPARTMENT
OF REVENUE, WHICHEVER IS LATER (AB24)

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. 58-36

1986 ASSESSMENT NOTICE
CLARA TANGE, COUNTY ASSESSOR
SHERIDAN COUNTY, MONTANA
100 WEST LAUREL AVENUE
PLENTYWOOD, MT 59254

PARCEL #: 381.00

REAL TAX ROLL

SCHOOL CODE 3

PROPERTY DESCRIPTION:

BLUE SKY FARMS, INC

SE4, 23

WESTBY, MT 59275

E2, 25-35-57 480 ACRES

1950

SD 3-3

SECT.	CAT.	CATEGORY DESCRIPTION	QUANTITY	MARKET VALUE	TAX %	TAXABLE VALUE
23	1401	TILLABLE NON IRRIGATED	145.00	2,256	30.000	67
23	1601	GRAZING LAND	15.00	12	30.000	
25	1401	TILLABLE NON IRRIGATED	290.00	5,719	30.000	17
25	1601	GRAZING LAND	29.00	156	30.000	
25	3110	IMP ON AG LAND		70,011	3.088	2,1
25	2001	1 ACRE FARMSTEAD	1.00	500	3.088	
TOTAL				78,654		4,6

IF ANY DISAGREEMENTS ARE FOUND WITH
THIS ASSESSMENT THEY MUST BE REPORTED
TO THE ASSESSOR WITHIN TEN DAYS.

THE COUNTY TAX APPEALS BOARD WILL MEET THE 3RD MONDAY IN APRIL TO HEAR
ASSESSMENT AND CLASSIFICATION APPEALS AND REMAIN IN SESSION UNTIL THE
BUSINESS IS DISPOSED OF BUT NOT LATER THAN THE LAST MONDAY IN JUNE.
APPLICATIONS FOR VALUATION REDUCTION OR RECLASSIFICATION ARE AVAILABLE
AT THE COUNTY ASSESSOR'S OFFICE AND MUST BE FILED ACCORDING TO THE
RULES SET FORTH ON OR BEFORE THE 1ST MONDAY IN JUNE OR 15 DAYS AFTER
RECEIVING A NOTICE OF CLASSIFICATION AND APPRAISAL FROM THE DEPARTMENT
OF REVENUE, WHICHEVER IS LATER (AB24)

SERIAL TAXATION

EXHIBIT NO. 8

DATE 2-20-87

EXHIBIT NO. 8 # 15DATE 2-20-87BILL NO. S.B. 36

PROPERTY TAX APPEAL FORM NUMBER 1

(Please Read Instructions on Back of Form before Completing)

File this appeal with the county tax appeal board on or before the first Monday in June or within 15 days of the time you receive your Notice of Change in Valuation of real property or your Assessment List of personal property from the Department of Revenue. (For the purpose of a tax appeal, your notice of taxes due from your County Treasurer is not considered a notice of change or assessment.) Please see Instructions #1 & #2.

FOR COUNTY BOARD USE

Date appeal filed:

5-21-86

C. B. Docket No.:

#15

(Please Type or Print)

NAME: BIVE SKY FARM INC.
Norman A. Nelson

(W)

PHONE NO. (H) 385-2458

If name shown on tax rolls is other than taxpayer's, please indicate above.

MAILING ADDRESS: H.C.R. Box 30 Westby 59275
Street or Box No. City or Town ZIPI hereby make application to the Sheridan County Tax Appeal Board for adjustment in the appraised value of the following described property:

(The following Section must be completed in full to be considered.)

LEGAL DESCRIPTION OF PROPERTY:

City or town property: Lot(s) _____ Block(s) _____

____ Addition or ____ Subdivision (Check one) _____
(Name)

Street Address: _____

Rural Property: No. of Acres 480 Section 25 Township 35 Range 57

	Appraised Value set by Department of Revenue	Appraised Value as Determined by Taxpayer	FOR USE BY COUNTY BOARD
Land			
Buildings	<u>65,301</u> ^{70,101}	<u>35,000</u>	<u>\$50,215.00</u>
Personal Property	<u>H.A.N.</u>		

Reasons for appeal: D. UNIT PAY This much for these buildings
Have Checked Around Behlen Querset is cheaper today than the
I PUT it up in 1970 - Shop built in 1970 HAS wood Floor

Name of person who conducted your hearing, as provided in Sections 15-1-303 and 15-7-102, MCA. (See Instruction

#2). _____

Signature of taxpayer: Norman A. Nelson Date: 5-21-86Printed name of person signing appeal: NORMAN A. NELSON

15

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-80

BILL NO. S.B. 36

NORMAN A. NELSON

1. Shop	reduction
2. Quanset	\$ 400.00
4. 3 Behlin Bin	2,650.00
House	1,836.00
Total reduction	15,000.00
	\$19,886.00

PROPERTY TAX APPEAL FORM 1A

DATE 2-20-87BILL NO. 15 S.B. 36TAXPAYER NAME: NORMAN A NELSON

Docket No. _____

This portion for COUNTY BOARD use:

The above application for reduction in appraised value is:

approved _____, disapproved _____, adjusted X, for the following reasons:

From the evidence given the board voted unanimously to adjust the
appraised value.

Emmanuel F. Stater
 Chairman, County Tax Appeal Board

6/30/86

Date

This portion for appeal to:

STATE TAX APPEAL BOARD

Capitol Station

1209 8th Avenue

Helena, Montana 59620

FOR STAB USE

Docket No. _____

Section 15-2-301, MCA: "Any person or the Department of Revenue in behalf of the state or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state tax appeal board by filing with the county tax appeal board a notice of appeal and a duplicate thereof with the state board within **20 calendar days** after the receipt of the decision of the county board, which notice shall specify the action complained of and the reasons assigned for such complaint." NOTE: The appeal to the county tax appeal board, Form 1, must be included with this Form 1A in an appeal to the State Board.

I hereby appeal the action of the County Tax Appeal Board, received on _____
 (date)

for the following reasons: _____

Signature: _____ Date: _____

2

1986 ASSESSMENT NOTICE
CLARA TANGE, COUNTY ASSESSOR
SHERIDAN COUNTY, MONTANA
100 WEST LAUREL AVENUE
PLENTYWOOD, MT 59254

PARCEL #: 381.01

REAL TAX ROLL

SCHOOL CODE 3

PROPERTY DESCRIPTION:

BLUE SKY FARMS, INC

WESTBY, MT. 59257

1950

W2, 26

ALL 36-35-57 960 ACRES

RESIDENCE \$18,070/OUTBLGS

SD 3-3

\$47,006

SECT.	CAT.	CATEGORY DESCRIPTION	QUANTITY	MARKET VALUE	TAX %	TAXABLE VALUE
26	1401	TILLABLE NON IRRIGATED	272.00	5,214	30.000	1,56
26	1601	GRAZING LAND	48.00	121	30.000	3
36	1401	TILLABLE NON IRRIGATED	609.00	12,582	30.000	3,77
36	1601	GRAZING LAND	30.00	111	30.000	3
36	3110	IMP ON AG LAND		65,256	3.088	2,01
36	2001	1 ACRE FARMSTEAD	1.00	500	3.088	1
TOTAL				83,784		7,43

IF ANY DISAGREEMENTS ARE FOUND WITH
THIS ASSESSMENT THEY MUST BE REPORTED
TO THE ASSESSOR WITHIN TEN DAYS.

THE COUNTY TAX APPEALS BOARD WILL MEET THE 3RD MONDAY IN APRIL TO HEAR
ASSESSMENT AND CLASSIFICATION APPEALS AND REMAIN IN SESSION UNTIL THE
BUSINESS IS DISPOSED OF BUT NOT LATER THAN THE LAST MONDAY IN JUNE.
APPLICATIONS FOR VALUATION REDUCTION OR RECLASSIFICATION ARE AVAILABLE
AT THE COUNTY ASSESSOR'S OFFICE AND MUST BE FILED ACCORDING TO THE
RULES SET FORTH ON OR BEFORE THE 1ST MONDAY IN JUNE OR 15 DAYS AFTER
RECEIVING A NOTICE OF CLASSIFICATION AND APPRAISAL FROM THE DEPARTMENT
OF REVENUE, WHICHEVER IS LATER (AB24)

SENATE TAXATION-----

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. SB 31

PROPERTY TAX APPEAL FORM NUMBER 1

(Please Read Instructions on Back of Form before Completing)

File this appeal with the county tax appeal board on or before the first Monday in June or within 15 days of the time you receive your Notice of Change in Valuation of real property or your Assessment List of personal property from the Department of Revenue. (For the purpose of a tax appeal, your notice of taxes due from your County Treasurer is not considered a notice of change or assessment.) Please see Instructions #1 & #2.

FOR COUNTY BOARD USE
Date appeal filed:

5-21-86

C. B. Docket No.:

16

(Please Type or Print)

NAME: Blue Sky Farms INC -
Norman A. Nelson

(W)

PHONE NO. (H) 385-2458

If name shown on tax rolls is other than taxpayer's, please indicate above.

MAILING ADDRESS: H.C.R. Box 30 Westby 59275
Street or Box No. City or Town ZIP

I hereby make application to the Sheridan County Tax Appeal Board for adjustment in the appraised value of the following described property:

(The following Section must be completed in full to be considered.)

LEGAL DESCRIPTION OF PROPERTY:

City or town property: Lot(s) _____ Block(s) _____

____ Addition or ____ Subdivision (Check one) _____
(Name)

Street Address: _____

Rural Property: No. of Acres 960 Section 36 Township 35 Range 57

	Appraised Value set by Department of Revenue	Appraised Value as Determined by Taxpayer	FOR USE BY COUNTY BOARD
Land			
Buildings	<u>71,727</u> ^{65,166}	<u>30,000</u>	<u>\$43,211.00</u>
Personal Property	<u>Nil</u>		

Reasons for appeal: NO Building Wood Building is newer than
1952 - Quoset's are falling down. Steel Bx's are valued
to High - did not pay this much for them - today they are
Cheaper -

Name of person who conducted your hearing, as provided in Sections 15-1-303 and 15-7-102, MCA. (See Instructions

#2). _____

Signature of taxpayer: Norman A. Nelson Date: 5-21-86

Printed name of person signing appeal: NORMAN A. NELSON EXHIBIT NO. 8

16

NORMAN NELSON

	<u>reduced</u>
1. Machine Shed	\$ 400.00
6. Quanset	2,900.00
7. Granary	400.00
4. Garage	4,502.00 (\$4,002.00)
5. Quanset	802.00
10. Roscoe	1,000.00
9. Co-op	600.00
2 Behlin	1,500.00
3 Butler	1,638.00
Stormor	1,713.00
Steel Bin	1,000.00
House	6,000.00
Total reduction	<u>\$21,955.00</u>

SENATE TAXATION

EXHIBIT NO. 8DATE 2-20-87BILL NO. S.B. 31

PROPERTY TAX APPEAL FORM 1A

TAXPAYER NAME: NORMAN NELSON

Docket No. #16

This portion for **COUNTY BOARD** use:

The above application for reduction in appraised value is:

approved _____, disapproved _____, adjusted X, for the following reasons:

From the evidence given the board voted unanimously to adjust the
appraised value.

Emmanuel F. Stator
Chairman, County Tax Appeal Board

6/30/86

Date

This portion for appeal to:

STATE TAX APPEAL BOARD

Capitol Station

1209 8th Avenue

Helena, Montana 59620

FOR STAB USE

Docket No. _____

Section 15-2-301, MCA: "Any person or the Department of Revenue in behalf of the state or any municipal corporation aggrieved by the action of any county tax appeal board may appeal to the state tax appeal board by filing with the county tax appeal board a notice of appeal and a duplicate thereof with the state board within **20 calendar days** after the receipt of the decision of the county board, which notice shall specify the action complained of and the reasons assigned for such complaint." NOTE: The appeal to the county tax appeal board, Form 1, must be included with this Form 1A in an appeal to the State Board.

I hereby appeal the action of the County Tax Appeal Board, received on _____

(date)

for the following reasons: _____

Signature: _____

Date: _____

STAB Form 1A (Revised 1986)
(to be used with Form 1)

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. S.B. 36

**FOR
STAB
USE**

Applicable Statutes may be:

1485

1985 ASSESSMENT NOTICE
CLARA TANGE, COUNTY ASSESSOR
SHERIDAN COUNTY, MONTANA
100 WEST LAUREL AVENUE
PLENTYWOOD, MT 59254

PARCEL #: 2990.00

REAL TAX ROLL

SCHOOL CODE 8

PROPERTY DESCRIPTION:

BLUE SKY FARMS, INC
WESTBY, MT 59275

N2, 13-35-56 314A;
LESS 6A RT OF WAY

1489

SD 20-20

ASSESSMENT CATEGORY	DESCRIPTION	QUANTITY	MARKET VALUE	TAX %	TAXABLE VALUE
1401	TILLABLE NON IRRIGATED	314.00	6,019	30.000	1,8
3111	IMP ON AGRICULTURAL LAND		1,278	8.550	1
		TOTAL	7,297		1,9

2 B-

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THIS ASSESSMENT THEY MUST BE REPORTED
TO THE ASSESSOR WITHIN TEN DAYS.

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RULES SET FORTH ON OR BEFORE THE 1ST MONDAY IN JUNE OR 15 DAYS AFTER
RECEIVING A NOTICE OF CLASSIFICATION AND APPRAISAL FROM THE DEPARTMENT
OF REVENUE, WHICHEVER IS LATER (AB24)

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

FILE NO. 5 R 31

PROPERTY TAX APPEAL FORM NUMBER 1

(Please Read Instructions on Back of Form before Completing)

File this appeal with the county tax appeal board on or before the first Monday in June or within 15 days of the time you receive your Notice of Change in Valuation of real property or your Assessment List of personal property from the Department of Revenue. (For the purpose of a tax appeal, your notice of taxes due from your County Treasurer is not considered a notice of change or assessment.) Please see Instructions #1 & #2.

FOR COUNTY BOARD USE

Date appeal filed:

5-21-86

C. B. Docket No.:

#17

(Please Type or Print)

NAME: SILVER GLEN FARM INC. - Norman A. Nelson (W) _____
 If name shown on tax rolls is other than taxpayer's, please indicate above. PHONE NO. (H) 385-2458

MAILING ADDRESS: H.C.R. Box 30 Westley 59275
Street or Box No. City or Town ZIP

I hereby make application to the Sherrill County Tax Appeal Board
 for adjustment in the appraised value of the following described property: SENATE TAXATION
 (The following Section must be completed in full to be considered.) EXHIBIT NO. 8

LEGAL DESCRIPTION OF PROPERTY:

City or town property: Lot(s) _____ Block(s) _____ DATE 2-20-87
 _____ Addition or _____ Subdivision (Check one) _____ BILL NO. S.B. 34
(Name)

Street Address: _____

Rural Property: No. of Acres 2.14 Section 13 Township 35 Range 56

	Appraised Value set by Department of Revenue	Appraised Value as Determined by Taxpayer	FOR USE BY COUNTY BOARD
Land	6,019	6,019	\$6,019.00
Buildings	2,644	1,200	\$1,644.00
Personal Property			

Reasons for appeal: I did pay THAT MUCH for this B'n - Have
checked around today and car buy cheaper today
than APPASIED VALUE -

Name of person who conducted your hearing, as provided in Sections 15-1-303 and 15-7-102, MCA. (See Instruction

#2). _____

Signature of taxpayer: Norman A. Nelson Date: 5-21-86

Printed name of person signing appeal: NORMAN A. Nelson



STATE OF MONTANA
STATE TAX APPEAL BOARD
1209 8TH AVENUE
CAPITOL STATION
HELENA, MONTANA 59620

TELEPHONE:
AREA CODE 406
444-2720

TED SCHWINDEN
GOVERNOR

ROBERT S. RAUNDAL, CHAIRMAN
DALE D. DEAN, Member
MARY E. HEMPLEMAN, Member

July 11, 1986

Blue Sky Farms, Inc.
c/o Norman A. Nelson
H.C.R. Box 30
Westby, MT 59275

Re: Appeal numbers: PT-1986-225, 226 and 227
Department of Revenue
v.
Blue Sky Farms, Inc.

Dear Mr. Nelson:

The State Tax Appeal Board acknowledges receipt and acceptance of the appeals of the Department of Revenue from a decision of the Sheridan County Tax Appeal Board.

You will be given 15 days notice of the time and place of the hearing.

Sincerely,

Mary E. Hempleman
STATE TAX APPEAL BOARD

copy: Property Assessment Division, Department of Revenue
Sheridan County Tax Appeal Board

NOTE TO COUNTY TAX APPEAL BOARD: Please forward to the State Tax Appeal Board the transcript and record of the hearing in the above matter as soon as possible. All exhibits and other evidence made part of the county hearing should be included.

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. S.B. 36

BILL NO. S.B. 3

Copy: Larry G. Schuster, tax counsel, Department of Revenue
Tully Tryan, Sheridan County Appraisal Supervisor

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

THE DEPARTMENT OF REVENUE
OF THE STATE OF MONTANA,

Appellant,

-vs-

BLUE SKY FARMS, INC.,

Respondent.

Docket No. PT-1986-225,
PT-86-226 & PT-86-227

OPINION and ORDER

The above-entitled appeals came on regularly for hearing on the 21st day of October, 1986 in the City of Plentywood, Montana. The Department of Revenue presented testimony in support of its appeals and the taxpayer presented testimony in opposition thereto.

The Board finds that the Department of Revenue presented sufficient evidence to support its position that the Sheridan County Tax Appeal Board's decisions were erroneous and therefore sustained its burden on appeal.

For the foregoing reasons, the above appeals are hereby granted. This opinion constitutes the Board's Findings and Conclusions herein.

/ / / / /

/ / / / /

/ / / / /

SENATE TAXATION

EXHIBIT NO. 8

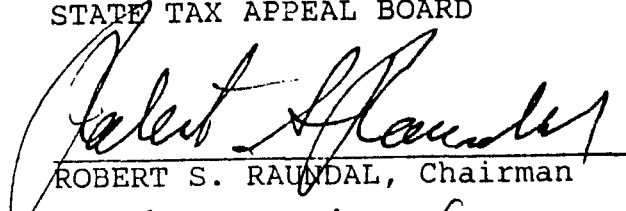
DATE 2-20-87

BILL NO. S.B. 36

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DATED this 14th day of January, 1987.

BY ORDER OF THE
STATE TAX APPEAL BOARD


ROBERT S. RAUNDAL, Chairman

(S E A L)


DALE D. DEAN, Member


MARY E. HEMPLEMAN, Member

NOTICE: You are entitled to judicial review of this order in
accordance with Section 15-2-303(2), MCA. Judicial review may
be obtained by filing a petition in district court within 60
days after the service of this Order.

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. S.B. 36

CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of January, 1987, a true and correct copy of the foregoing has been served by placing same in the United States Mail, postage prepaid, and addressed as follows:

Norman A. Nelson
Blue Sky Farms, Inc.
H.C.R. Box 30
Westby, MT 59275

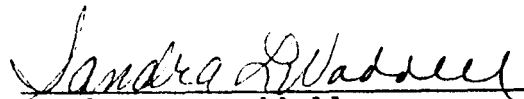
Office of Legal Affairs
Montana Department of Revenue
Mitchell Building
Helena, MT 59620

Tully Tryan
Appraisal Supervisor
Sheridan County Courthouse
Plentywood, MT 59254

Clara Tange, Assessor
Sheridan County Courthouse
Plentywood, MT 59254

Betty Teigen, Treasurer
Sheridan County Courthouse
Plentywood, MT 59254

Emanuel F. States, Chairman
Sheridan County Tax Appeal Board
R.R. 1, Box 40
Redstone, MT 59257


Sandra L. Waddell
Administrative Aide

SENATE TAXATION

EXHIBIT NO. 8

DATE 2-20-87

BILL NO. S.B. 36

(This sheet to be used by those testifying on a bill.)

NAME: J. Brown

DATE: 1/20/87

ADDRESS: 2056 4th Ave NE

PHONE: 442-2634

REPRESENTING WHOM? Mr. Henry Cattleman

APPEARING ON WHICH PROPOSAL: SB 36

DO YOU:

SUPPORT? X

AMEND?

OPPOSE?

COMMENTS:

Have suggested to refer to Senate Committee
of the Bureau of Finance and Revenue
Have believe that a bill to regulate the
to be included in the bill and
more appropriate to be referred to the
committee. Will work with Henry on this.
Probably I would like to see a bill up to

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE TAXATION

EXHIBIT NO. 9

DATE 2-20-87

BILL NO. SB-36

Bill Barber

THIS LETTER WAS READ BY GOVERNOR TED SCHWINDEN
IN HIS OFFICE ON AUG. 8, 1986.

April 18, 1985

To: Lake County Board of County Commissioners;

Dear Sirs,

We the undersigned employees, employed by the people of Lake County wish to bring to your attention the way we feel about the way the re-appraisal program that the state is trying to complete, is being implemented and the way some of our fellow employees are being treated by the Head of the Appraisal Office. Employees who after all the years of having the best interest of the taxpayers at heart are being directed to disregard all but completing the state program at whatever costs.

We feel that we have always had in Lake County, good co-operation between all the various offices, both state and county and at this time this relationship is in jeopardy due to the personality conflict with the head of the Appraisal Office. There seems to be no compromise with the way things are to be done and no consideration shown for the way it would effect all offices and taxpayers.

We have tried as a group and individually to discuss this with the District Manager, Mike Lambert and other state officials and have gotten no satisfaction.

This letter is being written to request your support in talking to our legislators and take whatever other steps are necessary to stand behind Deda Voss, head clerk of the Appraisal Office, Paul Pendery, who handed in a letter of resignation yesterday, and Carl Resner.

We feel the system being used by the state should be closely reviewed and that steps should be taken to eradicate the personnel problems in the Appraisal Office and reinstate our support to the three above mentioned people. The attitude of the state appears to be that as long as the figures go in for the computer system in Helena, right or wrong, these individuals can be replaced by employees who are not sympathetic to the taxpayers, but are willing to just get the job done without questioning the ethics.

Respectfully submitted,

Patricia Cook, Treas. Office

Lee Adams

Marjorie D. Kraus
Lake County Treasurer

Sandra Weaver, Treas Office

Sharon Kintzer

Charles E. Hansen -

Cheryl Snyder

Judy Marc

Kaddy R. Jural
adm. Lake Co Food Service

Lenore A. Roat, Chief Deputy
Assessor

Elizabeth Tuzen, Assessor's Office

Bill Tiddy, Assessor

Debi Gafford, Assessor's Office

Wilhelmina Laughlin, Clerk & Rec.
Mlodie Laughlin (Assessor's Off.)

R. H. Strong - Plat Room Deputy

Patricia Cline

Jerry Gorenson - Planning Director

Bill Swan - Sanitation (Land Service)

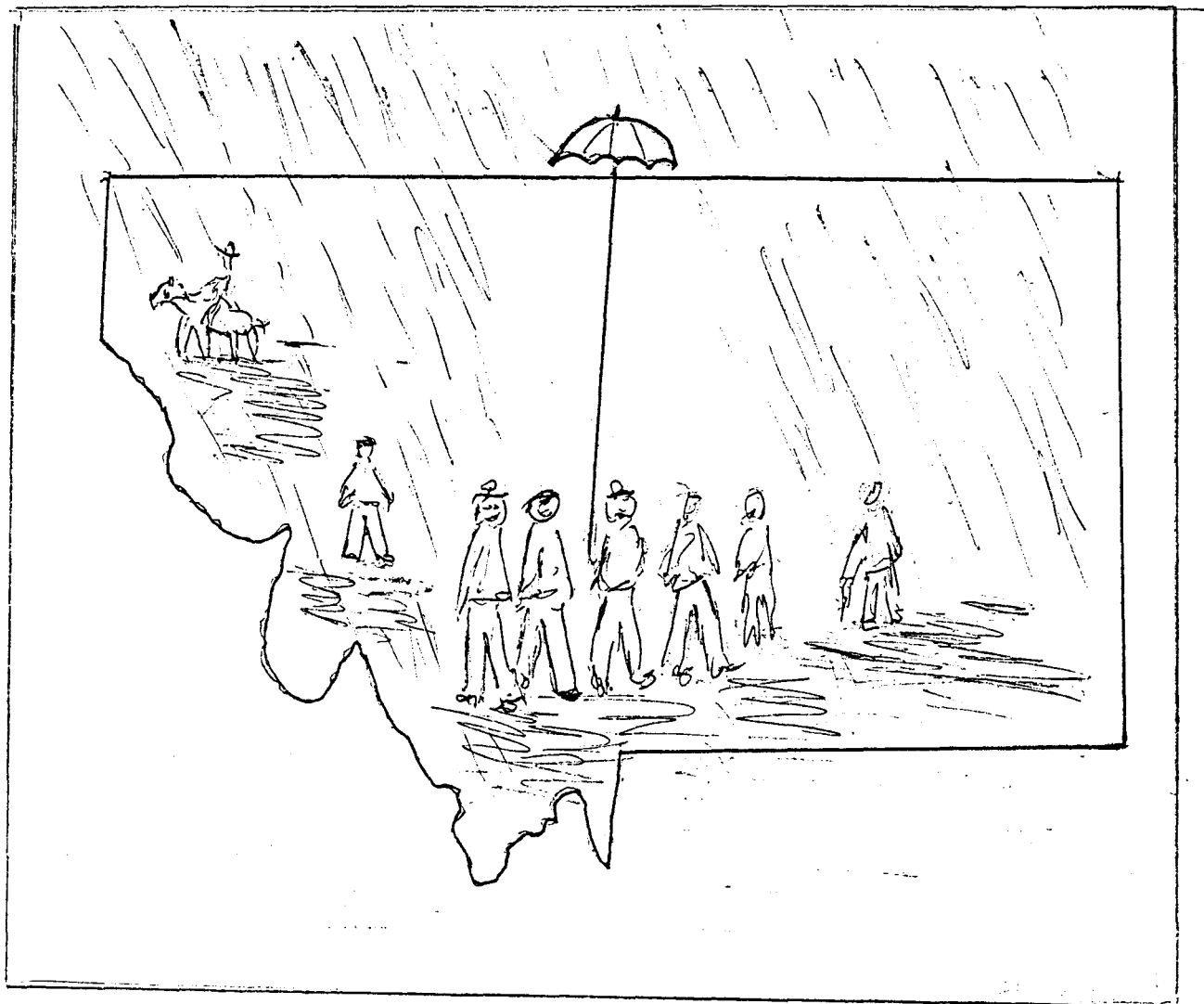
Loth Hodges

SENATE TAXATION

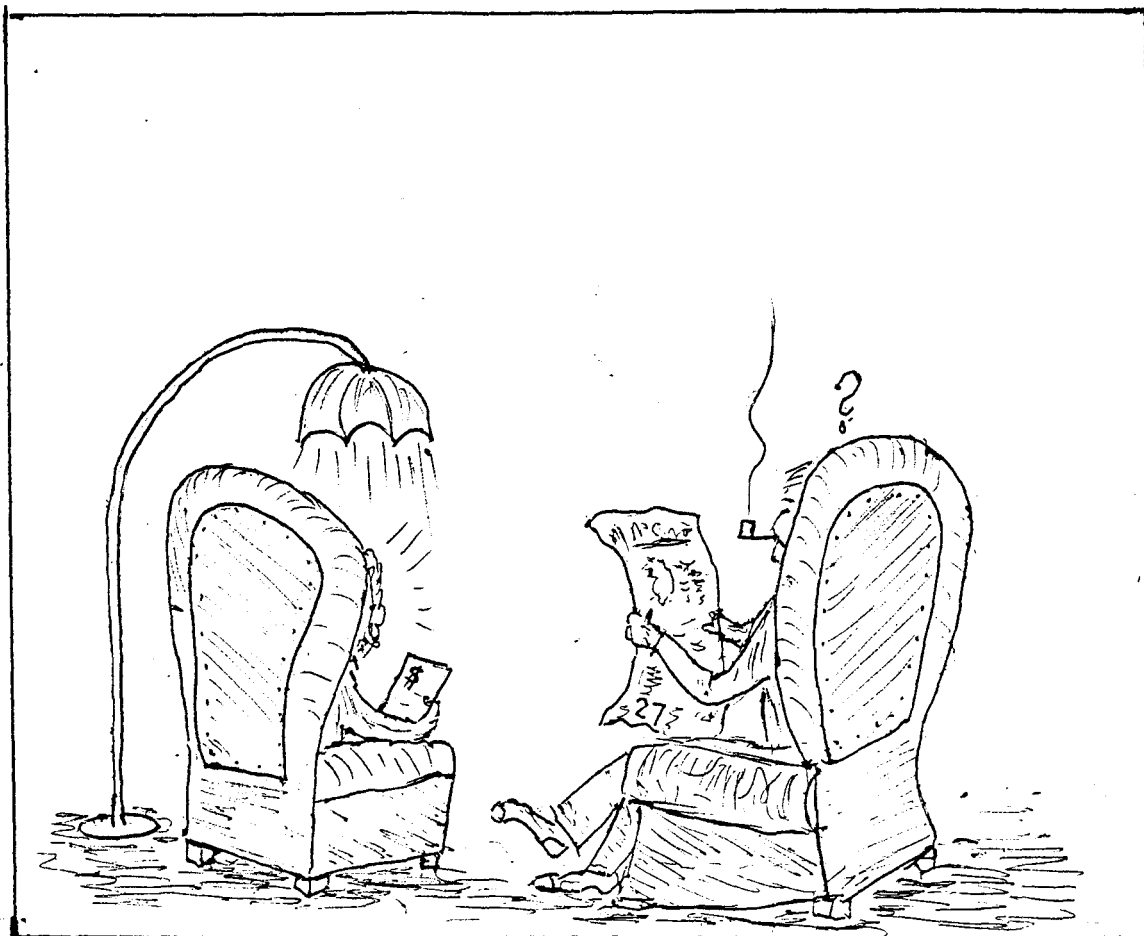
EXHIBIT NO. 10

DATE 2-20-87

BILL NO. 58-36



"THEY SAID IT WOULD COVER ALL OF US!"



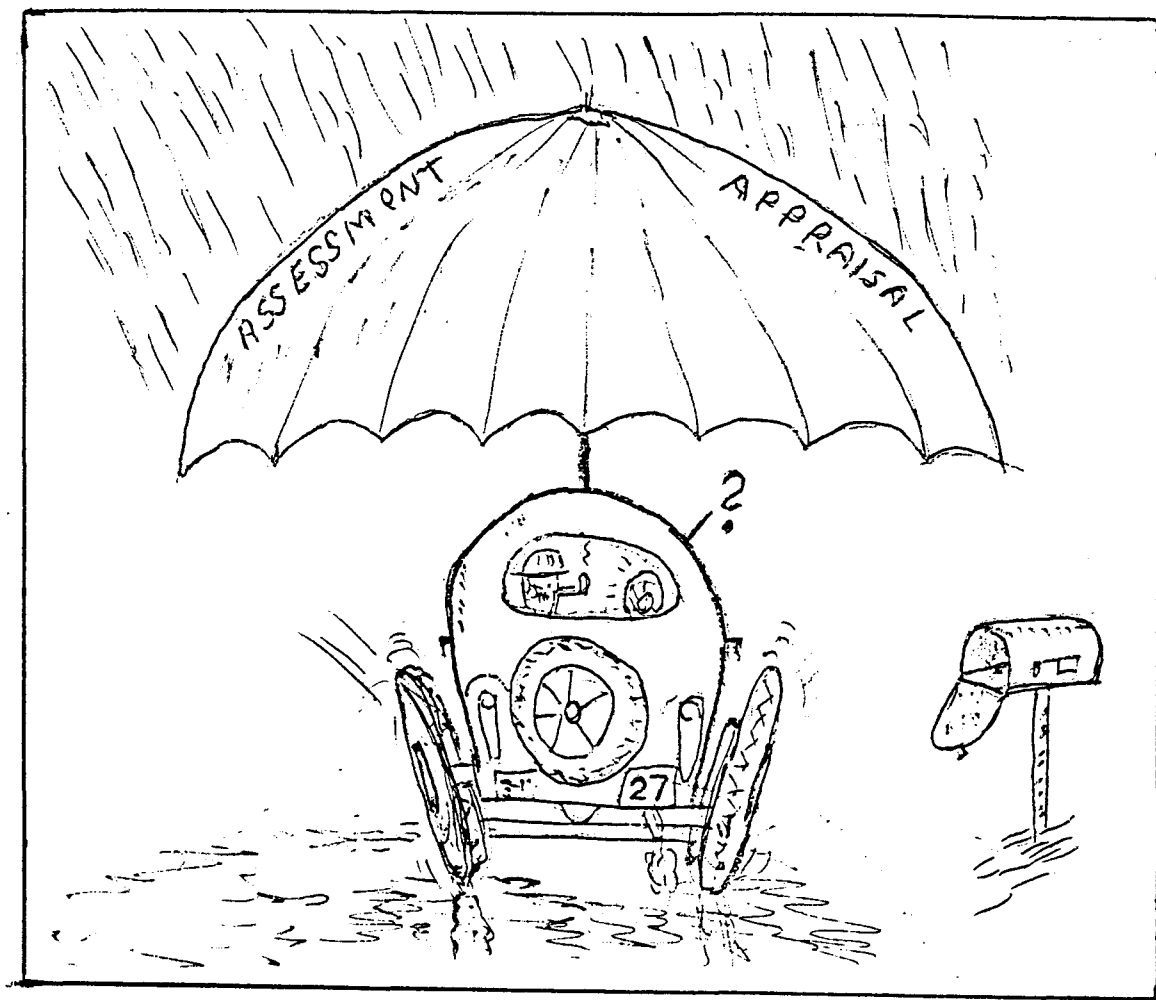
JOE, YOU SHOULD TAKE ANOTHER
LOOK AT OUR NEW PROPERTY
VALUES... I THINK WE HAVE
BECOME VERY WEALTHY!

SENATE TAXATION

EXHIBIT NO. 10

DATE 2-20-87

BILL NO. S. B. 36



"NO DEAR, IT'S JUST ANOTHER
ASSESSMENT ON THE HOUSE
YOU KNOW, LIKE THE CAR?
THEY GOT BLUE BOOKS ON IT
NOW. THAT MAKES EVERYONE
EVEN ACROSS THE STATE
CAN'T FOOL THE BOOK!"



PLEASE SPEAK UP! STATE YOUR
NAME -----

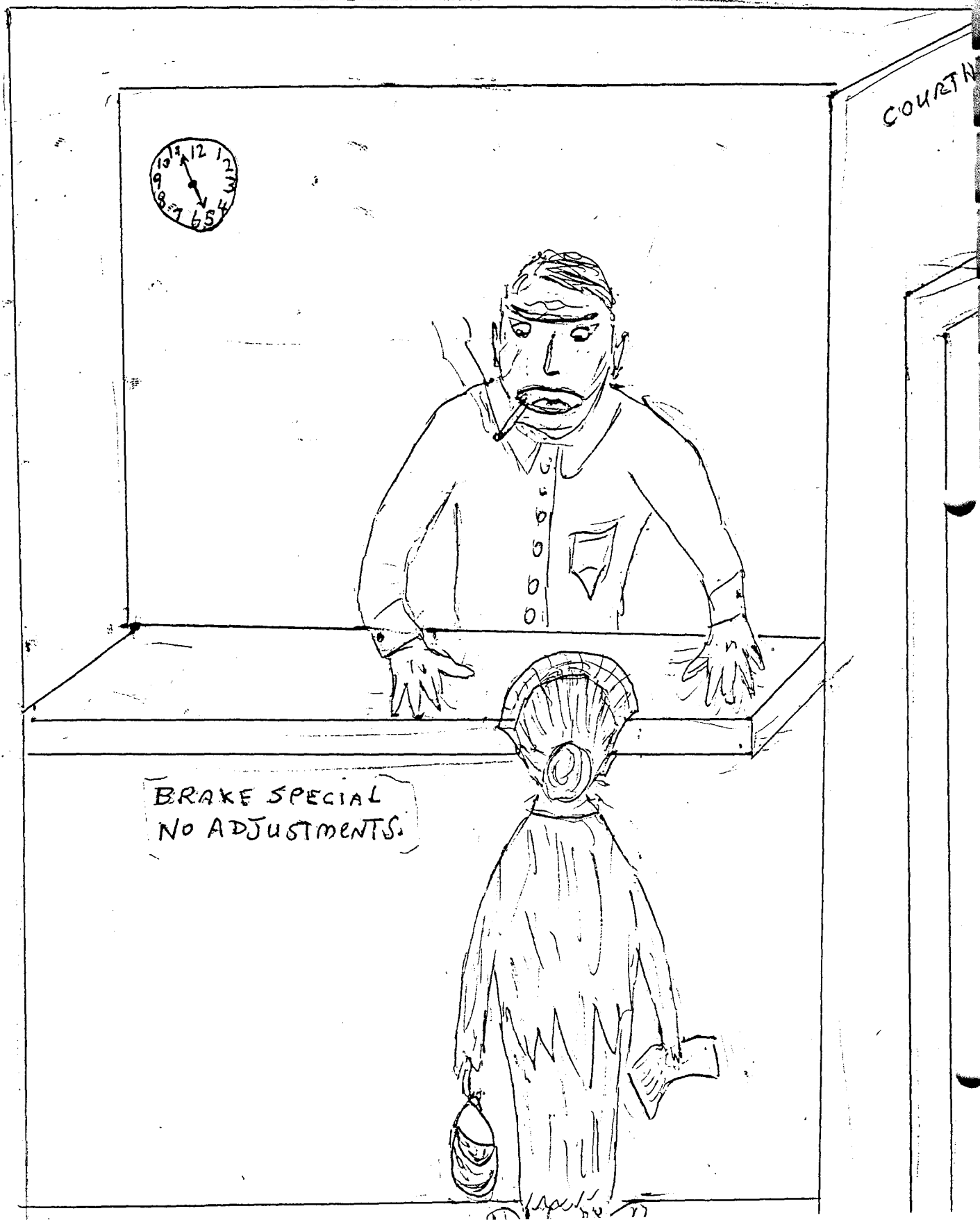
SENATE TAXATION

EXHIBIT NO. 10

DATE 2-20-87

BILL NO. S.B. 36

I SAID, WE'RE 'CLOSE'



GOVERNOR'S COUNCIL ON MANAGEMENT, INC.
P.O. BOX 233, CAPITOL STATION
HELENA, MONTANA 59620

October 1982

James B. Spring, Chairman
President, Christian-Spring-Sielbach & Associates
Warren P. Schmechel, Vice-Chairman for Finance
President, Montana Power Company
Allen Donohue, Vice-Chairman for Personnel
President, KMON & The Heritage Inn
Edwin H. Jasmin, Treasurer
President, Northwestern Bank of Helena
Edward A. Nurse, Secretary
President, Foundation Materials Consultants, Inc.
John J. Oirzinger, Counsel
Jackson, Oirzinger and Murdo, Helena

The Honorable Ted Schwinden
Governor, State of Montana
State Capitol
Helena, Montana 59601

Dear Governor Schwinden:

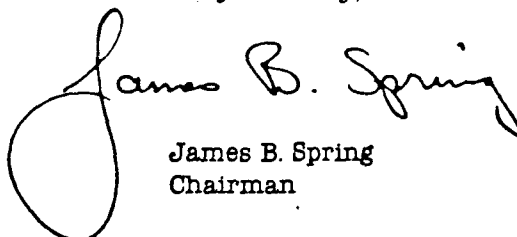
On behalf of the Governor's Council on Management, it is a pleasure to submit to you and the people of Montana this final report summarizing our findings and recommendations. The comprehensive and intensive review of the Executive Branch by 34 volunteer, private sector management specialists produced 344 specific proposals for improving the management of state government operations.

Council members found this experience challenging and rewarding. The cooperation and enthusiasm of the many dedicated state employees was very gratifying. Department administrators and staff participated actively in the evaluation process and contributed numerous helpful suggestions. This relationship also provided the private sector representatives with a realistic insight into the problems faced daily by public administrators.

The Montana business community should be commended for its enthusiastic sponsorship of this undertaking. As a result, the Council completed the entire program at no cost to the taxpayers. This commitment indicates a willingness to cooperate in efforts that can be beneficial to our state.

By requesting this review, you have taken another step forward in your efforts to achieve more cost-effective management of state government. The content of this report is impressive; however, the ultimate success of this effort will be measured by the results realized through implementation. The members of the Governor's Council on Management will be available to assist you in achieving this goal.

Very sincerely,


James B. Spring
Chairman

SENATE TAXATION

EXHIBIT NO. 11

DATE 2-20-87

BILL NO. SB 36

Governor's Council on Management

Chairman	James B. Spring	
Vice Chairman-Personnel	Al Donohue	
Vice Chairman-Finance	Warren P. Schmechel	
Secretary	Edward A. Nurse	
Treasurer	Edwin H. Jasmin	
Operating Committee	James B. Spring John W. Greene Kenneth E. Hickel William M. Murray Stephen Winter	
Team Members	Luckie Bethel Jim Bordelon Lee Conwell Vernon E. Daniels William W. "Wes" Eyer A. W. Fitzpatrick Cheryl Gillespie Robert E. Griffin Victor D. Harwood Jim Haworth Gene Hess Ivan Howard Polly Junkermier Earl D. Lovick Lewis A. McArthur	Jerry Miller John H. Morrison, Sr. Stephen R. Murphy William G. Peters William G. Preston Peter Rice Sharyn L. Robinson Dennis Schanz Steve Schmidt Bruce T. Simon Doyle Snyder Ray Spannring Norm Stedje Richard L. Thomas Harold Ude
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To increase profits, all state-owned sales outlets graded between seven and 10 should be immediately converted to agency operation. While the costs of agency commissions are estimated at \$1.5-million, the saving in salary and operating cost will be about \$1.8-million, producing a net saving of approximately \$300,000 annually.

307. Change special order procedures.

A special order service was initiated because of the state's monopoly on liquor. When a customer requests a non-standard item, an entire case is bought even though the customer may buy only a single unit. Store managers also misuse the procedure to test market products. In both instances, inventory is burdened with slow moving stock.

To control operations and reduce inventories, a central special ordering system should be designed exclusively for customer use. This should include requirements for a deposit and a one case minimum order. Implementation will eliminate slow moving inventory items for an estimated annual saving of \$140,000.

308. Develop a complaint procedure.

Problems go undetected because stores lack a formal customer complaint procedure. One should be developed so complaints can be centrally processed in division offices, then responsibility for corrective action assigned to district managers. Implementation will identify difficulties and improve service.

Property Assessment Division

This division appraises taxable property and ensures uniform county valuations. An \$8.4-million fiscal 1982 budget supported 430 employees plus 15 vacancies. The administrator supervises five bureaus for assessing intercounty, personal, industrial, residential-commercial, and agricultural properties.

High administrative turnover has resulted in a lack of clear direction and has generated an employee morale problem. However, a number of positive steps have recently been initiated to strengthen operations. Inadequate certification procedures and a poor timber assessment system were noted. Also, staff assignments for the statewide reappraisal in progress are not appropriate while time-consuming manual processing is required for real and personal property assessments.

Recommendations

309. Centralize property assessment activities in the state office.

In most counties, complex property tax processing and reporting systems are time consuming and involve many manual procedures. Furthermore, the state pays personnel and operating expenses for assessments. Cascade County has installed an advanced computer program for property assessments which has simplified procedures. However, attempts by 14 other counties to automate have resulted in high costs, little equipment compatibility, and few staff reductions.

To increase efficiency and control costs, property assessment activities should be centralized. The following measures are required for implementation:

- ☐ Place the Cascade County system, with modification, on the Department of Administration computer so all forms will be centrally initiated and processed.
- ☐ Enter all personal and real property data from the 56 counties.
- ☐ Employ a staff of 20 to enter data on a regular basis.
- ☐ Create an audit and information section to supervise compliance and provide information.
- ☐ Use computer printouts for county taxable property reports.
- ☐ Retain county assessors at reduced compensation until a constitutional amendment can eliminate their necessity. Transfer existing support staff to the mass property reappraisal program in progress, leaving county offices permanently staffed with only one clerk and required appraisers.

One-time equipment and programming costs are estimated at \$289,000 while annual operating costs will be an additional \$1.8-million. However, an annual saving of \$4.7-million in supplies, equipment and salaries will offset this.

310. Require staff assessor certification.

Personal property assessments vary throughout the state. A lack of training and certification programs for staff assessors causes these inequities and resulting taxpayer appeals. Therefore, the Personal Property Bureau should establish certification standards and initiate a required training program.

The initial one-time training cost for the current staff will be approximately \$29,000. Continued training for new employees will require an additional \$4,000 annually. However, implementation of this proposal will reduce appeals by ensuring statewide uniformity in assessment procedures.

311. Reevaluate the timber appraisal system.

Outdated timberland assessment methods encourage poor timber management. Valuations are based on the number of trees remaining in a given area. Therefore, clear-cutting produces a tax advantage and reforestation causes assessments to raise.

To solve this problem, a productivity system should be substituted. Since all timberlands must be reevaluated to provide an assessment base, a study should be commissioned to develop a cost/benefit analysis for an appropriate reclassification procedure. The one-time cost is estimated at \$15,000. However, implementation will ensure timberland assessment accuracy on a fair basis.

Property Tax Assessment:

A Century-Long Struggle For Structured Discretion

This article was prepared as a class term paper. It reflects neither the opinions of the Montana Legislative Council, Ms. Cohea's employer at the

by

Teresa Olcott Cohea*

time of publication, or the Office of Budget and Program Planning, her current employer.

"Broad discretion and judgment lie at the very core of the property tax."

For the past 100 years, the history of property tax assessment in Montana has been a series of legislative and administrative efforts to limit and structure county assessors' discretion. The history of these efforts, which included legislation, constitutional amendments, court decisions, and administrative rule-making, is instructive since it provides a well-documented case study of how a vital state function involving great discretion can be made predictable and open to citizens.

Property tax assessment is an excellent subject for studying discretion, since it requires assessors to make complex decisions on the characteristics and comparability of widely varying types of property. The Montana Supreme Court has consistently recognized the need for judgment and expertise in assessment and has been hesitant to substitute its judgment for that of an assessor:

...the court will ordinarily not interfere with the action of ... (assessors) to correct mere errors of judgment. It is only when they act fraudulently or maliciously, or the error or mistake is so gross as to be inconsistent with any exercise of honest judgment, that courts will grant relief.

Sanforth v. Livingston, 23 Mont. 558, 59 P.916,917 (1900)

The legislature must rely on the expertise and judgment of assessors since the procedure for assessing every type of property in the state can hardly be written into statute, even if legislators or their draftsmen had the expertise to do so: new varieties of property appear, values rise, and complex formulas for depreciation must be developed. Moreover, assessors can determine the best method of assessing property on a case-by-case basis, which the legislature cannot do through statute. Clearly, assessors must have some degree of discretion in order to perform their duties.

However, far too much discretion can be delegated to or seized by assessors. If clear legislative standards and administrative procedures guide assessors' work, then their discretion may be limited to a ministerial or non-policy level

designed to implement legislative policies. In Montana, however, clear standards and procedures were absent or ignored for most of the last century and assessors exercised discretionary authority of the highest order, making policy decisions of a most sensitive nature. Their discretionary authority at times surpassed that wielded by the legislature.

The importance of structuring such discretion is obvious. Assessors determine the appraised or assessed value to which the statutory tax rates and the locally determined mill levies are applied. Their decisions touch all property-owning citizens and have a direct economic effect on their lives. If their decisions are based on unwritten standards that are in direct conflict with state law and, further, their assessments are often lowered on a case-by-case basis by individual taxpayers' pressure, citizens are unprotected by U.S. constitutional requirements of due process and equal protection and Montana constitutional requirements for uniform assessment of property. Moreover, assessors could and did for decades exercise political power far exceeding their scope of authority. Since local governments are financed largely through property taxation and the assessor controls the base from which this revenue is raised, he can exercise budgetary power statutorily given to county, city, and school district officers:

After a unit of government has reached its maximum levy limitation, its future budgetary policy is largely in the hands of the assessor. The decision made in his office as to the percentage of market value that will be used for assessment purposes is almost controlling. Moreover, decisions made by the assessor are more apt to be influenced by consideration of his political future than by the legitimate revenue needs of local government. Thus we have the spectacle of the county assessor, whose sole function is to find and value property at its full value, charting the fiscal policy of most local governments. (Montana Legislative Council, *Property Taxation in Montana*, 1960, p. 31)

The legislature's struggles to limit and structure assessors' discretion are not over, but its efforts over the past seventy years have insured that 1) detailed procedures for assessment are published in the Montana Administrative Code; 2) these procedures comply with legislative standards; and 3) formalized procedures for citizens' participation in rule-making and opportunities for appeals against assessments exist. This paper will discuss the steps—and mis-steps—in the process of obtaining the right mixture of statute, rule, and discretion.

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SENATE TAXATION

EXHIBIT NO. 12

DATE 2-20-87

BILL NO. 5831

Between 1891 and 1977, Montana statute required that "all taxable property must be assessed at its full cash value,"

which was defined as "the amount at which the property would be taken in payment of a just debt due from a solvent debtor" (84-401 and 84-101, R.C.M. 1947). This statute was never, in its 74 year tenure, adhered to. County assessors and, later, the State Board of Equalization evolved a system of fractional assessment under which all property in the state was assessed at some *fraction* of full cash value. As recently as 1977, MAC rules required assessors to value business inventories at 60% of dealer's cost, oil field machinery at 40% of current market value, and airplanes at 66 2/3% of wholesale value. This system of fractional assessment totally disrupted legislative tax rates, drastically reduced local governments' tax bases, and caused massive shifts in tax burden.

This system of fractional assessment did *not*, in my opinion, arise because the statutes were unnecessarily vague, delegating authority without meaningful standards. The legislature provided a standard for assessing ("full cash value") and a definition of that standard. Statutes did not specify methods for assessment but left that to assessors, who would use their expertise and discretion to establish the best methods of determining full cash value. Most state legislatures and courts have concurred that such judgements are an appropriate area for assessors' discretion. The continued violation of the statute requiring assessment at full cash value resulted not from careless delegation of authority but from the structure of tax administration established by the 1889 constitution.

Article XVI, section 5 created the office of assessor in each county and provided for his local election. Statutes implementing the section required him to find and assess all taxable property in his county at "full cash value" (84-401 and 84-406). However, the necessity of getting elected every four years provided a strong temptation for assessors to ignore this statute, particularly in view of the history of county independence and the travelling distance from Helena in the early days of statehood. The rewards for underassessment were many: 1) taxpayers receiving an individual "break" on an assessment would be grateful; 2) keeping assessments low would insure that statewide mills raised the least possible revenue in that county and shifted the tax burden to some other county; and 3) by lowering assessments assessors would force city and county commissioners to raise mill levies in order to raise the same amount of revenue, thus pushing the political liability of taxes into their laps. Assessors would have been less than human if they had not yielded to these pressures, since taxpayers' hostility toward taxes usually settles, unfairly and illogically, on assessors.

The legislature discovered how strong the temptation had been when it appointed a Tax and License Commission in 1917 to determine why property assessments varied so markedly from county to county. The Commission found that the following *average* rates of assessment were prevailing in the counties: land- 30% of full value; cattle -45% of full value; sheep-40% of full value; horses and mules-52%

of full value; and hogs- 18% of full value. The only property assessed at the statutory level was the money belonging to widows and orphans, which was revealed by court records. Further, the Commission learned that these rates were set in an annual meeting of county assessors who "resolved themselves into a sort of legislative assembly and proceeded to fix the values at which different species of property shall be assessed."

Needless to say, these fractional assessments were in direct conflict with statute and assessors were far exceeding their statutory authority in setting such rates. What's more, this extralegal "legislature" did not have much more success in controlling its members than the legitimate legislature. During the year between meetings, the assessors vied among themselves for the most "competitive" assessments. The Commission found in 1918 that assessments in different counties for first class grain land ranged from \$5.21 to \$47.29 per acre, first class hay land from \$10 to \$26.62 per acre, work horses from \$49 to \$75.65, and dairy cows from \$33.92 to \$100.

After reviewing the gap between statute and practice, the Commission concluded "that the present system . . . is a failure and results in unjust discrimination and is utterly inadequate." Believing that legislative control over assessment must be reasserted, the Commission recommended a bill to the 1919 legislature that continued the assessment of property at full cash value but dropped the tax rate to the value county assessors were actually using for the various types of property. To illustrate, the tax on a \$1000 parcel of land is calculated below according to the statutory method, the method actually used by assessors in 1917, and the proposed method:

Statutory method	Actual practice, 1917	Proposed method
1. Valued at 100%	1. Valued at 30%	1. Valued at 100%
2. Taxed at 100%	2. Taxed at 100%	2. Taxed at 30%
3. Multiplied by mills	3. Multiplied by mills	3. Multiplied by mills
4. Tax due = \$200 ($\$1000 \times 100\% \times 100\% \times 200m$)	4. Tax due = \$60 ($\$1000 \times 30\% \times 100\% \times 200m$)	4. Tax due = \$60 ($\$1000 \times 100\% \times 30\% \times 200m$)

The bill passed, creating seven classes of property taxed at rates varying from 7% to 100% of the assessed value, which was 100% of full cash value. The legislature, thus, in 1919 clearly recognized the dangers of allowing assessors the discretion to set effective tax rates through extralegal fractional assessments. It hoped to end this practice by setting in statute both the standard of assessment and the tax rate. In upholding the constitutionality of the new law, the Montana Supreme Court noted that the chief purpose of the bill was "to relieve administrative officers from the apparent necessity of continuing the legal fiction of full valuation in the face of contrary facts." The court also affirmed in this case that it was the legislature's duty to provide a uniform system of assessment throughout the state. (*Hilger v. Moore*, 56 Mont. 146, 82 P. 477, 483 (1919)).

This was the first of several times in which the legislature sought to control assessors by enacting their practice into law. One could argue that the legislature, in having

legislation follow practice, was benefitting from the "creative nibbling" theory of administrative law: the legislature had given assessors sufficient discretion to investigate and chart a new course, allowing them to create a solution to a large problem by nibbling at individual cases. However, this was not true in Montana's history of property tax assessment. Assessors were not experimenting with the best way to assess; rather, they were substituting their judgment for legislators' on what the state's tax policies should be. The legislature modelled statute on existing practice in this instance only as an attempt to control future practice.

The legislature also took another step toward controlling assessors at this time. The 1889 constitution created a three-member State Board of Equalization to "adjust and equalize the valuation of the taxable property among the several counties of the state." However, when the Board attempted to raise assessments in one county to nearer the statutory full cash value, the Supreme Court ruled that the Board had the power to decrease assessments but not to increase them. The 1916 legislature placed a constitutional amendment on the ballot to give the Board much broader power:

The state board of equalization shall adjust and equalize the valuation of taxable property among the several counties, and the different classes of taxable property in any county and in the several counties and between individual taxpayers; supervise and review the acts of the county assessors and the county boards of equalization; and exercise such authority and do all things necessary to secure a fair, just, and equitable valuation of all taxable property among counties, between classes of property, and between individual taxpayers. (Article XII, Section 15)

The electorate approved the amendment, which became effective in 1917. In 1923, the legislature passed a bill detailing and further broadening the Board's powers. Notably, the Board was empowered "to prescribe rules and regulations, not in conflict with the constitution and laws of Montana, to govern county boards of equalization and the assessors of the different counties in the performance of their duties." Further, it could require the county attorney to start proceedings against any assessor who violated statutory assessment laws. The bill also established hearing procedures for taxpayers' appeals against assessments and for Board changes in assessment rules. (84-708)

Seemingly, the legislature in 1923 had gained control over assessment by requiring assessors to exercise ministerial level discretion within standards set by the legislature and reviewed by the State Board of Equalization, which exercised broad delegated quasi-legislative and quasi-judicial authority within its area of expertise. However, neither the statutory changes embodied in the 1919 classification law nor the 1917 constitutional amendment touched the fundamental problem of tax assessment: county assessors were still elected by local citizens and in direct contact with them. The three-member Board and its small staff were totally inadequate—and probably quite unwilling—to police 56 county assessors. The Board limited itself to hearing individual taxpayers' appeals from county equalization boards and lowering the assessment of whole classes of property when one county varied too markedly from others.

U.S. census data showed that assessors continued to drift away from full cash value throughout the next decade, despite admonitions from the Attorney General and the Montana Supreme Court. In 1931, the court in *State ex. rel. Schoonover v. Stewart* reiterated that statute requires that "all taxable property must be assessed at its full cash value. The section has not been changed since its enactment . . . ; and its mandate is the law today." Neither assessors nor the Board had the power, the court said, to establish fractional assessment.

The 1930's were, however, not a politic time to raise assessments, particularly on farm land. As the Depression deepened and more property taxes became delinquent, assessments fell further and further from full cash value. By 1950, the average market value of an acre of irrigated farm land in Montana was \$99, but its average assessed value was \$32, less than it had been in 1921.

The State Board of Equalization expressed great concern over these falling assessments and county assessors' neglect of statute. In 1954, they informed the legislature that the classification law

is necessarily anchored to the full cash value provisions of section 84-401, and when we deliberately cut loose from that anchor we begin to drift. The administration of the law has so deteriorated over the years that we now have . . . a classification law within a classification law. (Sixteenth Biennial Report)

However, the Board did not use its statutory authority to correct the situation. Although the legislature had given it power to adopt all necessary rules to govern assessors, the Board issued no body of rules to guide assessors between 1923 and 1962. The Board did, with the assistance of the assessors' professional association, compile assessment guides and valuation schedules for various property and distribute them to assessors, but it did not make their use mandatory. Nor did the Board ever during these 40 years use its power to begin proceedings against a county assessor who violated state law by assessing at less than full cash value. In fact, the Board itself violated this law by lowering assessments to bring them down to the statewide average. Even when the legislature passed a Reclassification and Reappraisal Act in 1957 to bring residential property assessments to full value, the Board and assessors determined what fraction of this new value would be used. A legislative committee called this action "entirely unacceptable" and "beyond the power of the legislature to give the State Board of Equalization the arbitrary power to require (fractional assessment)," but it was uncertain how to correct the situation. The committee finally decided that the only way to control assessment was to establish fractional assessment by statute. Members argued that legislators would at least be aware of and consider what fraction of full value was to be used under this system. However, the subcommittee's proposed bill did not pass.

By 1960, the county assessors and the State Board of Equalization had totally usurped legislative control over assessment. The Board's annual meeting with assessors—established by statute as a training session the Board held for

assessors—continued as a “legislature” in which tax policy was set. The Board and assessors became local government

“budget watchers,” who felt it was their duty to limit the amount of tax cities and counties could raise under the statutory maximum mill levies. A Board member later testified before a Congressional committee investigating Montana’s assessment procedures that the Board’s and assessors’ purpose was to alter existing statutory taxing and bonding limitations by making them more restrictive than contemplated by law. (Subcommittee on Intergovernmental Relations hearing, Billings, 22 August 1972)

Even the Montana Supreme Court came to disregard the legislature as the proper body to set standards for assessment and taxation. In a 1965 decision, which extended and made explicit a decision issued in 1960, the court held that the State Board of Equalization had the constitutional authority to compel fractional assessment of property and that legislative control over the Board and assessment procedures was “directory” only. The court based its decision on the belief that the legislature and court had left the fractional assessment rates used by the county assessors and the Board unchallenged for so long that the practice had become acceptable.

This decision was puzzling to many in light of the legislature’s past attempts to end fractional assessment and the court’s 1931 ruling (which stood until 1960) that fractional assessment was illegal. However, the legal profession’s puzzlement over this decision was small compared to citizen bewilderment when their tax assessment notices arrived. Statute said that houses were assessed at 100% of full value and taxed at 30%, but the assessors and the Board had arrived at an agreement that 40% of 95% of the house’s market value determined the house’s assessed value, to which was applied the statutory tax rate of 30% and the mill levy. By law, a house valued at \$10,000 should pay \$600 if the local mill levy was 200 ($\$10,000 \times 30\% \times 200$ mills), but it actually paid only \$228 ($\$10,000 \times 95\% \times 40\% \times 30\% \times 200$ mills). Most taxpayers assumed they had received a “tax break” and left well enough alone, not realizing that everyone was getting the same “break” and higher mills were being levied to compensate. Had the taxpayer wished to pursue the matter, he would have had difficulty. The rules of assessment were not printed in any public document and assessors were often reluctant to tell citizens the formula that was used. One legislator reported that the State Board of Equalization refused to tell even him what fractional assessments were used!

Clearly, administrative discretion was almost unbounded at this point. Citizens had superficial safeguards: they could appeal their assessments through a procedure established by statute. But they were not allowed to know the standards and procedure used to determine the assessments. Such safeguards were not, in fact, any safeguard at all.

Prodded by legislative outcry over this secrecy and lack of judicial sanction for fractional assessment, the Board did begin to publish its rules in the early 1960’s and to require that assessors follow them. While this was in one sense a step toward structuring assessors’ discretion, the

rules were in direct conflict with statute. Section 84-401 still required all property to be assessed at 100% of full cash value, while a Board rule published in 1962 directed assessors to value agricultural land on its productive capacity rather than its full cash value and a 1963 rule ordered assessors to value all residential property at 40% of full value. The 1962 rule lowered the taxable value of agricultural land to 6% of market value, since productive capacity averaged 20% of market value. Residential property’s taxable value under the Board’s rule was 12% ($40\% \times 30\%$). The legislature had established the same tax for both types of property, but the Board’s rules had effectively doubled the burden on residential property compared to agricultural land.

When 26 assessors refused to follow the 1962 rule, the Board brought an original proceeding in the Supreme Court to force its use. The court held the rule invalid because the Board had not held public hearings prior to its issue as section 84-710 required, but the court did *not* question the Board’s authority to make such a rule directly conflicting with statute. It is noteworthy that the Board’s legislative grant of authority to make substantive rules read: the Board “may prescribe rules and regulations, *not in conflict with the constitution and laws of Montana . . .*” (emphasis added). (84-708)

One observer commented forcefully on this “odd species of administrative rule-making” in 1973:

The State Board of Equalization, by its alteration and disregard of the legislature’s statutory tax and spending policy, considers its legislative rule-making power to be superior to that of the legislative branch of government. Through the 40% rule the State Board has denominated itself a “fourth branch” of state government. (Sullivan, “Real Property Assessment in Montana,” 34 Montana Law Review 305)

So the matter stood in 1972 when the Constitutional Convention met. The assessed value of agricultural land had dropped 27% between 1925 and 1970, although real estate sales showed a 300% increase. Residential property was valued as low as 12% of market value in some counties and as high as 32% in others. The Convention’s Committee on Revenue and Finance was, however, determined that this situation should not continue. Its report asserted that:

The details of any tax administration system should be left to the legislature, which is best qualified to develop the most efficient, modern and fair system necessary for the needs of the day. Tax administration should be established by the legislature and administered by the executive branch of government, not by a constitutional board which is immune from control by the people. A constitutionally enshrined board is less answerable for its activities and is freer to ignore the mandates and directives of the legislative assembly.

The Convention concurred. The new constitution omitted any mention of the State Board of Equalization. Instead, article VIII, section 3 provides “The state shall appraise, assess, and equalize the valuation of all property which is to be taxed in the manner provided by law.” Section 4 reinforces the state’s control by requiring that “All taxing jurisdictions shall use the assessed valuation of property

established by the state." The next legislature implemented these provisions by designating the assessors as "agents of department of revenue" and stating that "The department of revenue shall have full charge of assessing all property subject to taxation and equalizing values . . ." (84-402)

The new constitution at last resolved the basic problem of property tax assessment administration: assessors, while still elected, are now agents of the state and must follow assessment procedures set by the Department of Revenue. Instead of a three-member Board with a small staff overseeing assessors' decisions, the Department of Revenue can use its large trained staff to assist and supervise local assessors.

The legislature was finally in a position to control the standard of assessment as well as the tax rate. The 1973 legislature did not, however, rise to the challenge. Fearing to do "too much too fast," the legislature gave the Department of Revenue the power in statute which the former State Board of Equalization had by constitutional amendment (Article XII, Section 15). This was the section upon which the Supreme Court based its argument that the Board had the power to establish fractional assessments. A bill to require that "all taxable property must be assessed at its full cash value and not at any percentage thereof" did not get out of committee.

The Department of Revenue was, understandably, reluctant to take the giant step of raising all assessments to full cash value without a clear legislative mandate. The passage of the 1973 act seemed to be a mandate for quite the opposite--continued fractional assessment. In late 1972 and early 1973, the Department promulgated over 50 pages of rules in the newly-established Montana Administrative Code, containing the written and unwritten rules the Board of Equalization had used. These rules were all based on a fractional assessment of full cash value.

The legislature itself adopted some of the Board's rules of fractional assessment, enacting them into statute. The 1973 session amended 84-401 to read "All taxable property must be assessed at its full cash value except the assessment of agricultural land shall be based upon the productive capacity of the land when valued for agricultural purposes . . ." Supporters argued that the reduced tax rate the Board had granted agricultural land might help conserve it. Two years later, the legislature further amended the section by enacting the Board's 40% rule: "All taxable real property must be assessed at 20% of its full cash value . . ." The Department of Revenue had requested the amendment because one large county refused to recognize the Department's rule that real property must be assessed at 40% of its full cash value and taxed at 30%, which was to its taxpayers' definite advantage in school equalization funding.

By passing these amendments, the legislature at last formally recognized in statute fractional assessment. The amendments increased legislative control in that both the standard of assessment and the tax rate were set in statute. However, personal property continued in its legal limbo. No standard for its assessment was set in statute, but

Department rules required assessment at various fractional rates.

A legislative subcommittee, appointed in 1975 to consider the equity of the various tax rates contained in the property tax classification system, discovered that the recent amendments had done little to end the confusion surrounding property tax assessment. After studying the Department's rules for several months, the subcommittee found that 23 different tax rates were being applied to property, instead of the 11 established by law. Members concluded that the question of equity could not even be approached until 1) the legislature knew what the effective rate of tax (as modified by Department rules) was for each type of property and 2) the legislature controlled both the assessment rate and the tax rate. Members further concluded that the standards of assessment and the procedures for taxation must be simplified so that both legislators and citizens would easily understand the basis of taxation when they began discussing the difficult question of equity among the classes.

With these objectives in mind, the subcommittee recommended changes in both the standard of assessment and the tax rates. It substituted "market value" for "full cash value" as the standard for assessing since market value "is one of the few concepts of value with a concrete meaning, understood by all persons who buy and sell goods." The subcommittee's bill removed property that is rarely sold from this requirement and provided an alternate, well-defined standard of assessment for each case. Hoping to end the days of fractional assessment forever, the subcommittee clearly defined market value and included in its bill the provision that "the Department of Revenue or its agents may not adopt a lower or different standard of value from market value (except as expressly exempted) in making the official assessment and appraisal of the value of property . . ." (84-401). The bill then dropped the tax rates for property to the effective rates the Department was setting through its rules. Thus, a car, which under the existing system was assessed (by rule) at 66 2/3% of market value and taxed at 20% (statute), had an effective tax rate of 13.3%. The subcommittee's bill raised the assessment level to 100% of market value and set the tax rate at 13.3%. The bill's intent was to keep the tax rate the same for all types of property as it had been under the then-existing rules.

The Department of Revenue firmly supported the bill during the session, seeking law that would end its anomalous position by giving legislative mandate to raise assessments to full value. The bill passed the House 94 to 1 and the Senate 47 to 0. The Department is revising its administrative rules and valuation schedules to comply with this new law. The legislature's Revenue Oversight Committee has reviewed most of these rules to determine whether they are consistent with legislative intent. Committee members are currently studying the equity of the tax rates set in the property tax classification system, confident that they understand the effective rates of taxation and control them.

Thus, for the third time, the legislature has changed statute to reflect administrative practice. As a study of

"realities about the administration of government programs," the history of property tax assessment may be seen in having statute flow from administrative policy-making rather than legislative policy-making direct administrative procedures. However, all government programs involve a mixture of statute, rule, and discretion. If programs are to meet changing conditions, statutes must be changed as administrators find new circumstances and legislators formulate new policy. Citizens' needs for open, predictable, and useful law can be met when legislators exercise control over agencies by carefully structuring administrative responsibility and by reviewing agency rules and agencies, in their turn, inform legislators of changing circumstances and gaps between theory and practice.

In the case of property tax assessment, legislators—frustrated by trying to change tax policy when they didn't have control over the most basic element (assessment), but mindful of the profound economic effect of requiring assessors to meet the letter of the law after nearly a century of fractional assessment—had to recognize that two steps were necessary before the situation could be resolved. The structure of tax administration had to be changed so that assessors and the Department were obligated to follow legislative decision and, secondly, the legislature had to enact into law what assessors were actually doing. This gave the legislature control over property tax assessment and procedure without risking citizens' need for continuing,

predictable tax policy. In essence, the legislature had to compromise with the existing practice before it could gain the control necessary to structure assessors' discretion.

Now, it appears that the correct mixture of statute, rule, and discretion exists in the property tax assessment program. The legislature has established clear standards of assessment. The Department of Revenue has the authority to adopt substantive rules, detailing the best methods of assessment. Assessors may use their judgement within these standards and rules to value individual property. If the rules are inadequate to value certain property, assessors can report this to the Department. The Department can request legislation if a gap between statute and reality develops. The legislature, in its turn, can review the Department's rules, evaluate its administration of the statutes, and seek its advice. This system seems to incorporate the necessary checks on power while offering a chance for growth in the law to meet changing circumstances.

However, active cooperation and vigilance by each branch of government is still necessary. Montana has a century-long history of conflict between statute and administrative practice in property tax assessment. Whether the recent changes, designed to structure the discretion exercised by the Department of Revenue and the county assessors, are sufficient to prolong the past year's harmony between statute and rule into a new century remains to be seen.

PRIOR ISSUES OF BUREAU OF GOVERNMENT RESEARCH PUBLICATIONS ARE AVAILABLE ON REQUEST:

Montana Public Affairs Reports

1. November 1967. Ellis Waldron and Emilie Loring, "The 1967 Montana Legislative Assembly."
2. February 1968. David Mason and William Crowley, "A Proposal to Modernize Montana's Judicial System." (photocopy only)
3. April 1968. Senator Mike Mansfield, "China: Retrospect and Prospect."
4. October 1968. Ellis Waldron, "Constitutional Issues in 1968."
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MONTANA PUBLIC AFFAIRS REPORT

Bureau of Government Research—University of Montana

James J. Lopach, Director

Thomas Payne, Editor

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SENATE TAXATION

EXHIBIT NO. 12

DATE 2-20-87

BILL NO. S. B. 36

SENATE TAXATION

EXHIBIT NO. 13

DATE 2-20-87

BILL NO. SB-36

February 20, 1937

Mr. Chairman, Members of the Committee;

My name is Claire Wilken, Golden Valley County Appraiser and Secretary/Treasurer of the Montana Appraisal Association.

I have taken leave time to be here to represent the Association and their 105 members, in opposition to Senate Bills 30 and 36.

The members of the Montana Appraisal Association know that our present system of the Property Taxation Process is not perfect but we believe that the power to control and direct the Administration of Statewide Property Tax valuation, assessment and equalization should be maintained under the strict supervision of the highest state authority possible. The State Legislature.

Since you are the law making body elected by all Montanans, you clearly have the obligation and authority that can assure and guarantee all Montana Taxpayers the right of being treated in a uniform and impartial manner when being taxed under our ad valorem taxing concept.

Article XVI of the old Constitution created the office of Assessor in each county and provided for his local election. Statutes implementing the section, required him to find and assess all taxable property in his county at "full cash value". However, the necessity of getting elected every 4 years provided a strong temptation for Assessors to ignore those statutes, particularly in view of the history of county independence.

Assessors would have been less than human if they had not yielded to these pressures since taxpayers hostility toward taxes usually settles, unfairly and illogically, on Assessors.

The Appraiser is not now under those political pressures.

So the matter stood in 1972 when the Constitutional Convention met. The assessed value of agricultural land had dropped 27% between 1925 and 1970, although real estate ~~sales~~ showed a 300% increase. Residential property was valued as low as 12% of market value in some counties and as high as 32% in others.

As an example of some of the inequities, in my small county of Golden Valley, where we were reclassified in the late 50's and early 60's with the reclassification going on the tax rolls in 1963, it was the duty of the Assessor to appraise any new buildings built after '63. When the State took over the property assessment process in 1973 and appointed me as Appraiser, we immediately started working on reclassification and in this small county there were 1645 buildings that were never put on the tax roll by the Assessor during those 10 years.

These are some of the reasons that Property Tax Administration was shifted to the State.

We also express great concern for the State School Foundation Program and the University Levy. Prior to 1973, while under Assessor Control, unequal assessments caused some counties to pay more than their fair share of that tax burden.

If the Legislature relinquishes the authority of the taxing process and places it under the control of the locally elected Assessors, and Commissioners, we can expect to see some of the local offices yield to the pressure and often hostile emotions of their friends and voters. These offices should not and will not be put in that compromising position if Senate Bills 30 and 36 are defeated.

We had a Board of Equilization before and it simply did not work. If either Senate Bill 30 or 36 pass we will again be subjected to the very same problems that compelled the Constitutional Convention to place property tax under the Department of Revenue. Please do not pass Senate Bills 30 or 36 or any other similar legislation under a false belief that local control will be more equitable for all taxpayers. It is not possible

Statutory requirements for Certification (15-7-106) would pertain to Assessors if Senate billd 30 and 36 pass. As Appraisal Supervisors, they would be required to be certified in all aspects of the appraisal process. Certification training takes approximately 2½ years to complete, if all courses are satisfactorily completed. Currently if an Appraiser fails to satisfactorily complete Certification training, he is terminated as specified in the Conditions of Employment agreement.

What would happen if an Assessor failed Certification requirements?

At present we are obligated to furnish work Plans to the State Office outlining our reappraisal projections. We are closely monitored by the State to keep track of our production and we are subject to Annual Performance Appraisals.

Instead of regressing, we feel that our efforsts should be directed toward improving on the system we have with constructive criticism and positive suggestions that can be implemented by you, the Legislature, and Administered by the Department of Revenue.

Thank you for this opportunity to express our views of Senate bills 30 and 36.

Claire Wilken, Appraiser Golden Valley County
Secretary/Treasurer of Montana Appraisal Association

Some concerns for the Senate Taxation Committee.

Gentlemen and Ladies:--

With regard to Senate Bills 30 and 36. When considering these two bills this Committee should first answer a few questions of the reasons and rationale involved.

- #1) Is this the response to Initiatives 27 and 105?
- #2) What does this power shift accomplish ?
- #3) Does this alter the property tax problem?
- #4) Will equity be served?
- #5) Did the State Board of Equalization ever create consistent, equitable appraisal?
- #6) Does this transition insure the use of trained, competent personnel?
- #7) Is it reasonable or fiscally responsible to waste the time and money already expended on the existing personnel?
- #8) Has the Legislature's mandate and direction involving real property been so faulty as to surrender the elusive goal of equity and fairness?

In the days of the State Board of Equalization levels of assessment varied widely. It would seem that the gap is narrowing under the legislature's guidance and the DOR's administration.

Given the same guidelines the level of assessment will not change with a shift of power to the counties. If this return to county control is in fact the answer to Initiatives 27 and 105 it amounts to nothing more than a smoke screen. These bills do not address the problem so widely proclaimed; excessive taxation on property.

This proposed shift also allows the potential for untrained, unqualified personned to a job which has come under increasing public scrutiny in recent years. A large amount of time and money has been spent on the staff of the Property-Assessment Division and it would seem that, in large measure, the call of equity has been met.

A suggestion to this committee is not to regress but to address. Look at the problems and attempt to arrive at equitable solutions. In fact the crux may well be in making a determination of what in fact are the problems. It may not be necessary to make large sweeping moves when the problem may be in a smaller sphere and can be dealt with more simply and more effectively.

As a final note this committee should be admonished not to allow the indignant shouts of the few override the overall fairness and equity, so long-sought-after. For many the only fair tax is one they do not have to pay. Special interest attitudes should not be a consideration here but rather a consideration of where property assessment has come from and where it is going.

SENATE TAXATION

EXHIBIT NO. 14

DATE 2-20-87

BILL NO. SB-36

Since about 1975, under the authority of the state legislature and supervision of the property assessment division of the D.O.R. we have seen many changes, corrections and improvements in the appraisal process. This transition period has not been easy or problem free but it is definitely a giant step in the right direction and reflects the need for continuous control by the legislature to further develop an efficient and fair property tax system.

Rather than undermine and weaken the progress we have made in that direction, it ~~should~~ indicates that the most practical and productive efforts of the legislature, at this time should be directed toward strengthening and improving our present system. We commend them for the creditable progress in uniformity and impartial tax on equity they have achieved to this point of time.

A recent legislative performance audit of the property assessment division shows other areas where improvements can be made in property valuation and ^{in the} property reappraisal program. One of the 18 recommendations that members of the taxation committee and other legislators should consider, is directly contradictory to the Senate Bills 30+36 this bill.

This recommendation is one of the 3 major concerns of the audit report and reads: Enacting legislation to place the assessment function under direct control of the D.O.R.

With an audit recommendation such as this, done at the request of the Legislative Audit Committee consisting of 4 senators and 4 representatives, I find it difficult to believe these 2 senate bills could be considered worthy of the support of this committee or any legislator concerned with equitable taxation.

Mr. Chairman, members of the committee

I represent the Mont. Appraisal Assoc. & we oppose these bills

Our primary concern and purpose of any change in our property tax law should be ~~to improve~~ equitable taxation.

Since either S.B. 32 ~~or~~ 36 would constitute a drastic change by shifting the jurisdiction of property tax appraisal, assessment, and equalization, ^{it would} ~~and~~ weaken the legislative control by transferring the process to 56 counties that again would be virtually impossible to manage.

Rather than improve the equity goal, ^{this bill} ~~they~~ would diminish the degree of fairness we now have by placing potentially dangerous discretionary power in the hands of locally elected officers.

These discretionary problems were of great concern from 1889 until the 1970's when they were addressed by the legislature to a certain degree. To better understand this troublesome era, in order to prevent ~~this type~~ recurrence, I would ask you all to read a well written, comprehensive well documented and concise Mont. Public Affairs Report. It was written by Teresa Albert Cohen in 1978 and titled - "Property Tax Assessment: A Century-Long Struggle For Structured Discretion". It is a brief history of the constant legislative efforts to limit the discretionary power that was exercised, those many years by county elected assessors, when they were supposedly under the direction of the State Board of Equalization. The problems that surfaced during that period were not because of lack of legislative statutes and guidelines but simply because the legislature could not control