

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on March 6, 1991, at 9:00 A.M.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Barry "Spook" Stang (D)
Dave Wanzenried (D)

Members Absent: Rep. Fagg (R)

Members Excused: Rep. Thomas (R)
Rep. Schye (D)

Staff Present: Lee Heiman, Legislative Council
Lois O'Connor, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON HB 721

Presentation and Opening Statement by Sponsor:

REP. BECKER, House District 91, Billings, stated HB 721 is an act to provide funding for autopsies through the imposition of a tax on insurance premiums of policies that contain a death benefit on policies or riders that pay as the result of a death caused by

the insured. An autopsy account will be created and the statutory appropriation will be administered by the Attorney General.

Section 1 provides a death benefit insurance tax which is 1/10 of 1% on life, annuity, and casualty returns policies. Section 2 provides for the source of the money which is a statutory appropriation. Section 3 provides for the autopsy account to go to the Attorney General's office and be administered out of there. The rest of the sections relate to reporting, codification, and applicability dates.

REP. BECKER stated that HB 721 is an innovative manner of funding. We currently have a precedent in Montana law in that the firefighters pension is funded by a tax on casualty insurance premiums. Autopsies are not being done to the extent that is necessary in this state. The reason being that counties and cities do not have the funds. Autopsies have a broad public benefit. Much information for unexplained and traumatic deaths are received from the use of autopsies. She stated that **Drew Dawson, Chief, Emergency Medical Services, DHES**, is available to answer question on how this service will benefit public health.

Proponents' Testimony:

Steve Knecht, Montana Coroners Association, stated that for years they have been trying to obtain an alternative source of funding for autopsies. HB 721 will provide general fund relief to counties and the Department of Justice by imposing a 1/10 of 1% tax on death related insurance. This is not tax relief in a sense of taxpayer paying less, but it gives the counties the option of moving this money that is now budgeted for autopsies to other areas of the general fund.

An autopsy is the only tool that county coroners have to come up with an accurate cause of death. Without an autopsy, we can only give an educated guess. Autopsies in Montana average about \$1,100 each which includes the autopsy, scientific analysis, and transportation. If autopsies are not preformed, everyone loses. Families lose by not accurately knowing the cause of death; they lose by not knowing whether the cause of death was a genetic problem that could have been corrected; and they lose because the benefits may not be accurate for the insurance companies. There is always confusion as to whether the death was an accident or natural cause. The insurance companies lose also. Sudden Infant Death Syndrome is another mysterious cause of death. Scientific data is easier to obtain through an autopsy.

The opposition to this bill is from the insurance industry. The Coroner's Association feels that the life insurance policies are directly affected by autopsies. Distribution of this fund will be by the Attorney General's office and paid directly to the county for expenses.

Tim Soloman, Hill County Sheriff's Department, gave an example of why HB 721 is needed. He stated that he budgets for seven autopsies. To date, they have done nine autopsies with five months to go on the budget. They need more funding, and he urged the committee's support.

Gary Dale, Montana Division of Forensic Science, Department of Justice, stated his job and the jobs of most forensic pathologist determine the cause and manner of an unexpected deaths. In order to do this, an autopsy is the primary tool used in association with the primary investigation of the circumstances to come to the conclusion of death. Many coroners are walking a fine line deciding whether they have the money to request an autopsy or whether to take the option of facing a debt. Unfortunately, autopsies are not inexpensive.

There are cases in Montana of bodies being buried with bullets in them; there is not adequate documentation of injuries. There is a case pending in Eastern Montana. A hunter was shot and it was ruled an accidental shooting. An autopsy was requested and information became available later. This death is now being treated as a homicide. The motivation behind the death was a \$100,000 insurance policy. The funding should come through the insurance industry because their policies are geared toward the manner of death. Their policies may or may not pay depending on whether the manner of death is conclusive. They pay twice as much if the manner of death is accidental. The only way to determine this adequately and consistently is by the use of a autopsy.

Paul Johnson, Assistant Attorney General, DOJ, stated he was speaking as a proponent on behalf the Attorney General. He said the AG has a strong interest in HB 721 because of his role as the chief law enforcement officer of the state. Along with this role, goes an interest in having a competent and workable death investigation system. Currently, this system has a gap which is that autopsies that should be done in suspicious deaths, and deaths that may have been caused by criminal means, are not all being done. Even though county coroners are authorized to order autopsies in cases of suspicious deaths by Montana law, counties are burdened with the costs of these expensive medical examinations. They can not afford these costs and the result is that autopsies which should be done are not being done.

To have a competent death investigation system, the AG feels that the coroners must have adequate financial resources to do the job. HB 721 will provide the resource by authorizing a tax of 1/10 of 1% on the premiums received by insurers or policies that contain death benefits or pay as a result of a death caused by the insured. The justification for this tax is that the coverage under these policies is generally contingent on the manner or cause of death in some way. Suicides or homicides are not covered areas under these policies. The strengthening of

Montana's death investigation system by enacting HB 721 will benefit both insurers and the insured by getting them the key facts in the case of a suspicious death. This is done by conducting an autopsy to determine the cause of death. This bill is simply a reimbursement measure. It will only reimburse counties for the actual reimbursable expenses which are incurred the cost of conducting an autopsy.

Gordon Morris, Montana Association of Counties, stated that MACO stands in support of HB 721.

Opponents' Testimony:

Larry Akey, Montana Association of Life Underwriters, stated the Association is opposed to HB 721 not because they oppose adequate funding for autopsies, but because they oppose the source of revenue proposed under the bill. Proponents are saying that the reason that the insurance premium ought to pay for this is that the insurance companies are the primary beneficiaries. This is not necessarily the case. While it is true that many life insurance policies do preclude payment on death benefits on a suicide in the first year, it is very rare that a company does not pay death benefits even if they suspect a suicide. In instances where a suicide is expected, they can request that an autopsy be made; and they are fully prepared to pay for them.

It is important that the committee look at the fiscal note. It suggests that we need to pay for 700 autopsies at a cost of \$1,100 each. Two years ago, a bill was introduced that suggested we needed to pay for 500 autopsies at a cost of \$700 each. He is aware that the cost of medical care is rising, but he doesn't think it is rising that much. Montana is becoming depopulated, but there are not that many suspicious deaths that need to be investigated. There needs to be serious questions raised about how much money we really need in order to fund these autopsies. The committee also needs to ask about the number of unattended deaths which is where a doctor doesn't have enough information to sign a death certificate. These are the types of deaths where autopsies need to be performed. He feels that it is substantially less than 700 or even 500. The committee must also ask whether the tax on insurance policies be the source of funding for autopsies. HB 721 is an effort to shift costs from the counties to the state.

Patrick Driscoll, American Council of Life Insurance, concurred in Larry Akey's comments. The idea of funding autopsies is not bad, but the use of this source of revenue is inappropriate. The taxes that consumers of life insurance benefits and services pay currently is one of the highest in the country. HB 721 will add to that tax. The fact that it is an unsuitable means of funding an admirable endeavor by the state and local governments does not make it any better.

Tom Hopgood, Health Insurance Association of America, stated the committee must understand that HB 721 affects not just life insurance policies, it affects any insurance policy which has a death in it. It includes any policy with a death benefit writer, credit life policies, property and casualty policies that carry a death benefit. We are not talking about just life insurance policies. There was a statement made that homicides are not covered under life insurance policies. He challenges this statement.

The revenue affect of the bill is for general fund relief. We can move the money being used now to pay for autopsies into the general funds of the counties. Several years ago, the electorate passed I-105 which said that they don't want anymore taxes. HB 721 is an in run on I-105.

Roger McGlenn, Independent Insurance Agents Association of Montana, stated he takes exception to the funding mechanism and drafting of HB 721. The affect to the Montana insurance consumer must be considered. He is also concerned about the fiscal note. It appears to be drafted taking into consideration life insurance and annuity premiums written in Montana. It does not take into consideration casualty which is referred to in the bill.

He drew the committee's attention to several sections of the bill. Section 1, Line 22 states "each policy or rider to a policy that pays as a result of a death caused by the insured". Section 5, Page 7, Line 19 states "specifies separately in the report as required by the commissioner". Page 7, Line 24 states "if the insurance containing a death benefit or paying as a result of a death caused by the insured is included with other insurance at an undivided premium, the insurer shall make a reasonable allocation from the entire premium to the death benefit or payment portion of the coverage as stated in the report and as approved by the commissioners. **Mr. McGlenn** submitted to the committee that they were talking about all liability policies where a death could be cause by an insured person. These include auto, homeowner, commercial, business, and the automatic medical payments under an automobile policy.

The administrative cost to insurance companies to identify, process, collect, maintain, and remit this tax to the state could be in excess of the tax collected. The consumers will not only pay the cost of the tax, but they will also pay the cost of the administration to comply with this legislation. Currently, under the standard premium tax, Montana is 10th highest in the nation. For all these reasons **Mr. McGlenn** asked the committee for a Do Not Pass consideration.

Jacqueline Terrell, American Insurance Association, stood as a reluctant opponent to the bill because the committee has been presented with a good and needy cause. The association objects only to the funding of HB 721. This bill provides a general

public benefit, but it is not being funded by the general public as the bill is being proposed. It is funded by a select group of people who happen to purchase insurance policies that carry a death benefit. Auto insurance is not a product that a Montanan has a choice to buy. It is required and often carries a death benefit. Many people who purchase auto insurance are not at the high end of the income scale. HB 721 is a regressive sales tax upon those people who can least afford to pay it. If the bill benefits all Montanans, then it should be funded by all of the Montanans. She reminded the committee that insurers contribute \$26.5 million in premium tax every year to the state general fund. This bill should be funded by the general fund just as all other causes that have general public benefit are funded.

Gene Phillips, National Association of Independent Insurers, stated that although the amount of tax provided for in HB 721 is relatively low, the administrative costs to comply to this bill would be substantial, and would be paid for by passing it on to the consumer. This would drive up the cost of workers' compensation insurance which is a very costly insurance for the businesses in Montana. This provides a general benefit to all the people of Montana, therefore, the costs should be born by all the people.

Steve Browning, State Farm Insurance, stated he had asked question about insurance premium taxes at the Legislative Fiscal Analysts office and received a report dated July 29, 1990 which states insurance premium tax and license fee collections for fiscal year 1990, are expected to follow \$6.5 million below the level as estimated in HJR 13 in the 51st Legislature. The potential for significant revenue growth on insurance premium tax in the future appears dim even with increases.

Questions From Committee Members:

REP. FOSTER said one of the statements made on determining the causes of death from genetic deficiencies. He was talking about the average cost of an autopsy was \$1,100. He asked **Gary Dale** if a determination on genetics can be made for \$1,100. **Mr. Dale** said he referred to unexpected deaths due to a ruptures of the aorta and defects in the heart valves. He has personally encountered three of these situations where the family members have been notified so that they can go in for evaluations.

REP. ELLIOTT said that in her testimony she stated that autopsies have a benefit to the general population of Montana and how the costs should be born by the entire population. She then stated that in Montana, automobile insurance which would be subject to the tax is mandatory. He asked **Jacqueline Terrell** what percentage of Montanans, would she estimate, have automobile insurance. **Ms. Terrell** said that she didn't know. She feels that most Montanans have automobiles which require insurance. **REP. ELLIOTT** asked if 99% of the Montanans owned automobiles and they have insurance, wouldn't that be considered the general

population paying for autopsies. Ms. Terrell said yes, most Montanans would perhaps contribute to this fund. The problem with this type of funding that when a person buys insurance, they are buying at a cost that is commensurate with the risk of their insurer. HB 721 does not do this. For many people, the limit of insurance that they are required to buy has been set by the Legislature. Many people find it difficult to purchase even that minimum amount of insurance. When this happens, you will see more drivers breaking the law and driving uninsured. The better policy is to have this as an appropriation out of the general fund.

REP. NELSON asked Roger McGlenn, if they were talking about all automobile policies when they talk about a death benefit or are we only talking about policies in which the insured volunteered as a rider to include a accidental death. Mr. McGlenn said the way he interprets the bill, we are not talking about all insurance policies with the exception of the policies that carry auto-medical payments. Most policies will pay a death benefit in the event of the death of one of the insurers or someone riding in the vehicle. According to the bill, it will apply only to those policies where death is caused by the insured. The death benefit we are talking about is a liability situation and not occurring in all plans. REP. NELSON said that the premium accounting would be an expensive nightmare that would have to be passed on to all consumers and asked if this was his perception. Mr. McGlenn said it would indeed be an administrative nightmare and would indeed be passed on to the consumer. REP. NELSON said that as a life insurance agent, he has many policy holders who pay a guaranteed fixed premium on their life insurance. Therefore, there is no way for the insurance company to pass this premium tax onto them. It is probable that the policy holder would have to pay for the added costs through smaller dividends and higher insurance costs, and he asked REP. BECKER if this was her intention. REP. BECKER said how the cost is passed on to the policy holder is the insurance companies decision.

REP. COHEN asked Robin Young, State Auditor's Office, if she had administrative problems with HB 721. Mr. Young said yes and that there were some major problems with the fiscal note. When it was prepared it, they were assuming life and annuity policies only. If Section 1 reads correctly, any liability policy that pays as a result of a death caused by the insured, which would cover most liability policies, would have to be collect it in advance on all policies rather than trying to determine, after the fact, which policies paid. It would result in across the board insurance costs going up or an administrative nightmare. The fiscal note would also have to be increased for additional staff.

Closing by Sponsor:

REP. BECKER stated that the 1/10 of 1% increase doesn't have to be the administrative nightmare that everyone says. The taxes proposed to be paid are premiums paid for these types of policies

not payouts. She is confused as to why they are talking about payouts when it is based upon the premiums paid for certain types of policies not payouts. Autopsies are performed for the public good, and she agrees that they should be paid by the people. HB 721 would be one method where the people would help pay for something that would benefit them.

HEARING ON HB 759

Presentation and Opening Statement by Sponsor:

REP. STRIZICH, House District 41, Great Falls, stated HB 759 was introduced on behalf of the Montana Sheriffs and Peace Officers Association. This bill is intended to address the fiscal impact of what is referred to in the bill as tactical incidents. He gave an example: the hostage situation and fugitives that the local law enforcement in Helena had to respond to in the Holter Lake area. He introduced amendments which would clarify the nature of HB 759.

Proponents' Testimony:

Bill Fleiner, Montana Sheriffs and Peace Officers Association, gave the history of why HB 759 was introduced. He stated the bill came about as the result of a taskforce that was put together by the Montana Sheriffs and Peace Officers Association. At the end of a 19 month period, this taskforce produced a manual that is titled Administrator's Guide to Tactical Incidents and Situation in the State of Montana.

The taskforce was put together as a result of three major incidents that occurred in this state: (1) the Big Sky incident with the Kari Swenson abduction; (2) the Holter Lake incident; and (3) the Lake County incident where the volunteer pilot was shot and killed by the suspect. The incident was the result of the kidnapping of a small boy which has ultimately lead to a multi-million dollar lawsuit to Lake County.

The original draft of the bill is not what was submitted in the bill drafting request. The bill was submitted in the 1989 Legislature as sunset tax which tried to pick up funding. HB 759 asks for authorization for the national guard to provide transportation and equipment and authorization by the Governor for tactical incidents which may occur throughout the state. It would provide the necessary assistance in smaller counties when they are confronted with these types of incidents.

Gregory Hintz, Missoula County Sheriff's Department, talked about the number of tactical teams in the state. He stated that in the 56 counties there are nine team in the state who are trained and capable of handling this type of incidents. Many of these teams are located in the major metropolitan areas.

The sheriff in the Lake County incident did not have a team. Had

he requested assistance through the mutual aid, he would have been able to get two teams out of Missoula; however, he would have paid for those expenses. The expenses would have been far less than what the county had to pay as a result of the lawsuit that occurred. The incident at Holter Lake had the Forest Service and FBI pick up most of the tab, otherwise it would have bankrupted Lewis and Clark County.

It is impossible for many administrators in smaller counties and jurisdiction to attempt to put together a tactical team. With HB 759, they would be able to call upon and request the established teams in the state.

Kevan Bryan, Yellowstone County Treasurer, stood in support of HB 759 and the amendments.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor: None

EXECUTIVE ACTION ON HB 759

Motion: REP. RANEY MOVED HB 759 DO PASS.

Motion: REP. GILBERT moved to amend HB 759. EXHIBIT 1

Discussion:

CHAIR HARRINGTON said that HB 759 would be sent to the Appropriation Committee directly from the floor of the House.

Vote: Motion on the amendments carried unanimously.

Motion/Vote: CHAIR HARRINGTON MADE A SUBSTITUTE MOTION THAT HB 759 DO PASS AS AMENDED. Motion carried unanimously by voice vote.

HEARING ON HB 822

Presentation and Opening Statement by Sponsor:

REP. KADAS, House District 55, Missoula, stated HB 822 will allow the local taxing jurisdiction involved, by a vote of the people within that jurisdiction, to repeal I-105; or once having repealed I-105, they could put it back in place. The reasons for the bill are apparent. I-105's implications are local, and those decisions should be made on the local level.

Proponents' Testimony:

REP. COHEN stood in support of abolishing I-105. He stated that I-105 has been a major hoax to the voters in Montana. I-105

froze the ad valorem property tax but none of the other property taxes. In Whitefish, the street maintenance district charges have increased from 25 cents a running foot to \$2,00 a running foot. The ad valorem was the most progressive of our property taxes. All of the others that weren't frozen by I-105 tend to be more regressive than the ad valorem tax. We should clarify why people have not seen the bottom line of their property taxes going down. We should go one step beyond HB 822 and abolish I-105.

Chuck Stearns, Finance Director, Missoula, stated that HB 822 is legislation that the committee should consider. The Legislature has had numerous I-105 breaker bills presented to them in this session. HB 822 would give the Legislature and local voter more control over I-105 by having the local voter have the say.

Alec Hansen, Montana League of Cities and Towns, stated the meaning of I-105 was destroyed two years ago when 70% of the property tax collected in the state was liberated from the box imposed by the initiative in 1986. I am referring to public education. Now, the vote of the people at the local level to repeal I-105 may never work.

If any city could make a case of increasing property taxes, it would be Billings. They have been at 84 mills for over 10 years. Their taxable value has been decimated by sales assessment ratio studies. The per capita cost of government in Billings is less than it was 10 years ago even with inflation. The voters rejected the city's appeal to increase property taxes. HB 822 doesn't do a lot because cities, counties, and schools can increase property taxes above the limits imposed by I-105 under current law. The bill does eliminate the step where a financial emergency has to be declared to take a property tax increase to the voters. They have done this in Lewis and Clark County and the voters did approve the increase.

The problem with declaring a financial emergency creates an unnecessary restriction because it does not allow the use property taxes for some other purpose. HB 822 would give the people in smaller jurisdictions the opportunity to fund special and badly needed projects.

The sponsors of I-105 were delivering a message. The message wasn't addressed to the city halls and school administrators, it was delivered to the Legislature. The message was fix up the tax system. The initiative passed included a provision that if the Legislature approved a comprehensive statewide tax reform program, I-105 would be nullified. This has not happened. Now we have I-105 which is more symbolic than anything. It does not apply to public education any longer, and cities and counties are paying the price for maintaining this symbol. The cities believe that the voters should be given a chance to review this decision at the local level.

Richard Miller, Montana State Library Commission, provided written testimony. EXHIBIT 2

Deborah Schlesinger, Montana Library Association, urged the committee's support of HB 822. She stated any relief afforded to cities and counties is relief for the libraries.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, stated HB 822 is unnecessary. He read a list of things already exempt from I-105 due to legislation in the past: (1) if your taxable value decreases by 5% or more, you can increase your mill levies to compensate; (2) if for some reason your mill levies were low in 1986, you can raise the levies back up to a three year average level; (3) areas exempt from the provisions of I-105 include, rural improvement districts, special improvement districts, levies incurred for bond indebtedness, city, street maintenance districts, tax increment finance districts, levies for all elementary and high schools and more. Over the last two year, there have been some pretty sizable holes poked in I-105.

Bills that are being considered this session would exempt four mills for capital improvements by cities and counties, public safety levy, one mill for fire control, two mills for votechs, total exemption for community college levies, one mill for literacy programs, two mills for ambulance services, conservation districts and exemptions for libraries and museums.

Currently I-105 provides for a vote of the people to increase mill levies. It is referred to as a financial emergency but it amounts to a government having a shortage of funds to run itself. HB 822 is symbolic as it is still holding the Legislature's feet to the fire of comprehensive tax reform. Repealing I-105 or allowing local votes to exempt specific units of government from it, will not set well with the public that voted to pass I-105. You will be inviting the types on constitutional amendments for initiatives that we saw in the last election such as CI-27 which would totally repeal property taxes.

Property taxes in Montana are extremely high. If the property taxes are taken as a percentage of personal income, it would be 5.4% or the fifth highest in the nation. If property taxes are taken as percentage of total tax collections in Montana, it is 44% which is third highest in the nation. HB 822 is not needed.

Gordon Morris, Montana Association of Counties, stated that he supported the comments made by REP. COHEN; however, he was not sure whether he was actually speaking in favor of HB 822 or repealing I-105 which should be done by this session of the Legislature.

He stated that his 18 member board voted unanimously to oppose any consideration of a local option repealer for I-105. What they are saying is do what I-105 requested--revise, reform, and restructure Montana taxes including property. HB 822 does not do this. It simply eliminates I-105 in some cases and leaves it in others. He urged the committee to Do Not Pass HB 822.

Questions From Committee Members:

REP. RANEY asked Dennis Burr if he was taking all of Montana property taxes for improving railroad, mines, etc. and directing that back at our individual income to come up with the 5.6% of income. Mr. Burr said yes. REP. RANEY asked if you left out the property taxes on business and industry would the residential property tax percentage of income be extremely high. Mr. Burr said it would be higher than average. Our residential property tax is 12% above the national average. If you related that to personal income which is below the national average, you would have residential property taxes for a \$1,000 of personal income which is above the national average.

Closing by Sponsor:

REP. KADAS said I-105 is not symbolic. It is having real impacts on local governments and jurisdiction. In some cases, the people in these jurisdictions agree with the impacts and want to see their taxes remain frozen. In others cases, the people want to see the services that their taxes would pay for and would support HB 822. We need to turn this issue back to the voters.

Regarding Dennis Burr's comment in that there is already a way through the emergency levy, he reminded the committee that the emergency levy is on a year-to-year basis. Our local jurisdiction should have the ability to run their budgets on more than just a year to year basis, particularly if the voters give them that authority and responsibility. It is not wise for us to continue to force local governments to run their operations on emergency budgets.

Regarding MACO, he stated that throughout his terms in the Legislature, he has been a strong supporter on counties, cities and local control. He thinks it ironic that they support REP. COHEN'S suggestion which he opposes and on the other hand oppose something in between. They want total reform, but are naive about the political process. He is disappointed, but he believes that local governments know what is best for themselves. He has no problem with eliminating the counties from HB 822. Dealing with I-105 is a very volatile issue, and HB 822 is one of the best way to deal with it.

HEARING ON HB 869

Presentation and Opening Statement by Sponsor:

REP. SIMPKINS, House District 39, Great Falls, stated HB 869 was an extract of the report put out by the American Association of Nurseryman which gives an analysis of federal agricultural policies. It does not involve I-105 or any other major tax issues.

There is one section of the bill that is a change. We are redefining the term "agriculture" in the state to include and correspond with the same definition used by the various agencies of the federal government. We have also tried to maintain the integrity of the definition we currently use in our law that may not be recognized in the federal government.

Page 1, Line 18 has a new section which defines the term "agriculture" as the production of food, feed, fiber commodities, livestock and poultry, bees, fruits, vegetables, sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes. This correlates with House Report 99-695 with the exception of tobacco. He included bees instead because bees are recognized in Montana as an agricultural product.

Line 23 removes the sections that were moved to Line 18. It leaves domestic animals and wildlife in domestication or captivity because they are in current law. Page 6, simply deletes excess verbiage and refers back to the definition on Page 1. It brings the state government in line with the federal government.

Proponents' Testimony:

Jane Barry, Montana Association of Nurseryman, provided written testimony. **EXHIBIT 3**

Brad Brown, Glacier Nursery, Kalispell, stated Glacier Nursery began in 1983 and are now farming on 70 acres of owned and leased ground. In 1983, there were no improvements to the property. They employ as many as 18 people in the spring.

Horticulture, both the growing of food producing crops and ornamental crops such as trees, shrubs, flowers and sod, has long been considered part of agriculture in Montana. We are regulated through licenses and inspections by the Division of Plant Industry within the Department of Agriculture. Also on the federal level, they are considered part of agriculture. When he files his federal income tax, he files on a form schedule F, just like thousands of other farmers in Montana.

Our crops are comparable to other farm crops. If Christmas trees can be considered agriculture for taxation purposes, why can't horticultural crops be? They plant their crops just like any grain farmer does. They are subject to the same weather, hail, drought, pest, etc. His business has planted many of the same plants that Christmas tree farmers grow. They are classified as agriculture on the adjacent land to his, but his property is not classified as agriculture.

The neighboring states have all considered horticulture crop production a part of agriculture. In Idaho, South Dakota, Oregon, and Washington, both the production of horticultural crops including sod are considered agriculture. This has a direct impact on his business. He sells the bulk of his product in-state. Out-of-state producers are his major competition. If they are receiving agricultural status as they are, and he is not, there costs of production are going to be lower than his which places him at a disadvantage.

Mr. Brown explained how HB 869 would affect his property. He stated his property values decrease but due to the highly productive qualities of his soil and the fact that he would have one acre classified as a farmstead, his personal property taxes on the land itself would be reduced by 14.5%. Most horticultural crops are grown on production soil types. His improvements on the property would drop 20% in taxable value. He hopes the committee will see that the definition of agriculture to include horticultural crops is needed.

John Lawyer, Lawyer Nursery, Plains, provided written testimony.
EXHIBIT 4

Tom Selstad, family sod farm, Great Falls, stated HB 869 came about because of a ruling by the DOR to classify their farm as a commercial venture. Everything is done just as a farmer would do. In their situation, they have a perishable commodity. If they don't get rain, they must irrigate 24 hours a day. If we were to not have a agricultural classification, this would be an impossible situation to live with. Almost every department of the federal government classifies the sod grower and nursery as an agricultural activity, and not subject to the extra restrictions. We are asking for a matter of fairness.

REP. ELLIOTT and REP. STANG went on record in support of HB 869.

Opponents' Testimony: None

Questions From Committee Members:

REP. STANG stated there was a nursery in his district that grow seedling tree and asked Denis Adams, DOR, how they were classified. Mr. Adams said they would have to look to see how it is classified. REP. RANEY asked if the language is opening

things up to define agriculture as anything literally grown for commercial purposes. Who's to say that everyones garden doesn't become agriculture. He has several people in his district who have one and two acre crops. Mr. Adams said if it is less than a 20 acre parcel, it will still have to meet the \$1,500 income threshold in order to receive the agriculture classification. It does open up other areas that need to be addressed such as with nurseries. There are many greenhouses that are raising these type of crops. They all may qualify under this statute.

REP. O'KEEFE stated that Jane Barry testified that the average fulltime wage was \$4.74 per hour and asked if the reclassification from nonagricultural to agricultural would mean that the minimum wage would go down. Ms. Barry said that the minimum wage would not change. CHAIR HARRINGTON said it would be lower if the people lived there and had board and room, but new people coming in would have to be paid under the same minimum wage.

REP. REAM asked Brad Brown if he understood his testimony correctly, he stated that he bought 70 acres that was agricultural and now a portion is in horticulture. Mr. Brown said that he is farming on a total of 70 acres, a combination of leased and owned. REP. REAM asked if it were all in horticulture at present and if the land shifted out of agricultural. Mr. Brown said portions of it are leased ground. Because of the inconsistencies, he doesn't know if the tax assessors have caught up with those as being horticulture crops. On his and adjacent properties that are leased, the assessor has caught up with him and said that he is a rural commercial land and building.

Closing by Sponsor:

REP. SIMPKINS said Montana needs HB 869 to clarify where these types of businesses and people stand. It was brought out that these types of businesses are a growing business in Montana, and has the possibility of expanding. This is what we want. He answered REP. RANEY'S concerns by saying that there is no change to the existing law concerning the monetary amount and the acreage. We do want to be competitive with the surrounding states; and we do want the laws to treat our people in the state basically the same way that they will be treated on their federal income tax.

HEARING ON HB 868

Presentation and Opening Statement by Sponsor:

REP. STEPPLER, House District 21, Brockton, stated HB 868 revises the redistribution of coal gross proceeds based on unit value and calculates the unity values for production based on 1988 production. The change from the gross proceeds tax to a flat tax occurred during the special session in 1989. We were told that the changeover would keep the revenue neutral. As a result of

the changeover Richland County and two other counties have lost money. Richland County lost \$111,737 and \$58,744 of it was lost to the Savage school system.

Proponents' Testimony:

John McNeil, Savage School Superintendent, provided written testimony. EXHIBIT 5

Madalyn Quinlan, OPI, stated she was a no-ponent to HB 868. She spoke of some technical concerns of the bill. She stated that we are currently collecting an equivalent of 40 mills off the coal gross proceeds. She addressed the distributing the revenue across the mills. HB 868 talks about distributing across fiscal 1990 mill levies. She introduced an amendment that would distribute the revenue across the preceding years levy. As we move into the future, this would make a one year limit on which mills are distributed. EXHIBIT 6

The reason why the mills in the bill are distributed across fiscal 1990 levies is because they were concerned at the county level that if the coal gross proceeds tax does not create additional funds from what the coal producers were paying in 1989, the counties should be able to keep all of the money. They shouldn't have to give any money to the state under the 40 mill levy. If the state wouldn't pick up the 40 mills, we should at least move to a situation that is based on the preceding years levies.

Doug Pust, Savage School Board, stated that when he came on the school board he was very concerned with the loss of revenue. The cash reserves had to be taken down as much as they could. This year they have sent written notices to their industrial arts and home economics departments because of this. He is concerned with the present and the years to come in that it will be a continual battle.

Mark Tombre, Savage School Board, stated the board was under the assumption that when HB 28 was passed that it would insure a replacement of revenues by means of a coal flat tax. This did not happen. As a result, the Savage School District has a \$58,000 shortfall this year. It will take 42 mills to the local taxpayers to replace all the revenues that were lost to something that was originally meant to be revenue neutral.

HB 868 doesn't generate any new taxes, it just corrects the revenue distribution problem to the coal producing schools. If this bill is not adopted, Savage school will lose its home economics and industrial arts teacher. HB 868 will be fair and equitable to the coal producing counties.

Gloria Paladichuk, Richland County Commissioner, provided written testimony. EXHIBIT 7

Gordon Morris, Montana Association of Counties, stated he wanted to go on record as a no-ponent and take a neutral stand as far the Association was concerned. He commented on a statement made by **Madalyn Quinlan**. She indicated that the counties are distributing back the 40 mill school equalization levy to the state. This is not the case. The 40 mills were expressly excluded from the distribution of the coal 5% flat tax proceeds. The laws were enacted in the special session and can be seen by the stricken language on Page 3. This was deliberately done by the Legislature to avoid that additional 40 mills that was being put on the property tax roles for school funding purposes.

Dwight Thiessen, Richland County Commissioner, went on record in support of HB 868. He stated that this loss of revenue had a very big impact on the small school and would result in program cuts.

SEN. TVEIT supported HB 868. It would provide fairness in the school districts across the state.

Rodney Svee, Superintendent of Schools, Hardin, stated the loss of revenue and the change to the flat tax has had a significant impact on the school district. It affected all of them and they had no opportunity to address their shortfalls.

REP. GILBERT and **REP. M. HANSON** went on record in support or HB 868.

Opponents' Testimony: None

Questions From Committee Members:

CHAIR HARRINGTON said the statement has been made that the repercussions of the flat tax would be becoming more and more prevalent. It was also stated that the 5% is not beneficial to this area and asked **REP. STEPPLER** how the residential taxpayers are feeling about the fact that the flat tax has saved the oil and gas companies while their taxes have increased. **REP. STEPPLER** said most of the input isn't from the changeover from the net and gross proceeds to the flat tax. Most of it has to do with the shortfalls that occurred when the redistribution was not put in place. The increases were all over the his county, and no one was happy with the increases. There are amendments that have been requested by the DOR. **EXHIBIT 8**

REP. SCHYE asked **Denis Adams, DOR**, what the amendments do to the fiscal note. **Mr. Adams** said the amendments eliminate what we show as a transfer where the state may be on the hook to pick up any shortfalls. They are just a redistribution of what is collected and the state has no obligation that we make up a shortfall. **REP. STEPPLER** said if there is a loss of production across the board, the state will not make sure everyone is up to

what the standards are. Everyone will share in that loss.

REP. STANG asked REP. STEPPLER why this wasn't brought before the Revenue Oversight Committee for review. REP. STEPPLER said they tried to solve this problem before the last special session. At the time we didn't have time to consult all the other counties and school districts that had been affected. They should have entered into that process, but at the time they were not looking at the Revenue Oversight Committee.

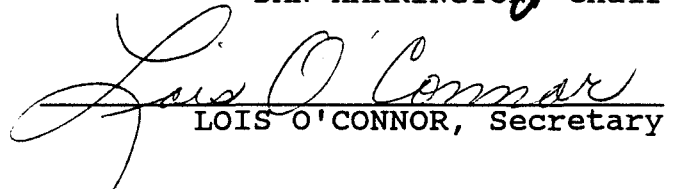
Closing by Sponsor:

REP. STEPPLER stated that there has been alot said about fairness. HB 868 is a prime example of the fairness issue. During the 1989 special session, they were under the impression that money from the flat tax on coal would be neutral. When the changeover from gross proceeds to flat tax occurred, they were wrong. Using a unit value as a vehicle for the redistribution of revenue was put in place for the oil and gas flat tax, but not for coal. Because of this oversight, several counties lost money. He knows that the committee is aware of his districts problem and urged the committee support.

ADJOURNMENT

Adjournment: 11:00 a.m.


DAN HARRINGTON, Chair


LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/6/91

NAME	PRESENT	ABSENT	EXCUSED
REP. DAN HARRINGTON	✓		
REP. BEN COHEN, VICE-CHAIRMAN	✓		
REP. BOB REAM, VICE-CHAIRMAN	✓		
REP. ED DOLEZAL	✓		
REP. JIM ELLIOTT	✓		
REP. ORVAL ELLISON	✓		
REP. RUSSELL FAGG		✓	
REP. MIKE FOSTER	✓		
REP. BOB GILBERT	✓	+	
REP. MARIAN HANSON	✓		
REP. DAVID HOFFMAN	✓		
REP. JIM MADISON	✓		
REP. ED MCCAFFREE	✓		
REP. BEA MCCARTHY	✓		
REP. TOM NELSON	✓		
REP. MARK O'KEEFE	✓		
REP. BOB RANEY	✓		
REP. TED SCHYE <i>E/AB</i>			✓
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS <i>E/AB.</i>			✓
REP. DAVE WANZENRIED	✓		

HOUSE STANDING COMMITTEE REPORT

March 6, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 759 (first reading copy -- white) do pass as amended .

Signed: 
Dan Harrington, Chairman

And, that such amendments read:

1. Title, lines 5 and 6.

Strike: "IMPOSING" on line 5 through "ASSISTANCE;" on line 6

2. Title, line 7.

Strike: "THE PROCEEDS OF THE TAX"

Insert: "MONEY FROM THE GENERAL FUND"

3. Title, line 8.

Strike: "A DELAYED"

Insert: "AN"

4. Page 1, line 13.

Strike: "from the account created by"

Insert: "appropriated in"

5. Page 1, line 20 through page 2, line 19.

Strike: "account." on page 1, line 20 through end of page 2, line 19

Insert: "appropriation. There is statutorily appropriated, as provided in 17-7-502, from the general fund to the attorney general an amount not to exceed \$500,000 each fiscal year for the closts set forth in [section 1]."

Renumber: subsequent sections

6. Page 4, lines 13 and 16.

Strike: "through 3"

Insert: "and 2"

7. Page 4, line 18.

Strike: "January 1, 1992"

Insert: "July 1, 1991"

Amendments to House Bill No. 759
First Reading Copy

Requested by Rep. Strizich
For the Committee on Taxation

Prepared by John MacMaster
March 5, 1991

1. Title, lines 5 and 6.
Strike: "IMPOSING" on line 5 through "ASSISTANCE;" on line 6
2. Title, line 7.
Strike: "THE PROCEEDS OF THE TAX"
Insert: "MONEY FROM THE GENERAL FUND"
3. Title, line 8.
Strike: "A DELAYED"
Insert: "AN"
4. Page 1, line 13.
Strike: "from the account created by"
Insert: "appropriated in"
5. Pages 1 and 2.
Strike: "account." on page 1, line 20 through end of page 2, line 19
Insert: "appropriation. There is statutorily appropriated, as provided in 17-7-502, from the general fund to the attorney general an amount not to exceed \$500,000 each fiscal year for the costs set forth in [section 1]."
Renumber: subsequent sections
6. Page 4, lines 13 and 16.
Strike: "through 3"
Insert: "and 2"
7. Page 4, line 18.
Strike: "January 1, 1992"
Insert: "July 1, 1991"

EXHIBIT 2

DATE 3-6-91

HB 822

TESTIMONY BEFORE THE HOUSE TAXATION COMMITTEE
ON HB 822
MARCH 6, 1991

Mr. Chairman, members of the committee. For the record, my name is Richard Miller. I am the Montana State Librarian, and I am here today representing the State Library Commission.

HB 822 allows the local electorate to decide whether or not it will be subject to the property tax limits of I-105, an approach which seems eminently associated with our democratic form of government. There is no question that public libraries in Montana have suffered under the strictures of I-105, and that they have been unable to keep up even with the cost of inflationary increases for library materials and services. HB 822 allows the people to decide whether or not the services they receive from local government (including, of course, library services) are adequately funded. It is my hope that the people will see that these services do not have adequate resources to meet their needs, and that they will not be "penny-wise and pound-foolish."

I urge your support of HB 822.



Montana Association of Nurserymen

P.O. BOX 1871 • BOZEMAN, MONTANA 59711-1871
(406) 586-6042

EXHIBIT 3
DATE 3-6-91
HB 869

RE: TESTIMONY GIVEN IN SUPPORT OF HOUSE BILL #869, MARCH 6, 1991, BEFORE THE HOUSE TAXATION COMMITTEE

BY: Jane R. Barry, Executive Director

In order to understand the importance of House Bill #869, I would like to give a brief overview of the nursery and sod industry in Montana.

While the nursery and sod industry in Montana is new, figures derived from the joint Plant Industry Division / Montana Association of Nurserymen survey conducted of 605 applicants for nursery licenses for 1988-89, gives us the following picture of the industry:

The nursery and sod industry in Montana employs approximately 2,400 people throughout the year. This number includes 360 family members on no salary basis, over 1,500 part-time positions, and the remainder (approximately 540) are full-time employees. Wages averaged approximately \$4.74 per hour for starting full-time employees and totaled in excess of \$11.8 million during 1988; other expenditures for services totaled \$209,900.

Gross sales receipts from nursery and sod products and landscaping services totaled over \$14.9 million.

Montana firms reported that approximately 30 percent of the nursery and sod products sold were grown by them and 30 percent were purchased from other firms in Montana. (Nursery stock grown in Montana for more than one year is considered "Grown in Montana").

In 1988, approximately 1,500 acres of land were used in nursery and sod operations in Montana.

The state's nursery and sod firms, in 1988, had a market value of approximately \$28.8 million.

When considering the merits of House Bill #869, it is necessary to look at the nursery and sod industry of Montana with regard to federal and state law.

Under federal law, the nursery and sod industry is recognized with an agriculture classification. IRS recognizes nurseries and sod farms as agricultural. USDA categorizes nurseries and sod farms as agriculture by virtue of their growing of perishable commodities. It may be difficult for this committee to perceive of a tree or shrub as being a "perishable" commodity. I would, however, remind you of the devastating effect to the trees and the shrubs in your yard as a result of the state-wide hail storm of 1987, and again with the "Arctic Express" freeze of 1988.

The Federal Insecticide, Fungicide, and Rodenticide Act of 1986 (FIFRA) classifies nurseries and sod farms as agricultural with regard to availability and use of chemicals.

(continued on back of page)

V3
#869

(testimony continued)

The Montana Code does not include nurseries and sod farms in its description of agriculture. This is not surprising when you consider that there was no nursery and sod industry in Montana when these codes were written. However, the Montana Department of Agriculture requires all firms who sell plant material to hold a valid Montana Nursery License. The Plant Industry Division of the Montana Department of Agriculture regulates the nursery and sod industry. Therefore, while not specifically included in the Codes of Montana as agriculture, the nursery and sod industry in Montana is agriculture.

Our attempt with House Bill #869, is to bring Montana and Federal codes into agreement, to legally give protection at the state level that the nursery and sod industry has on the federal level.

We will offer the testimony of three nursery and two sod farm owners who are able to answer your questions about ownership and operation of these firms. Roy Bjornson, Administrator of the Plant Industry Division of the Montana Department of Agriculture is here to answer questions regarding his Division's role in the nursery and sod industry in Montana.

We appreciate the time given by this committee today to hear our testimony. We hope that you will look favorably at the merits of House Bill #869, and that you will give your approval to its passage.

Thank you.

Gene R. Barry



LAWYER NURSERY, INC.

EXHIBIT 4
DATE 3-6-91
HB 869

950 Highway 200 West
Plains, Montana, USA
59859-9706

TEL: (406) 826-3881
FAX: (406) 826-5700
TLX: 31-9547

Statement In Support
of
House Bill #869

March 6, 1991

To: House Taxation Committee

I am appearing here today to express my support for House Bill no. 869 entitled: "An Act to amend the definition of "agricultural" in relation to tax laws to include sod, ornamental, nursery, and horticultural crops....."

Lawyer Nursery is one of the largest agricultural enterprises in western Montana. We started as a family wheat farm in the 1950's and have evolved into a large wholesale nursery growing more than 250 species of tree and shrub seedlings and producing over 16 million plants on 350 acres. We market our own crops, mainly to other wholesale nurseries, and we ship to all 50 states, Canada, Mexico and more than 20 foreign countries.

Our business clearly demonstrates that, contrary to many economic, social, and political analysts, there is a bright future in Agriculture in Montana. That future is in specialized crops with highly technical cultural practices, more complex operational and management requirements, and independent responsibility for one's own sales and marketing. Such crops are exemplified by horticultural crops including nursery stock and sod.

Because our business is not within the public's historical perception of agriculture and because our operations are not simple, people find our business difficult to define and understand. This includes our local tax appraiser and other regulatory authorities. We frequently find ourselves trying to convince various people in State and County government that we are "agricultural".

Please consider the following.....

- We till the soil by means of plowing, disking, cultivating
- We sow seeds or transplant small rooted plants into our fields
- We grow our crops in fields or to a limited extent in greenhouses
- We harvest our crops with specialized equipment similar to a potato harvester
- We store, sort, pack and ship our own products

In summary we perform all the operations one would associate with a farm.

Page 2

Our products are used for establishing windbreaks, shelterbelts, for erosion control, for ornamental landscaping, for fruit production, reforestation and many other uses. They are, in general, agricultural products that serve to benefit our environment and our society. They provide essential social benefits comparable to more traditional food and fiber crops.

At the present time some of our facilities are taxed as agricultural and some as commercial properties. It is my opinion that these designations are often arbitrary and inconsistent. House Bill 869 will remove and clarify Montana Law so that our correct designation is "agricultural".

Virtually all other states and the Federal Government clearly define nursery and sod production operations as agricultural. As examples I cite two nearby states, Oregon and Washington.

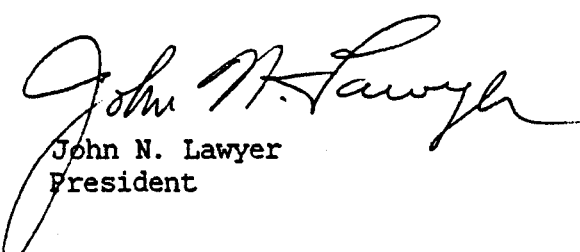
Nursery and Greenhouse crops comprise one of the largest segments of commercial agriculture in Oregon. It is a major contributor to the state's economy. Wholesale nurseries in Oregon are defined as "farms" under Oregon Law and have all the tax benefits historically afforded to agriculture.

Lawyer Nursery also owns and operates a 120 acre nursery near Olympia, Washington. It is comparable in all respects to our Montana nursery operations. Under Washington Law we are clearly defined and taxed as an "agricultural" enterprise. We would like the same treatment here in Montana,

I have studied HB 869 and strongly support its passage. As members of the House Committee on Taxation, I urge your support in achieving passage of this Bill in this Session.

Thank you for the opportunity to appear here today.

Respectfully submitted,


John N. Lawyer
President

BOARD OF EDUCATION
CLIFFORD BERGSTEDT, Chairman
HARLAN CONRADSEN, Vice-Chairman
GARY DARDIS, Trustee
DOUG PUST, Trustee
MARK TOMBRE, Trustee

SAVAGE PUBLIC SCHOOLS
Elementary District No. 7 & H.S. District No. 2
Richland County
Savage, Montana 59262
776-2317

JOHN J. McNEIL
Superintendent
DARREL STOLL
H.S. Principal
JOHN PFEIFER
El. Principal
MILDRED SHIELDS
Clerk

The Honorable Bob Ream
House of Representatives
State Capitol
Helena, MT 59620

EXHIBIT 5
DATE 3-6-91
HB 868

Dear Representative Ream,

We are requesting your assistance in correcting a problem we feel exists in the Coal Flat Tax. Representative Steppler is sponsoring a bill to re-distribute revenues from the Coal Flat Tax based on a Unit Value system. At present there exists no re-distribution of revenue from the Coal Flat Tax, a key ingredient in the conversion from Gross Proceeds Tax to a Flat Tax.

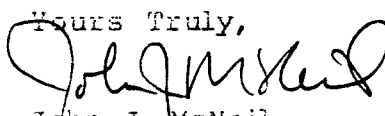
The change from Gross Proceeds Tax to Flat Tax occurred during the Special Session Summer 89. Taxes on oil-gas, and coal were to be based on a percent times production rather than local and state mill levies levied against gross proceeds. The amount of the percent was determined by the revenue needed to replace the gross proceeds revenue requirements of the local taxing jurisdiction the year prior to the conversion. The law as added to H.B. 28 used a unit value for oil and gas producers which redistributed revenue to local taxing jurisdictions to replace the gross proceeds revenue. It was our understanding the same was to occur with coal, but the coal portion of the law contained no unit value system and stopped redistribution with collection of the Flat Tax at each county treasurers office.

The results of the Flat Tax collected at each county treasurers office during 90-91 were shortfalls in Richland (-\$111,737), BigHorn (-\$511,155), and Musselshell (-\$7502), while Rosebud County (+\$928,267) received a windfall above the amount needed to replace the gross proceeds revenue. The effects on Savage School District tax payers was an additional 42.13 mills to replace the \$58,744.11 we lost in gross proceeds revenue.

Representative Steppler's bill would establish a Unit Value system similar to that of gas and oil with one exception. Once gross proceed replacement levels were reached in each of the coal producing counties, the county generating the redistributed revenue would have any remaining amount returned to the county for redistribution within that county. Had the bill been in place this year all four counties would have received 100% of their gross proceeds replacement revenue. Rosebud County would have received an additional \$297,875. over 100% gross proceeds replacement to redistribute to local tax jurisdictions in their county.

We hope you can see the fairness of Unit Value redistribution being applied to the Coal Flat Tax. If you have any questions or concerns with this proposed legislation please contact Representative Steppler or John McNeil Supt. of Savage Schools.

Thank you for your time in considering this issue. We have also included three documents "The Effects of the Coal Flat Tax on Savage Schools", "A Historical Perspective of the Coal Flat Tax by Savage School", and "Spreadsheet from Special Session 90" for your further information.

Yours Truly,

John J. McNeil

BOARD OF EDUCATION
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MARK TOMBRE, Trustee

SAVAGE PUBLIC SCHOOLS
Elementary District No. 7 & H.S. District No. 2
Richland County
Savage, Montana 59262
776-2317

Ex. 5
3-6-91
HB 868

JOHN J. McNEIL
Superintendent
DARREL STOL
H.S. Principal
JOHN PFEIFER
El. Principal
MILDRED SHIEL
Clerk

SAVAGE SCHOOL FLAT TAX ON COAL

DISTRICT #2 SAVAGE HIGH SCHOOL

	<u>89-90</u>	<u>90-91</u>
TAXABLE VALUE OF THE DISTRICT	\$2,744,719.	\$1,600,154.

<u>FUNDS</u>	<u>COAL REVENUE 89-90</u>	<u>COAL REVENUE 90-91</u>	<u>LOSS</u>	<u>MILLS TO REPLACE</u>
GENERAL	39,952.00	23,350.00	16,602.00	10.38 MILLS
TRANSPORTATION	4,116.01	81.80	4,034.21	2.52 MILLS
DEBT SERVICE	7,276.00	144.60	7,131.40	4.46 MILLS
TOTALS			<u>27,767.61</u>	<u>17.36 MILLS</u>

DISTRICT #7J SAVAGE ELEMENTARY SCHOOL

	<u>89-90</u>	<u>90-91</u>
TAXABLE VALUE OF THE DISTRICT	\$2,324,346.	\$1,250,390.

<u>FUNDS</u>	<u>COAL REVENUE 89-90</u>	<u>COAL REVENUE 90-91</u>	<u>LOSS</u>	<u>MILLS TO REPLACE</u>
GENERAL	48,424.24	29,850.56	18,573.68	14.85 MILLS
TRANSPORTATION	9,694.44	202.20	9,492.24	7.59 MILLS
DEBT SERVICE	2,972.58	62.00	2,910.58	2.33 MILLS
TOTALS			<u>30,976.50</u>	<u>24.77 MILLS</u>

SAVAGE SCHOOLS LOST A COMBINED TOTAL OF \$58,744.11 WITH A REPLACEMENT COST OF 42.13 MILLS FROM THE 89-90 FISCAL YR. TO THE 90-91 FISCAL YR..

Ex. 5
3-6-91
HB 868

Dept of Revenue "Special Session 90"

Comparison of Allocation of Coal Flat Tax Revenues
Coal Gross Proceeds v. Current Law v. Unit Value
(1988 Production/FY 1990 Revenues)

Big Horn County -- Squirrel Crk Elem & Lodge Grass HS (Decker and Spring Crk Mines)

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue To Current From GP	To Unit Value From Current
University	6	407,416	389,205	407,416	(18,211)	18,211
County	41.79	2,837,651	2,710,812	2,837,651	(126,839)	126,839
Schools:						
County-wide HS	21.36	1,450,400	1,355,569	1,450,400	(94,831)	94,831
District HS	11.41	774,769	740,138	774,769	(34,631)	34,631
County-wide Elem	35.48	2,409,185	2,301,498	2,409,185	(107,687)	107,687
District Elem	0.27	16,134	17,514	16,134	(819)	819
Special Districts	0	0	0	0	0	0
Total:	116.31	7,697,755	7,544,737	7,697,755	(153,018)	153,018

Same

Big Horn County -- Hardin Elem & HS (West-Creland Mine)

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue To Current From GP	To Unit Value From Current
University	6	19,337	19,337	19,337	0	0
County	41.79	136,127	94,861	136,127	(41,266)	41,266
Schools:						
County-wide HS	21.36	69,660	48,496	69,660	(21,164)	21,164
District HS	32.79	106,936	74,447	106,936	(32,489)	32,489
County-wide Elem	35.48	115,709	80,555	115,709	(35,154)	35,154
District Elem	0.27	72,334	52,358	72,334	(21,976)	21,976
Special Districts	0	0	0	0	0	0
Total:	104.62	520,493	362,360	520,493	(158,133)	158,133

Same

Big Horn County -- Totals

Taxing Unit	FY 90 Mills	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue To Current From GP	To Unit Value From Current
University	6	426,982	408,627	426,982	(18,355)	18,355
County	41.79	2,973,938	2,805,693	2,973,938	(168,245)	168,245
Schools:						
County-wide HS	21.36	1,520,060	1,424,066	1,520,060	(95,994)	95,994
District HS	49.1	861,706	814,585	861,706	(47,120)	47,120
County-wide Elem	35.48	2,524,894	2,381,053	2,524,894	(143,841)	143,841
District Elem	0.27	90,668	67,872	90,668	(22,796)	22,796
Special Districts	0	0	0	0	0	0
Total:	104.62	6,419,248	6,007,027	6,419,248	(412,221)	412,221

Same

Comparison of Allocation of Coal Flat Tax Revenues
Coal Gross Proceeds v. Current Law v. Unit Value
(1988 Production/FY 1990 Revenues)

Musselshell County -- Roundup Elen & HS
(PM Coal Mine)

		(PM Coal Mine)		Change in Revenue	
		Current Law	Unit Value	To Current	To Unit Value
		Revenue	Revenue	From GP	From Current
		=====	=====	=====	=====
University	6	416	416	(205)	205
County	55.36	6,620	6,620	(3,264)	3,264
Schools:				0	0
County-wide HS	30.03	2,084	2,084	(1,028)	1,028
District HS	23.47	1,629	1,629	(803)	803
County-wide Elen	38.08	2,713	2,713	(1,338)	1,338
District Elen	25.22	1,751	1,751	(863)	863
Special Districts	0	0	0	0	0
Total	239.19	15,214	15,214	(7,502)	7,502

Richland County -- Savage Elen & HS
(Knife River Mine)

				Change in Revenue	
				To Current:	To Unit Value
				From GP	From Current
Taxing Unit:	FY 90	Coal Gross	Current Law		
Millis	Revenues	Proceeds Rev.	Revenue		
University	29.66	5,678	2,753	(2,925)	2,925
County	37,531	27,531	18,195	(19,336)	19,336
Schools:				0	0
County-wide HS	23.828	22,828	11,552	(12,276)	12,276
District HS	50,353	50,353	24,411	(25,942)	25,942
County-wide Elen	36,319	36,319	17,608	(18,712)	18,712
District Elen	63,175	63,175	30,627	(32,548)	32,548
Special Districts	0	0	0	0	0
Total	229.18	216,864	105,145	(111,739)	111,739

Rosebud County -- Colstrip Elen & HS
(Western Energy and Peabody Mines)

(Western Energy and Peabody Mines)									
		FY 90 Mill's	Coal Gross Proceeds Rev.	Current Law Revenue	Unit Value Revenue	Change in Revenue			
		=====	=====	=====	=====	To Current From GP	To Unit Value From Current		
University	6	304,869	365,121	60,252	(60,252)	60,252	(60,252)		
County	7.13	367,367	439,970	72,603	(72,603)	72,603	(72,603)		
Schools:									
County-wide HS	18.94	962,370	1,152,554	190,194	(190,194)	190,194	(190,194)		
District HS	9.01	457,812	528,289	90,478	(90,478)	90,478	(90,478)		
County-wide Elen	32.05	1,628,509	1,950,353	321,843	(321,843)	321,843	(321,843)		
District Elen	14.87	755,567	904,891	149,323	(149,323)	149,323	(149,323)		
Spec. (N.A. Peabody)	6	241,023	284,598	43,574	(43,574)	43,574	(43,574)		
		=====	=====	=====	=====	=====	=====		
Total	64.10	4,717,518	5,645,785	928,267	(928,267)	928,267	(928,267)		

Same
+
after redistribution

Ex. 5
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Comparison of Allocation of Coal Flat Tax Revenue
Coal Gross Proceeds v. Current Law v. Unit Value
(1988 Production/FY 1990 Revenues)

Comparison of Local Government Coal Tax Amounts
Coal Gross Proceeds v. 5% Flat Tax
(1989 Production)

County	Elem. SD	Company	Gross Proceeds Total Tax	Total Flat Tax	Difference (Flat-GP)
Big Horn	=====	=====	=====	=====	=====
	Squirrel Ck	Decker	6,522,893	6,517,920	(304,973)
		Spring Ck.	1,074,862	1,026,817	(48,045)
		=====	=====	=====	=====
		Subtotal	7,897,755	7,544,737	(353,018)
		Westmoreland	520,493	362,350	(158,133)
Muskegon		PM Coal	15,214	7,712	(7,502)
Stearns		Knife River	216,884	105,125	(111,739)
Rock		Readdy	937,470	1,183,344	244,874
		Western E	3,780,025	4,463,441	683,393
		=====	=====	=====	=====
		Subtotal	4,717,518	5,645,785	928,267
Grand Total			13,367,854	13,665,739	297,875

Amount Returned
to Rosebud County after
re-distribution.
∴ Rosebud County would
have 100% replacement of Glass
proceeds + \$ 297,875.

A HISTORICAL PERSPECTIVE OF THE COAL FLAT TAX BY SAVAGE SCHOOL

EX. 5

3-6-91

HB 868

SUMMER 89

GROSS PROCEEDS TO FLAT TAX AS WE THOUGHT WE KNEW IT COMING INTO HB28 DURING THE 89 SPECIAL SESSION

- A. Oil & gas, and coal would be taxed at a flat rate applied to their production.
- B. The change from Gross Proceeds Tax to Flat Tax would help the industries as their rate of taxes would no longer vary depending on the needs of local taxing jurisdictions and state levy requirements.
- C. The industries would be better able to predict their cost of operating because the tax rate would be the same at any location within the state.
- D. The rates for the Flat Tax were established as close as possible to insure the replacement of revenues received by the local taxing jurisdiction from the old Gross Proceeds Tax the year prior to the change.
- E. Revenues received by the local taxing jurisdiction would be based on production and revenues received under Gross Proceeds i.e. increases in production would result in corresponding increases in revenue for local taxing jurisdictions, decreases in production would result in corresponding decreases in revenue for the local taxing jurisdiction.

SPRING 90

COAL FLAT TAX REVENUES PROJECTION BY THE OFFICE OF PUBLIC INSTRUCTION DO NOT MATCH OUR EXPECTATIONS

- A. As reported to us by O.P.I. we were to receive Coal Flat Tax revenues amounting to about one-half of the amount we received during the current year under Coal Gross Proceeds.
- B. We found the problem not to be related to a decrease in production but to the new law providing for collection of the Coal Flat Tax at the county level with no provision for redistribution beyond the county.
- C. The results of non-redistribution of coal flat tax revenue left local taxing jurisdictions in three counties Richland (-\$111,739.), Big Horn (-\$511,151.), and Musselshell (-\$7,502.) with shortfalls in revenue, while Rosebud County (+\$928,267.) received a windfall (surplus) above the amount needed to replace their coal gross proceeds tax revenues.
- D. We tried during the Special Session "90" last summer to convince Governor Stevens that our problem, although small compared to the stripper well problem, should be included in the session with no luck. Representative Stepler drafted an amendment to H.B. 28 similar to our new bill but we backed off with the assurance of cooperation among the coal counties working towards a possible solution prior to this session.

- E. We have meet with the coal counties and their officials several times prior to this regular session. Our bill carried by Representative Steppler reflects the concerns voiced in discussions with coal producing counties.
- F. We feel we have made every effort to satisfy the needs of all coal producing counties with our bill and understand any reservations Rosebud County might have in the redistribution of the \$928,267. windfall.
- G. Our bill as drafted would do the following:
1. Direct the Department of Revenue to establish Unit Values for each mine and the local taxing jurisdiction in which they are located. Unit Value being (base year production tons X price) divided by (taxes paid through gross proceeds) similar to unit value for oil and gas.
 2. Direct the Department of Revenue to determine revenue requirements based on production and unit value to meet the needs of the local taxing jurisdiction.
 3. The Flat Tax would be collected by the county treasurer and distributed until the required amounts for the local tax jurisdictions were met, then any revenue above this amount would be sent to the state.
 4. The State would redistribute the revenue and any interest earned based on the amount required to meet the needs determined by unit value and production for the local tax jurisdiction .
 5. Any amount remaining after unit value and production requirements of all local tax jurisdictions are met would be returned to the county of origin for redistribution therein.
 6. New mines would not be included in the unit value redistribution system.

NEED FOR CHANGE

- A. The effects on Savage School are significant as our tax base in the high school dropped from \$2,744,719. to \$1,600,154. and our tax base in the elementary school dropped from \$2,324,346. to \$1,250,390. This loss of tax base coupled with the short fall of \$58,744.11 in replacement coal tax revenues added a total of 42.13 mills to our district tax payers.
- B. The fairness of the conversion to Flat Tax from Gross Proceeds is contingent upon a redistribution of taxes collected to replace revenues received from Gross Proceed taxes prior to the change. The Coal Flat Tax needs a unit value system similar to oil and gas.
- C. The bill will only effect the four counties now producing coal, but it does have a major effect on the local tax jurisdictions in three of the four counties.

Amendments to House Bill No. 868
First Reading Copy

Requested by Rep. Steppler
For the Committee on Taxation

Prepared by Lee Heiman
March 6, 1991

Preceding Year

1. Page 3, line 13.

Following: "(5)"

Insert: "(a)"

Following: "in"

Insert: "this subsection (5) and"

2. Page 3, line 17.

Strike: "(a)"

Insert: "(i)"

3. Page 3, line 19.

Following: "same"

Strike: "manner"

Insert: "proportion"

4. Page 3, line 20.

Strike: "fiscal"

Insert: "the preceding"

5. Page 3, line 21.

Strike: "1990"

6. Page 3, line 22.

Strike: "(b)"

Insert: "(ii)"

7. Page 3, line 25.

Strike: "manner"

Insert: "proportion"

8. Page 4, line 2.

Strike: "1990"

Insert: "preceding"

Strike: "fiscal"

9. Page 4.

Following: line 3

Insert: "(b)(i) The mill levies in effect for county elementary and high school equalization in fiscal year 1990 must be used in computing the distribution to county elementary and high school equalization.

(ii) The distribution may no include mills levied for state school equalization aid pursuant to 20-9-360."

COUNTY OF RICHLAND

Office Of
COUNTY COMMISSIONERS
SIDNEY, MONTANA

GLORIA PALADICHUK, CHAIRMAN
DWIGHT E. THIESSEN, VICE-CHAIRMAN
WARREN E. JOHNSON, MEMBER
March 4, 1991

ELMINA J. COOK, CLERK

House Taxation Committee
State of Montana

Dear Committee members:

We would like to go on record in support of H. B. 0868 sponsored by Representative Don Steppler. This bill would create a system to redistribute the coal flat tax revenues. The result of this bill would be the bringing of revenues from coal back in line with those received prior to the change to the flat tax.

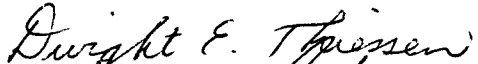
Richland County and Savage Public Schools are both interested in this change. As an example the tax base in the Savage High School dropped from \$2,744,719 to \$1,600,154. The loss of tax base coupled with the short fall in replacement coal tax revenues added a total of 42.13 mills to the Savage School District tax payers.

Thank you for your considerations in regards to this matter.

Sincerely,



Gloria Paladichuk, Chairman



Dwight E. Thiessen



Warren E. Johnson

det

Amendments to House Bill No. 868
First Reading Copy

Requested by Rep. Steppler
For the Committee on Taxation

Prepared by Jeff Martin
March 5, 1991

1. Page 1, line 25.
Following: "coal"
Insert: "for each mine"
2. Page 2, line 1.
Following: the second "for"
Insert: "each mine in"
3. Page 5, lines 8 through 10.
Strike: "excess" on line 8 through "15-23-703(6)(a)"
Insert: "coal gross proceeds redistribution account established in [section 4]"
4. Page 5, line 15.
Following: "collected"
Insert: "by each county"
5. Page 5, line 16.
Following: "15-23-703(4)"
Insert: "for that county"
6. Page 5, line 18.
Following: "difference"
Insert: "from the state special revenue account established in [section 4]"
7. Page 5, line 20.
Strike: "Any"
Insert: "If the"
Strike: "by which the total amount"
8. Page 6, line 2.
Strike: "amount"
Insert: "amounts of each taxing unit"
9. Page 6, line lines 2 and 3.
Strike: "distribution" on line 2 through "county" on line 3
Insert: "shortage amounts of all taxing units"
10. Page 6, line 4.
Following: the first "percentage"
Insert: "for each taxing unit"
Following: the second "percentage"
Insert: "for each taxing unit"
11. Page 6, line 11.

Ex. 8

3-6-91

HB 868

Following: "amount"

Insert: "each taxing unit in"

12. Page 6, line 14.

Strike: "subsections (2) and (3)"

Insert: "subsection (3)(b)"

13. Page 6.

Following: line 15

Insert: "NEW SECTION. Section 4. Coal gross proceeds
redistribution account. (1) There is within the state
special revenue fund a coal gross proceeds redistribution
account.

(2) All money received from county treasurers as
provided in 15-23-703(6)(a) must be deposited by the
department into the coal gross proceeds redistribution
account for redistribution as provided in [section 3]."

Renumber: subsequent sections

14. Page 8, lines 9 and 12.

Following: "1"

Insert: ", 3,"

Strike: "3"

Insert: "4"

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Tax COMMITTEE BILL NO. HB 721
DATE 3/6 SPONSOR(S) Rep. BECKER
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tim Solomon Hill County Sheriff's Dept.	Coroners	✓	
STEVE KNECHT JUDITH BASIN Co Sheriff's Dept	MONTANA Coroners Assoc	✓	
Paul Johnson - Justice	Attorney General	✓	
Jacqueline N. Terrell	Am. Ins. Assoc.		X
ROGER McGLENN	INDEPENDENT INSURANCE AGENTS ASSOC OF MT		X
Tom Hamboldt	Farmer's Ins. Group		X
GENE PHILLIPS	NAT. ASSOC. INS. INS. ALLIANCE AMER. INS.		X
Tom Hopgood	Health Ins. Assoc of America		✓
Gordon Morris	MAAO	✓	
Georg Dale	MT DIV Forensic Sci	✓	
Steve Browning	State Farm Insurance		X
WARRY AKET	MT ASSOC OF LIFE UNDERWRITERS		X
PATRICK DRISCOLL	AMERICAN COUNCIL OF LIFE INSURANCE		X
R. Abbe	State Farm Ins.		X

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Tax COMMITTEE BILL NO. HB759
DATE 3/6 SPONSOR(S) Rep. STRICK
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
T. GREGORY HINTZ Missoula Co. Sheriff Dept	MONTANA SHERIFF'S & Peace OFFICERS ASSOCIATION	X	
Tim Solomon Hill County Sheriff	Hill County	X	
Gordon Morris	MAA Co		
Kevin Bryan	Mta Treas Assoc.		Funding method X
Bill FLEINER	Mont Sheriff's & Peace Off Assoc	✓-A	
Kay Foster	Billings Chamber		✓

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Tax COMMITTEE BILL NO. HB822
 DATE 3/6 SPONSOR(S) Rep. KA045
 PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Chuck Stevens	City of Missoula	✓	
Gordon Morris	MACO		X
Dennis Burt	mt taxpayers 2000		X
DEBORAH SCHLESINGER	MT LIBRARIAN ASSOC	✓	
Richard Miller	MT State Library Commission	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Tax

COMMITTEE

BILL NO. HB 869

DATE 3/6

SPONSOR(S) Rep. Simpkins

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
BILLY BROWN 4343 MT HIGH 35 Kilo MT	Glacier Nursery	✓	
JOHN LAWRENCE PLATE MT	LAUREL NURSERY	—	
JIM HEISEL 4463 SPRINGHILL RD. Bzm.	SPRINGHILL NURSERY	✓	
TH. G. F. G. 302 W. 10th St. GTFills	TH. G. F. G.	✓	
John R. Barry		✓	
Roy Bronson	MT. Dept. of Agr.		
Martin Barber	A P A	✓	
SAMUEL BURKE	USGA / MGA	✓	

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Tax COMMITTEE BILL NO. HB 868
DATE 3/6 SPONSOR(S) Rep. Stepler
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
John McNeil Box 110 Savage Mt.	Savage Schools	X	
Gloria Paladukh Mark Tombre Box 284 Savage MT	Richland Co - Comm. ss. on	✓	
Dwight Thiessen Rt. 2 Savage, MT.	Savage Schools	✓	
Doug Rust Rt 2 Box 89 Savage Mt.	Richland County Comm.	✓	
Sen. Larry Twest	Savage Schools	✓	
Gordon Morris	Fairview		
Rodney Suer	MAC.		
Madalyn Quinlan	Hardin Schools	✓	
Jim Meckler	OPI (technical)		
	MT Co. / Council		

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