MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By DAN HARRINGTON, CHAIR, on April 5, 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)
Russell Fagg (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)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (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 SB 236

Presentation and Opening Statement by Sponsor:

SEN. HARP, Senate District 4, Kalispell, stated SB 236 is an act to extend the tax increment financing an additional five years. Many of the major cities have finished their projects for the purposes of financing, but in Kalispell, we continue to see interest in developing the downtown area.

We were very careful in the Senate Taxation Committee to make sure that any change in the tax increment financing over the five year extension would be that the six mills would not be affected and the foundation program through OPI would also not be affected. What will be affected are the cities and counties. Once, many of the federal programs took care of urban development. This is one of the few tools left for urban areas where we can continue to improve values which ultimately will increase the tax base.

Proponents' Testimony:

Doug Rauthe, Mayor, Kalispell, stated that Kalispell, during the last decade, has seen dramatic revitalization thanks to the availability of tax increment financing. The citizens have benefitted from the improvements and opportunities found within the tax increment district. As Mayor, Kalispell needs the Legislature's support of SB 236 in order for them to continue some very exciting redevelopment projects.

Larry Gallagher, Consultant, Kalispell, said that when he first began speaking to the Legislature regarding the new taxing concept, we had 14 redevelopment tools available for cities and towns to resolve inter-city redevelopment projects. Currently, the tax increment financing is the only tool for communities to undertake city revitalization. In Kalispell, we have been able to accomplish a great deal since 1978 in terms of growth. He provided the committee with an aerial photo of the redevelopment projects taking place in Kalispell and an article that appeared in the Northern Rockies Business Review. **EXHIBIT 1,2**

The total advalorem tax paid in this area in 1982 was $68,000. The same property today generates $271,000 of advalorem taxes for the city. It represents a 27.531 leverage ratio of public investment to private investment, $17.5 million in additional new construction, and has added 535 full time jobs in the area. He urged the committee to support SB 236 allowing Kalispell another five years to finish the projects underway.

Bruce Williams, City Manager, Kalispell, stated that other states use the tax increment program similar to Montana's with one exception. They have no sunset provisions as we do here. The laws allow those administering tax increment programs in the states to do so without the fear of a specific program ending. The fact that Montana does have a sunset clause proposes a major problem in Kalispell. The city program has a potential, through this program, to create new commercial development, create new job opportunities at wage rates considerably higher than minimum wage, and the capacity to respond to the pressure of new building. He urged the committee's support.

Bill Cooper, Superintendent, School District 5, Kalispell, provided written testimony. **EXHIBIT 3**

REP. DOWELL, Kalispell, stood in support of SB 236.

Alec Hansen, Montana League of Cities and Towns, stated that they have seen how tax increment financing can work. Tax increment financing is one of the most affective economic development tools available. If the Legislature has one common interest, its finding jobs and development opportunities for Montana. SB 236 simply extends the authority of tax increment financing.

Larry Fasbender, Montana Council of Co-ops, provided and read a letter from **Nathan Byrd, Equity Supply Company. EXHIBIT 4**

REP. WANZENRIED, Kalispell, went on record in support of SB 236.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. HARP made no closing statement.

HEARING ON SB 226

Presentation and Opening Statement by Sponsor:

SEN. HARP, Senate District 4, Kalispell, stated SB 226 has been amended and changed from its original introduction. It was requested by the DOR and is part of the **Governor's** proposal as far as taking care of the problem that occurred as a result of Davis vs Michigan court decision which basically changed how we tax retirement income in Montana. Currently, we are not taxing state or federal retirees at the $3,600 exclusion level. Prior to the Davis Decision, we all recognized that state employee were exempted and federal retirees were taxed at the $3,600 level. Many things have changed since then. In the 1989 Legislature, we fought this issue for a considerable amount of time and walked away from it. When we walked away from it, it cost the state between $15 and $16 million dollars.

The committee will here testimony from state employees who say that it was agreed upon that their retirement would not be taxed. You will here from the retired federal employees that based on the Davis Decision, they should not be treated any differently than the state employees. You will here from the private sector in that they can be discriminated against as far as how we treat retirement income.

This is the session that we must absolutely decide what we are going to do with retirement income. He provided the committee with suggested amendments prepared by DOR. **EXHIBIT 5**

Announcements: CHAIR HARRINGTON SUSPENDED THE HEARING ON SB 226 TO TAKE UP THE HEARING ON SB 370.

HEARING ON SB 370

Presentation and Opening Statement by Sponsor:

SEN. WATERMAN, Senate District 22, Helena, stated SB 370 would establish a Montana D.A.R.E. (Drug Abuse Resistance Education) income tax checkoff.

The D.A.R.E. program was begun in Montana in 1989 through federal start-up money. We knew when we started that it would take long term funding that would have to be picked locally or by the state. This is a program for the education and prevention of drug abuse. She has come to recognize that we can help children; but if we are going to get on top of drug and alcohol problems with young people, we need to give them the tools to make decisions and accurate information. The D.A.R.E. program at the elementary level does this.

To continue these programs, you need start-up money. The tax check-off system is very controversial. As you here the testimony on the bill, you will not disagree with the program; it will be the source of funding and whether or not you like check-offs. Revenue from other check-offs have decreased over the years, other have remain stable. The ones that have done well have been those which have had high public interest. She feels that if D.A.R.E. is funded through the check-off program, it will be the most popular check-off program in the state. There was discussion in the Senate that this should sunset. She has no problem with that.

Proponents' Testimony:

Fred Fisher, Drug Prevention and Education Coordinator, DOJ, provided written testimony from **Edwin Hall, Administrator, Crime Control Division, DOJ;** and offered amendments prepared by the DOJ. **EXHIBITS 6,7**

D.A.R.E. teaches student how to recognize and resist pier pressure, instructs them in ways to say no, gives students invaluable messages about their self-esteem, decision making, and respect for one another. D.A.R.E. has several features which make it unique. It targets elementary school children; it offers a highly structured curriculum developed by health education specialists; and the use of law enforcement officers in the classroom.

SB 370 was developed to provide an additional resource for the program. There is no intention in the bill to fully fund the D.A.R.E. program. We are trying to provide a shot in the arm for the program and a consistent, stable source of income. SB 370 will provide Montanans with the opportunity to voluntarily make contributions to this program to insure that our most valuable resource (children) have a chance at happier and healthier lives.

Darryl Burno, Administrator, Alcohol and Drug Abuse Division, DOI, provided written testimony. **EXHIBIT 8**

Announcements:

TRANSCRIPTION TAPES FOR THE REMAINDER OF THIS DAY'S MEETING WERE INAUDIBLE AND DEFECTIVE. ALL AVAILABLE INFORMATION IS INCLUDED IN THESE MINUTES.

Opponents' Testimony:

Jeff Miller, DOR, provided written testimony on the four current income tax check-offs. **EXHIBIT 8**

Questions From Committee Members: None

Closing by Sponsor: None

HEARING ON SB 226

Presentation and Opening Statement by Sponsor:

CHAIR HARRINGTON RESUMED THE HEARING ON SB 226.

Proponents' Testimony:

Mary Craig, Equity in Taxation; Tom Harrison, Montana Society of CPA's; went on record in support of SB 226.

Dick Williams, Association of Montana Retired Public Employees, provided written testimony. **EXHIBIT 10**

Tom Ryan, Retired Teachers Association; Leo Berry, Association of Retired Persons; and Samantha Sanchez, MAPP; went on record in support of SB 226.

Opponents' Testimony:

Tom Bilodeau, MEA Research Director, provided written testimony. **EXHIBIT 11**

Ed Sheehy, Retired Federal Employee, provided written testimony. **EXHIBIT 12**

Buddy Malee, MFT; and Mike Patterson, MEA, Billings, provided written testimony. **EXHIBIT 13**

Margaret Fleming, NARFE, provided the committee with petitions from people in Montana who are opposed to SB 226. **EXHIBIT 14**

Frank Calvin, NARFE, Bozeman, provided written testimony. **EXHIBIT 15**

Authur Shaw, NARFE; Jack Johnson, MEA, Billings; and Sherwood Trotter, Self, stood in opposition to SB 226.

Questions From Committee Members: None Available

Closing by Sponsor: None Available

HEARING ON SB 390

Presentation and Opening Statement by Sponsor:

SEN. VAN VALKENBURG, Senate District 30, Missoula, provided written testimony and amendments suggested by DOR. **EXHIBITS 16,17**

Proponents' Testimony: None

Opponents' Testimony: None

Questions From Committee Members: None Available

Closing by Sponsor: None Available

EXECUTIVE ACTION ON SB 236

Motion/Vote: **REP. STANG MOVED SB 236 BE CONCURRED IN.** Motion carried unanimously by voice vote.

ADJOURNMENT

Adjournment: 10:30 a.m.

Dan Harrington
DAN HARRINGTON, Chair

Lois O'Connor
LOIS O'CONNOR, Secretary

DH/lo

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 4/5/91

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	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. FRED THOMAS	✓		
REP. DAVE WANZENRIED	✓		

HOUSE STANDING COMMITTEE REPORT

April 5, 1991

Mr. Speaker: We, the committee on Taxation report that Senate Bill 236 (third reading copy -- blue) be concurred in .

Signed: ______________________

Dan Harrington, Chairman

Carried by: Rep. Wanzenried

Kalispell Redevelopment Projects

EXHIBIT 1
DATE 4-5-91
SB 236

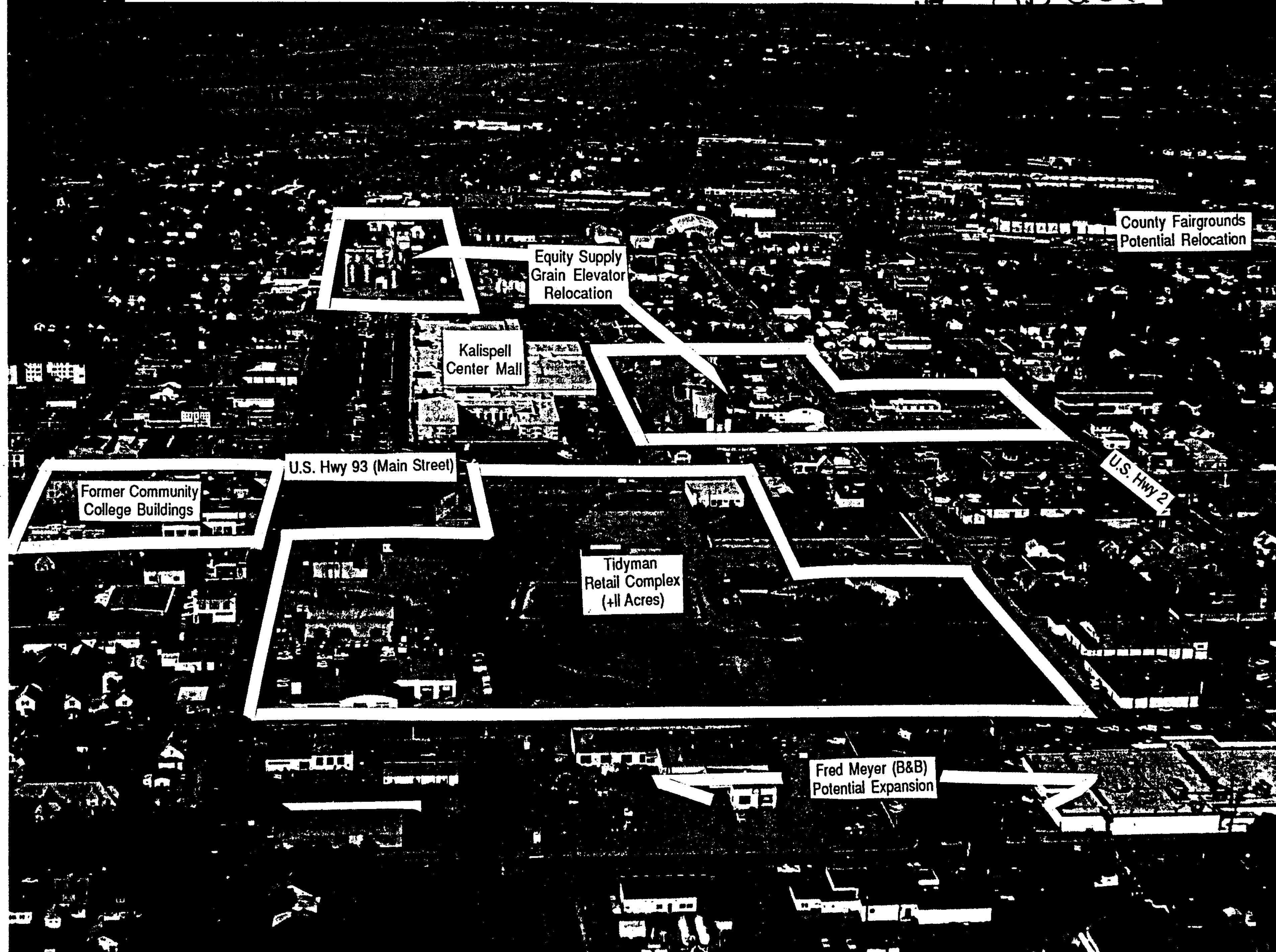

EXHIBIT 2
DATE 4-5-91
HB SB 236

GUEST EDITORIAL

Montana's Most Effective Economic Development Tool

By Lawrence Gallagher

Lawrence Gallagher

Over the past twelve years, Tax Increment Financing (TIF) has been one of Montana's most important "tools" for public/private partnerships to nurture local economic development. The effectiveness of this particular tool, however, depends on how long a community can utilize its bonding capacity under the program.

At the request of Kalispell's public and private sector leadership, Senators John Harp (SD #4) supported by Ed Kennedy (SD #3) and Representative David Wanzenried (HD #7), are now in the process of introducing a bill which would extend the sunset clause on the state's TIF Act from twelve to seventeen years. Many public and private sector participants involved in community development across the state believe that a total of 17 years—just five more years—is not an unreasonable length of time to finish various projects now in progress in communities such as Kalispell, Helena, Missoula, Great Falls and Billings.

The principal of TIF is that redevelopment projects are financed through the use of *new* dollars generated as a result of increased private investment in those very projects. Montana Code Annotated, section 7-15-4283(4) states it this way: "The tax collections realized from extending the tax levies, expressed in mills of all taxing bodies in which the urban renewal area or a part thereof is located, against incremental taxable value." In short: any increase in the fair market value of property above the "original base" value, or the increment, will generate new tax dollars—tax dollars that in all probability would not exist were it not for an urban renewal project having been completed.

Kalispell's 12-year old "award winning" urban renewal TIF program is a text book perfect example of how the program is intended to be implemented. Unfortunately, 12 years has not afforded enough time to finish what has been started.

Since the sun first rose on the TIF program in Kalispell in 1979, when a truly public/private relationship was harnessed together to create the Kalispell Center Mall/Convention Center, over 46 downtown business locations have been revitalized. Even Flathead Valley Community College benefited in its effort to build a new campus.

For those more interested in the bottom line however, let's translate these accomplishments into jobs, dollars and cents and taxes paid.

Kalispell is regaining its pre-eminence as a regional trade and service center.

Back when the Kalispell Development Corporation (KDC), a progressive Kalispell City Council and Burlington Northern began to dream of a large mall, *all* of the tenants combined on BN's 20-plus acres of core city property generated approximately $68,000 in *total* ad valorem taxes for *all* taxing jurisdictions. Today, the redeveloped value of that same land and the 171,000 square foot Kalispell Center Mall/134 room Cavanaugh's hotel complex generates $271,700 in total ad valorem taxes. A 300 percent increase—the result of tax increment financing and redevelopment at work. Approximately 554 permanent jobs—437 of them ranging from low to moderate income levels—were created in the process!

This was accomplished by the city of Kalispell pledging $635,000 of tax increment dollars which in turn leveraged $14,304,000 in private funds generated by owner equity and a first mortgage on the property. Also, the city applied for and received a $3,175,000 HUD Urban Development Action Grant (UDAG) which was in turn loaned to the developer. The developer's monthly repayment of principal and interest in the UDAG loan is now being used by the City of Kalispell as another "tool" for its continuing economic development efforts.

The original $635,000 Tax Increment invested to cover the cost of off-site improvements (infrastructure) for the Kalispell Center Mall, leveraged $17,479,000 in additional investment in Kalispell. A 27.53 to 1 leverage ratio! And any true measure of the return on the Tax Increment investment must also include the jobs created, new businesses attracted to the area, tourist dollars, and the "shopping dollars" kept in the Flathead Valley for retail goods and services. Because of this stimulus to the economic environment, Kalispell has regained its pre-eminence as the region's trade and service center.

According to the Kalispell Community Development Department, an additional $196,328 of TIF has been invested to leverage $3,646,447 in commercial real estate improvements in the Kalispell Central Business District. This limited TIF interest subsidy program has achieved a public/private leverage ratio of 18.57 to 1.

But the Tax Increment "sun" doesn't just shine on Main Street businesses. In Kalispell, TIF has also provided the catalyst, some direct funding and the ability to attract Community Development Block Grants (CDBG) for neighborhood and residential revitalization programs. Due in part to the outstanding administrative and implementation capabilities put in place with the TIF Kalispell Downtown Urban Renewal Plan, the city has attracted and utilized CDBG assistance to rehabilitate over 181 dwelling units—brought up to code—now providing safe decent and sanitary housing for its residents.

CDBG assistance has also been leveraged into housing for the elderly and even parks and open spaces for schools. And, Tax Increment has helped continuing and post-secondary education in the Flathead Valley.

Just a few months ago, Flathead Valley Community College's "campus" was an odd assortment of old unsuitable downtown buildings. A former YMCA building and a collection of functionally obsolete car dealerships and retail spaces were either received as gifts or bought "on the cheap". FVCC's administrators, faculty, students and staff did a remarkable job making do, but when the college wanted to build a new campus the problem arose of what to do with its hodgepodge holdings. Who would buy a bunch of structurally unsound, functionally obsolete, asbestos-contaminated buildings?

Working closely with the FVCC administration and local community interests, the KDC and Kalispell's City Council offered a $758,000 Tax Increment fund as a part of the college's $6,495,000 bonding program (which was approved by the county's voters) to acquire the FVCC downtown campus and provide for its eventual demolition. While seemingly minor in the scheme of things, it is doubtful there would be a new FVCC campus today without this 10% plus contribution.

Now with the old campus having been turned over to its new, hopefully, temporary owners, the sun is about to set on Kalispell's only remaining financing tool so that it might redevelop the property and return it to the tax rolls with tax increment value added in the process.

But there's more to do than the old FVCC campus:

1) Equity Supply — the farm/ranch cooperative needs to be assisted in relocating its grain elevators, dairy, feed & seed plant, bulk fuel and fertilizer storage and other activities to a light industrial area where it can grow and prosper outside the confines of central business district traffic. If we can afford to help Equity move, it may be possible to expand retail goods and services in the area, improve traffic flow, reduce truck traffic and, finally, eliminate railroad tracks from the downtown area altogether.

2) Former Burlington Northern R.R. yard between Third Avenue East and Main—with a little TIF assistance, the public/private partnership can turn this area (on which Tidyman's is to build a store this year) into a well-planned redevelopment project extending from Center Street to Montana Avenue.

3) Public Parking for Flathead High School—adequate parking will also help extend the life and functional use of the school until an additional high school is warranted.

The Kalispell Center Mall, improved neighborhoods, more trees, lighting, improved parking, traffic controls, new streets, jobs, improved education facilities and the redevelopment of the heart of Kalispell as a regional trade center have been rewarding accomplishments since the sun came up with the original Tax Increment Financing Act. "Operation Desert Storm," the S & L and banking crisis and talk of a recession have created a period of economic uncertainty, hardly conducive to securing essential financing and private equity commitments for major development, much less redevelopment.

All the historical tools—Title I HUD funding, Urban Development Action Grants (UDAG) and tax exempt Industrial Development Bonds (IDB)—available to undertake downtown urban renewal projects have disappeared over the past decade. The last remaining tool for Montana's local urban communities is the TIF—the authority to bond a projected funding capacity and pledge that amount to stimulate private investment in redevelopment projects.

Other communities across Montana who've taken advantage of the Tax Increment Financing Act do not want to lose momentum either. Please let your state representative or senator know that we're not quite ready to see the sun set on this excellent community development tool; tell them: "We're not ready to be plunged into the dark yet." ❑

Lawrence Gallagher is presently the real estate counselor for the City of Kalispell. He advised and helped to implement the TIF programs in Kalispell, Great Falls, Butte and Missoula

EXHIBIT 2
DATE 4-5-91
HB SB 236

GUEST EDITORIAL

Montana's Mos
Economic Deve l

By Lawrence Gallagher

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BILL COOPER
Superintendent
CATHRYN McDEVITT
Asst. Superintendent

EXHIBIT 3
DATE 4-5-91
HB SB 236

TOM TRUMBULL
Director of Business
GARY ROSE
Administrative Asst.
PAT LEE
Dir. of Special Services

SCHOOL DISTRICT NO. 5

PHONE (406) 756-5015 - 233 1ST. AVE. EAST - KALISPELL, MONTANA 59901

FLATHEAD HIGH SCHOOL
Principal, William Vogt
756-5075
KALISPELL JUNIOR HIGH
Principal, Patrick Feeley
756-5030
LINDERMAN SCHOOL
Principal, Larry Schulz
756-5024
RUSSELL SCHOOL
Principal, Michael Anderson
756-5052
PETERSON SCHOOL
Principal, Steve Rasor
756-5067
HEDGES SCHOOL
Principal, Gayle Vidal
756-5048
ELROD SCHOOL
Principal, Russell Winters
756-5043
EDGERTON SCHOOL
Principal, Rick Davis
756-5059

March 20, 1991

Representative Dan Harrington
House Taxation
Room 437
Capitol Station
Helena, MT 59601

Dear Representative Harrington:

Thank you for the opportunity to provide testimony on S.B. 236.

I speak as an enthusiastic proponent of the Bill. Others, such as Larry Gallagher can speak to the intricacies of Tax Increment Financing and the financial ramifications. I can only speak to the success of the past and potential for the future.

This Bill is good for Kalispell and what is good for Kalispell is good for School District #5. We both benefit from a stabilized and enhanced tax base over the long haul. Some times short term losses of potential taxes are necessary to ensure long term gains. When jobs are created, our enrollment is higher and stability is enhanced. The atmosphere in our older school buildings is enhanced by being in revitalized as opposed to blighted surroundings.

All our schools are community centers and our playgrounds are community parks. The stronger the sense of pride in our neighborhood communities, the stronger the sense of pride in the schools.

Kalispell has a history of the public and private sector working side by side in a cooperative effort for the good of the entire community. City, County and School Goernment work together whenever possible with full knowledge that the same citizens are paying our bills. School District #5 is actively represented in and listened to by the Kalispell Development Corporation, Chamber of Commerce and a special community oriented ad hoc committee.

In short and in conclusion, we in Kalispell believe that the "whole is greater than the sume of all its parts." This Bill is good for Kalispell. School District #5 is Kalispell. I urge your support of SB 236.

Sincerely,

William McCooper

Bill Cooper

cc: Representative Ben Cohen

EXHIBIT 4
DATE 4-5-91
HB SB236

EQUITY SUPPLY COMPANY
A Farmers' Co-operative

P.O. BOX 579 • KALISPELL, MONTANA 59901 • PHONE 755-7400

March 21, 1991

Representative Dan Harrington
Chairman - House Taxation Committee
Room 437
Capitol Station
Helena, Montana 59620

RE: SB 236

Dear Representative Harrington,

I am writing to request your support and the support of the House Taxation Committee for SB 236, "An Act To Amend the Urban Renewal Law to Provide for the Undertaking of Certain Redevelopment Activities Pursuant to a Development Agreement, to Eliminate the Termination of Tax Increment Financing and to Change the Period of the Annual Report." My name is Nathan L. Byrd, I reside at Kalispell, Montana. I am General Manager and Secretary of Equity Supply Company, a farmer-owned cooperative with facilities to include two grain elevators, bulk fertilizer blending, bulk petroleum products, feed manufacturing, creamery processing and general hardware located within the Kalispell redevelopment district and adjacent to the Kalispell Center Mall.

Our cooperative has been actively pursuing the possibility of relocating our business out of the downtown Kalispell area. We realize it is in everyones best interest if our facilities were located in an industrial area and away from the downtown shopping district. The relocation of our facilities could very well determine the development potential of the downtown area.

A preliminary feasibility study to relocate our elevators, feed mill and fertilizer facility has shown that assistance in the form of tax increment financing from the City of Kalispell is necessary if any relocation is to take place. We are in need of additional time to plan for the relocation and to solicit potential developers to occupy our vacated premises with businesss more conducive to retail trade. The passage of SB 236 will give our cooperative and the City of Kalispell time to consider all options available and to make the necessary contacts.

Ex. 4
4-5-91
SB 236

In my opinion, the goals of both our cooperative and the City of Kalispell are very similar.

1. To enhance the downtown business district.

2. To plan for orderly development within the city.

3. To relocate the cooperatives facilities to an industrial area.

4. To eliminate heavy grain and fertilizer truck traffic from the downtown area.

5. To eliminate potential safety hazards, such as grain dust explosions, fires and anhydrous ammonia leaks, to the general public.

6. To increase the property tax base by utilizing property within the business district to the highest and best use.

7. To increase the tax base of Flathead County by building a new and modern agricultural facility on industrial land that is currently vacant and underdeveloped.

Our Board of Directors and Stockholders, representing 588 residents, are in support of SB 236 and respectfully request your active support to insure the passage of this bill.

Sincerely yours,

EQUITY SUPPLY CO.

Nathan L. Byrd

Nathan L. Byrd
General Manager

NLB/ras

cc: Representative Ben Cohen
Representative Bob Ream
Mr. Larry Fasbender

EXHIBIT 5
DATE 4-5-91
HB SB226

Amendments to Senate Bill 226
2d. Reading Copy

Prepared by the Department of Revenue
March 13, 1991

The bill excludes from tax $3,600 of income received "under the Federal Employees' Retirement Act." No such act exists. The department's amendment #2 provides a definition of retirement income which includes all types of retirement income both private and public.

Amendment #4 removes the $3,600 exclusion from the computation of trust or estate income.

1. Title, line 14.
   Following: "AMENDING SECTIONS"
   Insert: "15-30-101,"

2. Page 3.
   Following: line 7
   Insert: "**Section 1.** Section 15-30-101, MCA, is amended to read: "**15-30-101. Definitions.** For the purpose of this chapter, unless otherwise required by the context, the following definitions apply:

(1) "Base year structure" means the following elements of the income tax structure:

(a) the tax brackets established in 15-30-103, but unadjusted by subsection (2) of 15-30-103, in effect on June 30 of the taxable year;

(b) the exemptions contained in 15-30-112, but unadjusted by subsections (7) and (8) of 15-30-112, in effect on June 30 of the taxable year;

(c) the maximum standard deduction provided in 15-30-122, but unadjusted by subsection (2) of 15-30-122, in effect on June 30 of the taxable year.

(2) "Consumer price index" means the consumer price index, United States city average, for all items, using the 1967 base of 100 as published by the bureau of labor statistics of the U.S. department of labor.

(3) "Department" means the department of revenue.

(4) "Dividend" means any distribution made by a corporation out of its earnings or profits to its shareholders or members, whether in cash or in other property or in stock of the corporation, other than stock dividends as herein defined. "Stock dividends" means new stock issued, for surplus or profits capitalized, to shareholders in proportion to their previous holdings.

(5) "Fiduciary" means a guardian, trustee, executor,

Ex. 5
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SB 226

administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any person, trust, or estate.

(6) "Foreign country" or "foreign government" means any jurisdiction other than the one embraced within the United States, its territories and possessions.

(7) "Gross income" means the taxpayer's gross income for federal income tax purposes as defined in section 61 of the Internal Revenue Code of 1954 or as that section may be labeled or amended, excluding unemployment compensation included in federal gross income under the provisions of section 85 of the Internal Revenue Code of 1954 as amended.

(8) "Inflation factor" means a number determined for each taxable year by dividing the consumer price index for June of the taxable year by the consumer price index for June, 1980.

(9) "Information agents" includes all individuals, corporations, associations, and partnerships, in whatever capacity acting, including lessees or mortgagors of real or personal property, fiduciaries, brokers, real estate brokers, employers, and all officers and employees of the state or of any municipal corporation or political subdivision of the state, having the control, receipt, custody, disposal, or payment of interest, rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments, or other fixed or determinable annual or periodical gains, profits, and income with respect to which any person or fiduciary is taxable under this chapter.

(10) "Knowingly" is as defined in 45-2-101.

(11) "Net income" means the adjusted gross income of a taxpayer less the deductions allowed by this chapter.

(12) "Paid", for the purposes of the deductions and credits under this chapter, means paid or accrued or paid or incurred, and the terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

(13) "Purposely" is as defined in 45-2-101.

(14) "Pension and annuity income" means: (a) systematic payments of a definitely determinable amount from a qualified pension plan as that term is used in IRC 401 or systematic payments received as the result of contributions made to a qualified pension plan which are paid to the recipient or recipient's beneficiary upon the cessation of employment; or,

(b) payments received as the result of past service and cessation of employment in the uniformed services of the United States; or,

(c) lump-sum distributions from pension and/or profit sharing plans to the extent that such distributions are included in federal adjusted gross income or,

(d) distributions from individual retirement, deferred compensation and self-employed retirement plans recognized under sections 401 through 408 of the Internal Revenue Code to the extent that such distributions are not deemed to be premature distributions for federal income tax purposes, or

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(e) amounts after cessation of regular employment received from fully matured privately purchased annuity contracts.

~~(14)~~ 15 "Received", for the purpose of computation of taxable income under this chapter, means received or accrued and the term "received or accrued" shall be construed according to the method of accounting upon the basis of which the taxable income is computed under this chapter.

~~(15)~~ 16 "Resident" applies only to natural persons and includes, for the purpose of determining liability to the tax imposed by this chapter with reference to the income of any taxable year, any person domiciled in the state of Montana and any other person who maintains a permanent place of abode within the state even though temporarily absent from the state and has not established a residence elsewhere.

~~(16)~~ 17 "Taxable income" means the adjusted gross income of a taxpayer less the deductions and exemptions provided for in this chapter.

~~(17)~~ 18 "Taxable year" means the taxpayer's taxable year for federal income tax purposes.

~~(18)~~ 19 "Taxpayer" includes any person or fiduciary, resident or nonresident, subject to a tax imposed by this chapter and does not include corporations."

Renumber: subsequent sections

3. Page 4.
Following: line 12
Strike: subsection (c) in its entirety
Insert: "(c) The first $3,600 of all pension and annuity income received as defined in 15-30-101(14).

4. Page 11.
Following: line 5
Strike: subsection (h) in its entirety
Renumber: subsequent subsections

5. Page 13.
Following: line 2
Strike: subsection (6) in its entirety

EXHIBIT 6
DATE 4-5-90
HB SB 370

STATE OF MONTANA

DEPARTMENT OF JUSTICE

BOARD OF CRIME CONTROL

Marc Racicot
Attorney General

303 North Roberts
Scott Hart Building
Helena, MT 59620

April 3, 1991

Representative Dan Harrington, Chairman
House Taxation Committee
1201 North Excelsior
Butte, MT 59701

Re: SB 370

Dear Representative Harrington and Members of the Committee:

Unfortunately, conflicts with other hearings and a quarterly meeting of the Board Of Crime Control precludes my appearance in support of SB 370.

The Montana Board of Crime Control initiated the DARE Projects in Montana two years ago using federal funds from the Drug Free Schools and Communities Act. DARE is a wondrously successful prevention and education program which goes far beyond "just saying no" and teaches children how to make healthy choices in many aspects of their lives. We are currently supporting over 20 DARE projects statewide targeting 5^{th} and 6^{th} grade students. The cost is about $500,000 for these projects.

From my understanding of SB 370, it is not intended as a means to replace the support currently given by the Board to DARE projects. Rather, the revenues generated by SB 370 will be used to help the smallest and more isolated schools establish a DARE program. For example, Valier is a very small school. They currently operate a DARE program by contracting for the service from the DARE Officer in Cut Bank. So, too, might Phillipsburg contract with Anaconda. The budgets for such smaller DARE projects are easily within the revenues generated by SB 370. The Valier DARE contract is only about $2,000.

While SB 370 certainly could not hope to support all DARE programs across the state, it can make a significant difference to those small schools who would otherwise be unable to participate. Obviously not all small schools could be supported but each little bit goes a long way towards bring a very good program to children of the right age.

I hope that you can support SB 370 and recommend its passage and approval.

Sincerely,

Edwin L. Hall

Edwin L. Hall
Administrator

cc: Fred Fisher

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EXHIBIT 7
DATE 4-5-91
HB SB 370

Amendments to Senate Bill No. 370
Third Reading Copy(Blue)

Prepared by the Department of Justice
April 2, 1991

1. Page 9 and 10, line 5 on page 9 through line 6 on page 10.
Strike: all language (all of sections 8 and 9 in their entirety)
Renumber: subsequent sections

EXHIBIT 8
DATE 4-5-91
HB SB 370

DEPARTMENT OF INSTITUTIONS

STAN STEPHENS, GOVERNOR

1539 11TH AVENUE

STATE OF MONTANA

(406) 444-3930

HELENA, MONTANA 59620-1301

TESTIMONY SB 370

DARRYL L. BRUNO ADMINISTRATOR ALCOHOL AND DRUG ABUSE DIVISION
4/5/91

The alcohol and Drug abuse Division in the Department of Institutions is the recognized state authority for alcohol and drug abuse treatment, rehabilitation and prevention services in Montana.

The war on drugs is much like a three legged stool. These legs are; interdiction, treatment, and prevention. Each of these legs has an important role to play in our efforts to impact the tragic effects of the abuse of alcohol and other drugs. Historically, the major responsibilities of the Department of Institutions have been with treatment, which we see as a critical function because there are so many individuals who become addicted to alcohol and other drugs -- legal and illegal. Through out state government there is a long history of financial support for interdiction and treatment as critical legs of the war on drugs.

The third leg, prevention, historically has been the step-child of our nation's long struggle to end the scourge of drug abuse. It is hard to define the scope of prevention. In the field of alcohol and other drug abuse, we are concerned with more than the prevention of addiction, we are also concerned with preventing tragic events like the loss of four young lives in Bridger just this past winter.

The DARE program is important for three reasons. First, it provides education about the effects of alcohol and other drugs to children at an impressionable age, an age when more and more of Montana's young people are beginning to experiment with alcohol and other drugs. Second, it provides these children with positive experiences and useful skills which build their self esteem, including the teaching of refusal skills. The skills to build self esteem and handle peer pressure are skills for a life time. Third, the DARE program builds positive relationships between young people and law officers. For these reasons we see DARE as an important part of community based prevention efforts. It fits within the goals of the Department of Institution to promote community based prevention efforts.

EXHIBIT 9
DATE 4-5-91
HB SB 370

MONTANA DEPARTMENT OF REVENUE
INCOME AND MISCELLANEOUS TAX DIVISION
CHECK OFF PROGRAM

NAME	TAX YEAR	CONTRIBUTION	# OF RETURNS CONTRIBUTING	# OF RETURNS PROCESSED
PUBLIC CAMPAIGN	1983	$4,238.00	4238	365,632
PUBLIC CAMPAIGN	1984	$3,727.00	3727	365,051
PUBLIC CAMPAIGN	1985	$2,486.00	2486	366,690
PUBLIC CAMPAIGN	1986	$2,136.00	2136	363,797
PUBLIC CAMPAIGN	1987	$2,403.00	2403	364,477
PUBLIC CAMPAIGN	1988	$1,495.00	1495	368,876
PUBLIC CAMPAIGN	1989	$1,466.00	1466	377,079
NON-GAME	1983	$35,427.00	6630	365,632
NON-GAME	1984	$34,060.00	6218	365,051
NON-GAME	1985	$31,869.00	4146	366,690
NON-GAME	1986	$24,616.00	3108	363,797
NON-GAME	1987	$20,463.00	2521	364,477
NON-GAME	1988	$21,698.00	2339	368,876
NON-GAME	1989	$21,299.00	2318	377,079
CHILD ABUSE	1985	$27,086.00	3595	366,690
CHILD ABUSE	1986	$20,732.00	2721	363,797
CHILD ABUSE	1987	$19,448.00	2497	364,477
CHILD ABUSE	1988	$21,349.00	2288	368,876
CHILD ABUSE	1989	$21,942.00	2351	377,079
AGRI MT SCHOOL	1985	$8,487.00	1317	366,690
AGRI MT SCHOOL	1986	$8,727.00	1167	363,797
AGRI MT SCHOOL	1987	$4,912.00	768	364,477
AGRI MT SCHOOL	1988	$5,854.00	750	368,876
AGRI MT SCHOOL	1989	$6,741.00	799	377,079
ET'S CEMETERY	1987	$7,042.00	817	364,477

EXHIBIT 11
DATE 4-5-91
HB SB226

mea

Montana Education Association 1232 East Sixth Avenue • Helena, Montana 59601 • 406-442-4250

SB226 (HARP) -- PENSION TAXATION & BENEFIT ADJUSTMENTS

BEFORE THE HOUSE TAXATION COMMITTEE
TOM BILODEAU - MEA RESEARCH DIRECTOR
APRIL 5, 1991

MEA's position statement on PERS & TRS pension taxation is explicit:

> "MEA opposes efforts to tax school employees' retirement benefits without an equivalent replacement benefit." (MEA Leg.Program #59)

SB226 doesn't come close to complying with the Association's position and further threatens the minimal financial security presently provided by retirement benefits ravaged by inflation over the last fifteen years. (See the graph/tables appearing at the back of these materials.) MEA stands in opposition to SB226 as presented to the House.

As amended by the Senate, SB226 will impose Montana income taxation on all TRS and PERS benefit income in excess of $3,600 per year. The imposition of state income taxation on these public retirement benefits violates the historic and recurring promise made to state and school district employees. Indeed, as recently as 1985 with enactment of "employer pick-up" of employee pension contributions as a pre-tax wage deduction, Montana unambiguously reaffirmed the tax exempt status of state pension benefits as an integral component of state employees' compensation package.

Without specifying a funding source, the bill also proposes a one-time 2% upward adjustment in TRS and PERS benefit levels. This adjustment is sometimes described by SB226 proponents as a "make-whole" or "hold-harmless" off-set for this proposed new tax. Unfortunately, for the typical 1991 TRS retiree, an upward benefit adjustment of at least 3.5% is required to be "made-whole" for SB226's proposed taxation levels! (See tables on following pages.) In the very first year of pension taxation under SB226, many TRS retirees will see taxation effectively reduce the value of their pension by more than 1% (>-$200). As time passes, and as both the aggregate level of benefits and quite likely the level of taxation increase, the adverse impact of taxation on pension purchasing value will grow even more pronounced.

Finally, SB226 fails to identify a viable funding source for the proposed benefit adjustment. (See: Sec.3.) As presented by the Senate, SB226 virtually invites increased employer contributions to fully or partially pay for the benefit adjustment. Such a funding mechanism transfers the TRS benefit adjustment cost to county retirement levy property taxpayers. Moreover, raising TRS employer contributions by 1/2% or more, to over 8% of payroll, will significantly diminish prospects that the Legislature will ever seriously deal with the continuing adverse impact of inflation on fixed retiree pensions.

EXHIBIT 10
DATE 4-5-91
HB SB 226

April 5, 1991
Senate Bill #226
Association of Montana Retire Public Employees
By: Dick Williams, President

The Association of Montana Retired Public Employees (AMRPE) supports SB 226. AMRPE represents approximately 4,000 retired state, local and municipal workers who live throughout Montana. If it were not for the fiscal impact to the state, AMRPE would like to see no change in the status quo; in other words, no change to the current tax-exempt status of public retirement benefits. In fact, that is the official position of AMRPE. However, we also recognize the difficult position in which the Davis decision puts the state. We, therefore, thank members of this committee and the legislature for supporting a solution to this difficult problem.

The tax-exempt status of the Public Employees Retirement System benefits has its origins in the low pay and small benefits historically paid public employees. When we came to work for the public sector, that tax-exempt status was presented as a benefit and was a consideration for many in choosing public employment over that of the private sector. Rightfully or wrongfully, the state chose to mix its tax policy with its benefit package. Through no fault of the state or the retirees, the Davis decision has created an unanticipated revenue loss to the state.

It is unfair to those who gave their employment lives to public service to now change the rules. At a time when the state is having difficulty attracting and retaining qualified employees, it seems counter-productive to eliminate a valuable benefit. SB 226, if amended to provide a realistic retirement adjustment, attempts to protect public retirees and to keep them as "whole" as possible. If the legislature feels it necessary to pass some legislation to equate the tax-exempt status of retirement benefits, then SB 226 deserves your consideration and support.

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PENSION TAXATION: SUMMARY TABLES

Under current Montana taxation law, the "typical TRS retiree" retiring in June of 1991 (i.e. a retiree age 55, with 25 years service, and entitled to an annual TRS benefit of $13,000), will pay $133 in state income tax based on $7,000 of non-pension income. The same 1991 TRS retiree under the Senate's version of SB226, will receive a benefit adjustment of +$260 but be expected to pay $612 in Montana income tax on pension benefits ($13,260) plus other income ($7,000). <u>The "net impact" of SB226 on this retiree is to reduce his/her after-tax spendable income by $219; or the equivalent of reducing the value of his/her TRS pension by -1.68%</u>.

Even by increasing the benefit adjustment to +3.5% (see below), the "typical 1991 TRS retiree" will be left with $38 less in after-tax spendable income than compared to current law.

SB226 AMENDED TO +3.5% (4/5/91)

INCOME TAX LINE ITEMS	$20,000 INCOME SB226 SINGLE ALL PEN	 SB226 SINGLE 65/35 PEN	 SB226 JOINT 65/35 PEN	$40,000 INCOME SB226 SINGLE ALL PEN	 SB226 SINGLE 65/35 PEN	 SB226 JOINT 65/35 PEN
J. MT PENSION INCOME:	$20,000	$13,000	$13,000	$40,000	$26,000	$26,000
K. NEW SB226 BENEFIT $ (BEN +3.5%):	$700	$455	$455	$1,400	$910	$910
L. OTHER INCOME: +	$0	$7,000	$7,000	$0	$14,000	$14,000
M. TOTAL INCOME: =	$20,700	$20,455	$20,455	$41,400	$40,910	$40,910
N. EXEMPT PENSION INCOME: -	$3,600	$3,600	$3,600	$3,600	$3,600	$3,600
O. ADJUSTED GROSS INCOME:= (M-N)	$17,100	$16,855	$16,855	$37,800	$37,310	$37,310
P. STANDARD DEDUCTION: -	$2,360	$2,360	$3,371	$2,360	$2,360	$4,720
Q. EXEMPTION: -	$1,260	$1,260	$2,520	$1,260	$1,260	$2,520
R. TAXABLE INCOME:= ("O"-P-Q)	$13,480	$13,235	$10,964	$34,180	$33,690	$30,070
S. TAX LIABILITY (INCLUDES +5%): =	$644	$626	$477	$2,517	$2,465	$2,099
T. NEW SB226 TAX LIABILITY: (S-I)	$644	$493	$397	$2,517	$2,026	$1,759
U. NET $ TO RETIREE (BEN-TAX): (K-T)	$56	($33)	$58	($1,117)	($1,116)	($849)
V. NET $ AS % CRNT BENEFIT: (U/J)	0.28%	-0.25%	0.45%	-2.79%	-4.29%	-3.27%

-MEA- TRS BENEFITS, AD-HOC ADJUSTMENTS & INFLATION Feb-91

IMPACT ON AN "AVERAGE" 1975 TRS RETIREE WITH 25 YRS SERVICE

Ex. 11
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YEAR	AVG FY'75 RETIREE BENEFIT $	PLUS AD HOC ADJUSTMENTS	AD HOC BENEFIT	BENEFIT $ (1975 $)	ANNUAL $ LOST TO INFLATION	TOTAL $ LOST TO INFLATION	6/1975 $ PURCHASING POWER INDEX	ANNUAL CPI-U% (DEC)
	----------- TEACHER RETIREMENT SYSTEM				-----------------			
1974-75	$4,832	BASE	$4,832	$4,832	BASE	----	1.000	9.1
1975-76	"	FORMULA($145)	$4,977	$4,713	($119)		0.947	5.3
1976-77	"	FORMULA($149)	$5,126	$4,542	($290)		0.886	6.5
1977-78	"	0	$5,126	$4,229	($603)		0.825	7.6
1978-79	"	0	$5,126	$3,314	($1,018)		0.744	11.3
1979-80	"	0	$5,126	$3,337	($1,495)		0.651	13.5
1980-81	"	0	$5,126	$3,045	($1,787)		0.594	10.3
1981-82	"	FORMULA($262)	$5,388	$2,990	($1,842)		0.555	6.2
1982-83	"	0	$5,388	$2,915	($1,917)	($27,047)	0.541	3.2
1983-84	"	0	$5,388	$2,797	($2,035)		0.519	4.3
1984-85	"	0	$5,388	$2,700	($2,132)		0.501	3.6
1985-86	"	FORMULA($300)	$5,688	$2,793	($2,039)		0.491	1.9
1986-87	"	0	$5,688	$2,691	($2,141)		0.473	3.6
1987-88	"	0	$5,688	$2,582	($2,250)		0.454	4.1
1988-89	"	0	$5,688	$2,457	($2,375)		0.432	4.8
1989-90	"	"PRBA"($115)	$5,813	$2,401	($2,431)		0.413	6.1
1990-91	"	"PRBA"($117)	$5,930	$2,259	($2,573)	----	0.381	5.5

SOURCE DATA: TRS FILES & US-DoL/BLS (JUNE-1975 PURCHASE POWER BASE & DECEMBER CPI-U) 1991 ESTIMATED.

-MEA- PERS BENEFITS, AD-HOC ADJUSTMENTS & INFLATION Feb-91

IMPACT ON AN "AVERAGE" 1975 PERS RETIREE WITH 20 YRS SERVICE

YEAR	AVG FY'75 RETIREE BENEFIT $	PLUS AD HOC ADJUSTMENTS	AD HOC BENEFIT	BENEFIT $ (1975 $)	ANNUAL $ LOST TO INFLATION	TOTAL $ LOST TO INFLATION	6/1975 $ PURCHASING POWER INDEX	ANNUAL CPI-U% (DEC)
	------ PUBLIC EMPLOYEES RETIREMENT SYSTEM				-------------			
1974-75	$1,993	BASE	$1,993	$1,993	BASE	----	1.000	9.1
1975-76	"	0	$1,993	$1,887	($106)		0.947	5.3
1976-77	"	0	$1,993	$1,766	($227)		0.886	6.5
1977-78	"	FLAT % ($231)	$2,224	$1,834	($159)		0.825	7.6
1978-79	"	0	$2,224	$1,654	($339)		0.744	11.3
1979-80	"	FLAT % ($240)	$2,464	$1,604	($389)		0.651	13.5
1980-81	"	0	$2,464	$1,463	($530)		0.594	10.3
1981-82	"	FORMULA($120)	$2,584	$1,434	($559)		0.555	6.2
1982-83	"	0	$2,584	$1,398	($595)	($6,757)	0.541	3.2
1983-84	"	FORMULA($240)	$2,824	$1,466	($527)		0.519	4.3
1984-85	"	0	$2,824	$1,415	($578)		0.501	3.6
1985-86	"	FORMULA($509)	$3,333	$1,637	($356)		0.491	1.9
1986-87	"	0	$3,333	$1,577	($416)		0.473	3.6
1987-88	"	FORMULA($174)	$3,516	$1,596	($397)		0.454	4.1
1988-89	"	0	$3,516	$1,519	($474)		0.432	4.8
1989-90	"	"PRBA"($73)	$3,594	$1,484	($509)		0.413	6.1
1990-91	"	"PRBA"($68)	$3,666	$1,397	($596)	----	0.381	5.5

SOURCE DATA: PERS FILES & US-DoL/BLS (JUNE-1975 PURCHASE POWER BASE & DECEMBER CPI-U) 1991 ESTIMATED.

EXHIBIT 12
DATE 4-5-91
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Ed Sheehy

ON MARCH 28, 1989, THE UNITED STATES SUPREME COURT HELD IN DAVIS VS MICHIGAN THAT STATE UNLAWFULLY DISCRIMINATES AGAINST FEDERAL RETIREES IN VIOLATION OF FEDERAL LAW. THE PLAINTIFF IN THE CASE PAUL DAVIS, A RETIRED LAWYER HAS VISITED MONTANA AT MY INVITATION.

IN 1939 CONGRESS PASSED THE PUBLIC SALARY TAX ACT. THE MAIN PURPOSE OF THE LAW WAS TO ALLOW THE IMPOSITION OF FEDERAL INCOME TAX ON STATE SALARIES. AS PART OF THE LAW CONGRESS AUTHORIZED STATES TO TAX FEDERAL SALARIES. THIS AUTHORIZATION CONTAINED THE LIMITATION THAT THE TAXATION MUST NOT DISCRIMINATE AGAINST THE OFFICER OR EMPLOYEE BECAUSE OF THE SOURCE OF THE PAY OR COMPENSATION. IT IS THIS LANGUAGE, DISCRIMINATION AT THE SOURCE, THAT WAS AT ISSUE IN THE DAVIS VS MICHIGAN LITIGATION. SUBSEQUENT TO THE SUPREME COURT DECISION, ON SEPT 7, 1989 A LOCAL DISTRICT COURT ORDERED PROSPECTIVE APPLICATION OF DAVIS DECISION 1989 FORWARD. THE COURT DECIDED TO GRANT THE SAME EXEMPTION TO FEDERAL

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RETIREES RATHER THAN TAKING IT AWAY FROM STATE & LOCAL GOVERNMENT RETIREES. IF THIS LEGISLATURE PASSES ~~AB~~ SB 226 900, WE WILL BE BACK IN COURT. ONCE MORE, THE ISSUE DISCRIMINATION AT THE SOURCE.

THE DOCTRINE OF INTERGOVERNMENTAL IMMUNITY DOES NOT PRECLUDE A STATE FROM TAXING INCOME FROM FEDERAL COMPENSATION. IT DOES PRECLUDE DISCRIMINATORY TAXATION. IT IS THE DISCRIMINATION AND NOT THE TAXATION THAT MUST BE REMEDIED.

THE STATE RETIREES WERE NOT AWARE THAT MONTANA WAS NOT FOLLOWING THE LAW. ANY THING LESS THAN FULL EXEMPTION FOR THEM TAKES AWAY AN EARNED BENEFIT.

) |

MFSE

MONTANA FEDERATION OF STATE EMPLOYEES

AFT, AFL-CIO

P.O. Box 1246 Helena, Montana 59624 (406) 442-2123

ARTCRAFT. BUTTE

JIM McGARVEY
President

EXHIBIT 13
DATE 4-5-91
HB SB 226

TESTIMONY OF MONTANA FEDERATION OF TEACHERS/MONTANA FEDERATION OF STATE EMPLOYEES ON SB226 BEFORE HOUSE TAXATION COMMITTEE. 4/5/91

Mr. Chairman, members of the committee, my name is Buddy Malee. I represent the Montana Federation of Teachers/Montana Federation of State Employees.

I appear today in opposition to SB226 and in opposition to the taxation of the pensions of Montana's teachers and public employees. Montana made a promise to these retirees over forty years ago: the promise that their pensions would not be taxed. That promise must not be broken.

Despite the fact that this bill tries to compensate state employees and teachers by providing an adjustment, we remain opposed to any taxation on PERS or TRS.

Maintaining the tax exempt status of Montana retirement benefits is important to retiree's, to those who are working now, and to those who will be working in the future. Public employees wages have not kept up with inflation. Our teacher's pay is forty-first in the nation, our faculty pay ranks last in the nation, and state and local governments find it increasingly difficult to attract and retain qualified employees. Additionally, state employees have lost 23% of their buying power over the last decade. Any tax on PERS and TRS pension benefits would be hard on state employees and teachers who are already getting inadequate benefits due to wage freezes and insufficient pay increases of the past.

The Montana Federation remains strongly opposed to any taxation of retirement benefits and we urge you to defeat any bill that would do so. Please remember the promise made by the state of Montana to public retiree's and seriously consider keeping that promise, and the trust of state employees and teachers.

Thank you, Mr. Chairman.

EXHIBIT 14
DATE 4-5-91
HB SB226

PETITION TO MONTANA'S 52ND LEGISLAT... ASSEMBLY
1991 - 1992

We hereby petition Montana's 52nd Legislative Assembly to provide fair and equitable treatment to federal retirees and to state retirees in dealing with taxation of those retirement incomes.

We hereby urge our Montana legislators to vote **against** SB 226 because it violates the principles of fairness by favoring retired state and local government retirees over retired federal retirees. The U. S. Supreme Court (1989 U. S. Lexis 1667, 23) has already ruled that such discriminatory practices violates the Law. A Montana Justice Court has also so ruled.

Most federal retirees receive only their federal retirement income since their employment was not covered by Social Security. Social Security benefits are not taxable unless the modified adjusted gross income plus one-half of the Social Security benefits exceed $25,000 for an individual or $32,000 for a couple. Federal retirees, for the most part, do not benefit from that exclusion.

We continue to support legislation which will result in equal tax treatment of retirement income regardless of the source. We, therefore, strongly urge you to vote **against** SB 226.

NAME	ADDRESS	PHONE
Charles L Nicholson	2106 [illegible] Ave Anaconda, Mt. 59711	563-2620
Erva E. Emerson	820 N. Broadway Butte 59701	782-4581
June Corbett	611 [illegible] St	723-5887
Claude Bovis	3114 Princeton, Butte, Mt 59701	723-5563
Ray Laitinen	2414 S. Main Butte MT 59701	723-7969
Millie Laitinen	2414 S. Main Butte Mt. 59701	723-7969
Pat Stensland	1415 B Street Walkerville Mt 597[illegible]	723-7401
George W Stensland	1415 "B" Street Walkerville MT 59701	723-7401

Exhibit 14 consists of 18 pages of signed petitions. The originals are stored at the Montana Historical Society, 225 North Roberts, Helena, MT 59601. (Phone 406-444-4775)

EXHIBIT 16
DATE 4-5-91
HB SB 390

Comments On 1991 Legislation

Date: April 1, 1991 Bill # SB0390-2

Division: Property Version: 3rd

Contact: Division Administrator Reviewer:
Date:

Do you plan testimony? __ If Yes, ____ Proponent
____ Opponent
Continue to receive this bill? Yes ____ Technical

Comments: (continue on additional page(s) if necessary)

This bill extends property tax relief for real property destroyed by natural disaster to personal property.

Changes: 1. Requires the prorated taxation of any replacement property.

2. Requires owners of property destroyed by natural disaster to notify the department if the property is replaced in the year destroyed.

Concerns: 1. A penalty isn't specifically imposed if the owner fails to file the report. Also, it isn't clear that the department must estimate the prorated tax if the owner fails to file a report. We assume the general penalty and estimation statute (15-1-303) would apply.

2. The proration of the tax works fine for personal property and mobile homes, but doesn't work for improvements that take time to reconstruct. Currently, we tax personal property that enters the state during the year, but not improvements that are under construction after January 1.

Amend: 1. Limit the application of Section 1 (5) to personal property.

Ex. 16
4-5-91
SB 390

Reasons for the amendments:

1. The bill doesn't provide for a penalty for a failure of reporting by taxpayer of replacement property. The amendment uses the estimation and penalty provisions of 15-1-303.

2. The provision in the bill for the taxing of replacement property doesn't work well on reconstruction of improvements. It is very difficult to appraise ongoing construction. The amendment limits the taxation to replacement personal property.

EXHIBIT 17
DATE 4-5-91
HB SB 390

Amendments to Senate Bill 390
Third Reading Copy

Prepared by Department of Revenue
(4/1/91)

1. Title, line 6.
Following: "TAXPAYER"
Insert: "UNDER PENALTY"

2. Title, line 7.
Following: "DESTROYED"
Insert: "PERSONAL"

3. Title, line 8.
Following: "PROVIDING THAT"
Insert: "PERSONAL"
Following: "DESTROYED"
Insert: "PERSONAL"

4. Page 2, line 19.
Following: "REDUCTION IN"
Strike: "PROPERTY"

5. Page 2, line 20.
Following: line 19
Insert: "ON PERSONAL PROPERTY"

6. Page 2, line 21.
Following: "DESTROYED"
Insert: "PERSONAL"

7. Page 2, line 22.
Following: line 21 and "THE"
Insert: "PERSONAL"
Following: "TAX ON THE"
Insert: "PERSONAL"

8. Page 2, line 23.
Following: "DESTROYED"
Insert: "PERSONAL"

9. Page 2, line 25.
Following: "365."
Insert: "A taxpayer who fails to so notify the department within 30 days from the date of the replacement of the personal property is subject to the penalty prescribed in 15-1-303."

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB236

DATE 4/5/91 SPONSOR(S) Sen Harp

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Bill Cooper	Sch Dist #5 Kalispell	236		✓
Larry Gallagher	City Kalispell	236		✓
DOUG RAUTHE	CITY of KALISPELL	236		✓
Bruce Williams	City of Kalispell	236		✓
Johnny Trotter	My own self	226	✓	
Carl Wetterstrom	Retired NARFE, Msla	226		
Bob Milodragovich	" " "	"		
E Halland	Ret US Govt	226	✓	✓
Michael J. McGrath	RET US GOVT	236	X	~~[illegible]~~
Shade Smith	Ret US Govt	236	X	~~[illegible]~~
William Abraham	Re US Govt	236	X	~~[illegible]~~
Robert J Connors	Ret US Govt	236	X	~~[illegible]~~
Bob HARAN	RET. US Govt	236	✓	

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Tim Dowell	H.D. 5	SB 236		✓
JAMES TUTWILER	MT CHAMBER [illegible]	236		✓

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB226

DATE 4/5/91 SPONSOR(S) SEN. HARP

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Margaret Fleming 365 Banks, Butte	NARFE	226	X	
Frank K. Calvin Bozeman	"	226	X	
E. Pershing Vance	"	226	X	
BRUCE WATTERS	PM-RTD NAPUS DILLON MT	226		
John Malee	M.E.A.	226	X	
Gene Huntington	Retired Teachers	226		X
Arthur F. Shaw	NARFE	226	X	
Raphael Wellgrum	AARPE			X
Robert A Turner	DOR	226		
TOM RYAN	Rt Teachers	226		X
ED SHEEHY	[illegible]		X	
George H. McGovern	NARFE Chap 107 G.F.		X	
LARRY ZIMMERMAN	RETIRED NARFE MISSOULA	226	X	

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Pg 2 of 3

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB226

DATE 4/5/91 SPONSOR(S) Sen Harp

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Samantha Sanchez	MAPP	226		✓
Bernard T Grainey	NARFE	226	✓	
Jack Johnson	MEA-R	226	✓	
TOM BILODEAU	MEA	226	X	
Mike Paleen	MEV	228	X	
Orville Lewis	Self	226	X	
Ken Givens		226		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB 226

DATE 4/5/91 SPONSOR(S) Sen. Harp

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Lee Masters	RET. US GOVERNMENT		X	
Mary L. Tracy	EF			X
Lou Marquardt	Self		X	
William Abraham	Ret. US Gov.		X	
Edward G. Gill	RETIRED		X	
Helen G. Gill	" "		X	
Michael J. McGrath	RET FED. WORKER		X	
Thade Smith	" " "	226	X	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB370

DATE 4/5/91 SPONSOR(S) Sen Waterman

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Fred Gignoux	JUSTICE	370		✓
Marcy				

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. SB 390

DATE 4/5/91 SPONSOR(S) Sen. Van Valkenburg

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