MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - 2nd SPECIAL SESSION

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on July 9, 1992, at 8:30 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)
- Fred Thomas (R)
- Dave Wanzenried (D)

Members Excused: Rep. Barry "Spook" Stang (D)

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Royhans, Committee Secretary

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 13

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE COBB, District 42, Augusta, said the bill requires half of property taxes and special assessments to be paid by November 25 and half to be paid by May 26 of each year. It moves the payment deadlines up five days in order to facilitate cash flow at the end of the fiscal year. He recommended the bill be amended to reflect the original November 30 payment date because the Department of Revenue (DOR) and Department of Administration (D of A) are only concerned about the fiscal year-end date.

Proponents' Testimony:

Denis Adams, Director, DOR, expressed support for the bill.

Opponents' Testimony:

Cort Harrington, Montana County Treasurer's Association, spoke in opposition to the bill. He said the majority of the counties in the state hold their May books open into June so that all the receipts that are dated May 31 or before can be entered into May business and transmitted in June. Based on calculations by Rosebud and Yellowstone County Treasurers, **Mr. Harrington** said he estimates the additional cash flow generated by the proposed date change will be closer to $1-$2 million than the projected $17 million. Another risk is that taxpayers will, in all likelihood, still pay their taxes on May 31 for the next year or two. In that case, the Treasurer will have to return their money because it must be paid in full including the 2% penalty. That delay would result in an even more significant reduction in cash flow than if the date was left at May 31.

Questions From Committee Members:

CHAIRMAN HARRINGTON said two bills, HB 12 and HB 13, both address this problem. He asked which method DOR prefers.

Mr. Adams replied DOR has no preference.

Dave Ashley, D of A, said he would recommend taking the November date change out of both bills. He said he agreed with Mr. Harrington about the potential confusion and resulting delay in payments if the dates were changed. He wondered if the small difference in receipts would be worth the impact on County Treasurers and taxpayers.

REP. McCAFFREE asked Mr. Harrington which bill he preferred.

Mr. Harrington said he preferred HB 12.

Closing by Sponsor:

REP. COBB closed.

HEARING ON HOUSE BILL 19

Presentation and Opening Statement by Sponsor:

REP. ELLISON, District 81, McLeod, said the gaming industry is a semi-monopoly. The Public Service Commission (PSC) allows utilities to make a 12% profit while the gaming industry is making a 200% profit. He asked **Mr. Adams** to present the technical information on the bill.

Proponents' Testimony:

Denis Adams, Director, DOR, presented his testimony in support of the bill (Exhibit #1). He referred to a comparison study of video gambling between Montana and South Dakota (Exhibit #2). He also presented information on distribution of gross machine income (Exhibit #3), distribution of establishments and income (Exhibit #4), and property taxes and fees paid by casinos (Exhibit #5).

Opponents' Testimony:

Mark Staples, Montana Tavern Association, presented his testimony in opposition to the bill (Exhibit #6).

REP. GOULD, District 61, Missoula, said this bill attempts to change legislation he introduced several sessions ago. A great deal of time and thought was spent determining the correct level of tax at that time. The legislation was intended to help state and local governments. Missoula took in $1.4 million in 1992. The high license fee was removed and a percentage amount established to benefit small communities. He said he has been a proponent of the lottery and, as such, has visited many other state lotteries. There are two things that contribute to a successful lottery, security and promotion. He felt the same two principles apply to machines. He felt increasing the percentage would eliminate part of the profit motive, less would be spent on gaming, and local governments would suffer.

Donald X. Driscoll, Mayor, City of Havre, presented his testimony in opposition to the bill (Exhibit #7).

SEN. WILLIAMS, District 15, Hobson, presented testimony against the bill on behalf of **Alex Zier, President, First National Bank of Lewistown** (Exhibit #8).

REP. PHILLIPS, District 33, Great Falls, apologized to the people from the gaming industry who had to travel to Helena to appear on the bill. He said it is not fair to zero in on one industry to balance the budget.

Alec Hanson, Montana League of Cities and Towns, spoke against the bill saying the potential loss in gaming revenues and personal property tax reimbursement would be disastrous if it was to pass. He said if the revenue projections in the bill are only 10% off, cities and counties would lose $3.8 million. If the projections are 25% off, they would lose $10 million. This bill would be particularly harmful to small towns such as Forsyth and Townsend. He said the legislation is reasonable as it stands, increasing the percentage would drive machines out. The owners as well as the towns in which the casinos are located cannot afford this bill.

Sandy Oitzinger, Montana Association of Counties, (MACO), said the personal property tax reimbursement provision in HB 19 becomes an uncertain source of revenue as compared to a certain source in current legislation. MACO, therefore, opposes the bill.

John Tooke, CPA and tavern owner, Miles City, presented his testimony in opposition to the bill (Exhibit #9).

Micheal Wigen, Owner-Operator, Spot Bar, Great Falls, presented her testimony in opposition to the bill (Exhibit #10).

Don Lane, CPA, Anderson Zurmuehlen, Helena, said his firm has been retained by the Montana Gaming Industry Association to conduct a study of gaming casinos in the state. The survey included 54 casinos and was conducted in May of 1992. The results are based on 12 responses to date. He presented the survey to the Committee (Exhibit #11).

Deborah Hanson, Owner-Operator, Montana Bar, Miles City, presented her testimony in opposition to the bill (Exhibit #12).

Pete Mangels, Manager, VFW Club, Polson, presented his testimony in opposition to the bill (Exhibit #13).

REP. PAVLOVICH, District 70, Butte, said he is selling his business to his partner and he is finding that getting out of business is harder than getting into business. He said if profits are reduced as a result of this bill, he will be forced to go back into business because his partner will not be able to make enough money to pay him. He expressed concern that Indian Reservation casinos pay no fee on the machine, no percentage tax, and they have an unlimited supply of machines. He noted alcohol consumption is down and if taxes are raised on machines the impact on profits will be tremendous.

Larry Akey, Montana Gaming Industry Association, said he agreed with the previously presented testimony. He asked everyone stand who was opposed to the bill.

Joe Roberts, Don't Gamble with the Future, a citizen's group opposed to the expansion of gambling, said they had no position on any level of taxation. They have several concerns including government dependency on gambling revenue which in turn encourages local governments to promote gambling in the state. This bill is just a "quick fix" response to the need for new revenue without any thought to the impact increased gambling will have on quality of life and the social consequences in the communities of this state. He said his organization is opposed to any expansion even if it is tied to increased revenues.

Scott and Jill Lindell, Owners, Papa John's Restaurant, Billings, said they are a young couple who bought a restaurant in Billings with financial help from their families. The first year they lost $80,000. They bought gaming machines, increased their financing, are paying all their fees, taxes, and assessments and are paying 30 employees. If there is any increase in taxes, they will be forced to shut their doors.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

REP. ELLISON closed by saying the Montana tax system is complicated and we are truly between a rock and a hard place in Montana today. The public wants tax reform and he sees this bill as a "fairness in taxation" measure. He was surprised the cities and towns were opposed to the bill as they would receive more money under its provisions than they do now. Gaming receipts have increased every year and will continue to rise if this bill is implemented. He said he is in sympathy with the small bar owners and thinks some consideration should be given them in the bill. He presented the Committee with a "rock and a hard place" cartoon (Exhibit #14).

HEARING ON HOUSE BILL 4

Presentation and Opening Statement by Sponsor:

REP. ELLIOTT, District 54, Trout Creek, said this is a bill about who not to tax. He presented his testimony and various tax information to the Committee (Exhibits #15, #16, #17, and #18).

Proponents' Testimony:

Dick Barrett, Professor of Economics, University of Montana, said he is appearing at the request of Rep. Elliott. He said he assumes the current budget crisis of the state cannot be addressed simply by reducing expenditures, it also requires a substantial increase in revenue. He said HB 4 is a progressive method of increasing revenue. He presented the Committee with a wealth of supporting documentation (Exhibits #19 - #26). He said Montana personal income tax is not particularly progressive or regressive, it is not too high, and it is not tapped out.

REP. REAM, District 54, Missoula, said he first introduced this bill in the 1985. It passed the House but failed in the Senate. A progressive income tax should be progressive throughout all income ranges. The Federal Tax Reform Act of 1986 did enhance progressivity somewhat. This bill continues to address this problem and is an improvement. Indexing was based on income rising at the same rate as inflation. In fact, Montana income has risen at only about half the rate of inflation. He felt that HB 4, by providing a cap on the federal deductibility, will help address some of the structural problems in the Montana income tax.

REP. CODY, District 20, Wolf Point, said she polled her constituents on this issue before the special session. Because many of her constituents are Republican, many of them were opposed to the cap. The reaction from the CPA's in her district was that the law is not fair now and a cap should be imposed. She noted her son has held two jobs, he made $20,000, and still had to pay taxes on top of the money that was withheld from his paychecks. She said that is not fair, our current tax system is not fair, and reform is sorely needed. She felt the bill was a good first step in the tax reform process.

Terry Minnow, Montana Federation of Teachers, Montana State Employees, said she supports HB 4 as fair and equitable tax reform. It will bring sorely needed new revenue to the state budget. The cuts in appropriations are ugly and deep and they will hurt individuals and communities all across the state.

Ann Prunuske, Montana Alliance for Progressive Policy, presented her testimony in support of the bill (Exhibit #27).

Darrell Holzer, Montana AFL-CIO, expressed strong support for the bill. Difficult decisions are being made and it is time for progressive tax reform. He said HB 4 is a step in the right direction.

Eric Feaver, Montana Education Association, said it is time to end the budget cutting madness. It is time to raise taxes and this is the fairest and most appropriate way to do it.

Opponents' Testimony:

Denis Adams, Director, DOR, presented his testimony in opposition to the bill (Exhibits #28, #29, and #30).

George Anderson, CPA, Helena, presented the Committee with a copy of an article by Rob Natelson, a University of Montana law professor (Exhibit #31). **Mr. Anderson** said this is an immoral bill as it sets an unequal tax level for top wage earners. Taxes are for raising revenue, not leveling income. He noted states that don't allow the deduction have lower income tax rates than Montana. He said the bill is immoral because it is retroactive. People in the upper income brackets plan their finances very carefully. Going back to January will cause hardships because investments have been tailored to a certain income pattern. Tax consultants are advising their clients in the higher income categories to move out of Montana due to the tax climate. This bill will discourage economic development as the upper income people will begin to lower their investment levels. I105 legislation says that in order to escape the restrictions it imposes, it will be necessary to lower taxes with tax reform. A progressive tax does not mean you get more money necessarily, but it does mean you lose good people from the state.

Tom Harrison, Montana Association of Certified Public Accountants, presented his testimony in opposition to the bill. At the request of **Rep. Elliott**, Mr. Harrison's verbatim testimony is attached to these minutes as Exhibit #32.

Dennis Burr, Montana Taxpayers Association, said the fiscal note shows tax revenue of $15 million out of a tax increase of $30 million. The problem the legislature is trying to solve is a cash flow problem of $50 million. He also noted that 20% of the taxpayers in the highest bracket ($120,000 and above) have no wage, or working, income. That would indicate they are one-time revenue sources. He urged the Committee to defeat the bill.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

REP. ELLIOTT closed by saying this is a bill of who not to tax any more. It is designed to protect middle-income Montanans. If the wealthy are not moving into this state why are so many people angry in western Montana about the rich Californians who are moving in and buying up all the recreational and lakefront properties? If S corporations are moved into the corporate tax structure, and we lose a significant amount of tax revenue as a result, we can change the corporate tax structure. **REP. ELLIOTT** said he believes a taxpayer should pay according to his ability to pay which is a proportionate or progressive tax policy. Under this bill, the top marginal rate will stay at 11%. Montana income tax is mid-stream in income taxes of states with income tax. It is the 5th lowest in the states overall. If people want to leave because they don't want to pay to support this state, perhaps we do not need that kind of citizen in this state. Rep. Elliott said this is fair bill. The middle class Montanan has born the brunt long enough.

EXECUTIVE ACTION ON HOUSE BILL 19

Motion: **REP. McCARTHY MOVED HB 19 DO NOT PASS.**

Vote: The motion **CARRIED** with **REP. Ellison** voting no.

EXECUTIVE ACTION ON HOUSE BILL 11

Motion: **REP. THOMAS MOVED HB 11 DO PASS.**

Discussion: **James Borchardt, Chief Examiner, Auditor's Office,** presented his report as requested by **REP. RANEY** (Exhibit #33).

REP. NELSON asked **Mr. Hopgood** about the impact of future insolvencies on the general fund.

Mr. Hopgood said the current insolvencies will have much less of an impact on the state than the Life of Montana case. Executive Life will impact at approximately $3 million, however, it is paying eighty cents on the dollar. Therefore, the state may only be responsible for 20% of the $3 million. He estimated the other companies' insolvencies will be less than that of Executive Life. He noted the assessments are capped at a percentage of the premium tax that is paid.

REP. THOMAS said the bill should be amended to eliminate the retroactive effective date to avoid the legal challenge to breaking the contract with the Guaranty Fund companies.

Motion/Vote: **REP. THOMAS moved to amend the effective date to apply only to future insolvencies that occur after the date of passage and approval.**

REP. RANEY said it is his understanding that if this amendment is accepted, there will be no revenue gain this year.

REP. THOMAS said that is true, but there would be no further revenue loss either.

REP. RANEY said there does not seem to be a need for the bill if we amend it as there would be no revenue generated for this biennium. In order to maintain the integrity of the bill it would have to be amended to say that they cannot take the offset from 1992 forward, but that we would not be going from 1991 back.

REP. GILBERT said he was afraid everyone was confused and he made a **SUBSTITUTE MOTION TO MOVE HB 11 INTO SUBCOMMITTEE.**

Vote: **The motion CARRIED unanimously.**

ADJOURNMENT

Adjournment: 10:30 a.m.

Dan Harrington

Rep. Dan Harrington, Chair

Jill D. Rohyans

Jill D. Rohyans, Secretary

DH/jdr

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 7/9/92

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

HOUSE STANDING COMMITTEE REPORT

July 9, 1992

Mr. Speaker: We, the committee on Taxation report that HB0019 (first reading copy -- white) do not pass.

Signed: ______________________
Dan Harrington, Chairman

CT

41349SC.HRT

HOUSE TAXATION
EXHIBIT 1
DATE 7/9/92
HB 1?

MONTANA DEPARTMENT OF REVENUE

VIDEO GAMING TAX BILL

July 9, 1992

MISTER CHAIRMAN, MEMBERS OF THE COMMITTEE. FOR THE RECORD MY NAME IS DENIS ADAMS, DIRECTOR OF THE DEPARTMENT OF REVENUE. THIS IS A FIRST FOR ME. THIS IS THE FIRST TIME I HAVE TESTIFIED IN SUPPORT OF A TAX INCREASE. PLEASE BEAR WITH ME IF I STUTTER AND STAMMER OVER THE WORD "INCREASE". IT JUST HAS DIFFICULTY COMING OFF MY TONGUE.

IT IS VERY DIFFICULT FOR THE ADMINISTRATION TO SUPPORT A TAX INCREASE. HOWEVER, WE WERE UNABLE TO COME UP WITH SUFFICIENT CUTS TO AVOID REQUESTING NEW REVENUE. MAYBE THE LEGISLATURE WILL HAVE MORE SUCCESS THAN WE DID IN BALANCING THE BUDGET WITH ADDITIONAL CUTS SO AS TO AVOID ANY TAX INCREASES. IF YOU ARE SUCCESSFUL, THEN YOU CAN AVOID THIS TAX INCREASE OR ANY OTHER TAX INCREASES.

WHEN LOOKING AT POSSIBLE SOURCES OF NEW REVENUE, WE LOOKED AT WHERE WE STOOD WITH VARIOUS TAXES. OUR OIL AND GAS TAXES ARE THE HIGHEST IN THE NATION, OUR COAL SEVERANCE TAXES ARE THE HIGHEST IN THE NATION, OUR PERSONAL PROPERTY TAXES ARE THE HIGHEST IN THE NATION, AND OUR INDIVIDUAL INCOME TAXES ARE ABOVE AVERAGE. THE ONLY TAX THAT WE COULD IDENTIFY WHERE WE ARE LOWEST IN THE NATION IS THE VIDEO GAMING TAX. ANOTHER FACTOR WHICH WE LOOKED AT IN A TAX WAS ONE IN WHICH THE TAX WOULD NOT SLOW DOWN THE ECONOMIC ACTIVITY. AN INCREASE IN THE VIDEO GAMING TAX WILL NOT SLOW DOWN THE RATE AT WHICH THE PLAYERS INSERT THEIR QUARTERS SO THERE WILL NOT

BE ANY LOST REVENUE TO THE STATE OR LOCAL GOVERNMENTS AND THIS IS BORNE OUT BY EXPERIENCES IN ANOTHER STATE WHICH I WILL DISCUSS LATER.

WHEN I USE THE TERM GROSS MACHINE INCOME OR MACHINE INCOME, I AM REFERRING TO THE AMOUNT OF INCOME NET OF ANY CASH PAID OUT. THIS IS THE AMOUNT THAT GOES TO THE OWNER OR DISTRIBUTOR BEFORE THE TAX IS PAID. AS WITH SEVERAL OTHER TAXES SUCH AS OIL, GAS, COAL, TELEPHONE LICENSE TAX, CONSUMER COUNSEL TAX, AND PUBLIC SERVICE REGULATION TAX, THIS IS A TAX ON GROSS PROCEEDS.

WHAT ARE SOME OF THE CHARACTERISTICS OF VIDEO GAMING IN MONTANA? WE HAVE OVER 12,000 VIDEO GAMING MACHINES - MORE THAN ANY OTHER STATE - LOCATED IN OVER 1,600 ESTABLISHMENTS. THE NUMBER OF MACHINES PER ESTABLISHMENT RANGE FROM 1 TO 20 WITH AN AVERAGE OF 7.4 MACHINES PER ESTABLISHMENT. APPROXIMATELY $350 MILLION OF QUARTERS ARE PLUGGED INTO THESE MACHINES EACH YEAR WHICH MAKES THIS BUSINESS LARGER THAN MANY INDUSTRIES IN MONTANA. INDIVIDUAL MACHINE INCOME RANGES FROM LESS THAN $1,000 PER YEAR PER MACHINE TO MORE THAN $50,000 PER MACHINE PER YEAR. THE AVERAGE COST PER MACHINE IS BETWEEN $3,500 AND $4,000 BUT MAY BE AS HIGH AS $7,000 - $8,000 PER MACHINE.

APPROXIMATELY 20 PERCENT OF THE ESTABLISHMENTS WITH AN ON-PREMISE ALCOHOLIC BEVERAGE LICENSE DO NOT HAVE ANY VIDEO GAMING MACHINES. THESE ESTABLISHMENTS SURVIVE WITHOUT ANY RELIANCE ON VIDEO GAMING MACHINES. ANOTHER 135 ESTABLISHMENTS ONLY HAVE 1 MACHINE WHICH SHOWS A VERY LIMITED RELIANCE ON VIDEO GAMING, ALTHOUGH SOME OF THESE 1

MACHINE ESTABLISHMENTS GENERATE IN EXCESS OF $25,000 PER YEAR FROM THE SINGLE MACHINE. SOME OF THE 1 MACHINE ESTABLISHMENTS ARE HEALTH CLUBS, GOLF COURSES, CONVENIENCE STORES, PIZZA PLACES, AND GAS STATIONS. I HAVE TWO HANDOUTS I WOULD LIKE TO REVIEW WITH YOU - THE FIRST SHOWS THE DISTRIBUTION OF GROSS MACHINE INCOME BY ESTABLISHMENT FOR THE LAST 4 QUARTERS. IT SHOWS THE NUMBER OF ESTABLISHMENTS THAT FALL WITHIN EACH BRACKET. AS YOU CAN SEE FROM THIS SUMMARY, WE HAVE 10 ESTABLISHMENTS REPORTING IN EXCESS OF $1 MILLION FROM THE 20 MACHINES. WE HAVE 25 ESTABLISHMENTS REPORTING LESS THAN $1,000 OF MACHINE INCOME PER 12 MONTHS. SOME OF THESE ESTABLISHMENTS WITH LOW INCOMES MAY BE NEW ESTABLISHMENTS OR SEASONAL OPERATIONS.

THE SECOND HANDOUT SHOWS THE DISTRIBUTION OF ESTABLISHMENTS AND INCOME BY NUMBER OF MACHINES PER ESTABLISHMENT. THIS HANDOUT ONLY COVERS THOSE ESTABLISHMENTS WHERE THE MACHINES ARE IN OPERATION 80 DAYS OR MORE PER QUARTER SO IT ONLY COVERS 1,431 OF THE 1,600+ ESTABLISHMENTS. AS YOU CAN SEE, THE AVERAGE ESTABLISHMENT INCOME FOR ESTABLISHMENTS WITH 1 MACHINE IS $10,603. THE AVERAGE REPORTED ESTABLISHMENT INCOME FOR ESTABLISHMENTS WITH 20 MACHINES IS $642,442.

MONTANA IS THE ONLY STATE OR PROVINCE WHICH DOES NOT HAVE SOME TYPE OF CENTRALIZED COMPUTER MONITORING SYSTEM. MONTANA STILL HAS TO DO MANUAL INSPECTIONS AND AUDITS ON THE MACHINES TO INSURE THEY ARE FUNCTIONING PROPERLY AND THE CORRECT AMOUNT OF TAX HAS BEEN PAID. WITH THE LARGE NUMBER OF MACHINES AND LOCATIONS, IT IS IMPOSSIBLE TO PERFORM THIS TASK IN A TIMELY MANNER.

THE REASON I WANTED TO SHOW YOU THE INCOME PER MACHINE AND PER ESTABLISHMENT IS THAT I AM SURE YOU WILL HEAR TODAY HOW RAISING THE TAX WILL PUT ESTABLISHMENTS OUT OF BUSINESS. AS WE HAVE LOOKED AT THE COST PER MACHINE AND INCOME PER MACHINE IN EACH AREA OF THE STATE, THERE IS NO EVIDENCE THAT ALL ESTABLISHMENTS IN AN AREA ARE DOING POORLY BY THE MACHINES. SOME ESTABLISHMENTS MAY BE DOING EXTREMELY WELL WHILE DOWN THE STREET THE ANOTHER ESTABLISHMENT MAY JUST BE GETTING BY. BUT A LOT OF THAT DIFFERENCE IS DO TO MANAGEMENT AND YOU CAN'T LEGISLATE GOOD MANAGEMENT. RIGHT NOW WE HAVE BOTH CASINOS AND BARS GO BANKRUPT WHILE THE ONES DOWN THE STREET IN THE SAME TOWN ARE DOING GREAT. AND THE DIFFERENCE IS DO TO MANAGEMENT. THERE IS ALSO A CONSTANT CHANGE IN THE NUMBER OF ESTABLISHMENTS WITH VIDEO GAMING MACHINES. SOME OF THOSE WITH FEW MACHINES AND LIMITED ACTIVITY DROP OUT WHILE OTHER ESTABLISHMENTS ADD MACHINES FOR THE FIRST TIME. THERE IS A LOT OF INTEREST ON THE PART OF CONVENIENCE STORES, TRUCK STOPS, AND LAUNDROMATS TO ADD MACHINES AT THIS TIME. I HAVE BEEN SWAMPED WITH APPLICATIONS FOR NEW ON-PREMISE ALCOHOLIC BEVERAGE LICENSES WHERE THE SOLE PURPOSE IS TO INSTALL VIDEO GAMING MACHINES, NOT SERVE ALCOHOLIC BEVERAGES.

ANOTHER REPORT WHICH I HAVE DISTRIBUTED TO YOU IS A COMPARISON OF VIDEO GAMING IN MONTANA AND SOUTH DAKOTA. THE REPORT FOCUSES ON THE SIMILARITIES AND DIFFERENCES BETWEEN THE REGULATORY AND TAXATION ENVIRONMENTS OF VIDEO GAMING IN THE TWO STATES. I AM ONLY GOING TO HIGHLIGHT CERTAIN OF THE DIFFERENCES. SOUTH DAKOTA HAS A 10 MACHINE LIMIT; MONTANA HAS A 20 MACHINE LIMIT. SOUTH DAKOTA HAS 6,600+ MACHINES WHILE MONTANA HAS 12,000+ MACHINES. SOUTH DAKOTA HAS 1,300+

Ex. # 1 HB 19
7/9/92

ESTABLISHMENTS; MONTANA HAS 1,600+ ESTABLISHMENTS. SOUTH DAKOTA HAS A 35 PERCENT TAX RATE; MONTANA HAS A 15 PERCENT TAX RATE. BOTH TAXES ARE CALCULATED ON THE SAME GROSS MACHINE INCOME.

SOUTH DAKOTA'S TAX STARTED AT 22.5 PERCENT, WAS THEN INCREASED TO 25 PERCENT AND THEN WAS INCREASED AGAIN TO 35 PERCENT. IN EACH YEAR FOLLOWING THE TAX INCREASE, THERE WAS AN INCREASE IN THE NUMBER OF ESTABLISHMENTS, THE NUMBER OF MACHINES AND THE AVERAGE GROSS MACHINE INCOME. I DON'T KNOW WHERE YOU WILL FIND MORE CONCLUSIVE EVIDENCE THAT RAISING THE TAXES HAS NO IMPACT ON THE GAMING ACTIVITY.

THE ONE THING THAT WAS OBVIOUS WITH SOUTH DAKOTA, AND IT MAY BE IMPORTANT IN THE FUTURE IN MONTANA, WAS THAT IF YOU HAVE OTHER TYPES OF GAMBLING SUCH AS SLOT MACHINES AND 21, THEN VIDEO GAMING MAY BE HURT. IN ONE SMALL AREA OF SOUTH DAKOTA - DEADWOOD - THERE IS CASINO STYLE GAMBLING. IN DEADWOOD AND THE BLACKHILLS, VIDEO GAMING DOES NOT FLOURISH. LESS THAN 10 PERCENT OF THE STATE'S VIDEO GAMING MACHINES ARE LOCATED IN THE BLACKHILLS. IN DEADWOOD THERE ARE ONLY 158 VIDEO GAMING MACHINES WHILE THERE ARE OVER 1,700 SLOT MACHINES. THE AREAS OF SOUTH DAKOTA WITH THE LARGEST VIDEO GAMING OPERATIONS ARE THOSE FARTHEST REMOVED FROM DEADWOOD. SIOUX FALLS HAS ALMOST 20 PERCENT OF THE MACHINES. FOR THOSE OF YOU NOT FAMILIAR WITH SOUTH DAKOTA, SIOUX FALLS IS FARTHER FROM DEADWOOD THAN BILLINGS.

I HAVE ANOTHER HANDOUT WHICH SHOWS THE RELATIVE PROPERTY TAXES AND LICENSE FEES THAT WOULD BE PAID BY AN ESTABLISHMENT IN HELENA, MONTANA AND RAPID CITY, SOUTH

DAKOTA. AS MANY OF YOU KNOW, SOUTH DAKOTA HAS NO PERSONAL PROPERTY TAX, BUT A RELATIVE HIGH REAL PROPERTY TAX. WHEN YOU LOOK AT THE COST PER ESTABLISHMENT FOR TAXES AND LICENSE FEES, SOUTH DAKOTA PAYS MORE. IN ADDITION THEY HAVE A HIGHER GROSS MACHINE INCOME TAX. I ONLY FOCUSED ON THOSE TAXES WHICH ARE PECULIAR TO THE GAMING INDUSTRY. THERE ARE OF COURSE DIFFERENCES IN OTHER TAXES SUCH AS WORKERS COMPENSATION, INCOME TAXES, SALES TAXES, ETC. HOWEVER, ALL MONTANA BUSINESSES ARE SUBJECT TO THOSE TAXES, WHETHER OR NOT THEY HAVE VIDEO GAMING AND AS I HAVE ALREADY POINTED OUT, MANY ELIGIBLE ESTABLISHMENTS IN MONTANA DO NOT HAVE VIDEO GAMING MACHINES.

I DON'T KNOW WHAT THE COMMITTEE WILL DO WITH THIS BILL. WE ARE CERTAINLY WILLING TO LOOK AT AMENDMENTS. IF YOU DON'T NEED ANY ADDITIONAL REVENUE BECAUSE YOU CAN BALANCE THE BUDGET WITH CUTS, THEN THERE IS NO NEED FOR THIS BILL. BUT I CAN ASSURE YOU THAT IF YOU ARE GOING TO NEED ADDITIONAL REVENUE, YOU MAY FIND IT ADVANTAGEOUS TO KEEP THIS BILL AROUND.

HOUSE TAXATION
EXHIBIT 2
DATE 7/9/92
HB 19

VIDEO GAMBLING:

A COMPARISON BETWEEN MONTANA AND SOUTH DAKOTA

Prepared for

The July 1992 Special Legislative Session

Montana Department of Revenue
Office of Research and Information
June 26, 1992

Ex. # 2 HB 19
7/9/92

GENERAL INFORMATION

Both Montana and South Dakota allow and tax video gambling activities. The regulatory and tax systems are similar in some ways and differ substantially in others. This report will focus on the major similarities and differences between the regulatory and taxation environments of video gambling in these two states.

Montana

In Montana, video keno and bingo were legalized in 1976 (by Montana Supreme Court decision) and video poker was legalized in 1985 (by the 1985 Legislature). There are approximately 12,449 machines located in 1,691 establishments; for an average of 7.4 machines per location. In fiscal year 1991, total gross machine income (cash collected minus cash paid out) from all machines was over $137 million, and is estimated to be $160 million for fiscal year 1992.

Table 1

Number of Machines and Establishments

	Num. of Machines	Num. of Estab.	Avg. Num. per Estab.
Montana	**12,449**	**1,691**	**7.4**
South Dakota	**6,672**	**1,371**	**4.9**

South Dakota

Video gambling was legalized in South Dakota in 1989. There are 6,672 video gambling machines distributed throughout 1,371 establishments; for an average of 4.9 machines per establishment. Gross machine income for fiscal year 1991 was $107 million and is estimated to be $125 million for fiscal year 1992.

TAXATION

Video Gambling Tax

The video gambling taxes in both Montana and South Dakota apply to the same source: gross machine income. Gross machine income is defined as the amount of cash collected minus any cash paid out from a video gambling machine. There are no deductions allowed in either state for other machine operating expenses. The primary difference between the two states is in the tax rates applied to gross machine income. Montana taxes video gambling at 15% of gross machine income, while South Dakota imposes a 35% tax on gross machine income. When South Dakota first allowed video gambling in 1989, the tax rate was set at 22.5%. As a result of video gambling success, South Dakota increased the tax rate to 25% in 1991, and to 35% in 1992. Montana's tax has remained at 15% since implementation.

Table 2

Video Gambling Tax Rates

Montana	**15%**
South Dakota	**35%**
Louisiana	**22.5%**
Oregon	**45%***

*Oregon owns the machines and retains an extra 20% (total = 65%) for machine operation.

Property Tax

Video gambling machines in Montana are classified as business personal property and 9% of their appraised value is taxable. A four year depreciation schedule is used on video gambling machines. South Dakota does not tax business personal property, therefore, no property taxes are paid on the video gambling machines. While South Dakota does not tax personal property, its effective tax rates on real property are substantially higher than in Montana and consequently an establishment owner may pay more in property tax in South Dakota than in Montana. A recent study was conducted by the Department which noted that only 68% of the video gaming machines were actually paying property taxes in Montana.

REGULATION

Restrictions

In both states video gambling is restricted to establishments which are on-premise alcohol licensees (both all-beverage and beer/wine licensees).[1] Montana allows up to 20 machines per location of Keno, Bingo and Poker limited to a single type of game. South Dakota allows up to 10 machines per establishment of Blackjack, Poker and Keno games with a multi-game format (a particular machine can play two or more allowable games). Minimum pay-out is 80% and average payout is approximately 90-92% in both states. Maximum payout per bet is $1,000 for all games in South Dakota, while Montana allows a maximum payout of $800 on Keno and $100 on Poker. Maximum wagers are $2 in both states.

[1] Montana "grandfathered" some locations not having on-premise liquor licenses.

License Fees

South Dakota requires each establishment, regardless of the number of machines in place, to pay a $50 initial application fee which is nonrefundable. Every year thereafter, each establishment must pay $100 per year, regardless of the number of machines. During fiscal year 1991, South Dakota collected approximately $382,310 of these establishment license fees. South Dakota also requires machine owners (either coin operator or establishment owner) to pay $100 annually per machine, or $1,000, whichever is greater. In fiscal year 1991, approximately $658,000 was collected in machine license fees. In fiscal year 1991, establishment *and* machine license fees represented approximately 4.0% of total video gambling taxes and fees.

Montana requires operators to pay a license fee of $200 per year per machine which is prorated on a quarterly basis. During fiscal year 1991, Montana collected $2,533,000 in license fees representing about 11% of total video gambling tax and license revenue.

Regulatory Systems

Video gambling in Montana is regulated by the Department of Justice, Gambling Control Division. The division is responsible for regulating all forms of gambling in Montana other than the state lottery and parimutuel racing. The video gambling machine operators are required to calculate and pay their tax liability quarterly. The gambling control division staff periodically conduct manual inspections and audits on the machines to ensure they are functioning properly and the correct amount of tax has been paid.

The South Dakota Lottery is the regulatory agency for video gambling as well as the lottery in South Dakota. Instead of a manual audit method, South Dakota relies on a dial-up computer communications system to ensure proper machine operation and maintain financial integrity. Each machine is audited and inspected daily through the dial-up computer system. South Dakota collects the tax payments every two weeks from the operators via electronic fund transfers.

It is difficult to obtain an actual number of FTE currently regulating video gambling in either state because both agencies and their personnel are responsible for games and programs other than video gambling. The South Dakota Lottery *estimates* that approximately 22.5 FTE are involved in the administration and enforcement of their Video Lottery program.

GROWTH TRENDS

Despite the increase in the tax rate, the number of machines and establishments, as well as total gross income have continued to increase in South Dakota. In Montana, the number of machines and the gross machine income have continued to grow, and the number of establishments has levelled off, while the tax rate has remained stable. These trends are listed in Table 3 on the following page.

Table 3
Growth Rates for Establishments, Gross Machine Income, and Machines
Montana and South Dakota

Montana	1990	1991	1992est	90-92 Change
Tax Rate	15%	15%	15%	0%
Num. of Establishments	1,663	1,684	1,691	1.7%
Total Gross Machine Income	$113 mil	$137 mil	$160 mil	42%
Num. of Machines	9,856	10,972	12,449	26%
Avg. Gross Machine Income	$11,465	$12,486	$12,852	12%

South Dakota	1990*	1991	1992est	90-92 Change
Tax Rate	22.5%	23.75%**	30%***	56%
Num. of Establishments	993	1,358	1,371	38%
Total Gross Machine Income	$46 mil	$107 mil	$125 mil	171%
Num. of Machines	3,813	5,763	6,672	75%
Avg. Gross Machine Income	$12,063	$18,566	$18,735	55%

*South Dakota Video gambling machines were only in operation for 8 months during FY90. **The tax rate was 22.5% for the first half of the fiscal year and 25% for the second half. ***The tax rate was 25% for the first half of the fiscal year and 35% for the second half.

TAX IMPACTS PER MACHINE

The average gross machine income per year is approximately $12,850 in Montana and $18,700 in South Dakota. If Montana were to increase the tax rate to 35% of GMI, the average machine would net the operator 25% less in gross proceeds and yield the state 133% more in tax revenue. Table 4 illustrates the absolute impact to net tax and gross profit per machine if Montana were to increase the tax rate to equal that of South Dakota (35%).

Table 4

Impact to Gross Proceeds and Net Tax
15% vs. 35% Tax

Tax Rate	Gross Proceeds Before Tax	Tax	Gross Proceeds After Tax
15%	$12,850	$1,928	$10,922
35%	$12,850	$4,498	$8,352

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Video Gambling Tax
Distribution of Gross Machine Income
By Establishment, Last Four Quarters
July, 1992

Gross Machine Income Bracket	Number of Establishments
0 – 1,000	25
1,001 – 2,000	41
2,001 – 3,000	38
3,001 – 4,000	39
4,001 – 5,000	33
5,001 – 6,000	43
6,001 – 7,000	38
7,001 – 8,000	31
8,001 – 9,000	28
9,001 – 10,000	27
10,001 – 15,000	138
15,001 – 20,000	135
20,001 – 25,000	104
25,001 – 50,000	340
50,001 – 75,000	223
75,001 – 100,000	103
100,001 – 150,000	101
150,001 – 200,000	38
200,001 – 250,000	33
250,001 – 300,000	23
300,001 – 350,000	22
350,001 – 400,000	11
400,001 – 450,000	6
450,001 – 500,000	9
500,001 – 600,000	12
600,001 – 700,000	10
700,001 – 800,000	12
800,001 – 900,000	5
900,001 – 1,000,000	3
1,000,001 – 1,250,000	4
1,250,001 +	6

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Distribution of Establishments and Income
By Number of Machines per Establishment
Fiscal Year 1992

Machines Per Establishment	Number of Establishments	Total Gross Machine Income	Average Income (from machines) per Establishment
1	135	1,431,433	10,603
2	153	2,322,541	15,180
3	158	3,136,571	19,852
4	194	6,363,482	32,801
5	123	5,500,907	44,723
6	136	7,986,937	58,741
7	99	6,956,986	70,273
8	75	5,664,811	75,531
9	50	4,486,883	89,738
10	43	4,409,795	102,553
11	27	3,348,454	124,017
12	29	4,704,523	162,225
13	19	3,642,445	191,708
14	31	7,155,119	230,810
15	22	4,968,317	225,833
16	19	7,239,947	381,050
17	25	9,009,736	360,389
18	23	10,070,377	437,842
19	18	8,962,993	497,944
20	52	33,407,005	642,442
TOTAL	1431	140,769,264	

NOTE: Data is actual for 1st, 2nd, and 3rd quarters; income is estimated for 4th quarter.
Data is based machines in operation 80 days or more per quarter.

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PROPERTY TAXES AND FEES PAID BY "TYPICAL" CASINO OPERATION
Montana vs. South Dakota

TAXES	HELENA, MONTANA	RAPID CITY, S. DAKOTA
A. Property Taxes		
Real Property		
Market Value	$406,000	$406,000
Taxable Value	15,672	406,000
Tax Paid	6,510	15,042
Personal Property		
Market Value	71,000	71,000
Taxable Value	6,390	0
Tax Paid	2,654	0
Total Property Taxes	$9,164	$15,042
B. Video Gambling License Fees		
Location License Fee	0	100
Machine License Fee	$200/machine	$100/machine
Number of Machines	10	10
Total Machine Lic. Fees	2,000	1,000
Total License Fees	$2,000	$1,100
TOTAL TAXES AND FEES PAID	**$11,164**	**$16,142**

HOUSE TAXATION
EXHIBIT 6
DATE 7/9/92
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TESTIMONY OF MARK STAPLES, LOBBYIST
BEFORE THE HOUSE TAXATION COMMITTEE
RE: PROPOSED VIDEO GAMING TAX INCREASE
JULY 9, 1992

CHAIRMAN HARRINGTON AND MEMBERS OF THE COMMITTEE:

GOOD MORNING, MY NAME IS MARK STAPLES. I REPRESENT THE MONTANA TAVERN ASSOCIATION. I'M SURE YOU ASSUME THAT IN RELATIONSHIP TO THIS BILL, THE TAVERN ASSOCIATION WILL APPEAR AS A DOCTOR KERVORKIAN, BUT IN FACT, WE WELCOME IT, AND WE THANK REPRESENTATIVE ELLISON FOR BRINGING IT. THERE IS SO MUCH MISINFORMATION AND MYTH-INFORMATION ABOUT GAMING IN MONTANA THAT THIS IS A PERFECT OPPORTUNITY FOR THOSE INVOLVED IN IT TO HELP YOU UNDERSTAND IT BETTER.

WHEN YOU HAVE THAT UNDERSTANDING, WE TRUST THAT YOU WILL SEE THAT THE COMPARISONS TO OTHER STATES ARE NOT ONLY INACCURATE, BUT IRRELEVANT - THAT GAMING IN MONTANA IS FULFILLING ITS ORIGINAL ROLE SUCCESSFULLY IN PROVIDING A STEADY GROWTH IN REVENUES TO LOCAL GOVERNMENT WHILE PROVIDING JOBS AND GROWTH IN THE PRIVATE SECTOR, AND ALL THE WHILE, PAYING FOR ITS OWN REGULATION AND STILL PUTTING $6 MILLION INTO THE GENERAL FUND THIS YEAR. IN FACT, I HOPE YOU'LL COME TO UNDERSTAND THAT GAMING ALREADY PROVIDES $5 MILLION MORE A YEAR IN DIRECT REVENUE TO MONTANA THAN EVEN LIQUOR, WHICH IS THE HIGHEST TAXED COMMODITY IN BOTH THE UNITED STATES AND MONTANA.

IN ADDITION, WHEN YOU STUDY ALL THE OTHER TAXES THAT GAMING RELATED INDUSTRY PAYS, YOU'LL SEE THAT IN FACT IT PAYS AT LEAST DOUBLE THE TAX THAT IS ATTRIBUTED TO IT. AND YET, THAT TAX IS NOT YET AT A FIGURE THAT ~~IMPEDES THAT GROWTH.~~ YOU HAVE PUT IT RIGHT ON
KILLS ALL GROWTH.

THAT FINE LINE BETWEEN GROWTH AND DISCOURAGEMENT. AND THAT'S WHERE IT SHOULD STAY - AT A PLACE THAT ACCOMPLISHES ITS ENDS, BUT STILL, IF YOU ARE WILLING TO INVEST AND WORK VERY HARD, YOU CAN MAKE A PROFIT. IN THE WORDS OF THE BADGES YOU SEE IT THIS ROOM, IT WORKS - IF YOU LET IT ALONE.

IT HAS BEEN REPORTED BY THE PRESS THAT GAMING TAX BILLS ARE UNPOPULAR AND IT IS IMPLIED THAT IT IS BECAUSE OF THE INFLUENCE OF THE MONTANA TAVERN ASSOCIATION. WELL, I SUBMIT TO YOU THAT THIS INFLUENCE DID NOT CARRY THE ISSUE OF "21" WHEN YOU SAW FIT TO REJECT IT. I SUBMIT THE REASON THESE BILLS ARE UNPOPULAR IS BECAUSE A GROWING BODY OF YOU ~~ARE~~ SEE~~ING~~S THE UNFAIRNESS OF IT. IT IS MY HOPE, AFTER TODAY, THAT YOU CAN CLEARLY STATE TO ANYBODY, THAT YOU HAVE MORE THAN ENOUGH REASON TO OPPOSE ANY TAX INCREASE IN GAMING.

AT THE MONTANA TAVERN ASSOCIATION'S GUBERNATORIAL FORUMS BEFORE OUR JUNE PRIMARY, BOTH REPRESENTATIVE BRADLEY AND ATTORNEY GENERAL MARC RACICOT SAID THE 15% TAX WAS PLENTY HIGH ENOUGH AND, IN FACT, ATTORNEY GENERAL RACICOT TOLD US THAT HE BELIEVED THE TAX SHOULD NOT BE RAISED BY ANY AMOUNT. HE ALSO STATED THAT HE THOUGHT WE HAD A PERCEPTION PROBLEM AND THAT IT WAS UP TO THE INDUSTRY TO EDUCATE THE LEGISLATURE AS TO WHO WE ARE AND THE REALITIES OF THE WORKINGS OF THIS INDUSTRY AND WHY 15% IS ALREADY A VERY, VERY SUBSTANTIAL FIGURE.

TODAY, HERE TO TESTIFY ARE PEOPLE FROM EVERY LEVEL OF THE GAMING INDUSTRY, AND THOSE ~~TANGENTIALLY~~ AFFECTED BY IT. WE HAVE DISTRIBUTORS, MANUFACTURERS, OPERATORS, EMPLOYEES, BANKERS, ACCOUNTANTS, REPRESENTATIVES OF LOCAL GOVERNMENT, AND ALSO THOSE

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CAUGHT IN THE MIDDLE OF THE IMPASSE BETWEEN SIX RESERVATIONS IN MONTANA AND THE STATE GOVERNMENT. WE DID NOT HAVE TO CALL THESE PEOPLE. IN FACT, THE HARDEST PART OF PREPARING FOR THIS HEARING WAS TO HAVE TO ASK DOZENS AND DOZENS OF THOSE WHO WISHED TO TESTIFY TO HOLD BACK SO THAT YOU WOULD NOT BE OVERWHELMED. MR. RACICOT, WHO, AS HEAD OF THE DEPARTMENT OF JUSTICE, SHOULD KNOW WHETHER OR NOT THIS IS A FAIR TAX, SAID THAT 15% IS PLENTY ENOUGH, BUT SAID WE NEED TO EDUCATE YOU TO THAT FACT. WE THANK YOU, REPRESENTATIVE ELLISON AND THIS COMMITTEE FOR THAT OPPORTUNITY TODAY TO PROVIDE YOU THE WISDOM THAT ANY TAX INCREASE IN THIS ALREADY HEAVILY-TAXED INDUSTRY IS TOO MUCH.

THANK YOU.

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THOUGHTS TO ADD SOMEWHERE:

WE'VE HELPED OUR SHARE OF CRISIS. THE LOCAL GOVERNMENT CRISIS - IN THE WAKE OF I-105 AND THE LOSS OF FEDERAL REVENUE SHARING, THE TAVERN INDUSTRY CRISIS, THE WORKERS' COMP. CRISIS, AND MOST RECENTLY, THE LAST FEDERAL ATTEMPT TO BALANCE THE BUDGET ON THE BACKS OF LIQUOR AND BEER, WHICH SAW ENORMOUS INCREASES IN THE PAST 18 MONTHS, INCREASES WHICH HAVE YET TO BEEN ABSORBED AND ADJUSTED TO, AND WHICH HAVE COST BOTH THE FEDERAL AND STATE GOVERNMENT REVENUES AND THE INDUSTRY CUSTOMERS. IN THIS CRISIS, WE ALL NEED TO DO OUR SHARE. I SUBMIT THIS IS AN INDUSTRY THAT ALREADY HAS.

THIS IS NOT A TAX THAT CAN BE PASSED ON TO THE CONSUMER. THERE IS NO METHOD FOR IT. UNLIKE NUMEROUS OTHER TAX PROPOSALS BEFORE YOU IN THIS SESSION, THIS WOULD BE A TAX INCREASE THAT SIMPLY COULD NOT BE PASSED ONTO THE CONSUMER. IN FACT, THOSE FEDERAL TAXES THAT MIGHT HAVE BEEN, BUT FOR THE MOST PART WEREN'T BECAUSE PLAIN AND SIMPLY THE CONSUMERS SIMPLY WOULDN'T STAND IT FOR IT. TO THE EXTENT THAT THEY WERE, BOTH AT THE FEDERAL AND STATE LEVEL, IT'S HURT CONSUMPTION AND IN THE END, YOUR TAX REVENUES.

HOUSE TAXATION

EXHIBIT 7
DATE 7/9/92
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CITY OF HAVRE

Phone (406)265-6719
P.O. Box 231
HAVRE, MONTANA 59501

TO: MEMBERS OF MONTANA LEGISLATURE

FROM: **Donald X. Driscoll, Mayor, City of Havre**

SUBJECT: INCREASE IN VIDEO GAMING MACHINE TAX

Please be advised that I am vehemently opposed to the proposed increase in the video gaming machine tax from 10% to 35%. In fact, I am opposed to any arbitrary increase in the video tax. As you well know, local governments are hard pressed to meet current budget obligations due to the imposition of I-105 and the accompanying loss of federal revenue sharing funds. Our share of the gaming machine tax has made it possible for us to barely keep our head above water. Therefore, it is prudent that we oppose any action that would jeopardize our share of gambling related income. Local businesses involved in operating video gaming machines have expended considerable resources in facility improvements, expansion, job creation and Canadian advertising all of which has led to an increase in tax receipts to the local area government. It is imperative that no legislative action is passed that will inhibit local businesses from continuing to expend the funds to attract visitors to the Havre area.

Thank you for your attention to this matter and I am always available for further discussion.

Sincerely,

Donald X. Driscoll

Donald X. Driscoll, Mayor
City of Havre

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FIRST NATIONAL BANK OF LEWISTOWN

June 30, 1992

The Honorable Bob Williams
Senate District #43
Box 26
Capitol Station
Helena, MT 59601

Dear Senator Williams:

RE: PROPOSED VIDEO GAMING TAX INCREASE

Governor Stephens' proposal to increase the tax on gross income of gaming machines from 15% to 35% is ridiculous! It would have a detrimental effect on many small businesses and possibly on our state. They are already the highest or near the highest in the nation with the 15% tax. Only riverboats pay more and they do not pay all the other taxes that our businesses currently pay.

The gaming industry has become a very big business for our state. One of our customers, with whom we have a loan, employs approximately 40 people at the present time. Should any tax increase go through on this industry, I am sure we would end up seeing many of these businesses close.

The other part of this proposal that I have heard rumors about is that the percentage of this revenue that would come back to the City and County level would decrease. I also strongly disagree with that proposal because all it would do would be to increase the tax burden of our local people. I don't think creating new taxes such as these is the answer to our problems.

I support a sales tax, but only if it would provide tax relief in other areas, such as property taxes.

I believe there are other ways we can balance our budget and I will give you a couple of scenarios:

#1 - Our State and Federal Governments have created a situation where if a department has a budget of $100,000.00 and they have only spent $90,000.00 with a few days left in their fiscal year, they (the department) create ways to spend

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the other $10,000.00 so that they don't have to have their budget cut automatically the following fiscal year. You and I both know that this could be a total waste of money. I strongly believe that a department should not be penalized from year to year by being frugal one year and having their budget reduced the following year because they saved money.

#2 - Businesses throughout the country and world have incentive plans for their managers and key people to reduce expenses. I know that it may be radical thinking, but I firmly believe that if an incentive plan could be developed for department heads of State and local governments where they could personally share anywhere from 5 - 25% of the money they save in their department, that could balance the budget in a hell of a hurry!

If you would like me to elaborate more on these ideas, I would more than happy, but please DO NOT support any tax increase on our gaming industry because I think they pay enough now.

Thank you for your consideration.

Sincerely,

Alex R. Zier
President

mrt

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STATEMENT OF JOHN TOOKE ON HOUSE BILL 19

before the House Taxation Committee, July 9, 1992

Mr Chairman and members of the Committee:

My name is John Tooke. I am a practicing certifired public accountant and tavern owner from Miles City. I appear today in opposition to House Bill 19.

Many of the proponents' arguments in favor of this legislation depend on comparisons with other states or provinces – and in particular on comparisons with South Dakota. Since I'm from Miles City, I happen to know a litte bit about gambling in South Dakota and its effects on our trade area. A lot of Canadian tourists stop in our town, fill up on gas, give us a head fake and then head on down the road to Deadwood. So I want to take a very few minutes to talk with you about the problems with the comparisons the proponents draw with our neighbors to the east.

First of all, I think it is important to remember where Montana-style recreational gaming originated. We originally authorized gaming in this state for two reasons: One, to help local governments survive the loss of federal revenue-sharing and the property tax freeze of I-105; and Second, to help protect the jobs and sense of community provided by local taverns in the face of tougher DUI laws, changes in alcohol consumption, and so forth.

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You, the Legislature, said early on you wanted to gaming in Montana to be privately run. You encougared operators to establish their own businesses within the the confines of strict state regulation. As a result, private business has invested millions of dollars and created thousands of jobs related to private sector gaming.

Contrast that with video gaming in South Dakota. There, video gaming is an arm of the state-run lottery. Although reasonably successful in raising revenue for the state, it has resulted in very little job creation or spurring new business growth and investment. And that is a fundamental distinction. To compare private sector gaming in Montana with the state-run lottery in South Dakota is comparing apples and oranges.

If the proponents wanted to give you a fair comparison, they would tell you about the gaming tax rates in other places where the private sector runs the gaming. That's what you'll find in Table A attached to the end of my statement. If you look at it, Montana already taxes video gaming more than most jurisdictions that allow privately run gambling. For example, Nevada taxes gaming at 6.25%; New Jersey taxes at 8%. So does Mississippi and, interestingly enough, so does South Dakota, in Deadwood, where they offer true private sector gaming. Colorado just opened up private sector gambling with a tax rate ranging from 4% up to 15%.

Only the riverboats in the Midwest tax private sector gaming more than we already do here in Montana. There the tax rate is 20% of the gross income, compared with 15% of the gross here. However, I hope you read the story several weeks ago about the riverboats in Iowa literally pulling up stakes and floating down the river to Mississippi to find a friendlier tax environment.

Even if you accept as legitimate the comparison between Montana's private sector video gaming tax and South Dakota's share of the state lottery proceeds, you can't look at it in a vacuum. You have to look at overall tax structure of each state to get a fair comparison. That's what I've done in Table B.

The proponents of House Bill 19 want you to consider only the gross machine income tax in Montana, and the state's share of the lottery proceeds in South Dakota. But, look at all the other taxes we pay in Montana that they don't in South Dakota. Here we pay a corporate income tax of 6.75%; South Dakota has none. Here we pay personal income taxes averaging around 7%; South Dakota has none. We pay a business property tax of 9% on our machines; South Dakota has none. Our workers comp rate is about twice what our neighbors in South Dakota pay; our unemployment taxes nearly five times as high. We pay more than two and a half times the taxes on our distilled spirits. In short, every time we turn around, we are getting hit with a tax the folks in South Dakota don't have to worry about.

So what's the bottom line? The proponents of this legislation have argued you ought to support House Bill 19 because they claim South Dakota will raise $43 million compared to the $24 million here in Montana. But, if you'll look at Table C, you'll see when you take into account all the other taxes that we pay, the gaming business in

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Montana already pays more to the state than does the state-run video lottery in South Dakota. And again that doesn't take into consideration the jobs we create or new businesses we form.

Finally, I want to caution you that the 35% tax rate in South Dakota has only been in place about six months. It is too early to tell what effect it will ultimately have. In fact preliminary indications are it is having a significant dampening effect on the video lottery there. New machine permits have fallen off dramatically. Total gross machine income has started to skid. In short, it is too early for the proponents to tell you anything for certain about the outcome of the increase on revenues in South Dakota.

Mr Chairman, other opponents will talk to you about the likely effects of HB19 on private sector gaming here in Montana. I'll only say that any tax increase can kill the golden goose. Please don't buy the proponents' comparisons with South Dakota as a rationale for supporting this bill. For the reasons I've just outlined, that would be s serious mistake.

Thank you for your consideration. I ask you to give this bill a "do not pass."

TABLE A

GAMING TAX RATE COMPARISON

Private Sector Gaming

NEVADA	6.25%
NEW JERSEY	8%
DEADWOOD, SOUTH DAKOTA	8%
MISSISSIPPI	8%
COLORADO	4% TO 15%
MONTANA	**15%**
RIVERBOATS	20%

TABLE B

TOTAL TAX RATE COMPARISONS

Montana vs South Dakota

	MONTANA	SOUTH DAKOTA
GROSS MACHINE INCOME TAX	15%	N/A
STATE SHARE – LOTTERY PROCEEDS	N/A	35%
PERSONAL INCOME TAX	7%	NONE
CORPORATE INCOME TAX	6.75%	NONE
BUSINESS PROPERTY TAX	9%	NONE
WORKERS' COMP TAX	4.49%	2.92%
UNEMPLOYMENT TAX	2.4%	0.5%
DISTILLED LIQUOR TAXES	44.21%	17.51%
GAMING MACHINE PERMIT FEE	$200 / machine	$100 / machine

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TABLE C

TOTAL TAX COMPARISON: MONTANA VS SOUTH DAKOTA

Additional Taxes Collected by Montana Not Collected in South Dakota

PERSONAL PROPERTY TAX – MACHINES	$ 1,785,000
PERSONAL PROPERTY TAX – OTHER FIXTURES	$ 1,391,500
ADDITIONAL MACHINE PERMIT FEES	$ 1,265,800
INCOME TAXES PAID BY GAMING OPERATORS	$ 3,442,500
INCOME TAXES PAID BY GAMING EMPLOYEES	$ 5,460,000
ADDITIONAL UNEMPLOYMENT TAX	$ 1,482,000
ADDITIONAL WORKERS' COMP TAX	$ 1,224,600
ADDITIONAL DISTILLED LIQUOR TAXES	$ 8,677,500
TOTAL ADDITIONAL TAXES PAID BY MONTANA OPERATORS IN EXCESS OF SOUTH DAKOTA LOTTERY	$24,728,900

HOUSE TAXATION

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DATE 7/9/92
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TESTIMONY OF MICHEAL WIGEN, SPOT BAR
BEFORE THE HOUSE TAXATION COMMITTEE
RE: VIDEO GAMING TAX INCREASE
JULY 9, 1992

CHAIRMAN HARRINGTON AND MEMBERS OF THE COMMITTEE:

MY NAME IS MICHEALE WIGEN AND MY HUSBAND, GARY AND I ARE THE OWNERS AND OPERATORS OF THE SPOT BAR IN GREAT FALLS. I AM PLEASED TO BE ABLE TO APPEAR THIS MORNING TO SET TO REST SOME OF THE MYTHS ABOUT THE MONEY THAT'S BEING MADE BY MACHINE OPERATORS IN MONTANA.

IN OUR ESTABLISHMENT, WE HAVE 5 MACHINES. BESIDES THE APPROXIMATELY $17,000 SALARY MY HUSBAND WAS PAID FOR ALL OF LAST YEAR, AND THE $3,000 SALARY I WAS PAID, WE ENDED UP WITH A TAXABLE INCOME FOR THE BUSINESS OF APPROXIMATELY $7,000. GIVEN THE SAME SALES, EXPENSES, COST AND LEVEL OF MACHINE PLAY AS WE HAD LAST YEAR, A 35% GAMING TAX WOULD HAVE REDUCED THAT PROFIT TO $1,200, WHICH REPRESENTS A REDUCTION OF 83% OF THE ENTIRE YEAR'S PROFIT. AN INCREASE FROM 15% TO 25% WOULD HAVE REDUCED THAT PROFIT TO APPROXIMATELY $4,000, OR 43% OF OUR INCOME. EVEN AN INCREASE FROM 15% TO 20% WOULD REDUCE THE PROFIT FOR THE YEAR TO $5,600, OR A 22% REDUCTION IN ANNUAL PROFIT, AND THAT'S IF GROSS REVENUES WOULD STAY THE SAME, AND WITH A TAX INCREASE THEY WON'T. PLEASE DON'T FORGET THAT I CANNOT PASS ANY TAX INCREASE ON GAMING ON TO THE CONSUMER. IT IS A DIRECT ASSAULT ON THE BOTTOM-LINE OF OUR SMALL BUSINESS.

BECAUSE OF THE REASONABLE LEVEL OF PROFIT WE HAD LAST YEAR, WE HAVE ADDED AN EXTRA EMPLOYEE TO OUR STAFF, INCREASED ANOTHER TO FULL-TIME, GIVEN EVERYONE A GOOD SIZE RAISE, AND IMPLEMENTED A SAR-SEP RETIREMENT PROGRAM FOR THEM. IF YOU TAKE THAT PROFIT AWAY THAT

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WE HAVE USED TO IMPROVE OUR EMPLOYEE STANDARD OF LIVING, THE ONLY PERSONS WE CAN PASS THAT LOSS ONTO ARE THOSE EMPLOYEES AND OURSELVES.

I'M TRYING TO APPEAR CALM THIS MORNING, BUT I'VE GOT TO TELL YOU IT'S TOUGH. I HAVE HONESTLY BEEN UNABLE TO SLEEP WITH WORRY ABOUT WHAT WOULD HAPPEN WITH ANY TAX INCREASE IN THIS AREA. WHAT I HOPE YOU WILL REALIZE IS THAT MACHINE INCOME ISN'T CREAM ON THE MILK ANYMORE. BECAUSE OF ALL THE OTHER EXTRAORDINARILY HIGH TAXES AND FEES ASSOCIATED WITH THE LIQUOR AND GAMING INDUSTRY, THE INCOME FROM OUR MACHINES ISN'T CREAM. IT'S BECOME VITAL TO THE OPERATION OF OURS OR ANY BAR.

OUR BUSINESS IS VERY TYPICAL OF MOST OF THE STATE'S SMALL GAMING OPERATORS. IF YOU LOOK AT THE OVERALL PICTURE, THE AMOUNT OF TAXES THIS INDUSTRY IS PAYING AT PRESENT IS FAR HIGHER THAN OTHER SECTORS OF THE BUSINESS COMMUNITY. ANY INCREASE IN TAXES AT THIS POINT WOULD CREATE HARDSHIP FOR OWNERS AND EMPLOYEES.

CONSIDERING THE HOURS WE'VE PUT IN, MY HUSBAND AND I HAVE WORKED AT THIS BUSINESS FOR LESS THAN MINIMUM WAGE FOR SEVERAL YEARS. PLEASE DON'T NAIL US NOW THAT WE ARE FINALLY BEGINNING TO SEE A RETURN ON OUR INVESTMENT.

THANK YOU.

HOUSE TAXATION
EXHIBIT 11
DATE 7/9/93
HB 19

MONTANA STYLE CASINO
Composite Profit and Loss Statement

INCOME TAX RETURN DATA:	DOLLARS	%
GROSS REVENUE	1,057,800	100.00%
COSTS OF GOODS SOLD	371,601	35.13%
GROSS PROFIT BEFORE MACHINE TAX	686,200	64.87%
15% MACHINE TAX *	109,224	10.33%
GROSS PROFIT AFTER MACHINE TAX	576,975	54.54%
OFFICER/OWNER SALARIES **	20,200	1.91%
WAGES AND SALARIES	239,915	22.68%
REPAIRS	18,641	1.76%
BAD DEBTS	3,831	0.36%
RENTS	43,164	4.08%
OTHER TAXES	28,892	2.73%
INTEREST	20,109	1.90%
DEPRECIATION	25,221	2.38%
ADVERTISING	15,193	1.44%
PROFIT SHARING/EMPLOYEE BENEFITS	6,836	0.65%
INSURANCE	11,681	1.10%
SUPPLIES	13,131	1.24%
UTILITIES	20,516	1.94%
OTHER EXPENSES	46,567	4.40%
TOTAL OPERATING EXPENSES	513,896	48.58%
NET INCOME BEFORE INCOME TAXES	63,080	5.96%

* This amount is an average from the entities federal income tax return. Quarterly machine tax returns to the State of Montana reflected $111,215 of taxes on gross machine revenue of $741,435 The small variance in the tax figure is due to differences in fiscal years.

** Represents the total average salaries of officers who spend an average of 78% of their time at the business and own 38% of the business. The remaining 62% of non-employee ownership interest receives a return out of the profit (i.e. 63,080).

The following table reflects the impact on the composite casino from a change in tax rates assuming gross machine revenue of $740,000:

TAX %	MACHINE TAX	PROFIT(LOSS)
15.00%	111,000	61,304
20.00%	148,000	24,304
25.00%	185,000	(12,696)
30.00%	222,000	(49,696)
35.00%	259,000	(86,696)

Ex. 11
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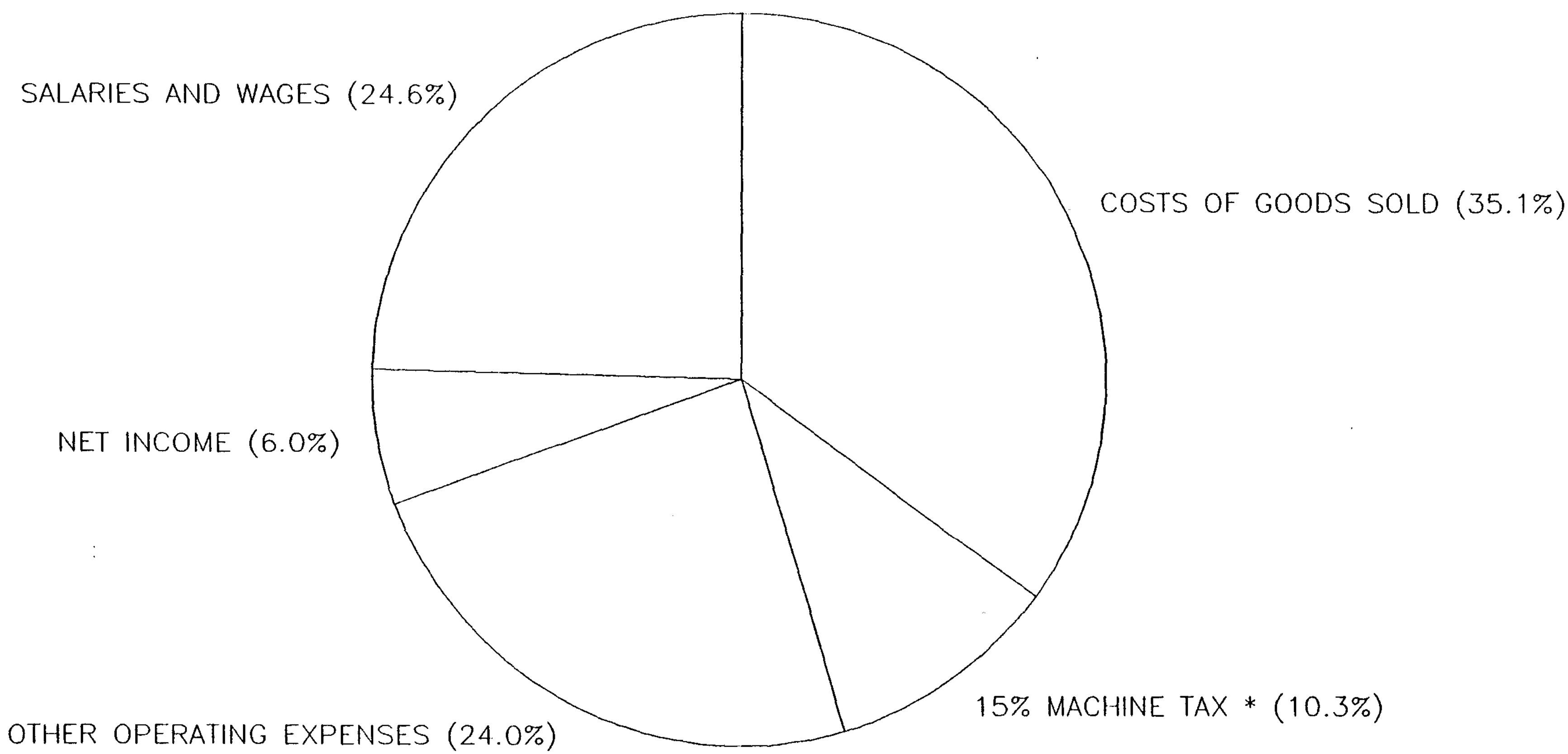
MONTANA STYLE CASINO

Breakdown of Gross Revenue



HOUSE TAXATION
EXHIBIT 12
DATE 7/9/92
HB HB 19

TESTIMONY OF DEBORAH HANSON, MONTANA BAR
BEFORE HOUSE TAXATION COMMITTEE
RE: VIDEO GAMING TAX INCREASE
JULY 9, 1992

CHAIRMAN HARRINGTON AND MEMBERS OF THE COMMITTEE:

MY NAME IS DEBORAH HANSON, ONE OF THE OWNERS AND MANAGER OF THE MONTANA BAR IN MILES CITY, WHICH IS THE ONLY BAR IN MILES CITY ON BOTH THE STATE AND FEDERAL REGISTER OF HISTORIC PLACES. THESE DISTINCTIONS WERE ACHIEVED BY THE RESTORATION FUNDED BY CONSIDERABLE INVESTMENT BY THE SHAREHOLDERS.

AS A SMALL BAR, WE ARE BEGINNING TO DO A FAIRLY GOOD BUSINESS. ON OUR 1991 U.S. CORPORATE TAX RETURN, WE ENDED UP WITH A LOSS OF $9,700. GRANTED, A CONSIDERABLE PORTION OF THAT LOSS WAS MADE UP OF DEPRECIATION AND OTHER COSTS ASSOCIATED WITH GETTING STARTED, SO THAT THE BAR IS ACTUALLY JUST BREAKING EVEN. GIVEN THE SAME SALES, EXPENSES, COSTS, AND LEVEL OF MACHINE PLAY, A 35% GAMING TAX WOULD INCREASE OUR BUSINESS LOSS FROM A BREAK-EVEN POSITION TO AN ACTUAL CASH LOSS OF OVER $8,000. EVEN AN INCREASE FROM 15% TO 20% WOULD CHANGE OUR BREAK-EVEN POSITION TO AN ACTUAL CASH LOSS OF APPROXIMATELY $2,100.

IF YOU APPROVE A TAX INCREASE, IN ORDER FOR THE MONTANA BAR TO OPERATE AT EVEN A MODEST PROFIT WE WOULD HAVE TO LAY-OFF A NUMBER OF EMPLOYEES CURRENTLY ON STAFF, WHICH IN HUMAN TERMS, IS 3 PEOPLE OUT OF WORK. THE EXISTENCE OF GAMING MACHINES AND A HIGH BUT ACCEPTABLE TAX RATE MEANS THAT PLACES LIKE THE MONTANA BAR CAN BE RESTORED FOR MONTANANS. LET'S LEAVE IT ALONE.

HOUSE TAXATION
EXHIBIT 13
DATE 7/9/92
HB 19

TESTIMONY OF PETE MANGELS
BEFORE HOUSE TAXATION COMMITEE
RE: VIDEO GAMING TAX INCREASE
JULY 9, 1992

CHAIRMAN HARRINGTON AND MEMBERS OF THE COMMITTEE:

MY NAME IS PETE MANGELS. I BEGAN BARTENDING AT THE VFW CLUB IN POLSON, MONTANA 20 YEARS AGO AND FOR A NUMBER OF YEARS NOW HAVE BEEN THE MANAGER OF THAT ORGANIZATION'S CLUB AND HOME. I'M A CHARTER MEMBER OF THE EAGLES CLUB IN POLSON, AND I'M ALSO SECRETARY-TREASURER OF THE LAKE COUNTY TAVERN ASSOCIATION.

I CAN TELL YOU THAT BEFORE WE WERE GRANTED THE RIGHTS TO PROVIDE VIDEO GAMING FOR OUR MEMBERS AND CUSTOMERS, BOTH THE VFW AND THE EAGLES WERE STRUGGLING, AS WERE MOST FRATERNALS AND VETERANS CLUBS IN MONTANA, AND INDEED MOST TAVERNS. NON-PROFIT ORGANIZATIONS WERE UNABLE TO MAKE THE KINDS OF PUBLIC AND CIVIC CONTRIBUTIONS FOR WHICH WE ARE KNOWN. IN FACT, WE WERE NOT EVEN ABLE TO PROVIDE THE BASIC SERVICES FOR OUR MEMBERS THAT VETERANS AND FRATERNALS WERE GIVEN LICENSES TO PROVIDE.

IN CONTRAST, SINCE WE HAVE BEEN ABLE TO OFFER GAMING FOR OUR MEMBERS AND CUSTOMERS, OVER THE LAST 5 OR 6 YEARS WE HAVE BEEN ABLE TO BRING THE VFW BUILDING IN POLSON UP TO CODE, WHICH WAS LONG OVERDUE. WE PROVIDED HANDICAPPED ACCESS, FIXED THE SIDEWALKS, PAINTED THE BUILDING, REPAIRED THE ROOF, AND SPENT TENS OF THOUSANDS MORE REMODELING THE PREMISES FOR THE ENJOYMENT OF THE VETERANS IN OUR AREA. IN ADDITION, WE ARE NOW ALSO ABLE TO MAKE SIZEABLE CONTRIBUTIONS TO BENEVOLENT AND CHARITABLE CAUSES, INCLUDING A VETERANS MEMORIAL MONUMENT IN OUR LOCAL CEMETERY,

SPONSORSHIP OF ACADEMIC SCHOLARSHIPS, SUPPORT OF THE VETERAN'S HOMES AND HOSPITAL HERE IN FORT HARRISON, FLAGS FOR MAIN STREET, AND CONTRIBUTIONS TO AND PARTICIPATION IN MANY OTHER ACTIVITIES AT A LEVEL THAT WOULD BE PROHIBITIVE WITHOUT THE REVENUE FROM GAMING MACHINES.

THIS SAME SCENARIO IS TRUE OF THE EAGLES IN POLSON, THE ELKS AND EVERY OTHER FRATERNAL OR VETERANS ORGANIZATION IN THE STATE OF MONTANA. LITERALLY HUNDREDS OF THOUSANDS OF DOLLARS AT A MINIMUM HAVE BEEN GENERATED INTO PUBLIC, CIVIC, AND CHARITABLE PROJECTS BECAUSE THEY HAVE BEEN ALLOWED TO OFFER GAMING AND PAY A TAX, THAT WHILE HIGH, DOES NOT PROHIBIT THEM FROM MAKING A DECENT RETURN ON INVESTMENT OF THE MEMBERS.

AS AN OFFICER OF THE LAKE COUNTY TAVERN ASSOCIATION FOR 8 YEARS, I CAN ALSO TELL YOU THAT EVEN IF A TAX INCREASE WAS JUSTIFIED, WHICH IT CLEARLY IS NOT, NOW IS CERTAINLY NOT A TIME TO BE DOING IT. FOR THOSE OF YOU WHO ARE UNAWARE, THE 44 STATE-LICENSED OPERATORS OF GAMING MACHINES WITHIN THE FLATHEAD RESERVATION HAVE BEEN SHUT DOWN SINCE THE 25TH OF JUNE. THERE ARE TWO POINTS THAT SHOULD BE PAID ATTENTION TO WITH REGARD TO THIS: FIRST, ONE OF THE MAIN ISSUES KEEPING THE STATE OF MONTANA AND THE THE SIX TRIBES FROM REACHING AGREEMENT WITH THE STATE IS THE DISPARITY BETWEEN LICENSEES WHO PAY 15% AND THE TRIBES WHO PAY NO TAX. THUS, WE ARE AT A SIGNIFICANT COMPETITIVE DISADVANTAGE ALREADY, AND CERTAINLY DURING THESE TIMES, WE SHOULD NOT <u>CONSIDER</u> WIDENING THE GULF BETWEEN OUR TAX AND THEIR NO TAX.

SECONDLY, I CAN TESTIFY FIRST-HAND TO WHAT HAPPENS WHEN THE REVENUES FROM THESE MACHINES ARE DIMINISHED OR, IN OUR CASE, CUT

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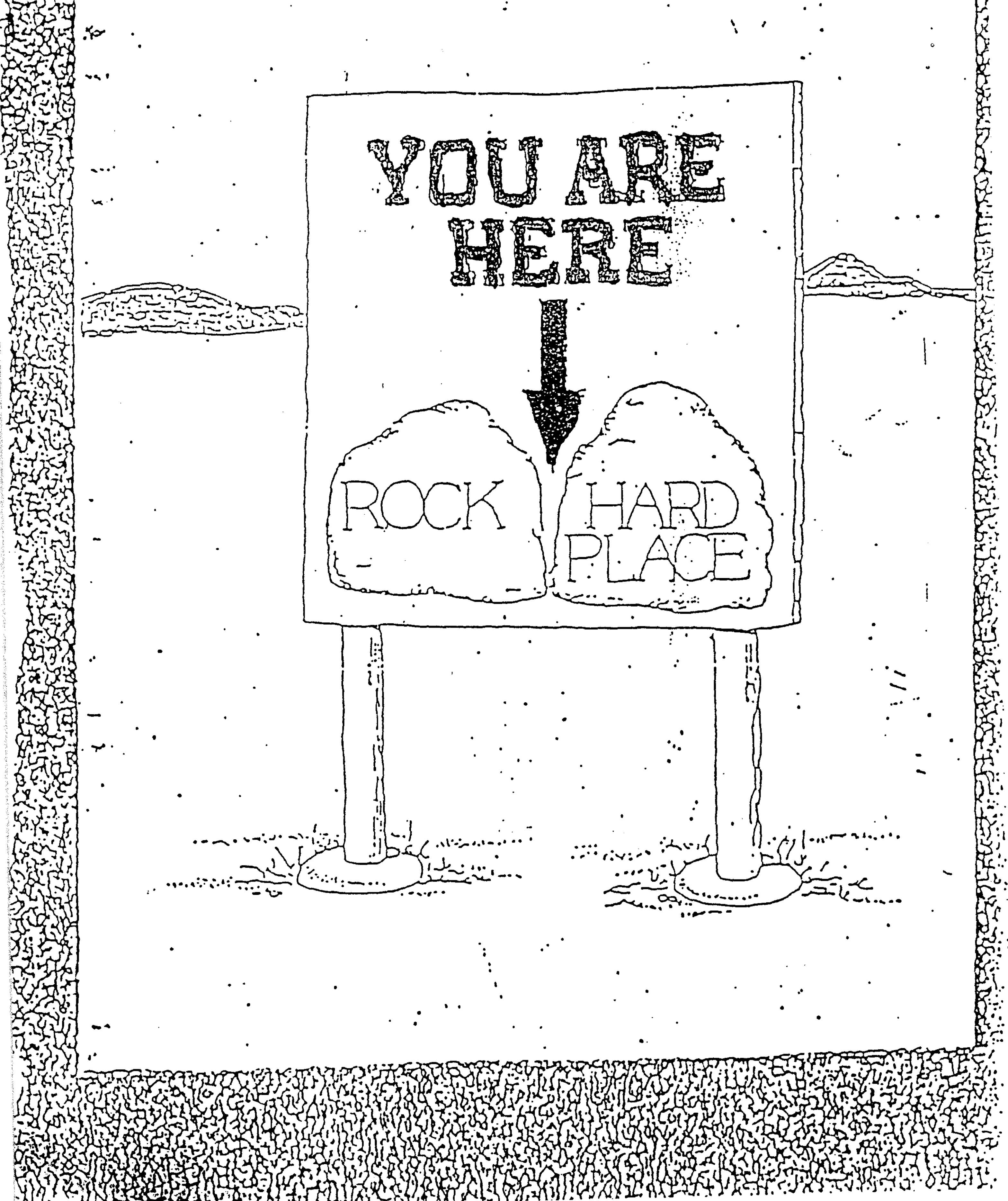
OFF COMPLETELY. I KNOW PERSONALLY 6 ASSOCIATES WHO WERE LAID OFF WITHIN 2 DAYS OF THE MACHINES BEING REMOVED AT THE PEAK OF OUR TOURIST SEASON, AND MANY MORE LAY-OFFS WILL FOLLOW IF THE SITUATION ISN'T RESOLVED IN THE VERY NEAR FUTURE. IT LOOKS LIKE IT WON'T BE FOR MONTHS. PAYMENTS ARE COMING DUE ON SBA NOTES, BANK LOANS, AND TO PEOPLE WHO SOLD PLACES. I KNOW OF SEVERAL BUSINESSES THAT ARE SIMPLY GOING TO BE TURNED BACK TO THEIR PRIOR OWNERS ALMOST IMMEDIATELY. THE CITIES ON THE RESERVATION AND LAKE COUNTY ARE LOSING THOUSANDS OF DOLLARS A WEEK AND THE ECONOMIC DEVASTATION OF THE AREA CANNOT BE OVER-EMPHASIZED.

IF YOU PUT A PROHIBITIVE TAX IN AN AREA WHERE THERE IS ALREADY A TAX DISPARITY BETWEEN THOSE WHO PAY IT AND THOSE WHO DON'T, YOU MAY NOT HAVE A GAMING INDUSTRY IN THAT PART OF THE COUNTRY TO CONSIDER ANY TAX FOR.

FOR THE REASONS THAT I HAVE STATED, I'M ASKING YOU TO PLEASE LEAVE THIS TAX ALONE AND, IF YOU HAVE TIME, PLEASE CONSIDER MEASURES WITH REGARD TO THE CRISIS ON THE SIX RESERVATIONS IN MONTANA.

HOUSE TAXATION
EXHIBIT 14
DATE 7/9/92
HB 19



HOUSE TAXATION

EXHIBIT 15
DATE 7/9/92
HB 4

Testimony Before House Taxation Committee
July 9, 1992

HB 4
Deductibility of Federal Taxes against Montana Income

Jim Elliott

This bill is not about who to tax; it is about who not to tax - the middle class.

Capping the amount of federal income tax deductible from Montana income is a simple concept with major policy implications.

In Montana's current and continuing fiscal imbalance we are looking at making major cuts in government spending.

We are also looking seriously at increasing taxes somehow, somewhere. Even the Governor's proposed budget contains $44 million or 38% of new tax money.

Either way, the middle class gets hit and they can't afford it!

Service cuts will impact the poor and middle class to a far greater extent than they will the wealthier Montanans.

The typical fix in this situation - income tax surcharge - would take money out of middle income pockets at a time when they can least afford it. Main street businesses as well, can ill afford it.

Because of this, it is time to ask those who are fortunate enough to have earned or been granted wealth, to come to the aid of their State. It is fair to ask this.

It is fair, because this group of taxpayers will feel the bite to a far lesser proportion than the poor and middle class would.

It is fair, because the wealthiest of us have been granted some tremendous tax breaks in the last 10 years, with the highest federal income tax rate having been cut by over half.

It is fair, because the most affluent Montanans have seen their wealth grow at rates much higher than inflation, while the others of us have seen our incomes in real dollars decline.

Montana does rely on the wealthy to pay a large amount of income taxes. However, we can't look at any particular tax in a vacuum.

If we look at the total amount of personal taxes that all Montanans pay, (Citizens for Tax Justice handouts) we can see that the wealthiest Montanans pay a smaller share of their income in taxes than any other income group.

You will also see that Montana ranks 5th lowest in the nation in terms of percentage of income paid in personal taxes.

The deductibility of federal taxes from state income is a deduction being closed by state after state.

An upper limit of $10,000 of deductible federal taxes for single taxpayers and $20,000 for married filers is a generous one in terms of how the majority of states treat the issue.

HOUSE TAXATION

EXHIBIT 16
DATE 7/9/92
HB 4

AVERAGE STATE TAX RATES 1991
From lowest to highest

STATE	LOWEST 20%	SECOND 20%	THIRD 20%	FOURTH 20%	TOP 20%: NEXT 15%	TOP 20%: NEXT 4%	TOP 20%: TOP 1%	AVERAGE
ALASKA	5.3	3.6	3.1	3.0	2.9	2.7	2.5	3.57%
WYOMING	9.0	6.2	5.3	4.8	4.3	3.5	2.4	5.87%
NEVADA	10.0	6.7	5.7	5.0	4.3	3.3	1.8	6.28%
DELAWARE	7.4	6.9	7.0	7.1	7.6	8.0	8.4	7.22%
MONTANA	**7.1**	**7.4**	**7.4**	**7.6**	**7.6**	**7.7**	**7.0**	**7.42%**
NEW HAMPSHIRE	12.7	8.2	7.6	7.2	6.6	5.9	3.8	8.40%
FLORIDA	13.8	9.5	7.6	6.5	5.5	4.4	2.7	8.51%
VERMONT	7.4	9.2	9.2	9.0	9.2	9.5	9.6	8.82%
TENNESSEE	15.2	9.7	7.7	6.5	5.5	4.5	3.6	8.86%
ALABAMA	11.9	9.6	8.5	7.8	7.0	6.0	5.1	8.90%
SOUTH CAROLINA	10.5	8.4	8.8	9.0	8.8	8.4	7.8	9.07%
NORTH DAKOTA	13.3	9.4	8.5	7.9	7.4	6.9	6.3	9.27%
MISSISSIPPI	12.9	9.4	8.6	8.1	7.8	7.1	6.7	9.32%
COLORADO	11.0	10.0	9.3	8.8	8.5	8.5	7.6	9.51%
MISSOURI	13.0	10.0	9.1	8.4	7.9	7.2	6.0	9.63%
NORTH CAROLINA	10.6	9.8	9.7	9.7	9.4	9.0	8.4	9.81%
SOUTH DAKOTA	16.2	10.3	8.7	7.6	6.8	5.1	3.5	9.82%
TEXAS	17.1	10.7	8.4	7.3	6.4	5.1	3.1	9.89%
HAWAII	8.7	10.2	10.3	10.1	10.2	10.3	9.8	9.90%
VIRGINIA	11.8	10.2	9.5	9.2	9.1	8.4	7.2	9.91%
WEST VIRGINIA	12.9	10.1	9.3	8.8	8.7	8.9	9.2	9.97%
ARKANSAS	13.2	10.0	9.4	8.8	8.6	8.4	7.9	9.99%
OKLAHOMA	12.2	10.3	10.1	9.2	8.8	8.3	7.3	10.08%
IOWA	12.5	10.4	9.6	9.3	9.1	8.6	7.9	10.15%
MARYLAND	8.0	11.5	10.9	10.6	10.2	9.5	8.1	10.19%
IDAHO	12.8	9.4	9.6	9.7	9.5	9.5	8.8	10.19%
KANSAS	13.2	10.7	9.7	9.1	8.5	8.0	6.8	10.20%
LOUISIANA	14.1	10.9	9.6	8.8	7.9	6.9	6.5	10.21%
NEW MEXICO	13.1	10.4	9.4	9.2	9.0	9.0	8.6	10.22%
CALIFORNIA	14.1	9.5	8.8	8.9	9.7	10.7	10.6	10.25%
MINNESOTA	9.5	10.6	10.5	10.5	10.4	10.4	9.6	10.29%
MAINE	12.4	9.7	9.4	9.9	10.3	10.6	10.2	10.35%
ARIZONA	14.3	10.7	9.6	9.0	8.4	8.0	7.6	10.38%
KENTUCKY	12.5	10.6	10.0	9.7	9.4	8.9	8.0	10.41%
GEORGIA	13.0	10.7	10.1	9.6	9.2	8.5	7.5	10.48%
OREGON	9.8	11.1	10.5	10.7	10.8	10.5	9.9	10.56%
OHIO	13.4	10.6	10.0	9.6	9.6	9.8	9.6	10.65%
INDIANA	14.8	11.0	9.9	9.3	8.7	7.9	6.5	10.69%
WASHINGTON	17.4	11.6	9.5	8.4	7.2	5.5	3.4	10.71%
PENNSYLVANIA	15.9	11.1	9.8	9.0	8.3	7.3	5.5	10.75%
CONNECTICUT	16.5	10.7	9.5	8.9	8.8	7.4	6.7	10.80%
D.C.	10.9	11.6	11.6	11.7	11.4	11.0	9.7	11.41%
UTAH	13.7	12.0	11.2	10.8	10.2	9.3	8.2	11.52%
ILLINOIS	16.5	12.0	10.8	9.9	9.0	7.7	6.0	11.56%
MASSACHUSETTS	13.6	11.7	11.3	11.1	10.8	10.1	8.9	11.65%
NEW JERSEY	15.2	11.8	10.8	10.5	10.7	10.7	9.7	11.79%
RHODE ISLAND	14.2	11.9	11.4	10.9	10.8	10.7	9.6	11.82%
MICHIGAN	14.3	12.2	11.4	11.1	10.6	9.6	7.6	11.85%
NEBRASKA	16.9	13.1	11.5	10.5	10.0	9.3	8.6	12.36%
WISCONSIN	12.3	14.4	13.4	12.7	12.0	10.5	8.5	12.87%
NEW YORK	14.1	14.1	13.9	13.9	13.8	13.0	11.3	13.90%

Prepared by Montana Alliance for Progressive Policy using data from A Far Cry From Fair, Citizens for Tax Justice.

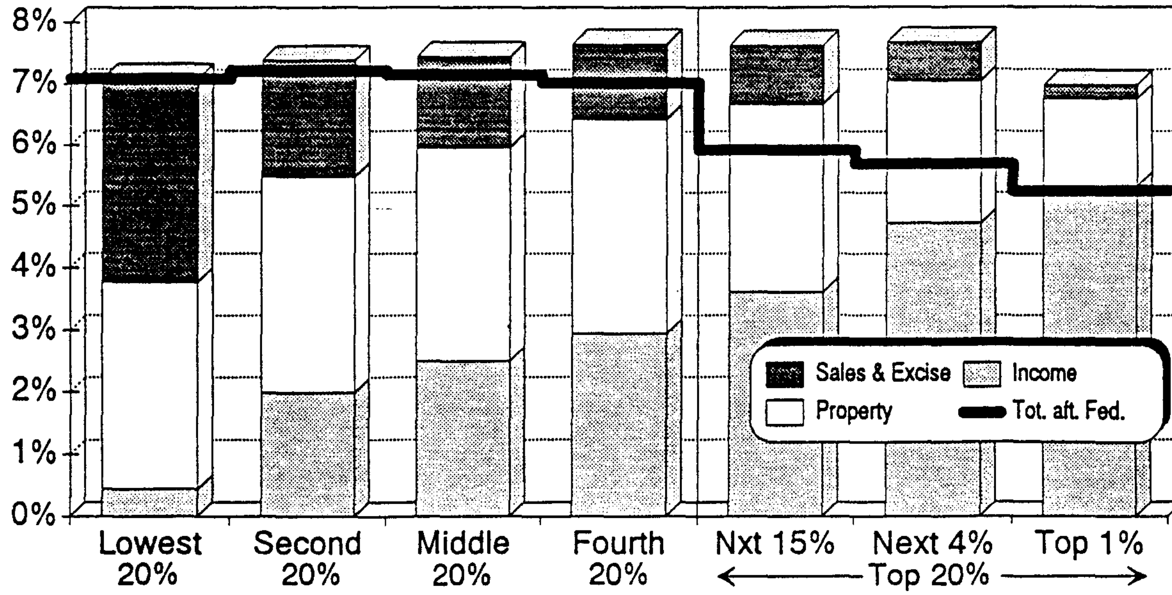
TAXAT

DATE 7/9/92

HB 4

Montana Taxes in 1991

As Shares of Income for Families of Four

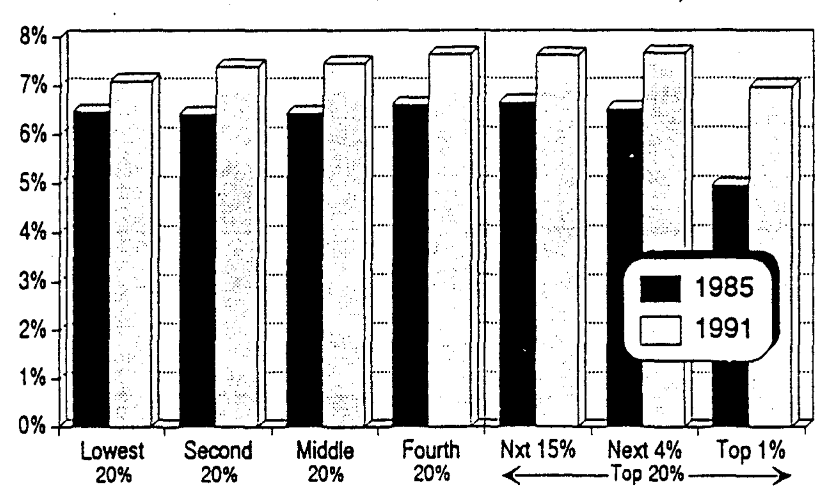


Family Income Group	Lowest 20%	Second 20%	Middle 20%	Fourth 20%	Top 20%		
					Next 15%	Next 4%	Top 1%
Average Income	$8,900	$21,300	$31,700	$43,300	$66,600	$139,600	$708,200
Personal Income Tax	0.4%	1.9%	2.4%	2.9%	3.5%	4.6%	5.0%
Corporate Income Tax	0.0%	0.0%	0.1%	0.1%	0.1%	0.1%	0.4%
Property Taxes	3.3%	3.5%	3.5%	3.5%	3.1%	2.3%	1.4%
Sales Taxes	0.4%	0.3%	0.2%	0.2%	0.2%	0.1%	0.1%
Excise Taxes	2.9%	1.6%	1.3%	1.0%	0.8%	0.5%	0.1%
TOTAL TAXES	7.1%	7.4%	7.4%	7.6%	7.6%	7.7%	7.0%
Federal Deduction Offset	0.0%	–0.2%	–0.3%	–0.6%	–1.7%	–2.0%	–1.7%
TOTAL AFTER OFFSET	7.1%	7.2%	7.2%	7.0%	5.9%	5.7%	5.3%

Montana Taxes in 1985 and 1991

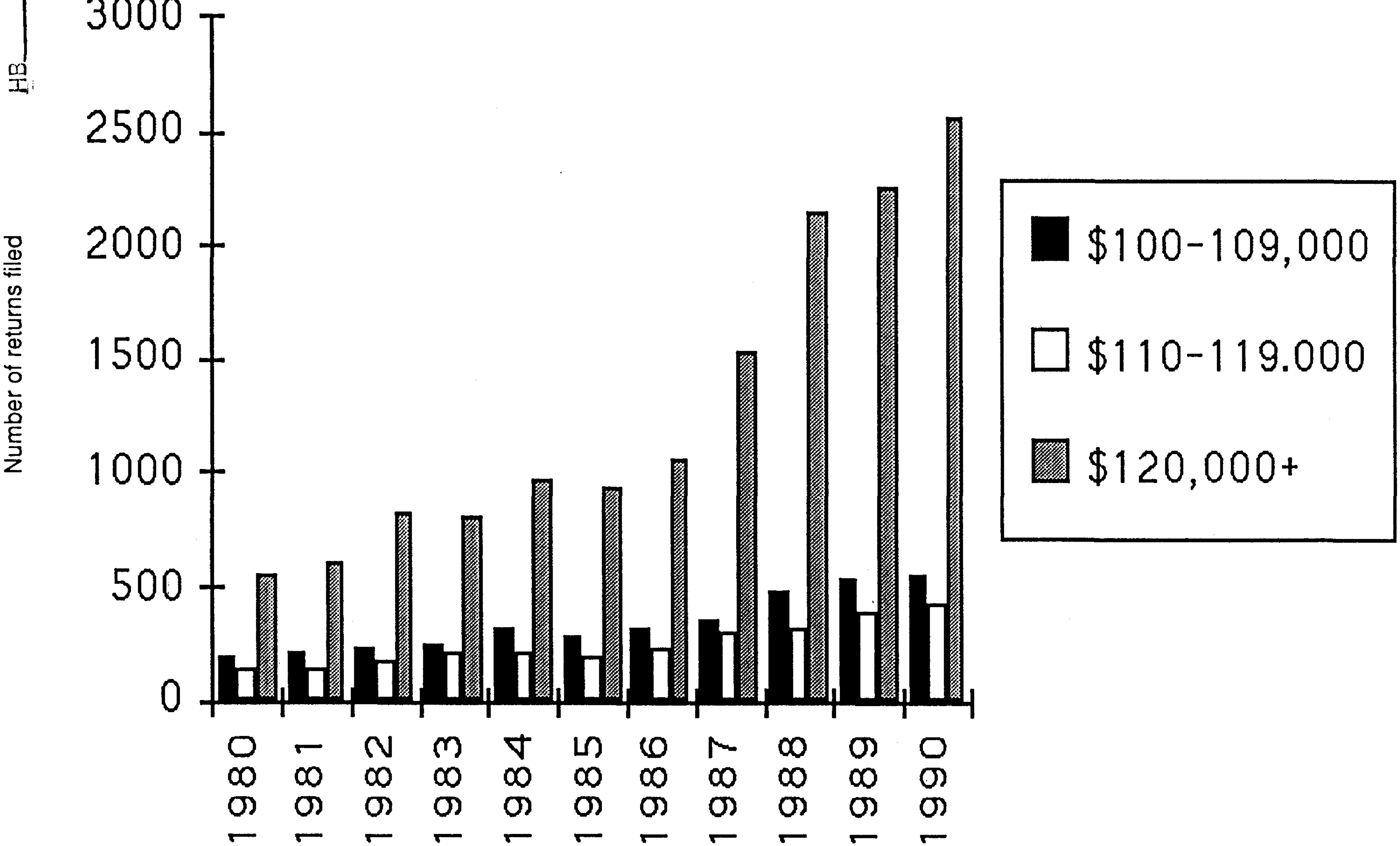
As Shares of Income For Families of Four (before federal offsets)

	1985	1991
Lowest 20%	6.5%	7.1%
Second 20%	6.4%	7.4%
Middle 20%	6.4%	7.4%
Fourth 20%	6.6%	7.6%
Next 15%	6.7%	7.6%
Next 4%	6.5%	7.7%
TOP 1%	5.0%	7.0%



HOUSE TAXATION
EXHIBIT 18
DATE 7/9/92
HB 4

Increase of High Income taxpayers 1980-1990



Prepared by the Montana Alliance for Progressive Policy July 7, 1992
with data from the MT Dept, of Revenue

EXHIBIT 19
HOUSE TAXATION DATE 7/9/92
HB 4

THE RICH ARE RICHER—AND AMERICA MAY BE THE POORER

The widening income gap could cost the U.S. plenty

In recessions, certain things are predictable: Incomes stagnate or fall, and the poverty rate climbs.

This recession is no different. Median household income fell 1.7% in 1990, and the poverty rate jumped to 13.5%. The numbers for 1991, which will be released just before the Presidential election in 1992, could look even worse. But the cyclical deterioration in incomes shouldn't be regarded as merely a passing phenomenon. Indeed, the most troubling thing about the latest numbers is that for the majority of the U. S. population, they cap more than a decade of income stagnation or worse. At the same time, a small minority has enjoyed rapid gains in income. This is already shaping up as a juicy morsel for politicians—the "fairness issue" is on more and more vote-seekers' lips these days.

But what has happened to incomes in America over the past 15 years or so is troubling on economic as well as moral grounds. Simply put, growing income inequality and stubbornly high poverty rates threaten the country's long-term growth prospects. That's because inequality of income distribution and persistent poverty can put a damper on productivity growth, while stagnating incomes crimp consumer purchasing power.

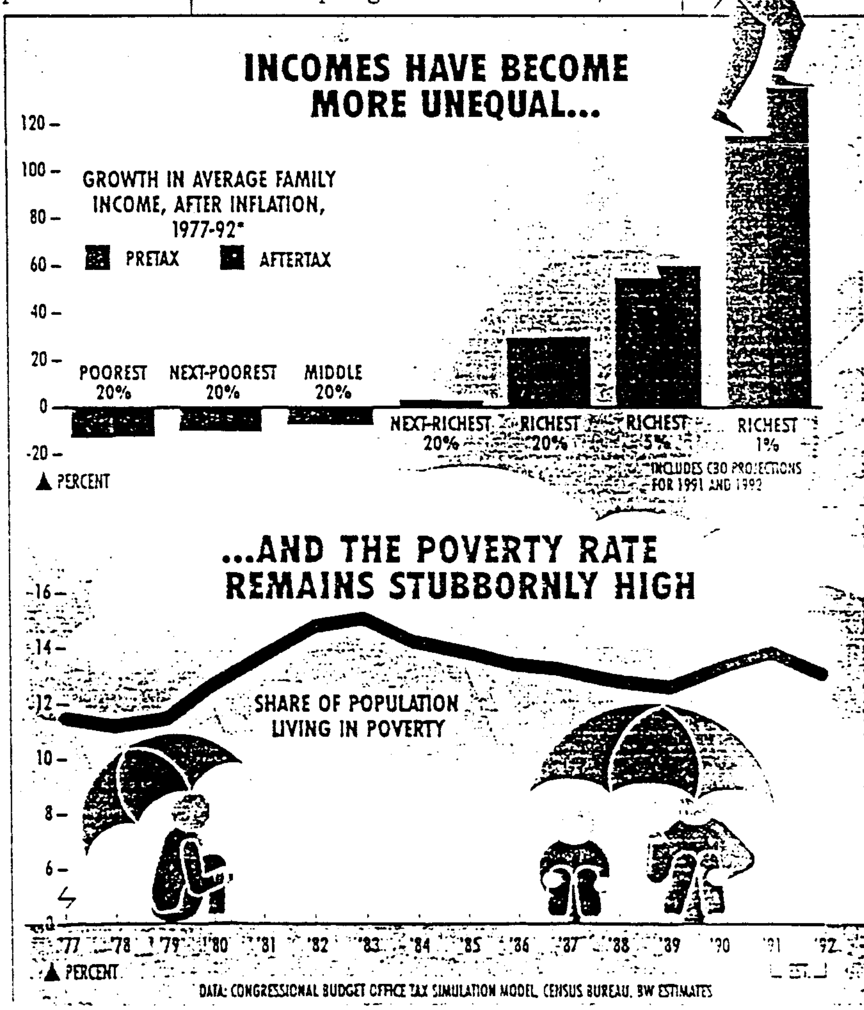
What's more, there don't seem to have been any economic benefits derived from the rich having gotten richer, as some economists argued in the early 1980s, when the Reagan Administration first slashed taxes. The nation's savings rate was supposed to rise, but it didn't. And the swelling tide of income for a few was supposed to lift all boats, but it didn't. "I don't know what you can say that's good about what's happened to incomes," says Lawrence Chimerine, senior adviser to DRI/McGraw-Hill.

FAT SLICE. Most of the 3.3 million families whose income topped $102,000 last year—the richest 5% of the population—would probably disagree with Chimerine and give three cheers for their good fortune. By next year, that group will have seen its aftertax income, after inflation, grow nearly 60% over a 15-year period, according to calculations by the Congressional Budget Office based on Census Bureau data (chart). And the richest 1% of the population will have enjoyed even sharper gains in real income, both ... and especially aftertax, over the same period. Indeed, it's only those in the top quintile, or top 20%, who show a ... gain in real incomes over the 15-year span.

The "next richest" quintile experienced only a modest gain in real incomes, while the bottom three quintiles saw family incomes shrink in real ... over the period. Meanwhile, 1990's poverty rate jumped 0.7 of a percentage point. While it isn't surprising that poverty rose, it is troubling that the increase occurred on top of an already-high 12.8%.

Typically, sustained economic growth lifts people out of poverty and drives the rate down. If the long expansion of the 1980s is any guide, poverty should have been 3.5 percentage points lower than it was in 1989, the last full year of the 1980s' expansion, according to calculations by economist Rebecca M. Blank of Northwestern University. Key macroeconomic indicators, such as how much output grew, were remarkably similar for the periods 1963-69 and 1983-89 for which Blank made comparisons. But the results were ... different. "The ... relationship between economic growth and poverty has changed," she concludes.

Indeed, it's clear that the link between economic growth and income growth has weakened—the pie has kept growing, but the slices of that pie are being unevenly distributed. What accounts for the weakening link? Interestingly, most economists now agree ... tax and transfer ... in the 1980s played a role, but not the ... one. At the upper end of the income scale, tax cuts made after ... income surge even ... er than pretax in... And at the low end of the distribution scale, cuts in income transfers hurt the poor. B... clear that incomes have grown unequally both a pretax as well as an aftertax basis (chart), so the overall impact of polic...



changes has not been that great. "I would estimate that something like 15% to 20% of the change in the distribution is due to changes in taxes and transfers," says Isabel V. Sawhill, an economist at the Urban Institute in Washington, D. C.

Today, economists agree that the widespread competitive and technological changes that occurred during the 1980s induced a sharp increase in the rewards for skill and education, thereby widening the gap in incomes. From 1980 to 1990, men with four years of high school saw their median incomes fall 15.5% in real terms. During the same period, men with four years of college experienced a gain in median income, after inflation, of 1.6%.

The changes in the supply and demand for low-skilled labor may explain why some incomes lagged behind even the mediocre performance of the middle-income group. But they fail to explain why incomes of the richest segment surged. "It's impossible to attribute the sharp increase in income at the top of the scale to a drastic increase in the relative value of the services provided by people at that level," says Henry J. Aaron of the Brookings Institution. "What we're observing is some successful rent-seeking activity," whereby lawyers, investment bankers, and other professionals extract extra income for seemingly unique abilities. And because such endeavors earn high rewards, says Aaron, talent may be diverted from more productive but lower-paying endeavors, such as engineering.

FEWER BUYERS. What are the economic consequences of the stark divisions that have developed? Big earners may be big spenders, but their outlays may not offset cutbacks in the rest of the economy. It's possible, ventures DRI's Chimerine, that with wages squeezed, tax burdens up, and the majority of the population "standing still or worse in terms of purchasing power," the U. S. could end up with "a demand-short economy." He argues that if one person gets a $20,000 raise while another person loses a $20,000 job, the first person's additional consumption is unlikely to make up for the loss of the newly unemployed person's consumption.

For most economists, this is a difficult argument to make for the overall economy. While people with low incomes have a high propensity to consume—that is, they are more likely to spend a large portion of an extra dollar earned—it's also true that high-income people spend a sizable share of their dollars. So on an aggregate basis, consumption in the economy shouldn't contract or be anything but marginally affected by shifts in income distribution. Nevertheless there are differences in spending patterns that may be important. "The rich simply demand different types of goods," says James K. Galbraith, economist at the University of Texas Austin. Both Galbraith and Chimerine worry that income trends could dampen demand in the mass market for goods. And it's that market that just may happen to have more domestic than foreign producers.

Inequality and stagnating incomes may also constrain growth in other ways. "We have to ask ourselves whether the macroeconomy is becoming permanently hostile to less-skilled workers," says Northwestern's Blank. If so, there will be considerable costs. First, there are the costs of having to support a population that is barely making it economically. Next, there's the potential cost of possible social disruption resulting from worsening income inequality and a population of persistently poor individuals. Finally, there's the cost of consigning people to low-productivity jobs when they and society could do better.

> One in five children under 15 lives in poverty, and poor kids don't eat—or learn—as well as their better-off peers

Poverty is always a burden, of course—both to those who must endure it and to the society that must cope with it. But by far the greatest burden—and the greatest potential loss to the economy—stems from the extraordinarily high level of child poverty in America today. One in five children under the age of 15 lives in poverty, and a staggering 50% of all black children under the age of six live in poverty. Poor children don't eat as well or learn as much as their better-off peers, which means they won't do as well when they become adults. "We are disadvantaging the next generation," says Timothy M. Smeeding, an economist at Syracuse University.

The consequences of high poverty among children and widening inequality throughout the income spectrum can be readily quantified. And as the economy starts to recover and incomes start to rebound, worries about fairness may recede. But the underlying shifts in income over the past 15 years have been seismic, and they may well make it harder for the economy to get up a full head of steam.

By Karen Pennar in New York

HOUSE TAXATION
EXHIBIT 26
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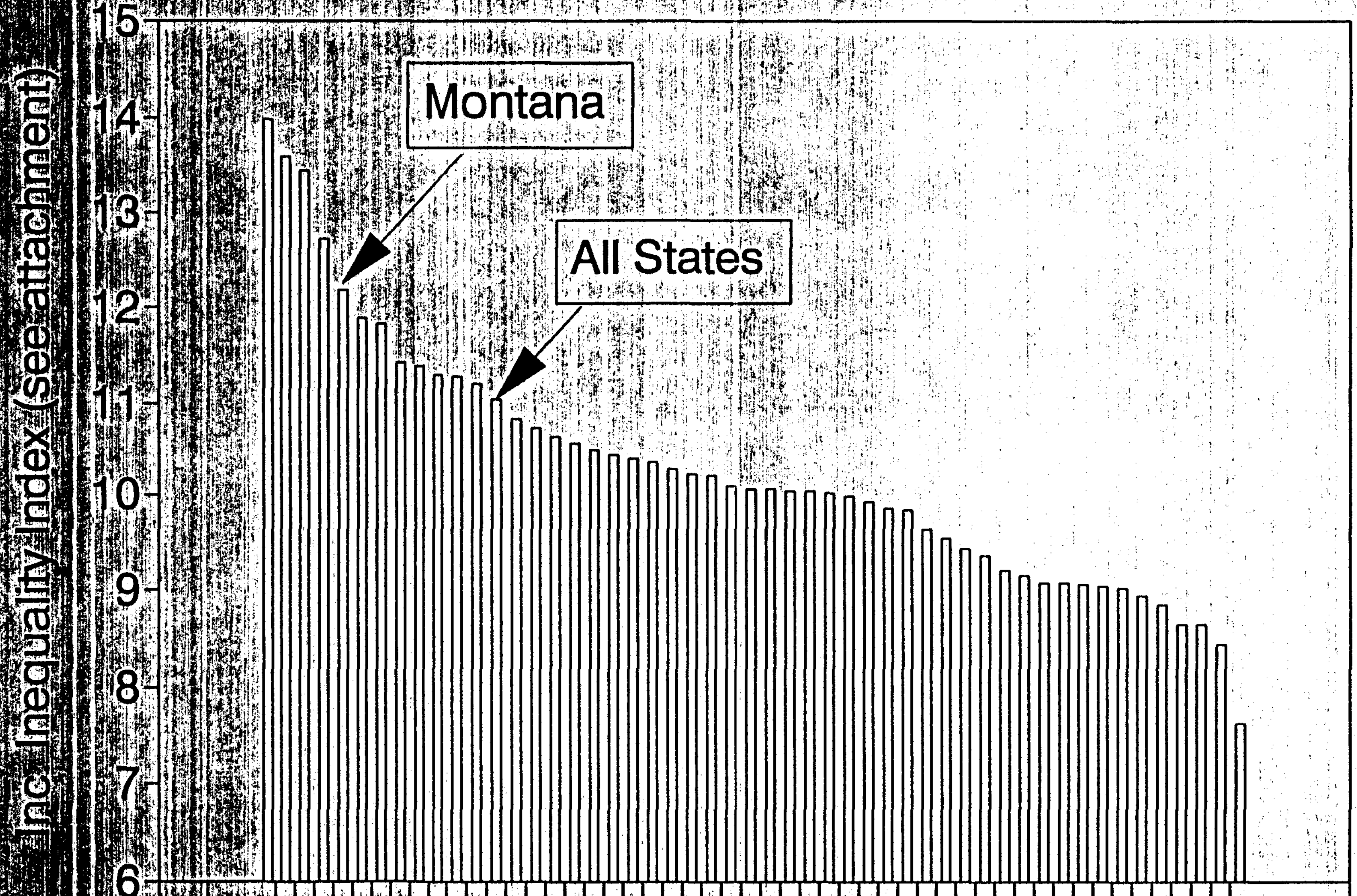
Income Inequality Index I

By Rank; 1991



State Income Inequality Index, I

California	14.0
New York	13.6
Florida	13.4
MONTANA	12.7
Kentucky	12.2
Georgia	11.9
New Mexico	11.8
New Jersey	11.4
Tennessee	11.4
Nevada	11.3
Connecticut	11.3
ALL STATES	11.2
Arizona	11.0
Oklahoma	10.8
Mississippi	10.7
Louisiana	10.6
North Carolina	10.6
Texas	10.5
South Dakota	10.4
Maryland	10.4
Illinois	10.4
Virginia	10.3
Arkansas	10.2
Missouri	10.2
Idaho	10.1
South Carolina	10.1
Alabama	10.1
Maine	10.1
Massachusetts	10.0
Pennsylvania	10.0
Colorado	10.0
Oregon	9.9
Kansas	9.9
Hawaii	9.8
West Virginia	9.6
Delaware	9.5
Nebraska	9.4
Minnesota	9.3
Alaska	9.2
Iowa	9.1
Ohio	9.1
Michigan	9.1
Indiana	9.1
North Dakota	9.0
Wyoming	9.0
Washington	8.9
New Hampshire	8.9
Wisconsin	8.7
Rhode Island	8.6
Utah	8.4
Vermont	7.6

HOUSE TAXATION

EXHIBIT 21
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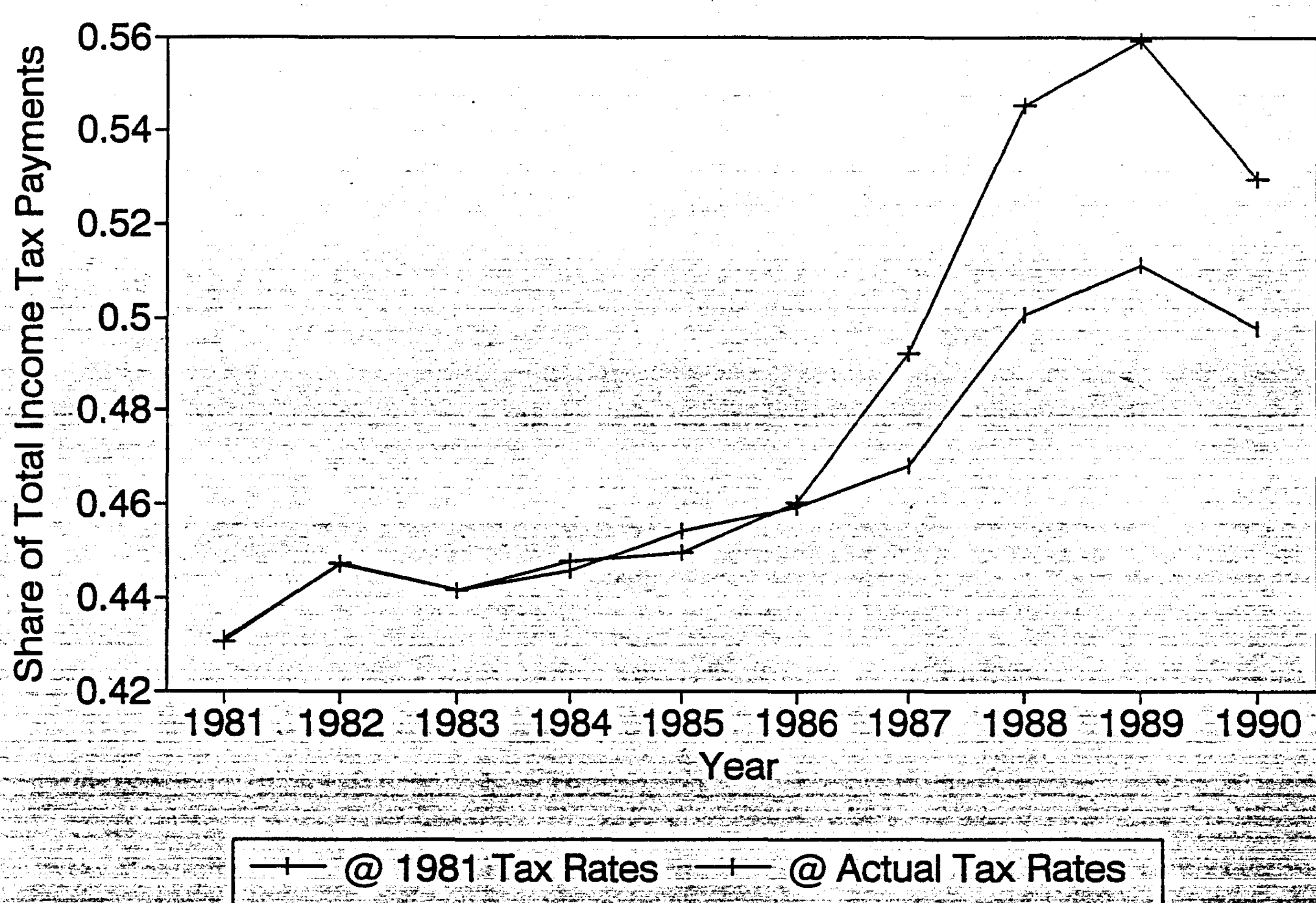
Share of Total Income Tax Payments
Top 10% of All Taxpayers



HOUSE TAXATION
EXHIBIT 32
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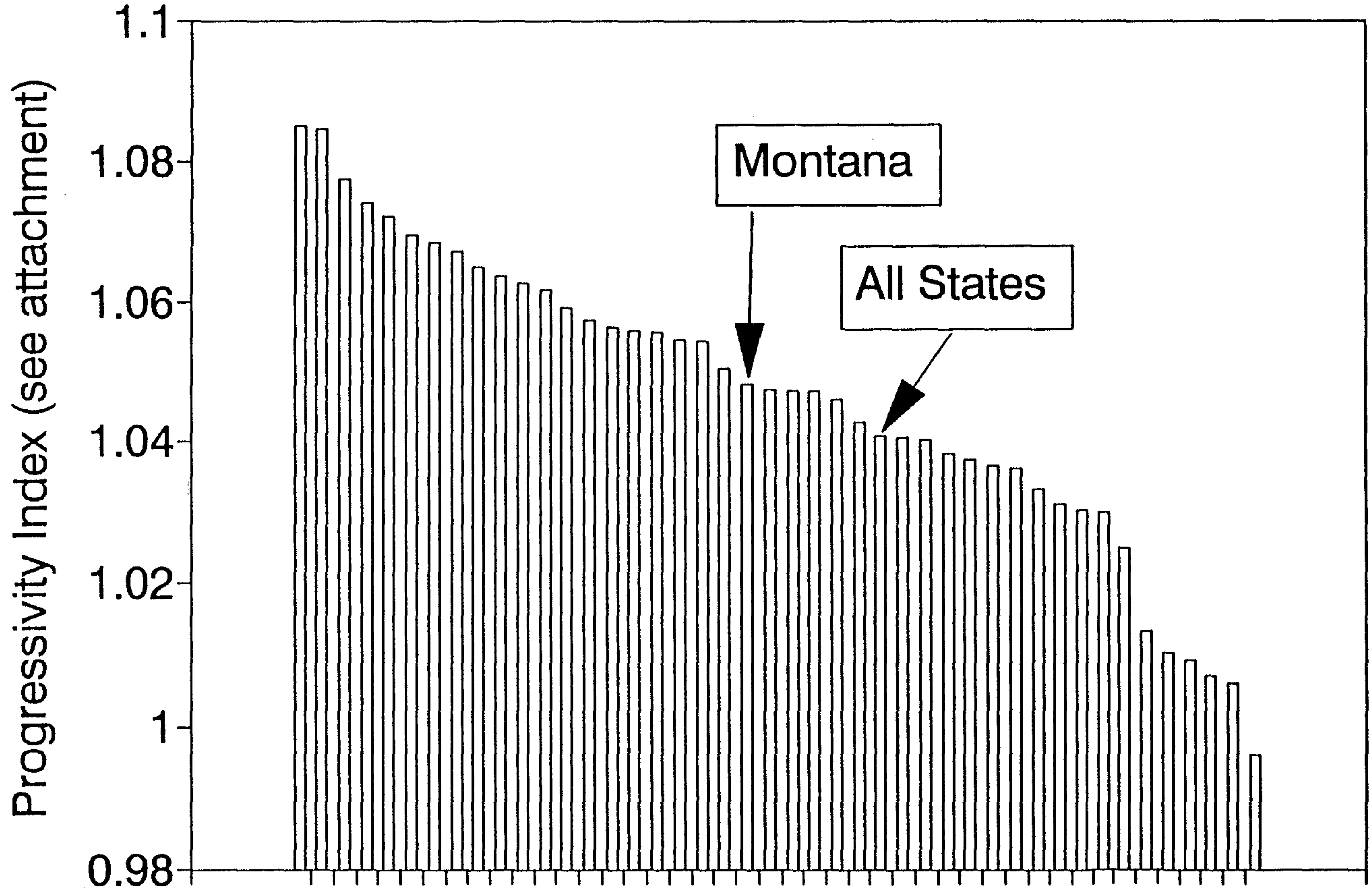
Income Tax Progressivity Index II

By Rank; 1991



Income Tax Progressivity Index II

Vermont	1.085
New York	1.085
California	1.078
Maine	1.074
Hawaii	1.072
Oregon	1.069
Wisconsin	1.068
Minnesota	1.067
Rhode Island	1.065
Maryland	1.064
Idaho	1.063
New Mexico	1.062
North Carolina	1.059
West Virginia	1.057
Delaware	1.057
Nebraska	1.056
Ohio	1.056
South Carolina	1.055
New Jersey	1.055
Oklahoma	1.051
MONTANA	1.048
Arkansas	1.048
Iowa	1.047
Utah	1.047
Arizona	1.046
Georgia	1.043
ALL STATES	1.041
Kansas	1.041
Kentucky	1.040
Mississippi	1.038
Colorado	1.037
Virginia	1.037
Massachusetts	1.036
Connecticut	1.033
Louisiana	1.031
Missouri	1.030
North Dakota	1.030
Michigan	1.025
Alabama	1.013
Illinois	1.010
Indiana	1.009
Tennessee	1.007
New Hampshire	1.006
Pennsylvania	0.996

HOUSE TAXATION
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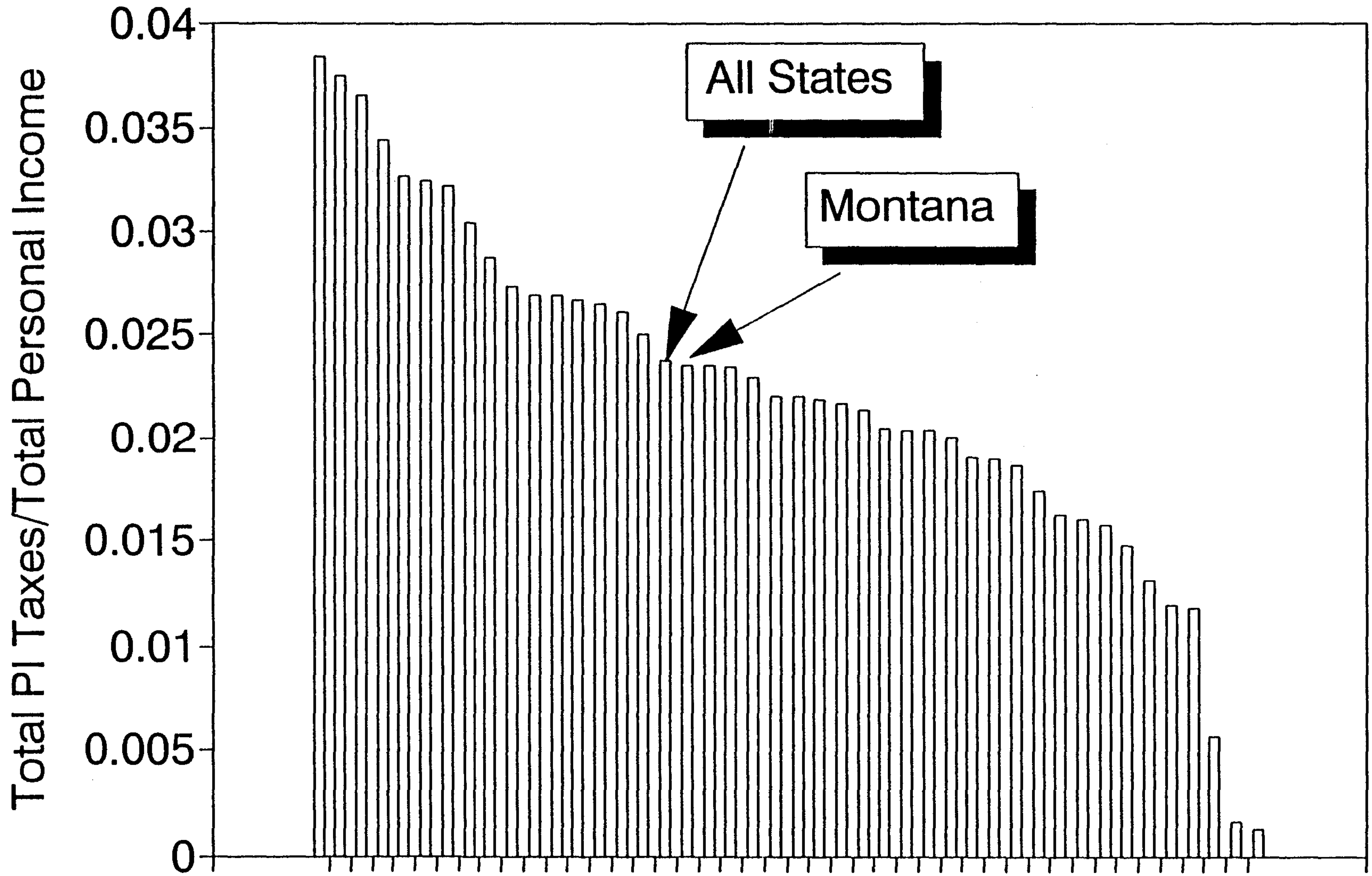
Personal Income Tax Rates

By State; 1989



State Income Tax Rates; By Rank

Oregon	0.038
Hawaii	0.037
New York	0.037
Delaware	0.034
Massachusetts	0.033
Minnesota	0.032
Wisconsin	0.032
North Carolina	0.030
Maine	0.029
California	0.027
Maryland	0.027
Virginia	0.027
Iowa	0.027
Georgia	0.026
South Carolina	0.026
Idaho	0.025
ALL STATES	0.024
MONTANA	0.024
Rhode Island	0.024
Michigan	0.023
Vermont	0.023
Indiana	0.022
Arkansas	0.022
Colorado	0.022
Kentucky	0.022
Ohio	0.021
Oklahoma	0.020
West Virginia	0.020
Kansas	0.020
Missouri	0.020
Nebraska	0.019
Alabama	0.019
Utah	0.019
New Mexico	0.017
Arizona	0.016
Illinois	0.016
New Jersey	0.016
Pennsylvania	0.015
Mississippi	0.013
Louisiana	0.012
North Dakota	0.012
Connecticut	0.006
New Hampshire	0.002
Tennessee	0.001

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Explanatory Notes and Sources

1. Income Inequality Index I is the ratio of average income for a family of four in the highest income quintile (20%) to the average income for a family of four in the lowest quintile. Computed from average family income figures, by quintile and state, in Robert McIntyre, et. al., A Far Cry From Fair, Washington: Citizens for Tax Justice.

2. Income Inequality Index II is the ratio of average income for a family of four in the highest percentile (1%) to the average income for a family of four in the lowest quintile. The source is the same as above.

3. Income Tax Progressivity Index I is the ratio of income inequality index I for before tax income to income inequality index I for after tax income. After tax income is computed by applying quintile specific tax rates to pretax income. This index measures the extent to which the income tax system reduces inequality as measured by index I. The source is the same as above.

4. Income Tax Progressivity Index II is defined and computed analogously to index I.

5. Share of Total Income Tax Payments. The line marked "@ Actual Tax Rates" shows the share of all Montana income tax payments paid by the top 10% of all taxpayers. The values plotted are taken from the March 19, 1992 report of the Director of the Department of Revenue to the Revenue Oversight Committee. The line marked "@1981 Tax Rates" shows how the share of taxes paid by the top 10% would have changed if 1981 tax rates had prevailed over the period but the distribution of Montana AGI had been the same as recorded in the report cited above. For this purpose, 1981 tax rates were taken as the ratio of taxes paid to Montana AGI for 1981, again as listed in the cited report.

6. Personal Income Tax Rates by state were calculated as the ratio of total state personal income tax collections to total state personal income. Calculated from data reported in the U.S. Department of Commerce, 1991 Statistical Abstract of the United States.

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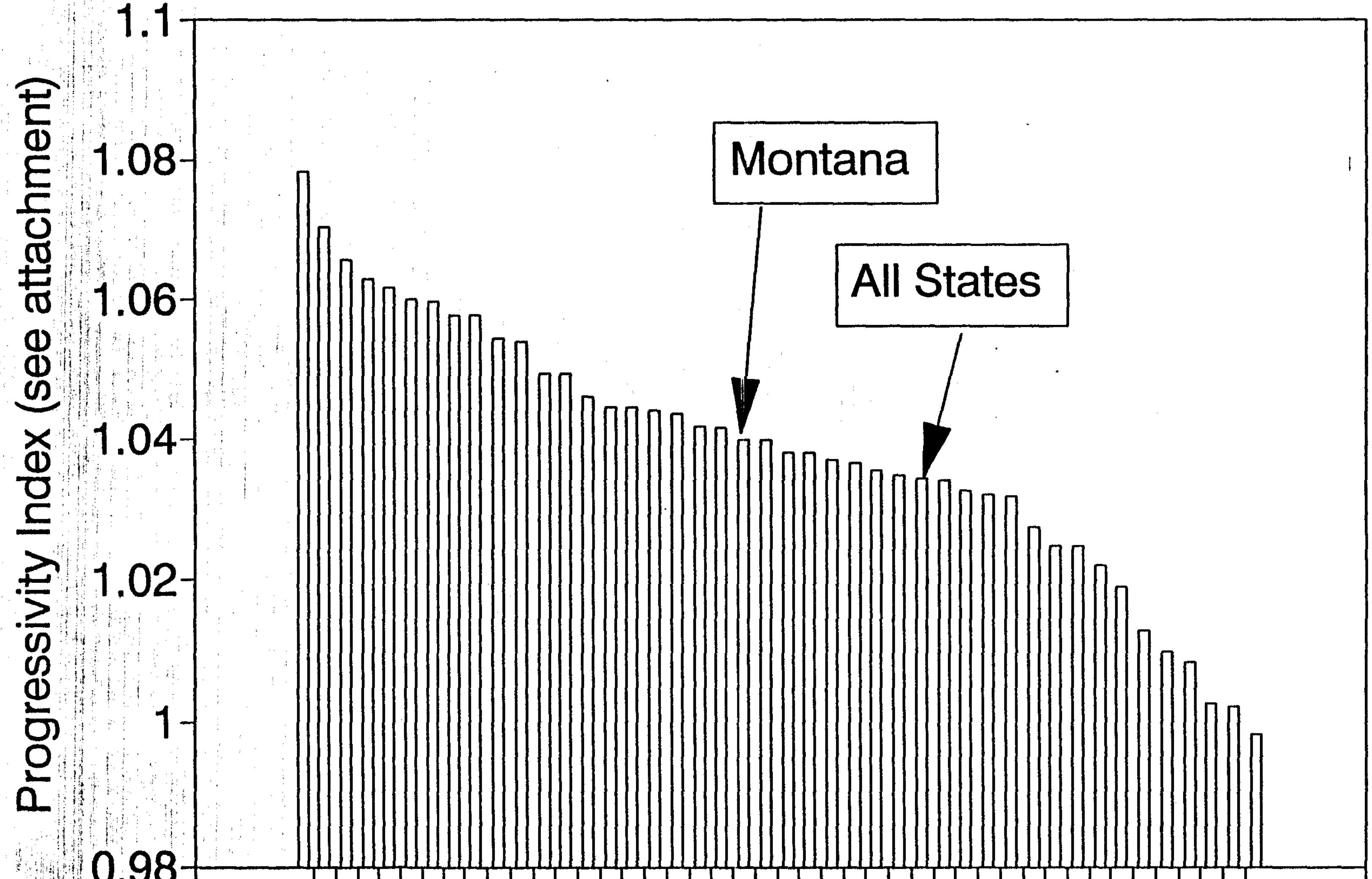
Income Tax Progressivity Index I

By Rank; 1991



New York	1.078
Wisconsin	1.070
Vermont	1.066
Hawaii	1.063
Maryland	1.062
Minnesota	1.060
Oregon	1.060
Maine	1.058
California	1.058
Idaho	1.055
North Carolina	1.054
Rhode Island	1.050
South Carolina	1.050
Delaware	1.046
New Mexico	1.045
West Virginia	1.045
Utah	1.044
Oklahoma	1.044
Ohio	1.042
Nebraska	1.042
MONTANA	1.040
Georgia	1.040
Iowa	1.038
Kentucky	1.038
Arkansas	1.037
New Jersey	1.037
Colorado	1.036
Arizona	1.035
ALL STATES	1.034
Kansas	1.034
Virginia	1.033
Massachusetts	1.032
Mississippi	1.032
Missouri	1.028
Michigan	1.025
Louisiana	1.025
Connecticut	1.022
North Dakota	1.019
Alabama	1.013
Indiana	1.010
Illinois	1.009
Tennessee	1.003
New Hampshire	1.003
Pennsylvania	0.999

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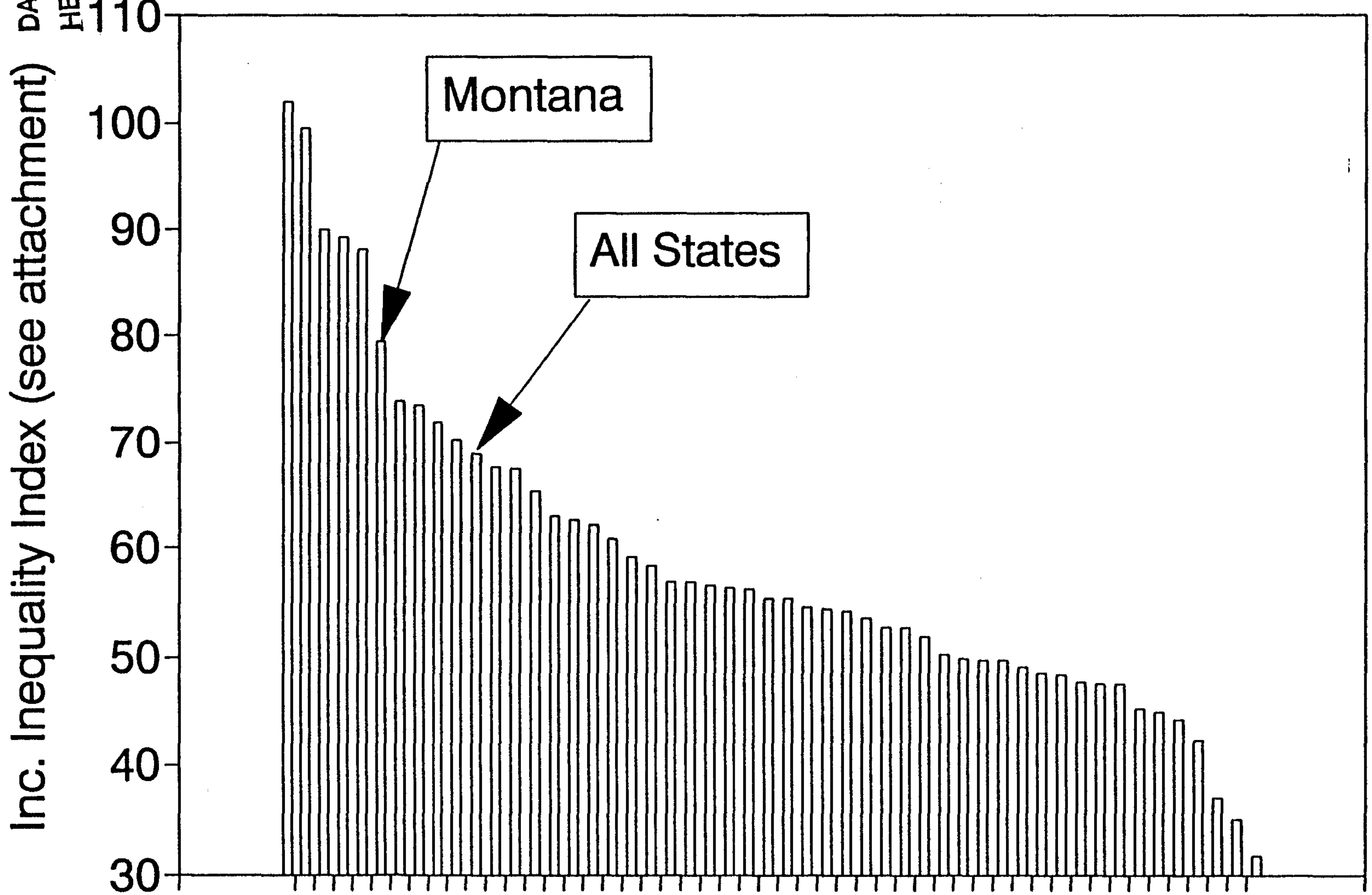
Income Inequality Index II
By Rank; 1991



State Income Inequality Index, II

New York	102.0
Florida	99.6
California	89.9
Texas	89.2
Nevada	88.1
MONTANA	79.6
Georgia	73.8
Connecticut	73.6
New Jersey	71.9
Kentucky	70.2
ALL STATES	68.9
Tennessee	67.5
Arizona	67.4
Illinois	65.3
Massachusetts	63.0
New Mexico	62.6
Oklahoma	62.2
Maryland	60.9
Colorado	59.2
Pennsylvania	58.4
Missouri	56.9
North Carolina	56.9
Kansas	56.5
Louisiana	56.4
Idaho	56.2
Alabama	55.4
South Carolina	55.3
Virginia	54.5
Maine	54.4
Mississippi	54.2
Minnesota	53.6
Oregon	52.8
Arkansas	52.7
New Hampshire	51.9
Hawaii	50.2
Delaware	49.9
Nebraska	49.8
South Dakota	49.7
Wyoming	49.0
Ohio	48.6
Michigan	48.4
Rhode Island	47.7
Indiana	47.7
Washington	47.6
Wisconsin	45.3
West Virginia	44.9
Utah	44.3
Iowa	42.4
North Dakota	37.0
Vermont	35.1
Alaska	31.7

Montana Alliance for Progressive Policy

P.O. Box 961 Helena, MT 59624 (406) 443-7283

HOUSE TAXATION
EXHIBIT 37
DATE 7/9/92
HB 4

Testimony on HB 4
Ann Prunuske
July 9, 1992

Good Morning. Chairman Harrington, members of the Committee, my name is Ann Prunuske. I'm the Executive Director of the Montana Alliance for Progressive Policy, MAPP. MAPP is a coalition of seven constituency groups: The Montana Low Income Coalition, the Montana Women's Lobby, the Conservation Steering Committee - which represents our five conservation groups, Native Americans, the Montana State AFL-CIO, the Montana Education Association and the Montana Senior Citizens Association. MAPP has long endorsed capping the federal deductibility loophole in our state's income tax. However, last December, the Coalition unanimously endorsed this particular measure which caps the deduction at $10,0000.

Montana is one of only eleven states which allows its citizens to deduct their federal income taxes from state taxable income. According to the Department of Revenue, federal deductibility will cost Montana $80.4 million dollars in tax year 1992.

There is no theoretical reason for this deduction. Our state gains nothing from it. Most tax deductions are supposed to serve some public purpose such as encouraging investment, buying a home or saving energy. This deduction accomplishes nothing besides costing our state millions of dollars. And like many deductions and exclusions, the tax loss to Montana is a tax saving to the wealthy. Again, according to the Department of Revenues *Tax Expenditure Report for the State of Montana, Fiscal years 1992 and 1993*. 3/4 of the tax loss to Montana is a tax benefit to the wealthiest 10% of Montana taxpayers.

Members of the Committee, you and the other members of the Legislature must find a way to balance the state's budget. There are some who feel that taking money from the poor is part of the solution - either by cutting entitlement programs to the most seriously indigent of our state, by taking away their opportunity to receive medical care or by forcing them to pay more in taxes. The MAPP coalition finds this notion to be abhorrent, uncharitable and downright vindictive. We have always supported the concept of progressivity in a tax system. Progressivity means those with less ability to pay - pay less. Those with great ability to pay - pay more.

By allowing taxpayers to deduct up to $10,000 (filing singly) or $20,000 (filing jointly), we increase the progressivity of Montana's income tax. There are those who bewail Montana's highest marginal income tax rate of 11% - but don't forget that our top effective rate is only 5%. Implementing this cap will raise that effective rate to 9%. If indeed a 9% effective income tax rate drives away the wealthy, I ask you what are all those wealthy people doing in New York or California?

Members of the Committee, it certainly appears that, one way or another, the State of Montana will have to raise some revenue. Options such as taxing hospitals or gambling target only one segment of the population. A surtax, though it appears to treat everyone alike, will have the biggest impact on low and middle income taxpayers. A surtax will cut much more seriously into their disposable income - the extra money left after paying bills - the money which expands our economy when people use it to buy clothes, jewelry, refrigerators or to invest in their business. The wealthiest 10% of Montana taxpayers have more disposable income than the rest of us. This measure will affect them the least.

MAPP urges you recommend DO PASS for House Bill 4. Thank you.

HOUSE TAXATION

EXHIBIT 38
DATE 7/9/92
HB 4

MONTANA DEPARTMENT OF REVENUE

CAPPING THE FEDERAL INCOME TAX DEDUCTION

July 9, 1992

MISTER CHAIRMAN, MEMBERS OF THE COMMITTEE. FOR THE RECORD MY NAME IS DENIS ADAMS, DIRECTOR OF THE DEPARTMENT OF REVENUE.

THE DEBATE THIS MORNING IS OVER TAX POLICY. HAD IT NOT TAKEN PLACE NOW, IT WOULD BE TAKING PLACE IN THE 1993 SESSION. THE FIRST QUESTION IS - HOW MUCH TAX IS ENOUGH FOR THE TOP 10 PERCENT OF OUR INDIVIDUAL INCOME TAXPAYERS? THE SECOND QUESTION IS - WHAT WILL BE THE INCOME TAX POLICY FOR THE NEXT SEVERAL YEARS? THE BILL YOU ARE CONSIDERING TODAY WILL ONLY HELP GET THE STATE THROUGH THIS FISCAL YEAR. HOWEVER, THE POLICY YOU SET IN THIS SPECIAL SESSION WILL BE THE BEGINNING OF THE POLICY YOU WILL BE FOLLOWING IN THE 1993 REGULAR SESSION SINCE ALL INDICATIONS ARE THAT THE REVENUE REQUIREMENTS ARE GOING TO BE MUCH GREATER FOR THE 1995 BIENNIUM.

I WOULD LIKE TO REVIEW WITH YOU WHAT HAS HAPPENED OVER THE PAST SEVERAL YEARS WITH THE NUMBER OF UPPER INCOME TAXPAYERS. FOR THIS DISCUSSION, I WANT TO FOCUS ON THOSE TAXPAYERS WITH INCOMES OF $120,000 OR MORE FROM 1981 TO 1990. AS YOU CAN SEE FROM THE FIRST CHART, THERE HAS BEEN A SIGNIFICANT INCREASE IN THE NUMBER OF UPPER INCOME TAXPAYERS IN THE 1980'S. IS THIS THE RESULT OF BUSINESS BOOMING IN MONTANA OR A NUMBER OF RICH PEOPLE MOVING TO MONTANA AND CLAIMING MONTANA AS THEIR RESIDENCE? NO! THIS IS THE RESULT OF THE TAX REFORM ACT OF 1986. WHY DID THE TAX REFORM ACT OF 1986 CREATE THIS

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SITUATION? THE TAX REFORM ACT REQUIRED MORE INCOME TO BE REPORTED AND ELIMINATED SEVERAL DEDUCTIONS. SINCE THIS CREATED MORE TAXABLE INCOME WITHOUT THE TAXPAYERS BEING ANY BETTER OFF FINANCIALLY, THE FEDERAL GOVERNMENT AND MOST STATES LOWERED THERE TAX RATES SO AS NOT TO REAP A WINDFALL. MONTANA WAS ONE OF A VERY FEW STATES WHICH DID NOT LOWER ITS TAX RATES, BUT WHICH REAPED A WINDFALL FROM THE TAX REFORM ACT OF 1986. THE TAX REFORM ACT WAS PHASED IN OVER SEVERAL YEARS, BUT NOW IT IS FULLY IMPLEMENTED SO MONTANA IS NOT SEEING ANY MORE WINDFALLS; CONSEQUENTLY THIS BILL WHICH WE ARE DISCUSSING TODAY IS DESIGNED TO GET MORE FROM TAXPAYERS THAT HAVE ALREADY PAID SIGNIFICANT INCREASES WITHOUT ANY IMPROVED FINANCIAL STATUS.

SOME OF THE TAX REFORM ACT OF 1986 CHANGES WHICH RESULTED IN MORE INCOME BEING RECOGNIZED ARE:

* REPEALING THE 60 PERCENT CAPITAL GAIN EXCLUSION
* RESTRICTING THE USE OF PASSIVE INCOME LOSSES (RENTALS)
* REPEALING THE DIVIDEND INCOME EXCLUSION
* MAKING S CORPORATIONS MORE ATTRACTIVE (EXPLAIN)

AS YOU CAN SEE FROM THIS CHART, THE NUMBER OF TAXPAYERS INCREASED, THE AMOUNT OF MAGI INCREASED AND THE AMOUNT OF TAX INCREASED. (NEED NUMBERS)

WHO ARE THE PEOPLE ON THIS CHART AND HOW DO THEY EARN THEIR LIVING. BETWEEN 20 AND 25 PERCENT ARE DOCTORS AND LAWYERS LIVING IN THE LARGER COMMUNITIES. THE REST ARE BUSINESS MEN AND WOMEN, FARMERS AND RANCHERS, INVESTORS AND RETIRED PERSONNEL, AND INDIVIDUALS WITH CAPITAL GAINS

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RESULTING FROM THE SALE OF THEIR FARMS, RANCHES AND BUSINESSES. IN 1990 MONTANA HAD APPROXIMATELY 800,000 PEOPLE. OF THIS NUMBER ONLY 42 HAD INCOMES IN EXCESS OF $1,000,000 AND FOR MANY OF THE 42, THE ONLY REASON FOR THE LARGE INCOMES CAME FROM REPORTING S CORPORATION INCOME. THEY ALSO HAD A LOT OF INTEREST INCOME, DIVIDENDS INCOME, CAPITAL GAINS INCOME, AND RENTAL AND ROYALTY INCOME. 107 TAXPAYERS HAD INCOMES BETWEEN $500,000 AND $1,000,000. 452 TAXPAYERS HAD INCOMES BETWEEN $250,000 AND $500,000. THE REMAINDER OR 1,817 TAXPAYERS HAD INCOMES BETWEEN $120,000 AND $250,000.

I WANT TO PERSONALIZE THIS DISCUSSION SOMEWHAT. WHERE DO THESE SO CALLED "RICH" PEOPLE RESIDE? JUST AS YOU WOULD EXPECT - THEY LIVE IN MANSIONS IN THE MANY OASISES OF MONTANA AND I WOULD LIKE TO GIVE YOU THE NAMES OF SOME OF THESE EXOTIC COMMUNITIES THEY RESIDE IN - ALZADA, EKALAKA, TERRY, ROSEBUD, CUSTER, BUSBY, MELSTONE, LAVINA, SAND SPRINGS, COHAGEN, WIBAUX, SCOBEY, PEERLESS, SACO, DODSON, BOX ELDER, BIG SANDY, JOPLIN, GERALDINE, STANFORD, CASCADE, WHITE SULPHUR SPRINGS, WILSALL, BRADY, DUTTON, BROWNING, FAIRFIELD, TWIN BRIDGES, SHERIDAN, DIVIDE, HALL, WISDOM, CORVALLIS, VICTOR, STEVENSVILLE, ST. REGIS, PLAINS, HOT SPRINGS, NOXON, TROY, LIBBY, EUREKA. AND A LOT MORE. IF YOU VOTE FOR THIS BILL, MAKE SURE YOU LET THE PEOPLE IN THESE COMMUNITIES KNOW THAT YOU DON'T THINK SOME OF THEM ARE PAYING ENOUGH IN MONTANA INCOME TAXES AND YOU VOTED THEM A 30 TO 40 PERCENT INCREASE.

MANY OF THE PEOPLE IN THIS GROUP HAVE ONE TIME REVENUE. GOOD LIVESTOCK PRICES, SOLD FARM, RANCH OR BUSINESS, OR SOLD A LOT OF GRAIN THAT HAD BEEN IN STORAGE. 35 PERCENT OF THE PEOPLE IN THIS $120,000+ GROUP HAVE NO WAGE INCOME. IN OTHER

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WORDS, PEOPLE POTENTIALLY VERY MOBILE. ALSO, THESE PEOPLE MAKE INVESTMENTS IN THEIR COMMUNITIES, PROVIDE JOBS AND HELP MAINTAIN THE ECONOMIC BASE OF THE COMMUNITIES.

HOUSE TAXATION

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DATE 7/9/92
HB 4

Personal Income Tax

Information Packet

Prepared for the July, 1992 Special Session
of the Montana Legislature

— Implementing a Surtax on Montana Tax Liability —

— Capping the Federal Income Tax Deduction —

Montana Department of Revenue
Office of Research and Information
June 30, 1992

HOUSE TAXATION
EXHIBIT 30
DATE 7/9/92
HB 4

PERSONAL INCOME TAX

"CHARTS"

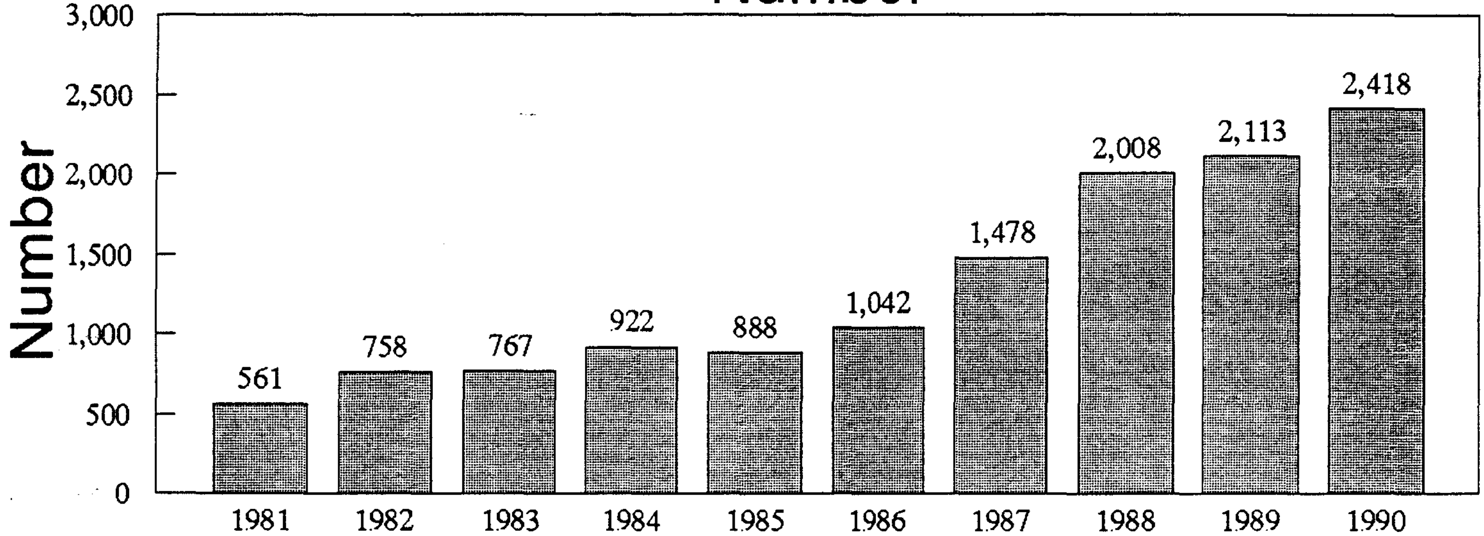
Montana Department of Revenue

July, 1992

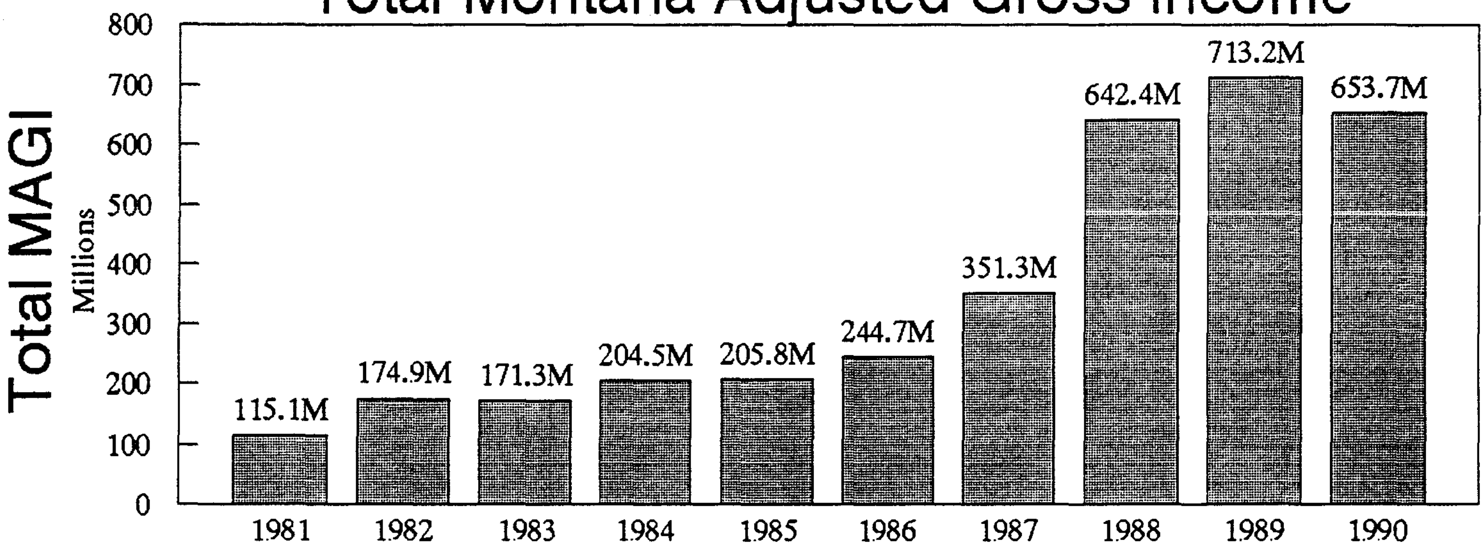
Taxpayers with MAGI Over $120,000
Full-Year Residents

– Ex. # 30 HB 4
7/9/92

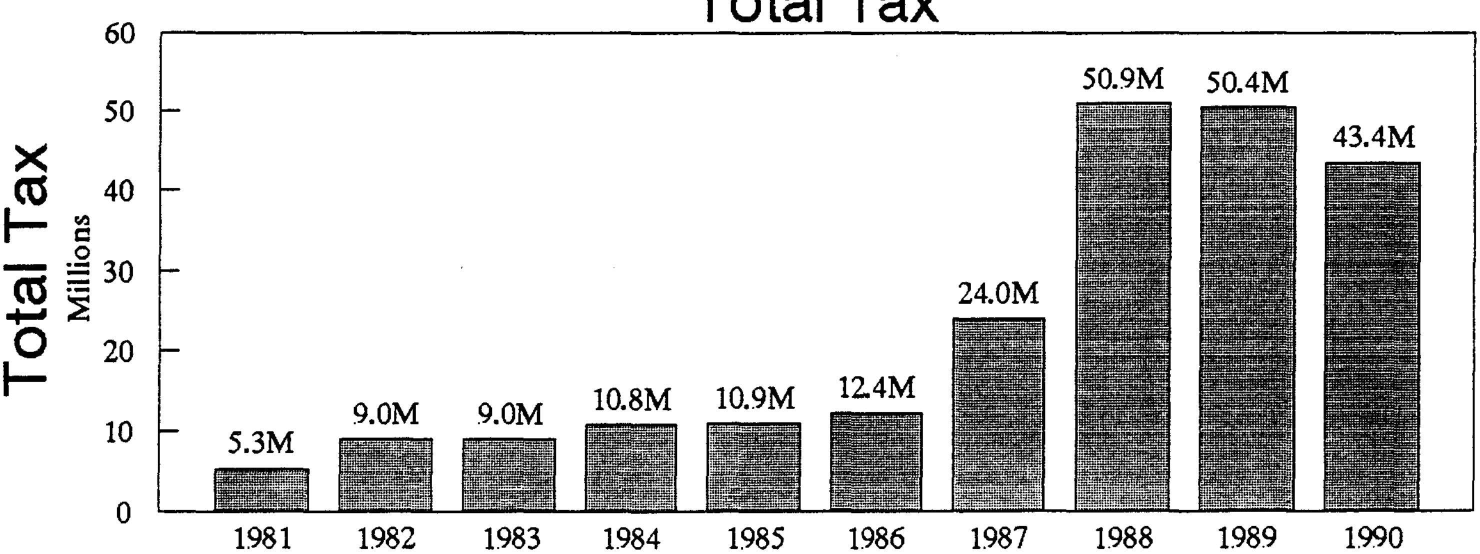
Number



Total Montana Adjusted Gross Income



Total Tax



Ex. # 30 HB 4
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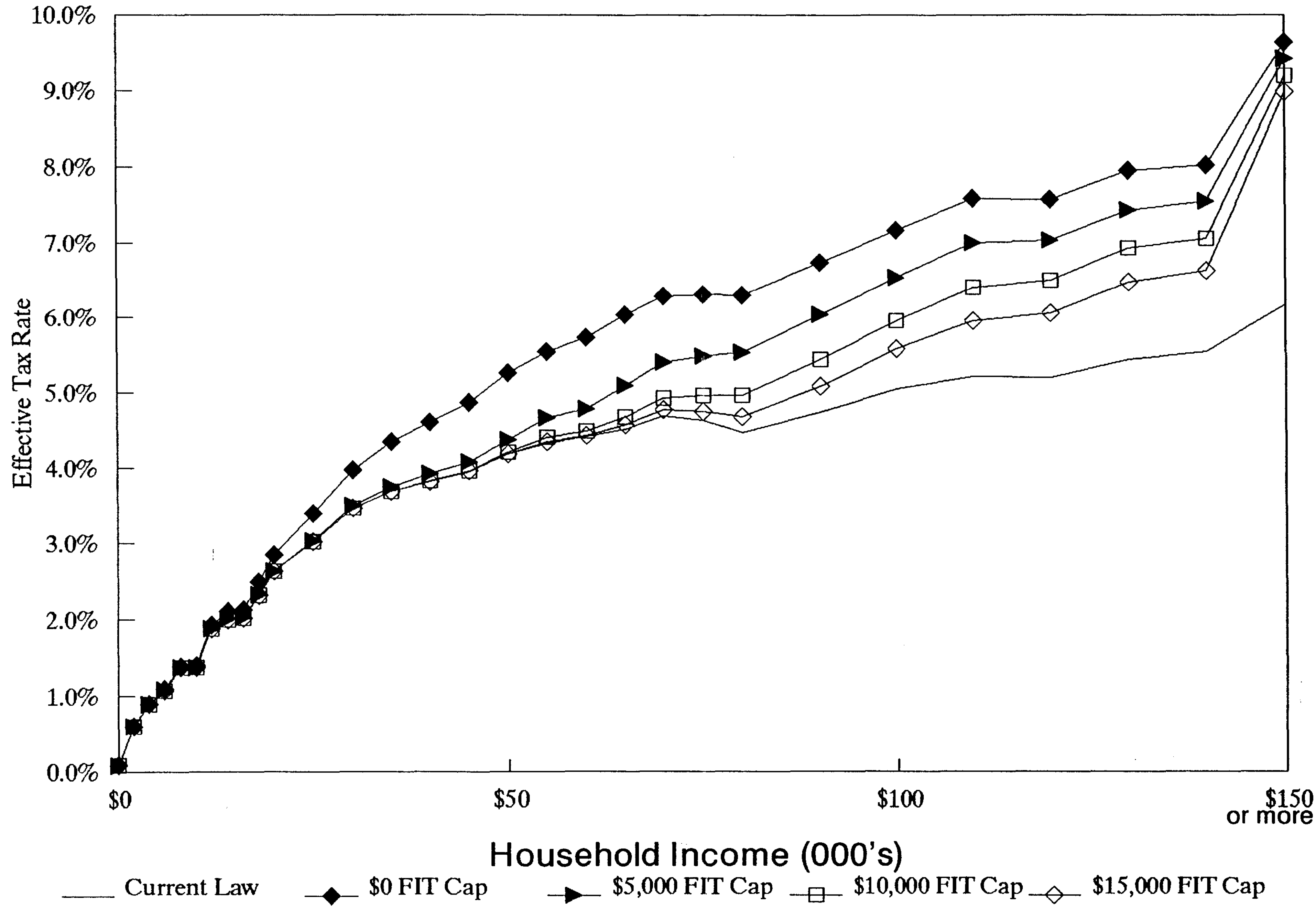
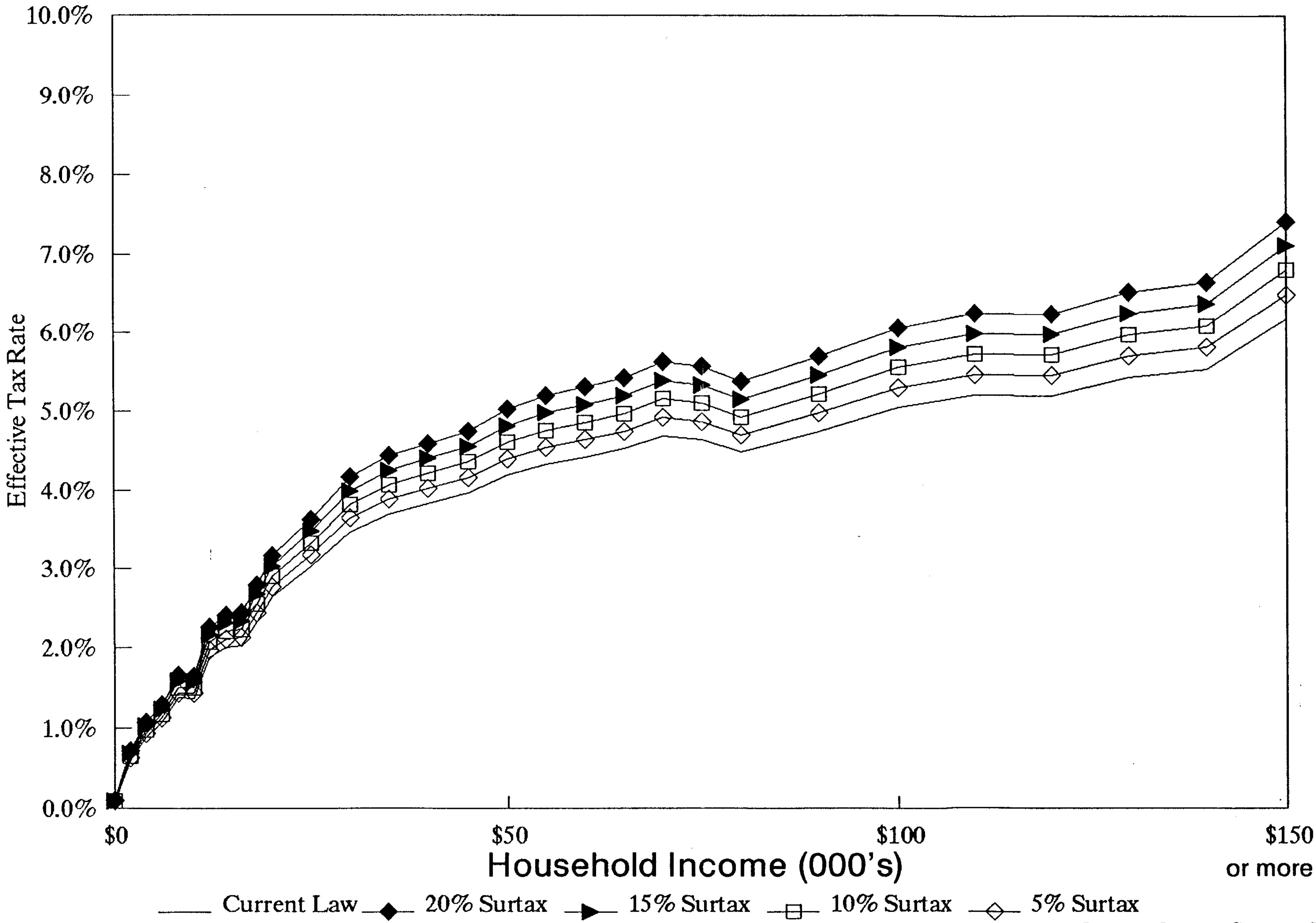
Average Effective Tax Rates
Current Law vs. Alternative FIT Caps



Average Effective Tax Rates
Current Law vs. Alternative Surtax Rates



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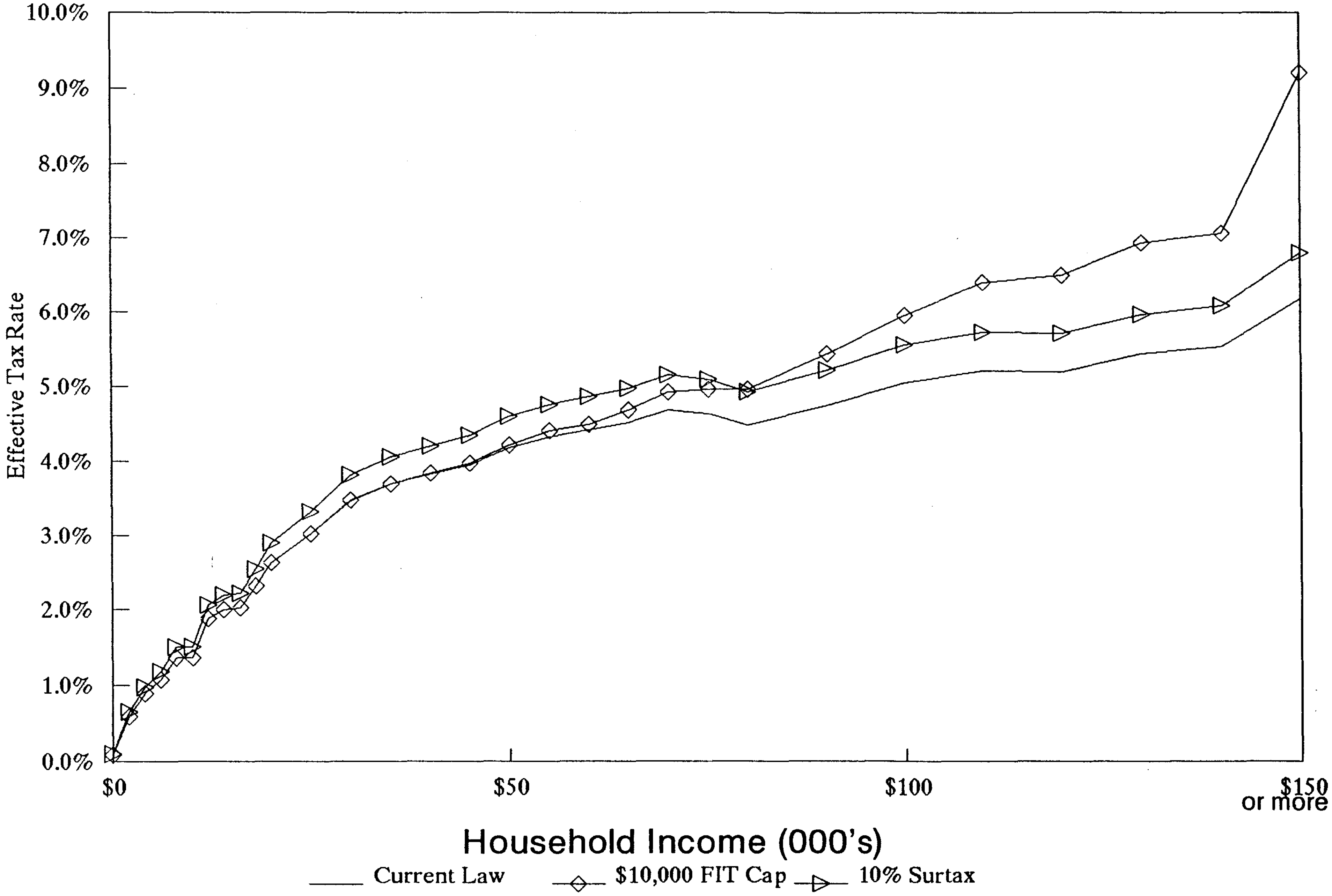
Average Effective Tax Rates
Current Law vs. $10,000 FIT Cap vs. 10% Surtax



Top Rate Necessary to Match Income Generated by a $10,000 Cap on FIT Deduction

Ex. # 30 HB 4
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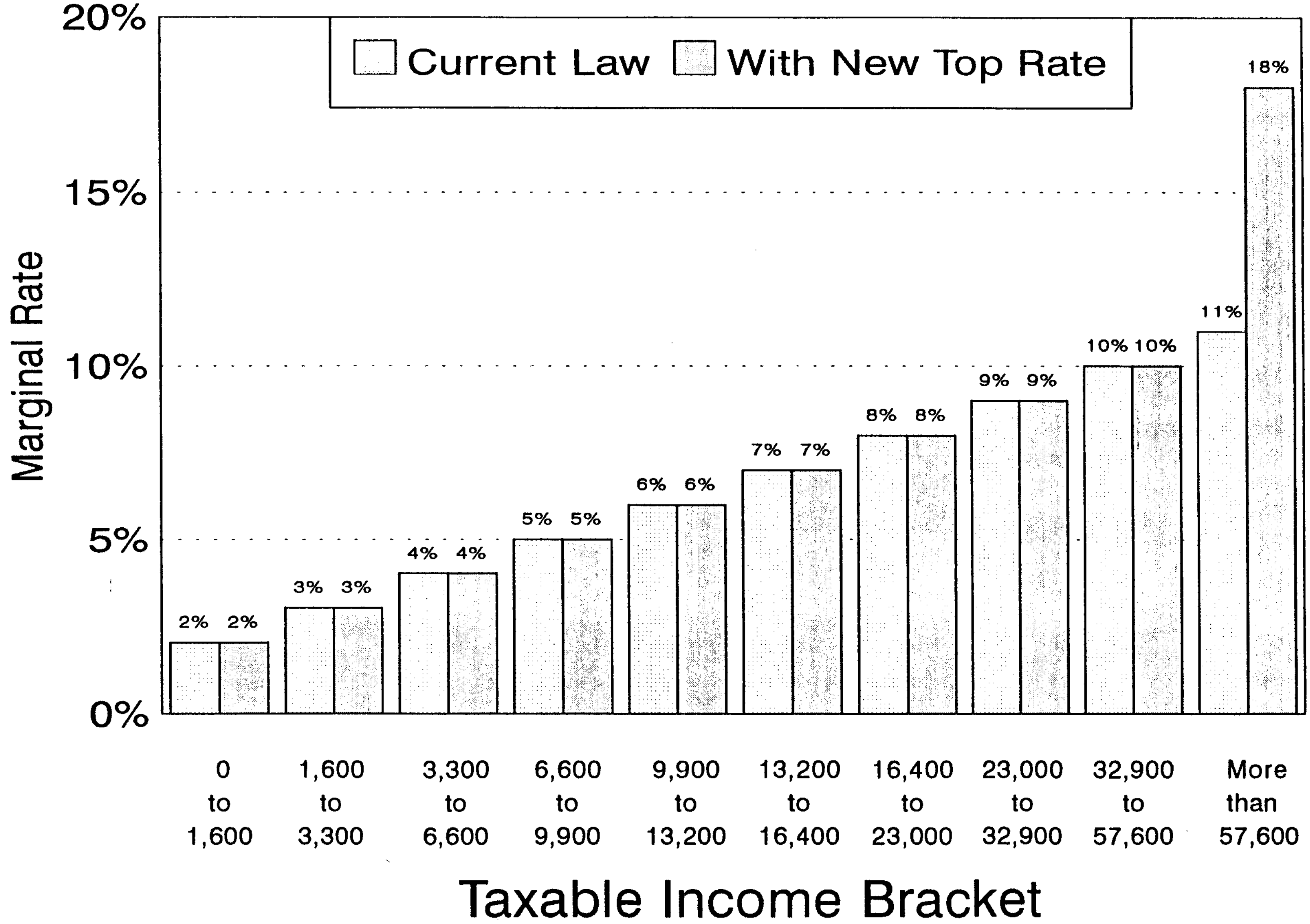

Based on Tax Year 1990 Income Tax Data

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STATE TAX BURDEN RANKING
CURRENT LAW VS. ALTERNATIVE FIT DEDUCTION CAP LEVELS
(Among All Income Tax States)

		Current	—Federal Tax Deduction Cap Level—			
Filertype	Income	Law	$10,000	$5,000	$2,000	$ 0
Single	**$ 50,000**	14	14	11	9	5
Mar.Joint	**$ 50,000**	12	12	10	5	3
Single	**$100,000**	14	6	4	2	1
Mar.Joint	**$100,000**	10	4	3	1	1
Single	**$150,000**	13	3	1	1	1
Mar.Joint	**$150,000**	10	2	1	1	1

All rankings are from highest tax rate to lowest tax rate.

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Suits Progressivity Index

Current Law	0.10210
FIT Cap Level	
$ 0	0.13493
$ 2,000	0.13889
$ 4,000	0.13867
$ 5,000	0.13780
$ 6,000	0.13677
$ 8,000	0.13464
$ 10,000	0.13271
$ 15,000	0.12883
$ 20,000	0.12594

Implementing a surtax does not change the current law progressivity index. Under all surtax options, the progressivity index stays at it's current law level of 0.10210.

HOUSE TAXATION
EXHIBIT 31
DATE 7/9/93
HB 4

Montana's economy

Tax soaks middle class

Rob Natelson

Robert G. Natelson is a University of Montana law professor who writes occasional columns for the Tribune.

If you need to be convinced that the Montana personal income tax should be reformed, consider the following cases, each based on joint filing, standard deduction, two dependents, and the 1991 tax rates:

- You earn $20,000 per year. As a reward for a job well done, your boss gives you a $2,000 raise. Although your income has risen only 10 percent, your state income tax jumps 22.4 percent.
- You earn $18,000 per year. Because you have difficulty making ends meet, you take a second job paying $7,200. Your nominal income rises 40 percent, but your state income tax more than doubles.
- Your spouse is the primary breadwinner, with earnings of $25,000. You take a job worth $10,000 to supplement the family income. This 40 percent rise in your family income triggers a tax hike of 116 percent.
- Your daughter earns $20,000 per year. She asks you to pay the tuition for an educational program that raises her earning power to $40,000. But when her nominal income doubles, her Montana tax burden multiplies four and a half times. So you are not surprised when your daughter announces plans to relocate to a state where salaries are higher and taxes are lower.

Such are the cruel results of the Montana personal income tax, whose rates are steeply graduated — purportedly to "soak the rich." As you can see, however, the primary victims are not rich people (of whom our state has very few) but industrious working and middle class Montanans.

Because of the way the Montana income tax penalizes productivity, common sense suggests that it also discourages economic growth. For years, left-wing ideologues denied that the graduated income tax had its effect, but the empirical evidence is such that they can deny no longer. In 1985, for example, economist Richard Vedder studied the economic growth of states and correlated that growth with each state's income tax system. He concluded that, as a general rule, the more a state steepened its income levies, the greater the economic sabotage.

In other words, not only has Montana lagged the nation economically, but so have other states with similar tax systems.

The sensible alternative to the graduated income tax is the "flat" or "proportional" income tax — in which everyone above a minimum level pays the same percentage of income. Not surprisingly, a number of other states have moved in that direction.

In Massachusetts, for instance, Gov. William Weld has begun the process of flattening that state's income tax rates. His ultimate goal is a system in which no citizen of the Bay State pays more than 5 percent.

Two states closer to home, Oregon and Utah, (which have tax systems generally comparable to our own), have dropped their top rates from 10 percent to 9 percent and 7.75 percent to 7.2 percent, respectively. Our state Legislature, on the other hand, insists on clinging to a top rate of 11 percent — except when imposing surcharges, which make things even worse.

We would do well to heed the example of Colorado, which dramatically reformed its income tax five years ago. The reforms included closing loopholes, raising the poverty exemption, and abandoning the graduated structure in favor of a single 5 percent rate on taxable income.

Not only did these changes provide Colorado's economy with an extra kick, but government revenues continued to rise faster than state income. And, far from enabling the wealthy to avoid their fair share of the burden, the transition to a flat tax greatly increased the share of income tax revenues paid by the rich.

This last point was demonstrated in a recent study by University of Colorado economist Barry Poulson. Specifically, Poulson found that under his state's flat tax, the share of income tax revenue paid by those earning over $50,000 per year went from 44.5 percent to 57.6 percent. The share paid by taxpayers with incomes over $100,000 rose from 16.6 percent to 23.6 percent. But the proportion contributed by poorer taxpayers — those earning less than $15,000 — dropped from 6.7 percent to 3.7 percent.

As Poulson points out, wealthier citizens pay more under proportional tax systems than under graduated tax systems because graduated levies induce wealthy citizens to avoid the state or to shelter capital in nonproductive uses. But a low flat tax brings capital out of hiding and into productive use — where it can be taxed at rates that are reasonable and fair.

In sum: We need to abandon the social bigotry that has wedded us to our steeply graduated tax structure. We need to adopt a plan of incremental tax reform — a plan that will bring to Montana the economic benefits and basic fairness of the proportional income tax.

HOUSE TAXATION
EXHIBIT 33
DATE 7/9/92
HB 4

Testimony of Tom Harrison, representing the Montana Society of Certified Public Accountants, in opposition to House Bill 4:

Mr. Chairman, Ladies and Gentlemen of the Committee, my name is Tom Harrison, and I represent the Montana Society of Certified Public Accountants today. I've made some notes, so my presentation may appear disjointed - I ask your patience with that.

Maybe to start with, to talk about Rep. Cody 's argument: two jobs and then at the end of the year you have to pay more tax. Each of us in this room understand how that happens, that happens because the tax is progressive. Because they do not withhold for each job at the total of the two jobs rate. If you didn't have a progressive tax, you would not owe more at the end. So the problem that she foresees, whether you want to call it a fair one or a problem, is just a consequence of that. Anyone that has had two jobs knows that at the end of the year you've withheld not enough money because you haven't withheld at the total you earned. An argument that is just not relevant, in this case.

The average argument: I think we have to discuss how you can look at averages. And this Rep. Elliott's argument in his charts as well as the Professor from the University of Montana's argument. As you drive more people past a highly progressive spiking income tax into tax shelters, of course those people pay less and less. You may all recall Speaker Harper's argument, which I think was made twice during the last session on the floor of the House, that he had found in figures from Mr. Adams that, indeed, there were 24 people in the state of Montana that incomes of over $200,000 and paid no income tax. Why would that be? Well, that would be because the federal government has seen fit to make certain tax shelters and federal securities non-taxable by this body. Non-taxable by any state.

This body has, itself, made many income producing investments such Board of Housing bonds, municipal bonds, and the like, tax free. Now, as you drive more and more people into those shelters, of course, you skew the average. So you have this group of people paying no tax, And you can argue that that's not fair. That's a great word -"that's not fair" that people don't pay any tax. But there is nothing anyone in this room can do about that. Nothing that anyone in this room wants to do about it. The only thing you could do is make municipal bonds taxable and drive the cost of this state for building the school structures Mr. Feaver likes through the ceiling.

So we have this "apple" of people who don't pay enough tax - don't pay any tax. And there are obviously others that shelter income. The other group of people are the people in this highest bracket. And the argument is - they don't pay enough. And on the other side - they pay too much. But the argument then is, well, we average -we'll average the apple over here and we'll average it with the orange over here and -voila!- we have a pineapple. What a fair system! Because we're in the "average". The argument is intellectually invalid. As we drive more people into the tax shelters, we skew that argument. It justifies more and more, higher and higher taxes. Drive everyone but the bottom person into the free tax bracket because of extraordinarily high rates, and of course, you've got the worst argument: the lowest paying person pays all the taxes. The argument eats on itself and is invalid.

Let me talk about the argument of whether it's fair. Is that an argument that can be made in a vacuum or does it have to be fair in the fact that what is existing around us and in the pool of people where we live. Can it be totally non-comparable and then say, "but it's fair, I deem it fair"? If no one else taxes in that fashion, how does that make it fair? Fair in taxation is determined by you and me. If you find a tax repugnantly high, you can move. And people do. And they move away from it. The income tax on a state level has become a discretionary tax. People can move. And I submit that each of you here know one or more people who have left this state and have cost us dearly in the tax base. And we can make cutesy remarks, "don't let the door hit you in the butt on the way out", I don't think that that is sound tax policy.

Some of you are here from Billings. Joel Long owns Long Machinery in this state. He owns the Transwestern Buildings, huge office buildings in Billings, he owns the First Interstate Bank building in Billings, probably more real property with more income than everyone in this room. He lives in Casper, Wyoming. Is it because he like the wind? Or is it because of this tax at its present rate.

Mr. Hilde (sp?) who sold out and now lives in Las Vegas of Hilde Construction. Studer (sp?) from Billings - why does he live in Las Vegas? Why did Dale Moore, killed in a tragic plane wreck in Idaho, while trying to move his company and his family, all of whom did, one of which has returned. Why did the two people in Havre, who by counting their cow eartags win $47 million in the lottery that you people put on the books and think it's a good promotion for the state - why did the first thing they do - move to Spokane? Maybe it's because the present rates are too high.

I couldn't help - yesterday I had the privilege of sitting through the SRS Subcommittee of the Appropriations Committee, argument and debate on the hospital tax. And watch Julia Robinson - frustrated and - tried to get through the presentation of where this state was going with money shortfalls and hear her say that we're number one or two in general welfare. Welfare assistance. And once again, we can also say, "My word, what a fair state!" And have her tell you that 25% out of state increase - out of state people - are attracted to Montana like a beacon because you've set the welfare payments so high. As we drive the productive..

Chairman Harrington interrupting... "I think we should stay on this bill, please,"

Mr. Harrison..."Mr. Chairman, I certainly agree with that, but I think this bill is the source..."

Chairman Harrington: "Yes I do, but I think, in all intent, we don't have a lot of time here. We have some problems and I would just as soon that you would stay, you understand, I hope you would stay..."

Mr. Harrison: "I'm addressing it only in this fashion, Mr. Chairman, that as we drive the people that this bill is directed out of, and we attract people that are unemployed, of course, the arguments of the Professor get more valid and more valid...more valid and more valid. And we have to, then, in turn, raise the income tax again.

This is a discretionary tax and I want... The other thing that I don't think came out in Mr. Adams' presentation is that the impact of this tax is on about 8000 people per tax year. But of those 8000 people, less than 20% are people that are in that tax bracket on a continuous bracket on a continuous basis. The other 80% of the incidents of this tax, the impact, is the lifetime businessman, rancher, and farmer who are having a one-time sale of their property. They are getting their retirement and they are leaving active business. Those are the people that this bill actually hits. Eighty percent of the incidents of this bill comes on those people who have worked for 30 - 40 years and maybe they have gotten $20,000 worth of equity built up in their ranch a year. And so they are going to get $800,000. This bill says,"stab 'em" at that point.

Even at present rates, we have driven many of these type of people from the state for that transaction. And once they are gone, they are difficult to get back. Very difficult. In the transaction of the Moore family, $35 million was involved. Driven from this state by this bill in its present form. To my knowledge, only one of those heirs has returned. The President of the corporation would not come back because of this income tax. Lives in Reno, a close friend of mine. I say, "why don't you come back?" "Your children are here, your grandchildren are here?" He says he can't do it because of the income tax - can't justify it. And he lives in Reno because, and this is the irony, it reminds him of Montana.

This tax is just not a way to go. The impact of it, the result of it, is poor. I would ask the Committee - suggest to the Committee, why don't you get from Mr. Adams - and you have the

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power to do this - the 1000 or 2000 highest taxpayers in the state of Montana back in 1987 when this federal tax changed everything. And then get the ones last year - 1991 - same group. Tell them to take out the people that have died, find out what has happened to those in-between. I think you're going to find a lot of them no longer live here, not because of this bill, but because of the predecessor of this bill. If you are interested in the hemorrhage that takes place in Montana and is ongoing, then I think that is a base way to get it and determine how dangerous this thing is.

Thank you, Mr Chairman."

HOUSE TAXATION

EXHIBIT 33
DATE 7/9/92
HB 11

TO: Rep. Dan Harrington, Chair
House Taxation Committee

FROM: James W. Borchardt
Chief Examiner

SUBJECT: House Bill 11

DATE: July 8, 1992

In the hearing on this bill, you raised a number of questions to which you requested answers from the Montana Insurance Department. I have been asked to respond to those questions.

You inquired whether more and more insurance companies were becoming insolvent. You further wondered, if that were true, what the financial impact on the general fund of the state of Montana might be as a result of future guaranty fund assessment offsets against premium taxes. Because of ill-advised investments in "junk bonds" and commercial real estate during the 1980's, a number of insurers now find their financial condition to be impaired. In certain cases, these insurers are likely to become insolvent. When that happens, our guaranty fund steps in to make Montana policyholders whole with regard to their policies with those companies.

At the present time, the following five insurers, all under rehabilitation orders in their domiciliary states, face a strong probability of requiring Montana guaranty fund payments to policyholders: Executive Life Insurance Company, Mutual Benefit Life Insurance Company, First Capital Life Insurance Company, Fidelity Bankers Life Insurance Company, and Guaranty Security Life Insurance Company. Finalization of the rehabilitation plans for these insurers has not yet occurred. Therefore, in most cases the financial impact on our guaranty fund is not yet known. I have been informed by the Manager of the Montana Life & Health Insurance Guaranty Association that the anticipated cost to the guaranty fund for the Executive Life insolvency will be approximately $3,000,000. There will probably be assessments necessary with regard to the above-mentioned and possibly other insurers. However, the costs for insolvencies other than Executive Life are simply unknown now.

One possible consequence of this bill is that some small life and health insurers may leave the state or cease offering policies in Montana because their profit margins become squeezed to the breaking point. Thus, competition may be reduced to some extent, and insurance policies may cost more. It does not appear that passage of the bill would create a domino effect on other insurers, whereby the inability of insurers to offset guaranty fund assessments against premium taxes would render them insolvent.

The question of unconstitutional impairment of contracts was briefly reviewed by our Legal Department. There could be a constitutional problem with the retroactive applicability section of this bill, as Article XIII, Section 1(3), of the Montana Constitution provides that "[t]he legislature shall pass no law retrospective in its operations which imposes on the people a new liability in respect to transactions or considerations already passed."

In First Federal Savings and Loan Association v. Department of Revenue, 200 M 358, 654 P2d 496 (1982), the Montana Supreme Court found that a state statute relating to calculating net operating loss carryovers was unconstitutional due to retroactive applicability. The court found that the state could not change a law in 1979 and compel a recalculation of tax returns filed for 1974 through 1978 based upon new law effective in 1979.

A possible solution would be to pass HB 11 without subsection 2 of Section 2, which would eliminate the offset, starting in 1992.

JWB/amp

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

TAX COMMITTEE BILL NO. HB-4

DATE 7/09/92 SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Harrison	CPA Society		X
George D. Anderson	CPA Soc - Self		X
Darrell Holzer	AFL-CIO	X	
Ann Prunuske	MAPP	X HB 4	
Scott Shull Great Falls	Diamond Jack's Casino		HB 19
Dennis Burr	MT Taxpayers Assn	HB 4	✓
Marie E. Durkee	MTA	HB 19	✓
Steve Barrett	Video Lottery Technologies	HB 19	X
Gary Bennett	Video Lottery Tech		X
R Budd Gould		HB 19	X
Marcia Dies			
Michael Cetrazo	Village Inn Pizza - Rialto -	HB 19	X
Jim Grubbs	Main St Chi - Bills		X
Arlon Pike	Gold Nugget - Bldgs		X

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John Walker M.F.T. H.B. 4

HOUSE OF REPRESENTATIVES
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House Taxation COMMITTEE BILL NO. HB 4 ELLIOTT / HB 13 COBB / HB 19 ELLISON

DATE 7/9/92 SPONSOR(S) ____________

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible] E [illegible] Billings MT	Riverboat Casino		X
[illegible]	GIA		X
Steve Arntzen	GIA		X
Curtis [illegible]	YTA		HB 19
Deborah Hanson	Montana Bar - Miles City		X
[illegible]	R&R Casino		HB 19 X
Lobby Bar Gt Falls			
JANET HAFFNER Gt. Falls	R&R CASINO		HB 19 X
R.J. HAFFNER Gt. Falls	Good Time Charlies		HB 19
SCOTT BROWNLEE	MONTANA SOCIETY OF CPAs		
Tim Clavin	Clavin Vending		HB X
[illegible]	NEL		
Carl Harrington	County Treasurers Assn.		HB 13 ✓
[illegible]	[illegible]		HB19 ✓

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HOUSE OF REPRESENTATIVES
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Taxation COMMITTEE BILL NO. HB-19

DATE 7/9/92 SPONSOR(S)

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
[illegible] Berksen	Mt Coin Operators		✓
Dick Williams	Jokers Wild + Nickel Annie's		✓
Dean Jensen	Gold Nugget-Casino [illegible]		✓
Micky Ericksen	Sam's Supper Club		✓
Don Laine	Anderson Zurmuehlen		
Dave Brown	State Rep. - Butte	HB-19	X
Tony Preite	B.P.D.C.		X
Chuck Anderson	Kalispell Gold Nugget		X
Chris Warren	Capital Music Helena		X
Gary LaRue	Valley Federated Billings		X
[illegible]	Best Bet Casinos-[illegible]		X
[illegible]	Best Bet Casino		X
Mike Mlekush	Best Bet Casino		X
Richard S. Coleman	Best Bet Casino		X

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HOUSE OF REPRESENTATIVES
VISITOR REGISTER

Taxation COMMITTEE BILL NO. HB 4, HB 19

DATE 7/9/92 SPONSOR(S) ______

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
JOE ROBERTS	DON'T GAMBLE W/THE FUTURE		X
[illegible]	[illegible]		X
[illegible]	[illegible]		X
Terry Minow	MT Fed of Teachers	HB 4 X	
[illegible]	SD 20	HB4	
Sandy Skiles	BEST BET-Whitefish		X
Dan Skiles	Best Bet-Helena		X
Gerry C. Will	Mother Lode Saloon		X
Alec Hansen	MLCT		X
[illegible] Meiter	City of Billings		X
LARRY AKEY	GAMING INDUSTRY ASSOC	HB19	X
John P. Poston	MCMOA	HB 19	X

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