

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - 1st SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on June 20, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All members of the committee were present with the exception of Representative Kadas.

Members Excused: Representative Kadas

Members Absent: None

Staff Present: Lee Heiman, Legislative Council Staff
Donna Grace, Committee Secretary

Announcements/Discussion: Before going into Executive Action, the committee will wait for the fiscal note on HB 2. More information will be provided to the committee on HB 20. HB 5 will be assigned to a sub-committee along with other bills relative to taxation of retiree benefits.

HEARING ON HOUSE BILL 20

Presentation and Opening Statement by Sponsor:

Representative Fritz Daily, House District No. 69, stated that this bill was requested by Don Peoples, Mayor of the City of Butte, and Evan Barrett, the Director of the Development Corporation of Butte. The bill is designed to lower the property tax classification for equipment used to package and process canola oil. Currently the Canbra Foods Co. of Lethbridge, Canada, is considering location of a plant in one of three cities in the United States -- Butte, Boise or Reno. One of the main problems with locating in Butte is that the tax classification is so high. The company would be expending between \$20 and \$23 million and would be employing about 150 people. This bill is similar to the one which was introduced during the regular session by the Billings delegation which would have lowered the tax classification for the Anhaeuser Busch Corporation when they were considering the location of a malting plant in Billings. Representative Daily stated that Mr. Peoples was present at the hearing and would explain more about the reason for the request for legislation.

Testifying Proponents and Who They Represent:

Don Ingels, Montana Chamber of Commerce
Laurie Shadoan, Bozeman Chamber of Commerce
Dan Walker, Billings Chamber of Commerce
Chris Gallus, Butte Silver Bow County
Rose Leavitt, HAEDCO
John Lahr, Montana Power Co.
Don Peoples, Chief Executive, Butte-Silver Bow
Joe Quilici, Representing HD 71, Butte, MT
James Talbo

Proponent Testimony:

Don Peoples, Chief Executive of Butte-Silver Bow, advised that this bill would place Butte in a competitive position with the other two cities under consideration for location of the canola processing plant. He felt they were equal in transportation, facilities, cost and availability of labor, but the one area they were not competitive in was property tax. This legislation would benefit not only Butte but the entire State of Montana. It would introduce into this area a food processing facility which would be a diversification to the economy which is badly needed. It would also utilize the HUB facility which was built in Butte with money appropriated by the legislature. There is also a possibility that a packaging facility would be built next to the canola oil processing facility and that in itself would be very important and enhance the community's competitive nature as well. Mr. Peoples urged the committee to look very carefully at HB 20 and lower the tax classification.

Representative Joe Quilici, House District No. 71, Butte, stated that one of the things besides equalization to be considered in this session was the reduction of some personal property taxes. This is a chance to get an industry into Montana that would create jobs and would be a step forward for Montana. Without lowering this type of personal property taxes Montana doesn't have a chance. He informed the committee that the State of Illinois had spent \$30 million to keep Sears in Chicago. They are trying to keep the industries within their state and Montana is trying to bring the industries in. He asked the committee to give this bill favorable consideration not only to bring this industry into Montana but to also bring other industry into Montana by making tax rates competitive.

Evan Barrett, Executive Director of the Butte Development Program, showed the committee a packet of information they had put together for the Canbra Foods company which indicated that Butte was very strong competitively with the other cities being considered with the exception of the equipment and personal property taxes. The Canbra Foods is a company that makes canola oil which is a product that is used for a healthful salad oil with no cholesterol and is very low in polyunsaturates and high in monounsaturates. According to Consumer Reports this is the most healthful oil

that can be used so there is obviously a broadening market for this product. The Canbra Foods are looking at sending about 60% of their product to California and 40% to the rest of the western states. The process is to take rapeseed, crush it down to crude oil, refine it into a processed state and formulate that into an edible product such as salad oil, cooking oil, margarine and shortening. The original plan was just to do the refining in Montana and ship the product in bulk tankers to California to package it. He said that his organization had convinced the Canbra Corporation that it makes sense to add more value to the product in Montana and take the additional steps. The discussions now indicate that if they locate in Butte they will do all the steps in Butte and the finished product will be shipped from there. Mr. Barrett stated that the four major concerns of the Canbra Corporation were transportation, taxes, utility rates and labor costs and availability and quality of labor. When looking at the tax situation there is quite a disincentive to locate in Montana. The long term effective tax rate given the current situation would be three times higher than Boise and four and a half times higher than Reno. What this bill envisions is taking the three year incentive rate and making it permanent for this type of facility. The Department of Revenue did an analysis and they determined that the long term effective rate in Boise would be 1.2 or 1.3 percent. The long term effective rate in Reno would be .875 percent and by passing this bill it would put the long term effective rate at 1.388 percent for Montana. Mr. Barrett urged the committee to give favorable consideration to this legislation.

Mr. Don Ingels, Montana Chamber of Commerce, said that the Montana Chamber would support House Bill 20.

John Lahr, Montana Power Company, appeared before the committee to support HB 20. He said they were interested in the economic expansion in the Butte area. Montana Power provides electric and gas rates which are among the lowest in the nation which contributes to facilitating the location of this industry in Montana.

Rose Leavitt, Helena Area Economic Development Corporation. She spoke in favor of HB 20, saying that she thought it was vital to the State of Montana to re-think the tax structure for business if development is to be encouraged. This would be an excellent opportunity to bring in a new industry. Several cities in Montana did compete for this business, but all the economic development councils in the state are willing to support whichever city in Montana is bringing this business in.

Laurie Shadoan, representing the Bozeman Chamber of Commerce, said that she is on the economic development board of the Gallatin County Development Council. The message that needs to go out loud and clear is reduction of property taxes.

Although Bozeman was not one of the finalists, they would definitely applaud Butte and ask that the committee look favorably at HB 20.

Dan Walker, a member of the Board of Directors of the Billings Chamber of Commerce, and also representing the Billings Economic Development Council, appeared in support of this bill.

James Talbo stated he was in favor of financial incentives but perhaps it should be made a permanent financial incentive or it should be tied to some sort of income or employment.

Testifying Opponents and Who They Represent:

Dr. Nordtvedt, Dept. Of Revenue

Opponent Testimony:

Dr. Nordtvedt stated that he was not really an opponent, but more of a "no-ponent". His opinion was that this state had better get on the same track and reduce personal property tax throughout the state. He said that the personal property tax situation is so bad and he referred to the testimony of the proponents to the bill where they pointed out that there is a factor of three or four point disadvantage in tax rates in neighboring states. For this particular plan you could make the same testimony across the state. He said he had been traveling with the Governor and had learned that in Kalispell there was a high tech tool business, 320 employees, starting from scratch less than ten years ago and they are now considering moving the production part of their business to Idaho for precisely the same reasons. They can save \$100,000 on personal property taxes on their production machinery by moving them 100 miles into Idaho. Around the State there are similar cases. Personal property taxes have to be reduced across the board across the State because "we are fiddling while Montana burns", and each city is coming in to the legislature with a specific bill for a specific industry and the tax codes are being made into a joke by doing it piece by piece and it is time to get on the same track and reduce the personal property tax rates across the board throughout the State.

Questions From Committee Members:

Chairman Harrington said that he realized that Dr. Nordtvedt had spoken as an intermediary on this bill and asked if he felt the Governor would sign this bill if it were to be passed. Dr. Nordtvedt's reply was that he had not asked him regarding this specific bill. However, if the passage of this bill were to reduce the chances of reducing personal property taxes for the entire state. He felt the Governor would have to consider what would be in the best interests of the entire state. He said that the Governor's office

heartily supports, and has made it their top priority since January, to reduce personal property taxes throughout the state as the economy of the entire state was their concern. He said that the disturbing thing in this bill, and a continuation of several bills heard during the regular session, is that the situation is so bad yet the legislature fails to recognize the whole state and cities find it necessary to come to the legislature, job by job, and ask for personal property tax to promote a very narrow development. The Governor believes that the most important thing he can do for the State of Montana is reduce personal property taxes.

Chairman Harrington then asked Dr. Nordtvedt what would happen if agreement could not be reached within the short period of time the legislature will be in session. Dr. Nordtvedt said he could not answer the question as he felt it was hypothetical.

Representative Raney said that if the legislature were to go across the board with personal property tax relief, everyone recognizes that something must be done. His question to Dr. Nordtvedt was, if the legislature does not philosophically agree with the Governor's tax reform, would the Governor oppose this piece of legislation? Dr. Nordtvedt replied that the Governor's office is offering a variety of tax revenue sources to fund personal property tax reduction but stopped short of the shifting of taxes from personal property taxes on to other taxes. The objection to using higher income taxes to fund personal property taxes is you shift it to other human efforts. There are several other sources and several have been identified and he invited the legislature to invent others on non-productive activities. For example, not to raid the \$400 million coal trust but divert future revenue, increase the tax on video poker machines, and there are others if you reject those. Dr. Nordtvedt stated that the sales tax had been suggested in the regular session and that was rejected. Higher income tax would be a transfer to other productive activities.

Representative Good asked Representative Daily if he didn't think it would be fair to give the people who had been in business a long time a break. She stated that during the regular session she had presented an amendment that would include General Mills in the same sort of tax break scenario. They have been in her town for a long time and suffered the abuse of the Montana property tax system. Many people who have signed on the current bill opposed that property tax relief for a business that has been kicked around and abused quite a bit. She asked why they would come at this time and want to give these people a break. She said she could understand it from their prospective but she would like to know what the reasoning was in opposing the people who have been in our state for a long time and why they shouldn't be rewarded. Representative Daily responded that it was a very

difficult question and, going back to Dr. Nordtvedt's comment, there is no question that the legislature must look at personal property tax reform. However, in that process it is necessary to look at replacement revenue for local governments and there are some plans to do that. In this particular case there is an opportunity to get a new business into Montana and it behooves the legislature to take this bill and pass it and hopefully, sometime during the session there will be some personal property tax reform.

Representative Good then asked how long the legislature planned to make businesses like General Mills wait. Representative Daily said he hoped it would be soon.

Representative Schye inquired if the rapeseed from which canola oil is made is raised in Montana. Mr. Peoples replied that it is not a major crop in Montana but some is raised in north central Montana. A number of areas are looking at it as an alternative crop for the future. Most of the canola processed in this plant will come from Canada. The small amount that is grown in Montana is processed at Culbertson.

Representative Giacometto asked if there were other manufacturers who wanted to come into Butte at this time. Mr. Peoples replied that they are trying to create some specific targets for industrialization on their own initiative but this request was built around responding to a company's desire to expand. Representative Giacometto then suggested that perhaps it would be better if the bill were changed to cover any new business wanting to come into the state as long as they were Class 5, ag processing. Mr. Peoples said they wouldn't have any objection to that. He said they realized that they had to do something to make them competitive and to have general property tax relief for business machinery and equipment would be the best of all possible worlds if alternative revenues could be found but, short of that, the next best thing would be Representative Giacometto's approach and, short of that, this specific approach.

Representative Giacometto said that he was in favor of Representative Daily's bill, but stated that things weren't getting done because they were arguing about the replacement revenue. He asked why this bill could not be made all-inclusive. Because these would be new businesses coming into the state, there would not be any "replacement" revenue because they were new, and it would be a state-wide thing. Billings would then have the same competitive edge as any other place in the state for any type of plant and these individual bills would not have to be introduced. Representative Daily said he had the same thoughts and he felt it would be a good idea. Rather than seeing this bill changed, however, he would rather see a committee bill that would do the same thing. This bill could then go through the process as is. The reason for this would be that, if for some reason the other bill did not pass, there would

still be this bill.

Mr. Barrett stated that the one thing the committee might want to concern itself with is a discriminatory application. If the bill is made too broad, and someone comes in competition, the new business gets a lower rate than the existing business, a lawsuit could result.

Representative Cohen asked Mr. Barrett about the tax rate being three or four times higher than in other areas.

Representative Cohen stated that he had read an article in a national magazine which indicated that people from economic development programs around the country felt that cutting property tax rates to encourage business was bad business for states and local governments. If the personal property tax is going to be 1.2% or .4% of their total costs it might not be a very significant figure. He asked if Mr. Barrett could provide the committee with Canbra's estimated cost factors which would show how much of the total cost of doing business in Montana is involved in the personal property tax. Mr. Barrett said he did not think he could get the entire budget but he could give some dollar figures. The long term effective rates for the three different areas, the cost would be \$886,000 for taxes; in \$240,000 in Boise; and \$175,000 in Reno. The bill being discussed would reduce the amount in Montana to approximately \$277,000. Mr. Barrett stated that the overall percentage of the total cost of doing business in Montana was probably not that great. However, decisions are levered by things like this and the range has to be lowered to make Montana competitive. He said the issue at hand is not how it fits into their percentages but whether or not the differential leverages their decision. Representative Cohen stated that he would still like to see more data.

Mr. Peoples said that he had read the same article which said that taxes were not a large factor and he said that he felt that might be true where taxes were average; however, in this case they are not average.

Representative Gilbert asked if the interpretation of the bill would include the canola processing plant in Culbertson and Mr. Barrett said that it would be included. Mr. Barrett said this could be done by including "and package" in the title, "and packaging" could be stricken from page 4, line 8, and on page 4, line 11 strike "and" and on page 4, line 12, strike the semicolon and insert "or engages in any one or more of those processes". Subsections (b), (c), and (d) would then no longer be necessary.

Representative Gilbert asked Mr. Daily if he would support such an amendment and the answer was that he would.

Representative Ellison asked Mr. Peoples if he didn't think this was, basically, bad tax policy. Mr. People agreed but said

that at this time there was no other alternative. He said he hoped that this session of the legislature would do something for the whole state, however, if something is not done for this plant it will not be there.

Representative Good asked Mr. Daily if he would object to amending the bill so there was some tax relief for General Mills. Representative Daily said he would not object if she could find a way to do it.

Representative Raney asked for further statistics and Mr. Barrett replied that he could have that information prior to the time the bill will be heard in executive session on June 21.

Closing by Sponsor:

Representative Daily said that he felt the discussion had been good and it was obvious there was a problem in Montana that had to be addressed. However, he hoped that the opportunity to get this business into Montana would not be lost because of the massive tax problems. He said he did not have a problem with other tax legislation but hoped the committee would give favorable consideration to HB 20 which would cover the Butte situation in case other legislation was not passed. Representative Daily commented that he did know that the Governor had written to the Canbra Foods Co. and expressed that he would do all he could to help them locate in Montana.

HEARING ON HOUSE BILL 5

Presentation and Opening Statement by Sponsor:

Representative Bernie Swift, House District 64, Ravalli County, said that House Bill 5 would provide a \$12,000 state tax exemption for all retirees in Montana. He said that most of the committee was probably aware that the NARFE had filed a suit similar to the Michigan/Davis case. The statistics relative to the number of retirees living in Montana are included in Exhibit 1. Representative Swift stated that this is a simple bill and he would prefer to not make it any more complex.

Testifying Proponents and Who They Represent:

Judy Carlson, Equity in Taxation
Lou Marquardt, Equity in Taxation

Proponent Testimony:

Lou Marquardt, a representative of a group of private retirees who have formed a group called Equity in Taxation, stated that his group would support any bill which provides for equity in taxable income which HB 5 does.

Testifying Opponents and Who They Represent:

Tom Schneider, MPEA
Owen Warren, AARP
Gene Huntington, Retired Teachers
Richard Williams, AMRPE
Phil Campbell, MEA
Fred Porter, AARP
Dr. Ken Nordtvedt, Dept. Of Revenue

Opponent Testimony:

Dr. Nordtvedt stated that the recent Supreme Court ruling that led to bills of this type deals with a specific class of federal retirees. It says that federal Civil Service pensions must be taxed the same way as state and private pensions. The decision does not refer to federal military or private pensions. They have been brought into the various bills because of the concept of equity. Dr. Nordtvedt said the Governor's Office opposes this because it would violate the contracts the state made with its employees and the state's contractual agreement is embedded in the employee handbook which outlines the state's contractual agreement with the state employees and the school system employees. They make compulsory payments into the pension fund and there is a certain formula of pension benefits and they will be tax free. Employees were hired on that basis. He said that with all the other problems they are having with state employees, they could not break their word to past and present employees by changing the rules at this stage of the game. There are other bills designed which would maintain the tax free status for state employees and the administration thinks it would be a step backward to break their word to state employees.

Alve Thomas, President of the Retired Teachers Association, stated that he was also appearing before the committee to oppose the bill which would make it mandatory. In 1947 the pension plan became mandatory for all certified teachers and administrators. Many members contributed for 40 years and were under the impression that pensions would be tax free. He said he believed the contract should not be abrogated. In 1958 the legality of taxing teacher retirement was addressed by the Montana Attorney General. Mr. Thomas read his opinion which indicated that pension benefits for teachers in Montana were exempted from state income tax. He concluded that it is not ethical, moral or legal to tax those presently receiving state pensions.

Dick Williams, President of the Association of Montana Retired Public Employees, testified that his association represented 4,000 retired public employees and their position is that they cannot support taxation of pensions and annuities of public employees. The provisions of the law were enacted to show the state's gratitude for a job well done as well as to

attract and retain qualified public employees. He said that he thought taxation at this time would be a breach of faith by the state. In view of the recent Supreme Court ruling, the association can understand the legislature's duty to resolve the problem. He said he felt it could be resolved by exempting federal retirees for a period of two years and sunsetting the bill and then having a committee look into the whole retirement problem before the 1990 session.

Terry Minow, representing the Montana Federation of Teachers, and the Montana Federation of State Employees, said she was appearing in opposition to the taxation of the pensions of Montana teachers and other public employees. See Exhibit 2, an analysis of a study done by Dr. Richard Barrett of the University of Montana. To begin to tax retirement income now would negatively affect the recruitment and retention of state employees, county employees, teachers and faculty.

Phil Campbell, MEA, said he would go on record as being in opposition to this bill. This has always been considered a part of the compensation package and this bill does not provide any break to those who have for years already paid taxes on the money that went into their retirement system. He did recognize that this was changed in the 1985 session. He said that the bill went beyond what was required and advised that Congress is also looking at this situation. He urged the committee to not pass this bill.

Tom Schneider, representing the Montana Public Employees Association opposed the bill because public employees have received the tax benefits which is included and has been the statute since the beginning of the system that they will not be taxed. In 1985, one of the big points in the salary increase negotiations was doing away with the taxability of their contribution to the retirement system and at that time the Governor's staff said that the major point in this is that they won't have to pay taxes on it now or when they retire. Looking at this bill and the one in the Senate, what the legislature is saying is that when you retire in this state you might as well pick out another state and go there and draw your retirement checks because Montana is not going to help the retirees in any way. What is happening is that everyone else is going to get a benefit and that public employees of this state are going to pay for it.

Vickie Cocchiarella, District 59, stated that she is the second vice president on the Board of the Montana Public Employees Association. She said she agreed with what had been said by the other opponents to the bill. She advised that at the annual meeting of the MPEA this last weekend, the Association passed a resolution in opposition to any taxation of pensions for retirees. She reminded the committee that sometimes legislation is passed to encourage employees to retire and this would be a disincentive to early retirement.

Gene Huntington of the Retired Teachers' Association said he wanted to point out the impact of the \$12,000 threshold that is in this bill. In terms of retired teachers, this would effect 1,136 of the 6,233 beneficiaries. It would have a substantial impact on this group.

Questions From Committee Members:

Representative O'Keefe asked if anyone knew what the top state employee retirement rate was. Dr. Nordtvedt said he had seen a list which indicated it was \$28,000. Each succeeding year that would go up, particularly in the educational system. Mr. Schneider indicated that he had seen a current list and it is now \$31,000.

Representative Koehnke asked if this would cover IRA's, etc. Representative Swift said that, yes, it would. How it would be done would have to be determined by the Department of Revenue through the tax rules process.

Representative Ream stated that Mr. Huntington had indicated that the state employees have a contract with the state and if this or similar legislation is passed, he wondered if some state employee would go to an attorney and would they have a legal basis for a lawsuit against the state. Mr. Huntington asked someone else, possibly an attorney, to answer that question. Leo Berry then responded that he represented the Association of Montana Retired Employees, and he said the association had not researched it thoroughly but there are Supreme Court cases which indicate when a commitment is made when a person first enters employment, it is part of their contract, particularly when it is included in the employee handbook. Whether this particular situation would result in a successful piece of litigation, he could not say. He said he did know, however, based on the cases already heard, there is a legitimate legal argument that there is an employment contract that could be successfully litigated.

Dr. Nordtvedt also responded by saying that the Revenue Department legal staff had also started to look into this question but have not reached a conclusion as to which way they think the parties would prevail in such a lawsuit. The ramifications for Montana are more significant than in other areas because it would be a fundamental break in the trustworthiness of the state. The big loss to the state, regardless of which way the litigation would prevail, would be to seriously undercut the credibility of the state.

Representative Raney said that one of the concerns he had heard concerned the "double-dippers". He asked if there was any way to preserve the exemption under the state yet deal fairly with the transients who come in from non-civil service. Dr. Nordtvedt said that there were ways and the

administration had tried to introduce a bill in the Senate to set the effective cap so that literally 100% of the public pensions would be exempt and, with an inflation index, would continue in future years to remain exempt. That would control the upper limit of how much pension income basically would be tax free. He continued to say that the "double-dipping" situation is somewhat ameliorated by the fact that a worker has only so many years and pension plans are designed to give a pension proportional to years of service so the so-called "double-dipper" tends to have two smaller pensions rather than two larger ones. The bottom line is, if there was a generous enough cap, the tax free status could be preserved for public pensions and keep some control over the system.

Representative Raney asked Mr. Schneider how the state employees would feel about setting a cap which would keep them whole but not lose the revenue from all the other pension sources. Mr. Schneider said one of the things to look at to begin with is the effect on federal taxes. The minute you raise the benefit you also have an effect on federal taxes so the state tax that is going to be assessed has to be offset plus the increase in federal taxes. When you get through with this, would you really spend more money than you have to spend right now by just simply equalizing federal and state. To expand some, this is the problem with what is going on in the special session. There just isn't enough time to look at all these different things and to do a good job and come out with a product that is going to work.

Closing by Sponsor:

In closing, Representative Swift said he was very pleased with the discussion. He thought that the point had been made regarding the complexity of the problem. When he had the bill drafted he certainly appreciated the fact that they were only talking about federal and state. However, as the discussion has pointed out, each and every one of the entities mentioned have a different base of payment, employment and it also relates to the pension process. To attempt to fully approach equity in this whole system is almost impractical and impossible. He said the reason he included the private in this legislation is because in the litigious society we live in today, if you don't address it now you will address it in the future and this is one of the key points for the committee to consider. Representative Swift reiterated the fact that he would be amenable to amend and include in this piece of legislation something that totally and completely avoided any duplication process, to forgive what they had paid tax on and give a period of time to do that and it would be more equitable overall and no one would be exempt in this process. He said he didn't think they should allow anyone to be treated differently and he hoped that they could reach equity in some reasonable point of dollars of taxation.

HEARING ON HOUSE BILL 2

Presentation and Opening Statement by Sponsor:

Representative Ted Schye stated that House Bill 2 is the same as House Bill 664 which was heard during the regular session which deals with the alternative minimum tax. The bill did pass the House. It was tied to the sales tax in the Senate in Senator Crippen's bill. Representative Schye said he felt the bill should be debated on its own and not in connection with the sales tax. There isn't a new fiscal note but there is an old one from the regular session. Dr. Nordtvedt has mentioned that there will be a new fiscal note, however, it will be possible to discuss the bill on general terms today. This bill proposes an alternative minimum tax. You file the federal minimum tax form and under this bill you would also file a state minimum tax form. This was discussed at great depth and it may be necessary to come up with some money and this is a way to do that during this special session. The old fiscal note indicates it would amount to about \$6 million a year. (See EXHIBIT 1). Representative Schye reserved the right to close after hearing the testimony.

Testifying Proponents and Who They Represent:

Don Judge, Montana State AFL-CIO
Phil Campbell, MEA

Proponent Testimony:

Ann Prunuske, Montana Alliance for Progressive Policy, stated that they were in support of this bill. One of the major problems with the income tax system right now is that there are a lot of people who do not pay. A 1986 Department of Revenue study said that 14% of Montana households earn more than \$120,000 and pay no income tax at all in this state. This bill would close that loophole in the tax system. In the 1987 tax year wealthier taxpayers, with income over \$50,000, increased their itemized deductions by 27% while the total for the whole state went down 9.6% indicating that it is much easier for wealthier people to take advantage of loopholes. The Montana Alliance considers a progressive tax to be one that is broad based and based on the ability to pay. This bill would address all those factors. She urged the committee to give this bill a "do pass".

Phil Campbell, Montana Education Association, stated that they would like to go on record in support of this bill.

Terry Minow, Montana Federation of Teachers and Montana Federation of State Employees, said they would also like to go on record in favor of the bill.

Don Judge, Montana State AFL-CIO, said they supported the bill in the regular session and would support it again at this time.

Testifying Opponents and Who They Represent:

Kent Nordtvedt, Dept. of Revenue
Mike Holland, Montana Association of CPA's

Opponent Testimony:

Dr. Nordtvedt stated that if there are taxpayers in Montana with large incomes who aren't paying state income tax and you want to change that situation, he urged that the legislature to look into the exemptions that are permitting them not to pay taxes and not use unfounded generalizations. It would probably be found in most cases that they are using exemptions that legislature enacted in order to induce them to do something the legislature wanted them to do like buying state municipal tax free bonds so that the cities, towns and schools could borrow money at lower interest rates. They are using the tax codes as the legislature wrote them. Before you change the tax codes to make them go through another calculation to pay more taxes, you should make sure that you are not discouraging them to do the things you once encouraged them to do like buy municipal bonds, etc. The second point is any fiscal note is calculated on the assumption that what you do will not change the residence or other behavior of the taxpayer. These taxpayers will generally be ones who can choose Montana residence or pick another state. Dr. Nordtvedt's opinion was that there would not be as much revenue as the fiscal note indicated. Finally, he said he had been told this morning that the fiscal note has been recalculated based on the latest year income tax data which takes another year of the federal tax reform of 1986 into account and many of the changes in the federal deductions have now taken place and the new fiscal note will be that this will raise only \$1 million a year rather than \$3 million because many of the so-called loopholes that leads to the use of the alternative tax were changed by the 1986 federal law. Dr. Nordtvedt stated that unless the committee really understood what kind of changes are occurring, this would be a counter productive kind of change in tax law.

Mike Holland, representing the Montana Society of CPA's, opposed this particular alternate minimum tax bill for a number of reasons. One is they feel the committee is being misled when told that there are people in the \$120,000 bracket who don't pay taxes. Very often the case is they have invested or spent heavily in an area where you have decided a deduction should be allowed or, as very often is the case, they use a very large federal tax deduction. Tax should be based on ability to pay and this bill runs counter to that concept. The alternative minimum tax shows up on a lot of tax returns and about 25% actually pay it. The form has to

be filled out in order to find out and that increases preparation time. It is the most complex, difficult section of the tax law to deal with. Very few CPA's in Montana know how to deal with it competently. They agree with Dr. Nordtvedt's assessment that the revenue impact is vastly overstated. There is a hidden reason why they finally oppose this. For a person in the \$40,000 income you are adopting a flat tax of 8 1/4% of their income and denying a federal tax deduction and he felt the committee should be aware of that.

Questions From Committee Members:

Representative Cohen said that the CPA's endorsed a proposal during the regular session that the state income tax be a percentage of the federal liability. He asked Mr. Holland if the legislature did that, would that take this in and there would be no need for that? Mr. Holland said they felt it was a palatable way to adopt the alternate minimum tax. This is why there are the consequences because nobody can predict because it is a very complex issue.

Closing by Sponsor: Representative Schye said that much of this same discussion had been heard in the regular session and he could not argue the fiscal note. There are some questions to be answered. In the 1986 federal reform the federal government put in the alternative minimum tax to catch people who were not paying taxes by using a lot of exemptions and he thought it was fair for the State of Montana to look at the same alternative and go from there.

ADJOURNMENT

Adjournment At: 11:00 a.m.



REP. DAN HARRINGTON, Chairman

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

DATE: June 20, 1999

NAME	PRESENT	ABSENT	EXCUSED
<u>Dan Harrington. Chairman</u>	✓		
<u>Bob Ream, V. Chairman</u>	✓		
<u>Ben Cohen</u>	✓		
<u>Jerry Driscoll</u>	✓		
<u>Jim Elliott</u>	✓		
<u>Orval Ellison</u>	✓		
<u>Leo Giacometto</u>	✓		
<u>Bob Gilbert</u>	✓		
<u>Susan Good</u>	✓		
<u>Ed Grady</u>	✓		
<u>Marian Hanson</u>	✓		
<u>Robert Hoffman</u>	✓		
<u>Mike Kadas</u>			
<u>Francis Koehnke</u>	✓		
<u>Mark O'Keefe</u>	✓		
<u>John Patterson</u>	✓		
<u>Bob Raney</u>	✓		
<u>Dennis Rehberg</u>	✓		
<u>Ted Schye</u>	✓		
<u>Barry Stang</u>	✓		
<u>Jessica Stickney</u>	✓		
<u>Chuck Swysgood</u>	✓		



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J.D. LYNCH

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ROBERT B. PERSON

LEGAL DIRECTOR
GREGORY J. PETESCH

Montana Legislative Council

Legal Services Division

State Capitol
Helena, Montana 59620
(406) 444-3064
FAX (406) 444-3036

EXHIBIT 1
DATE 6-20-89
HB 5

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EDDY MCCLURE
PARALEGAL
DOUG STERNBERG

June 13, 1989

To: Rep. Bernie Swift
From: Mary McCue
Staff Attorney

Re: Request for information concerning number of state, federal, and private retirees filing Montana tax returns and the average retirement income from each group

I. State retirees: information provided by Joan Miller
Public Employees' Retirement Division phone #5457
As of December 1988: 10,744 members
\$5,421.15 average annual payment

II. Federal and private retirees: information provided by Larry Finch, Research Bureau, Department of Revenue phone #3526

1987 42,136 returns exempted some amount as retirement income
\$175,929,668 exempted \$4,175.00 (not for income averaging) (based on Tot Allowable)
\$386,179,821 reported in taxable pension benefits, Bonanza Value = 191.5
1986 private retirement exclusion up to \$360 per return
21,768 households
22,705 returns
\$7,923,222 exempt retirement income/ average of \$348.96 per return
\$118,826,630 claimed as "other income"/ average of \$5,233.50 per return
1986 federal pension exclusion up to \$3,600 per return
(figures arrived at by including every return with \$3,600 or \$7,200 exempted)
7,942 households
8,227 returns
\$30,197,278 exempt retirement income/ average of \$3,670.51 per return
\$104,376,928 claimed as "other income"/ average of \$12,687.12 per return

Not Assessed
WASTE →

average income

22-234-6835

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB664, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing an alternative minimum tax on Montana individual income; setting the alternative minimum tax rate at 8.25%; and providing an immediate effective date and a retroactive applicability date.

ASSUMPTIONS:

1. Individual income tax collections are estimated to be \$239,124,000 in FY90, and \$254,428,000 in FY91 (REAC).
2. Over the period 1983 - 1986, the federal alternative minimum tax increased federal revenue an average of 1.3% annually. A state alternative minimum tax closely patterned after the federal tax is assumed to increase state revenue approximately 1.3% also.
3. Additional administrative expense needed to implement and maintain the alternative minimum tax is estimated to be \$16,708 in FY90, and \$2,198 in FY91.

FISCAL IMPACT:

Revenue Impact:

	FY '90		
	Current Law	Proposed Law	Difference
Individual Income Tax	\$239,124,000	\$242,224,000	\$3,100,000
<u>Fund Information:</u>			
General Fund	\$139,170,168	\$140,974,368	\$1,804,200
Foundation Program	76,041,432	77,027,232	985,800
Sinking Fund	23,912,400	24,222,400	310,000
Total	\$239,124,000	\$242,224,000	\$3,100,000

Expenditure Impact:

General Fund			
Personal Services	\$ 0	\$ 11,418	\$ 11,418
Operating Expense	0	5,290	5,290
Total	\$ 0	\$ 16,708	\$ 16,708

	FY '91	
	Current Law	Proposed Law
	\$254,428,000	\$257,728,000

		Difference
	\$148,077,096	\$1,920,600
	80,908,104	1,049,400
	25,442,800	330,000
	\$254,428,000	\$3,300,000

Ray Shackelford 2/18/89
RAY SHACKLEFORD, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Ted Schaefer
TED E. SCHAEFER, PRIMARY SPONSOR DATE

Fiscal Note for HB664, as introduced

HB 664

EXHIBIT
DATE 6-20-89

	\$ 0	\$ 1,428	\$ 1,428
	0	770	770
	\$ 0	\$ 2,198	\$ 2,198

VISITOR'S REGISTER

Taxation

~~SUBCOMMITTEE~~

AGENCY(S) _____

DATE 6-20-89

DEPARTMENT _____

NAME	REPRESENTING	SUP- PORT	OP- POSE
<i>Tom Schneider</i>	<i>MPEA</i>		<i>HB5</i>
<i>Don Ingels</i>	<i>Mt Chamber of Commerce</i>	<i>HB20</i>	
<i>Owen Warren</i>	<i>AARP</i>		<i>HB5</i>
<i>Laurie Shadron</i>	<i>Buzzman Chamber</i>	<i>HB20</i>	
<i>DAN WALKER</i>	<i>BILLINGS CHAMBER</i>	<i>HB20</i>	
<i>JUDY CARLSON</i>	<i>EQUITY IN TAXATION</i>	<i>HB5</i>	
<i>LOU MARQUARDT</i>	<i>EQUITY IN TAXATION</i>	<i>HB5</i>	
<i>Don Judge</i>	<i>MT STATE AFL-CIO</i>	<i>HB2</i>	
<i>Chris Grimes</i>	<i>Butte Silver Bow</i>	<i>HB20</i>	
<i>ROSE LEAVITT</i>	<i>NAEDCO</i>	<i>HB20</i>	
<i>JOHN LAHR</i>	<i>MPC</i>	<i>HB20</i>	
<i>Sara Huntington</i>	<i>Retired Teachers</i>		<i>HB5</i>
<i>Richard Grimes</i>	<i>AMRPE</i>		<i>HB5</i>
<i>Phil Campbell</i>	<i>MEA</i>	<i>HB2</i>	<i>HB5</i>
<i>Eric Natter</i>	<i>AARP</i>		<i>HB5</i>

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT.
IF YOU HAVE WRITTEN COMMENTS, PLEASE GIVE A COPY TO THE SECRETARY.