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Montana's business climate: How bad is it really?

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MONTANA'S BUSINESS CLIMATE:

HOW BAD IS IT, REALLY?

By

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CHAPTER ONE

INTRODUCTION

This paper brings together an eclectic collection of information, culled from volumes of data, legal status reports, newspaper articles, economic analyses, scholarly treatises and historical tracts, all having some bearing on the atmosphere for doing business in Montana. It is hoped that, when those "snapshots" are juxtaposed, the viewer will get a better feel for the nature and complexity of this state's business climate.

The historical roots of what is perceived as a negative public attitude toward business are examined, as are some of the state's physical characteristics that may have effects on business. Likewise, some of the present era's leading socio-political issues -- wilderness, large damage awards in liability lawsuits, the tax structure and a strained and expensive workers' compensation system -- are examined in the context of their effects on business. To the extent possible the latest developments in those issues are included. Finally, since Montana seems to come out on the losing end of various national organizations' comparative state business-climate ratings, two of those ratings will be examined. One of them, the 1989 Development Report Card for the States by the Washington-based Corporation for Enterprise Development, is composed of comprehensive economic analyses of every state and covers some details of business climate that are not reached elsewhere in this paper. For that reason the primary focus of that part of this paper will be on the CED report. There is no recommended action at the conclusion of this paper, that being the province of political and business leaders.

The main delimiting factor in putting together this report is related to the vagaries inherent in some of the subject matter. Some of the issues discussed are sufficiently emotional to the interested parties that it has become difficult to determine where the facts end and the rhetoric begins. An attempt has been made to filter out the emotional arguments, but no doubt critics -- especially those with special interest in some of the topics -- would be able to find some. In those cases, the author may plead guilty to faulty selection of data and to being concerned with Montana's future, but he may not be held responsible for the data themselves.

Goals

In pursuing this broad and complex topic, the primary goals have been expository in nature: to make the primary issues related to business climate understandable, and in so doing to put them into perspective, both historical and geographical. Further, it was hoped that an answer could be found for the question: Is the business climate really that bad here? It is up to the reader to judge whether the goals of understanding and perspective are reached.

In a preamble to the 1989 Development Report Card For the States, one of the national rankings detailed in this paper, the authors create a surprisingly eloquent simile, likening their efforts in assembling masses of data into the report cards to the efforts of an artist combining thousands of brush strokes into a portrait. "Like a good portrait," they write, "a good economic climate index should present a likeness that is instantly recognizable and captures something of the state's spirit."[1] Their report is comprehensive and remarkably well organized. But it cannot, given its scope, get at the spirit of any state. It is hoped that some of Montana's spirit is captured in this paper.

Scope

Because of the broad sweep of its topic, this paper contains virtually no original research, and very little that has not been published somewhere before. Large, detailed studies have been done, many of them recently, on

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[1]Corporation for Enterprise Development, The 1989 Development Report Card for the States, March 1989, 3.

most of the topics discussed herein. Rather than to challenge those studies, the purpose of this paper is to reflect and, when possible, synthesize them. When obvious conflicts in the data arose, they were either explained or omitted. The report is not intended to be all-inclusive. Rather, the aspects addressed are those deemed typical, timely or particularly controversial in Montana's business climate in the midst of the state's Centennial year. Some subjects, such as quality of education, are mentioned in the context of being threatened by funding or other limitations. But they are not detailed here for reasons of length -- entire papers can be and have been written on them, but they are not easily summarized in a fair way. This can be seen as a weakness in the present paper, but lines had to be drawn somewhere.

Methodology

As noted above, virtually all of the contents here are derived from scores of published sources. Key among business journals was the Montana Business Quarterly published by the University of Montana's Bureau of Business and Economic Research, now under the direction of Paul Polzin. For news developments, especially notable court cases and political actions, the main source was the Great Falls Tribune. Other sources too numerous to mention here were less-often cited, but not necessarily less important.

Organization

The paper is divided into nine chapters dealing with general aspects of business climate's components. In the next chapter, the historical foundation for what is perceived as a negative attitude toward business on the part of many Montanans is presented. Chapter Three focuses on the physical realities of Montana -- chiefly its population, size, isolation and weather. Chapter Four is about governmental or legal actions that are described in the chapter's heading as "The Fostered Climate." Its primary focus is on two controversial topics: the status of liability law in the state, wherein a relatively recent history of large damage verdicts against corporations is seen as discouraging other firms from doing business here, and problems in the workers' compensation insurance system, which is seen by many as being excessively costly and therefore "anti-business."

Chapter Five turns to the attitudes of Montanans toward growth and development, particularly as it is manifested in the protracted political fight over the particularly intractable question of wilderness designation in the state. In Chapter Six, the tax structure of Montana is viewed from a variety of angles, including how it compares with other states and its effects on business climate. Chapter Seven, which could be titled, "The Unfinished Chapter," summarizes business-related actions taken during the 1989 regular and special legislative sessions. It is unfinished because a key bill passed by the special session in July and signed by the governor in August has not been tested in the courts.

Chapter Eight examines outsiders' views of Montana, as evidenced in two state-by-state ratings of business climate carried out by independent organizations. As noted above, particular attention is paid to the 1989 Development Report Card for the States, which serves to fill some of the gaps left elsewhere in this paper. Chapter Nine is a brief, overall summary of the findings and some general conclusions.

CHAPTER TWO

THE HISTORICAL CONTEXT

> 40 miles from water
> 40 miles from wood
> I'm leaving old Montana and
> I'm leaving her for good
>
> Dan Cushman, Goodbye Old Dry[1]

Such a road sign was not unusual on Montana's Hi-Line 70 years ago. The eastern two-thirds of the state was in the throes of drought, and the settlement boom that had begun just a decade earlier had turned into a bust of unprecedented proportion.

The 100-year history of the State of Montana is filled with boom-bust stories, and the landscape is littered with their remains: giant, poisonous holes in the ground and orange hillsides left by mining operations; deadfall and slash left on gully-washed slopes where loggers once worked, gray homesteads that lean to the east, as if pointing out the blame, and riverside jogging paths where trains once ran. In each instance, products and profits usually went to some far-off metropolis, and environmental damage and

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[1]Dan Cushman, Goodbye Old Dry, (Great Falls, Mont.: Stayaway Joe Press, 1955) 155.

unemployment stayed here.

Overlaying the past is a present in which the dominant topic among business people is the state's business climate. Seminars are conducted on the subject, and politicians make it their campaign focus. Business-climate rankings of states by various organizations still are front-page news in the state's press.[2] The state is one in which beauty and nature have always reigned: It is isolated and relatively extreme in climate, but most of the rivers run pure and trout abound, buffalo roam in profusion and deer and antelope do, in fact, play. It is a State of the Union, but it is also a state of mind: lumberjacks, mountainmen, cowboys and Indians. The dreams of youth are reshaped to fit in a modern, adult world: a cabin in the woods, fishing after work, skiing on Sunday afternoon and shooting prairie dogs year-round.

What follows are brief discussions of the historical underpinnings of the state's historical "big three" industries --agriculture, resource extraction (oil, gas and minerals) and timber.[3] A fourth, railroading, plays a role in the other three, as well as a key role in the initial settling of much of the state. The thread that runs through

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[2]"Survey of manufacturing climates draws criticism,' Great Falls Tribune, 15 June 1989, 1A.

[3]K. Ross Toole, Twentieth Century Montana: A State of Extremes, (Norman, Okla.: University of Oklahoma Press, 1972), 282.

all of them is that they have been dominated by forces outside the control of the local population.

Agriculture

Booms and busts are common in agriculture the world over, and Montana is no exception. They started with a cattle boom in the mid-19th century, followed closely by a more moderate sheep boom. These were followed by moderate busts, usually related to harsh weather.

In the livestock half of the agricultural industry, though, the principals -- people like Granville Stuart and Conrad Kohrs -- were either financially strong enough to withstand market and weather fluctuations, or flexible enough to move their assets into other areas.[4]

Less suited to withstand the foibles of finance, markets and weather have been the farmers. Oddly, Montana's most noteworthy agricultural boom-and-bust cycle was barely visible in Census data, because the bulk of it -- boom and bust -- occurred between Census surveys. It has been estimated that between 70,000 and 80,000 would-be farmers and ranchers had moved into the state between 1909 and 1918, and that at least 60,000 had left before 1922.[5]

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[4]Clark C. Spence, Montana: A Bicentennial History (New York: W.W. Norton & Company, 1978), 40-52.

[5]Toole, 26.

The settlers, most of them "honyocker" immigrants from Eastern states, had been recruited by railroads, land companies, community boosters and state and local governments.[6] Unhappily for the settlers, the recruitment efforts were accompanied by a coincidental run of years in which above-average precipitation was experienced on the High Plains, including good amounts in spring, just when it was needed. As historian K. Ross Toole wrote:

> The Northern Great Plains entered one of its periodic wet periods about at the turn of the century. During such periods, wheat, in particular, could be grown with great success. And it was excellent, high-protein wheat.[7]

In 1909, Congress approved the Enlarged Homestead Act, which doubled the size of allowable homesteads from 160 to 320 acres. A later amendment reduced the amount of time required to "prove up" a homestead from five to three years.[8] At the same time, writes historian Clark C. Spence:

> Both the Northern Pacific and 'Yim' [Jim] Hill's Great Northern offered easy emigrant rates and boosted Montana as a land of incomparable flowery meadows, lush grasslands, and healthful climate, requiring only hard work to develop.[9]

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[6] Ibid., 49-51.

[7] K. Ross Toole, The Rape of the Great Plains (Boston: Little, Brown and Company, 1976), 131.

[8] Spence, 133.

[9] Ibid., 133.

From 1900 to 1920, wheat acreage in Montana grew from 258,000 to 3,417,000.[10] When the bottom fell out of wheat markets after World War I, and the rain stopped falling in Montana, Spence wrote, the locals tended to blame the "outside exploiters and external agencies (primarily land companies and railroads) who callously used the naive settler for private profit. . . ."[11]

Historian and journalist Joseph Kinsey Howard, writing in 1943, laid much of the blame for the bust at the foot of the Federal Reserve Board, which tightened credit in the early 1920s at a time when land and commodity prices nationwide -- with Montana leading the way -- were tumbling.[12] Later historians discounted Howard's bitter accusations -- not his accounts of the suffering, but his theory about how it came about. Toole wrote:

> For many it [Howard's book] answered all the questions and confirmed the belief that the ordeal was, after all, traceable to exploitative "outside" interests. The drought and drastically falling wheat prices faded into the background in the minds of many Montanans. So did their own wild speculation. It was easier to deal with a conspiracy by men than the cycles of nature and complex world economic conditions.[13]

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[10] Ibid., 132.

[11] Ibid., 27.

[12] Joseph Kinsey Howard, Montana High, Wide and Handsome (Yale University Press, 1943), 210-224.

[13] Toole, State of Extremes, 90.

While not completely innocent of blame, the "outsiders" were no more guilty than many of the complainers' fellow Montanans, and the founding father of the city of Great Falls, Paris Gibson, was foremost among them, according to Spence. Spence wrote:

> Locals like Montana senator-promoter Paris Gibson challenged the idea that the land was arid or even semi-arid. Given proper techniques, Montana farming was as certain 'as in any states east of the Mississippi,' they told their audiences.[14]

When the bust came, then as now, the bearer of the bad news, too, got some of the blame. Even the fictional newspaper reporter who quoted the road sign that leads off this chapter, taken from Great Falls author Dan Cushman's book, Goodbye Old Dry, was taken to task by his boosterish boss, who told him:

> Anybody with a big pair of feet can kick things down. . . . After quoting that gem, what you should have done was point out that here was a fellow who should have drilled a water well and planted himself some fruit trees.[15]

Wherever the blame lay, bust it was. When the dust had blown away, more than 200 Montana banks had been closed, wheat yields had gone from 25 bushels an acre to 2.4, and about 85 percent of the newcomers had left the state.[16] The 15 percent who remained tended to blame outsiders,

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[14]Spence, 133

[15]Cushman, 155.

[16]Toole, State of Extremes, 81; Howard, 197; State of Extremes, 26.

corporations and government. Their children are the parents and grandparents of today's native-Montanan workforce.

Mineral Extraction

The cycles in this leg of the Montana economy are more varied in length and severity than their counterparts in other industries. Because of the amounts of money involved, the extractive-industry cycles seem to have had far longer-lasting effects on the state's collective psyche. To gauge them, one has only to look at the scale of some of the non-fuel mining operations, the amount of wealth they transferred out of the state, and the size of the ghost towns they left behind.

In 1925, in the aftermath of the massive bank closures detailed in the previous section, the last will and testament of William Andrews Clark, one of the infamous "copper kings" who long dominated the political and economic landscape of the state, was admitted to probate in New York. It provides a vivid comparison, by historian Howard, of the impact of mining on Montana and the parallel impact of agriculture:

> The [Clark's] estate was valued at $47,000,000. That sum would have paid every depositor in Montana's 191 closed banks 100 cents on every dollar. And there would have been $17,000,000 left over.[17]

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[17]Howard, 235.

What kind of people were the copper kings? In the Montana chapter of Inside U.S.A. in 1946, author John Gunther described Clark as "one of the most tidily ruthless men who ever lived."[18] Gunther said the battle between Clark's Amalgamated and Marcus Daly's Anaconda was "as complex as that of the Holy Roman emperors after Diocletian. Presently Amalgamated, which had swallowed up Anaconda, was in turn swallowed up by Anaconda, which revived."[19]

Writing about 25 years after Gunther, Neal R. Peirce said that Gunther had told the truth when he observed that the "Anaconda Company had 'a constrictorlike grip on much that goes on, and Montana is nearest to a "colony" of any American state, Delaware alone possibly excepted.'"[20] Further, Peirce observed:

> The story he [Gunther] depicted, of one corporation's feudalistic control of every aspect of a state, was true of what had existed well into the 1930s. Secretive and often vindictive, Anaconda controlled almost all elections -- dragging in the 'cemetery vote' where necessary. . . .
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> . . . To top it all off, Anaconda owned most of the newspapers of Montana, stifling public debate and providing Montanans with a homogenized, sanitized view of their state and the world. Dissent was so frowned on that letters to the editors were never printed.[21]

The last five of the company-owned newspapers -- those in

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[18]Neal R. Peirce, The Mountain States of America (New York: W.W. Norton & Company, 1972), 95.

[19]Ibid.

[20]Ibid., 94.

[21]Ibid., 94-95.

Helena, Butte, Billings, Livingston and Missoula -- were sold to Lee Enterprises, an Iowa-based newspaper chain, in 1959.[22]

As for ghost towns, you do not have to look far to find them -- Bannack, Garnet, Elkhorn, Coloma. All are reachable by passenger auto.

But more dramatic -- and more obvious -- are the remains of The Company, which announced on January 7, 1983, that it was closing down its remaining Butte operations, laying off the 700 or so remaining workers there and about 300 at its aluminum plant in Columbia Falls.[23]

In Butte, there is the Berkeley Pit, once the second-largest open-pit mine in the world. It was a take-no-prisoners method of getting more ore from the ground with fewer miners than had previously been required when it was begun around 1950. It was a spectacle of mankind's willpower and ingenuity when it was operating; it became a giant, grotesque pothole partially filled with blood-red water once it was shut down.

Butte's population has declined steadily in the wake of such changes, going from a high of upwards of 100,000 in 1917, more than 20,000 of them mineworkers, to fewer than

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[22]Ibid., 96.

[23]Tribune, "The tumultuous reign of Anaconda in Montana," 8 January 1983, 13A.

40,000 today, only about 450 of them in mining.[24]

The Company's namesake city, Anaconda, was site of the principal smelter for the Butte minerals. It had an economy perhaps even less diverse than Butte's. Today, its giant stack stands, smokeless, and the remaining residents struggle to survive.

The most obvious symbol of The Company on the plains of Montana, the 506-foot "Big Stack" at Black Eagle across the Missouri River from Great Falls, was blown up on September 19, 1982, over the protests of former company workers and others who had grown fond of the massive landmark.[25]

The refinery and related enterprises in Black Eagle, once workplace to as many as 2,000 union men, have been transformed into grassy slopes, and a salvage company is still working to eliminate the evidence of the company's presence.[26]

Now, a decade after The Company began shutting down operations in Montana, a new precious metals mining boom is under way, much of it centered in the northwestern corner of the state, some 300 miles from Butte. The rest of the 1980s boom is scattered from Jardine, near Yellowstone National

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[24]Ibid., 101; Research and Analysis Bureau, Montana Department of Labor and Industry, Montana Employment and Wages: Second Quarter 1988 (January 1989), 93.

[25]Tom Kerin, "Monument of Strength," The Big Stack: 1908-1982 (Great Falls, Mont.: Tribune Co.), 15.

[26]Ibid., 18.

Park, to Zortman, in a tiny mountain range southeast of Havre. This time, the highly automated mines employ far fewer workers. The largest, ASARCO's mine south of Troy, has a workforce of 354, and promises to stay alive for only about 10 more years.[27] About 35 miles to the south, ASARCO is in the permitting stage of developing another, larger, silver deposit to be called the Rock Creek Mine. Current plans call for 355 employees and a mine life span of 30 years.[28] In between the two, U.S. Borax and Chemical Corp. are developing a third mine expected to employ 300 miners for 20 years.[29]

Total employment of the three mines -- each among the world's biggest -- will be about 1,000. It is not much compared with Butte 70 years ago, but the impact on Lincoln County promises to be enormous, if not long-lasting. There are two primary reasons for that:

1) As of June 1988, there were only 5,004 non-miners working in Lincoln County.[30] Other things being equal, that means the approximately 1,000 workers in the three new mines would be employing almost 17 percent of the county's workforce.

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[27]"Four major gold mines operate in Montana," Tribune, 28 March 1988, 3A.

[28]Ibid.

[29]Ibid.

[30]Montana Employment and Wages, 53.

2) Non-mining workers in Lincoln County are paid poorly (average $327 a week), and more than half of the non-mining jobs are in the timber industry, much of which is seasonal. State employment figures from 1988 show that average weekly wage of the miners in Lincoln County (mostly ASARCO's Troy mine and a Zonolite mine near Libby) is $505 -- fully 54 percent above the county average non-mining wage.[31] That is good news for northwestern Montana, as far as it goes. However, as was mentioned before, the Troy mine is scheduled to be closed down in less than 10 years.[32]

According to the spring 1989 Montana Business Quarterly, "The non-fuel mineral industry's share of Montana's economic base has been steadily shrinking over time." Even in the last decade, the non-fuel mineral industry's share fell from 12 percent in 1976 to 9 percent in 1981 and to 7 percent in 1987.[33]

No doubt the boom that is under way today will reverse, or at least halt, that trend. But the bottom line on metals mining's effects on Montana is this: An industry that once directly employed more than 20,000 workers in Butte alone employed only about 6,200 statewide by 1988, even though

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[31]Ibid.

[32]"Four major gold mines operate in Montana," Tribune, 28 March 1988, 3A.

[33]Larry D. Swanson, "The Non-Fuel Minerals Industry in Montana," Montana Business Quarterly 27, no. 1 (1989): 19.

what was being described in the press as a mining "boom" was under way.[34]

Swings in the oil and gas industry in Montana are no less dramatic. In fact, according another article in Montana Business Quarterly, oil and gas' contribution to the state's economic base plummeted from a 1981 peak of 17 percent to a 1987 level of 7 percent, about the same as non-fuel minerals' contribution.[35]

Timber

Almost all of Montana's timber industry is in the westernmost seven counties (Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders), where only government employment (much of it forest-related) even approaches forest products' 46 percent contribution to the economic base over the last five years.[36] While the industry is subject to fluctuations, it has maintained a fairly even share of the state's economic base, roughly 16 percent, or twice the levels of non-fuel mining and oil and

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[34] Montana Employment and Wages, 115.

[35] Swanson, "The Oil and Gas Industry in Montana," Montana Business Quarterly, 27, no. 1 (1989): 15.

[36] Charles E. Keegan, "Montana's Forest Products Industry Today," Montana Business Quarterly 26, no. 4 (1988): 14.

gas.[37] Even so, employment in the industry has declined in the past 10 years from more than 12,000 to just over 10,000 in 1987. Most of the decline is the result of mechanization of mills and changes in the product mix.[38]

Historically, timber, like other Montana industries, has been dominated by ownership and management centered far outside the state's borders. In fact, it was those other industries that dominated timber. Historian Toole writes that, in 1917, "The Northern Pacific Railroad and the Anaconda Company, plus a handful of smaller operators, owned roughly 80 per cent of the timber in western Montana."[39]

Timber workers were treated poorly -- "not quite as good as workhorses, for usually there was more ventilation in the barns than in the bunkhouses," a district forester reportedly wrote at the time -- and the business erratic, subject as it is today to the ups and downs of national, and even international, housing demand.[40]

Even so, logging in Montana boomed, especially after World War II. In 1948, more than 430 mills were operating in the state, and employment grew from 2,676 workers in 1939

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[37]Keegan, "Montana's Forest Products Industry: Current Condition and Outlook," Montana Business Quarterly 27, no. 1 (1989): 20.

[38]Keegan, "Forest Products Industry Today."

[39]Toole, State of Extremes, 157.

[40]Ibid., 159-160; Keegan, "Forest Products Industry Today."

to 7,150 just 16 years later.[41] What started out as a support industry for mines (shaft timbers) and railroads (ties) is today Montana's largest manufacturing activity, with $900 million in wood-products sales in 1987, even though the number of mills has declined to an estimated 200-250.[42]

Average weekly pay, as of June 1988, for the 8,000-plus people directly employed in "lumber manufacturing" was $410, and for the 830 or so in the paper industry (primarily Stone Container Corp.'s pulp mill west of Missoula) it was $731.[43]

Conclusions

With the exception of the early days in the timber industry, the primary industries in Montana have always relied upon distant markets for their well-being. As a result, market forces largely beyond the sway of local management or workers controlled, and control, the fate of workers in those industries. That fact underscores the importance of a fourth major industry, railroading, to the well-being of the other three. Without the railroads -- and without low shipping rates on them -- Montana's products would have had few markets.

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[41] Michael P. Malone and Richard B. Roeder, Montana: A History of Two Centuries (Seattle: University of Washington Press, 1980), 139.

[42] Keegan, "Forest Products Industry Today," 11.

[43] Montana Employment and Wages, 115.

The growth of the modern trucking industry and the Interstate Highway system in the past 20 years have mitigated what was widely viewed as a stranglehold on the state by the Union Pacific, the Burlington Northern (formerly the Great Northern and Northern Pacific) and the Milwaukee Road (now defunct).

From the time of the sale in the early 1900s of Richard Harlow's Jawbone Railroad in central Montana to the Milwaukee Road until the sale in 1987 of the Burlington Northern's southern route to Missoula entrepreneur Dennis Washington, the major lines crisscrossing Montana were owned by large corporations based in the East.[44]

Adding to the feeling by Montana workers that they were little more than colonial minions was the interlocking nature of the forces controlling the state. For example, John D. Ryan of the Anaconda Copper Mining Co. put together the organization of small electric companies that became Montana Power Company so that it could supply the mine operations and the Milwaukee Road, which electrified its lines at his instigation as a director of the railroad.[45]

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[44]Malone and Roeder, 139; "Rail Link confirms purchase price of $27 million," Tribune, 6 November 1987, 1A.

[45]Malone and Roeder, 139; It is interesting to note the parallels between Ryan and the aforementioned Washington, who from the base of his Missoula construction company has purchased the Butte mines from Anaconda's parent Arco and made millions; purchased the former Northern Pacific rail line through the state from Burlington Northern, and now is believed to be making a play to purchase controlling interest in Montana Power.

Whether the actions of Ryan and others constituted vision or exploitative opportunism is in the eye of the beholder. It is certain, however, that their actions made lasting imprints, not only on the landscape, but on the collective psyche of the state. The forces that made those imprints are still at work, and a new generation of leaders trying to understand what is seen as xenophobia on the part of Montana's populace should keep that in mind. Historian Michael P. Malone, in a Montana Business Quarterly article in 1986, suggests that Montanans are far from unique in their history of resenting exploitation by faraway corporations. What may be unique, Malone says, is that Montanans have been unable to get past that resentment and take control of their destiny. He notes that the state's economy is still monolithic. "In fact," he says, "our economy is still very fragile, considering that a single plant closure or cutback usually has an enormous impact."[46]

There is a line -- not particularly thin, but often difficult to delineate -- between being taken advantage of and taking advantage. It may be that our history, and the fact that we still have one romantic foot planted firmly in it, prevents us from doing the latter.

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[46]Michael P. Malone, "The Historical Roots of Anti-Corporate Sentiment in Montana," Montana Business Quarterly 24, no. 1 (1986): 27-28.

CHAPTER 3

THE DEMOGRAPHIC AND PHYSIOGRAPHIC CONTEXT

Population and Space

Dayton Duncan, in an overblown travelogue called Out West: American Journey Along the Lewis and Clark Trail, describes Montana this way:

> Perhaps the best way to consider Montana's size and population is this: All six New England states join with New York state and three quarters of Pennsylvania to form the boundaries of a single state. Everyone except those living in Hartford, Connecticut, is told to get out by sunset. The next morning, the people of Hartford are told to disperse and inhabit the new state. That's Montana.[1]

Duncan's observation can be made more vivid by taking the existing infrastructure of Montana and projecting it onto any similarly populated (800,000 or so) metro area -- Hartford, Honolulu, Richmond or Tulsa, for example.

It is certain that none of those cities has 146 movie theaters;[2] 182 political subdivisions with their own judicial, executive and legislative branches and law

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[1]Dayton Duncan, Out West: American Journey Along the Lewis and Clark Trail (New York: Penguin Books, 1987), 211.

[2]Research and Analysis Bureau, Montana Department of Labor and Industry, Montana Employment and Wages: Second Quarter 1988, (January 1989), 116.

enforcement arms (126 cities and towns and 56 counties);[3] 15 airports served by virtually all major domestic airlines, plus 110 more private airports;[4] 69 newspapers (11 daily, 58 weekly);[5] common borders with four states and three Canadian provinces; its own two senators in Washington, D.C., in addition to two representatives; 78,000 miles of streets, roads and highways;[6] a six-unit public university system; seven Indian reservations; 549 local school districts,[7] and a thickly forested area the size of Indiana.[8]

Only Alaska and Wyoming have fewer people per square mile (and the latter only by 0.5 people per square mile, on a base of 50,000 fewer square miles).[9] And only Alaska and Wyoming get more federal aid, per capita, than Montana gets -- Alaska gets back $1,244 per person; Wyoming gets $929, and Montana gets $723.[10]

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[3]Lopach, James J., 1983. We the People of Montana...The Workings of a Popular Government, Mountain Press Publishing Co. (Missoula, Mont.). 215.

[4]Rise & Shine in Montana, a promotional booklet published by the Montana Ambassadors (Helena: 1988), 21.

[5]Editor & Publisher International Yearbook (New York City, Editor & Publisher Co. Inc., 1988).

[6]Rise & Shine, 23.

[7]Mark S. Hoffman, editor, The World Almanac and Book of Facts: 1989 (St. Martin's Press, New York, 1988), 220.

[8]Ibid., 612.

[9]Ibid., 534.

[10]Ibid., 141.

The point is that the sparseness of population, coupled with the size of the state, without doubt leads to service redundancies that are, at best, less than economically optimal. Tax levels and their effects on business climates will be examined in more detail elsewhere in this paper, but it is axiomatic that taxes could be reduced or more efficiently used if some of the administrative redundancy necessitated by the large number of counties and school districts could eliminated.

There have been many proposals to consolidate some of those political jurisdictions, but few have succeeded. The latest was a proposal to consolidate the state's 56 counties into 18, eliminating at the very least the positions of 129 elected county commissioners. The plan surfaced in Helena in June 1989. Its sponsor, Helena political consultant Ken Dunham, told the Tribune that he intended to form a political action committee to gather the nearly 37,000 signatures of registered voters required to qualify it for the 1990 ballot.[11] He said:

> Montana had 16 counties when it became a state in 1889 and added them by legislative action or local petition to reach the current 56 in 1926. Some of the 13 counties added in the 1920s appear to have been simply a way to create jobs at a time when Montana was suffering from a serious drought. . . . Transportation is far better today, . . . and most services needed from counties could be handled by telephone, mail or

[11] 27 June 1989, Tribune, 3A.

telefax machines.[12]

According to the latest estimates, the state's small population has gotten smaller in the past four years, declining from a peak of 824,000 in 1985 to a 1987 estimate of 804,000. At the same time, per capita income of Montanans declined from about 90 percent of the national average in 1980 to about 80 percent in 1987.[13]

The outlook for future migration to Montana does not look promising, based on regional trends and Census demographic projections. The past 15 years' shifts in population and employment to the South and West -- only about the first half of which benefited Montana -- was at least partly based on the fact that the post-World War II baby boom generation was just getting established in the workforce. Members of that generation are now entering their 40s. History shows that, from a peak of about 25 years of age, propensities to migrate decline steadily to retirement.[14]

In other words, the pool of potential immigrants will shrink in the coming decade. Inasmuch as Montana did not share in much of the shift to the West and South in the

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[12]Ibid.

[13]Paul Polzin, "1989: Montana's State and Local Area Outlook," Montana Business Quarterly 27, no. 1: 2-3.

[14]Michael J. Greenwood, "Changing Patterns of Migration and Regional Economic Growth in the U.S.: A Demographic Perspective," Growth and Change 19, no. 4 (1988): 82-83.

first place, its dreams of attracting such a shift now seem optimistic, at best.

Geography

Montana is chopped up not only by governmental units, but by mountains and rivers. A look at a relief map of the state reveals a number of transportational difficulties not faced on this scale in other of the contiguous 48 states. The Flathead Lake resort area lies about 130 miles due west of Great Falls, as the crow flies. But the Rocky Mountain Front, Glacier National Park, Bob Marshall wilderness complex and Mission Mountains that lie between them require the motorist to travel a minimum of 240 miles, much of it on relatively slow-going mountain highways, to get from one place to the other.

Even on the prairie, it is not always easy to get from here to there. Jordan lies less than 90 miles southeast of Malta, but the bridgeless Missouri River and Fort Peck Rervoir intervene to require a traveler between the two points to cover 210 or 183 miles (depending on which bridge the traveler decides to use).

Montana's northern border with Canada extends about 555 miles, the western 125 in the mountains. The less direct southern border with Idaho and Wyoming runs about 520 miles, a little more than half of it, the west, in the mountains. The Interstate highway system forms a giant, irregularly shaped "X" across Montana, and along that system resides the great bulk of the state's population. Roughly parallel to the interstates run most of the state's railroad lines (the "Hi-Line" route of the Burlington Northern being the notable exception). Not surprisingly, in view of the state's topography, those lines, in turn, roughly parallel the state's major river drainages.

While some of the rivers are large, none is large enough ever to have supported significant navigation. The only exception was the Missouri, which in the mid-19th century supported seasonal riverboat traffic carrying supplies to and gold from the mining camps to the south of Fort Benton, which was the end of the line for boat traffic. The railroads' arrival in the 1880s put an end to that.

The rivers, all of which rise in the Rocky Mountains, now provide water for livestock, crops, fish and people -- not necessarily in that order. One oddity is that Montana is the only state whose river drainages ultimately feed three different bodies of water. The Continental Divide meanders from north to south across the state, and the Hudson Bay Divide splits off to the northeast from the Continental Divide south of Glacier National Park. Thus, streams rising in Montana feed the Atlantic, the Pacific and the Hudson Bay.

Climate

Given the northern location, topographical diversity and sheer size of the state, it is difficult to characterize the climate briefly. Being on the Northern Tier of states, the daylight lasts about 16 hours in summer and only about 8 hours in winter. If one were to conclude from that fact that it probably gets hot in the summer and cold in the winter in Montana, one would not be wrong.

On a list of annual average temperatures in 69 cities, including at least one from each of the 50 states, only five were colder than Great Falls' 44.7 degrees: Duluth, Minnesota, at 38.2 degrees; Sault Ste. Marie, Michigan, at 39.7; Juneau, Alaska, at 40; Bismarck, North Dakota, at 41.3, and Burlington, Vermont, at 44.1.[15]

Another list of the same cities' highest temperatures on record shows Great Falls' 106 degrees to be as hot as or hotter than 44 of the other 69 cities.[16]

But what figures such as those do not reveal is what a Montana Ambassadors promotional publication refers to as "Montana's Best Kept Secret" -- the chinook:

> In the winter of 1988, the blood flow of many a good Chicago citizen slowed to a trickle, so vigorous was the wind chill. In New York and New England, snow piled up to the tops of cars and houses while the mercury escaped the cold by hiding in the bulbs of

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[15]U.S. Bureau of the Census, Statistical Abstract of the United States: 1989 (Washington, D.C., 109th edition), 206.

[16]Ibid., 209.

> thermometers. . . .
> . . . At the same time, spectators at the Calgary Winter Olympics discarded winter garb for near-shirtsleeve wear. And south of the border, Montanans enjoyed the same balmy conditions.
> The Montana weather was not unusual. Along the Rocky Mountain Front, even the harshest winters are interrupted by warming chinook winds.[17]

When it is as cold as the Great Lakes states and the Midwest, or as hot as anywhere else on the continent during the summer, there is another factor often ignored by statisticians and "Today Show" weather reports, and that is the relative lack of humidity in Montana. On the same list of 69 American cities, only Phoenix, El Paso, Albuquerque and Cheyenne, Wyoming, had morning and afternoon annual average relative humidity levels lower than Great Falls, where the averages are 66 percent in the morning and 45 percent in the afternoon.[18]

Says the Ambassadors publication:

> While temperatures in the cooler portions of Montana approximate those of New England, Chicago, Detroit and Des Moines, the bone-chill factor does not approach those of the humid climes. Dry cold does not penetrate the way cold, damp air does.[19]

General Statistics

To sharpen the snapshot of Montana provided by this paper, the following, Table 3.1, is a list of miscellaneous Montana statistics.

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[17] Rise & Shine, 26.

[18] Ibid., 214.

[19] Rise & Shine, 26.

Table 3.1

Montana Statistical Abstract

Category	Year	Number or Pct.	U.S. Rank	Regional Rank*
Population	1986	819,000	44	7
Per square mile...........	1986	5.6	48	7
Area (square miles)................		145,388	4	1
Percent native American......	1980	4.74	6	3
Hospital beds (per 100,000)..	1985	599	18	2
Physicians (per 100,000).....	1985	136	45	6
Crime rate (per 100,000).....	1985	4,332	23	3
Education				
Percent w/12 years or more.	1980	74.4	8	5
Percent w/16 years or more.	1980	17.5	16	4
House cost: med., owner-occ..	1980	$46,400	30	3
Unemployment.................	1986	8.1	32	5
Retail sales, per capita.....	1982	$4,913	16	4

Source: U.S. Bureau of the Census, Statistical Abstract of the United States: 1989 (Washington, D.C.: 109th edition).

* Rank in the 8-state region including Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah and Nevada.

Conclusions

A business looking to relocate or start a new branch would look at many more demographic and physical factors than those listed in this chapter. For instance, it might look at factors such as utility rates (which are very competitive in Montana) and transportation. An attempt to describe all of the factors that might be relevant to any such business would be to describe the universe. Instead, it will suffice to describe just this planet.

A look at a map of North America reveals that Montana is relatively remote from major American metropolitan areas, that it is situated pretty far north, and that it is partly mountainous. That is about as far as most examinations of Montana go.

Looking at the same map with a different mindset, it could be observed, first of all, that the entire nation of Canada, with a few small exceptions, lies north of Montana. Further, it could be seen that two large Alberta cities, Calgary and Edmonton, both with populations in excess of half a million, lie about 200 and 400 miles north of the border.

If that is not enough to dispel notions of Montana as the Great White North, it could be noted that London, Paris, Brussels, Amsterdam, Berlin, Stockholm, Warsaw and Moscow all lie north of Montana. In fact, the entire nation of Switzerland lies just about between Butte and Great Falls, in terms of degrees of latitude.

For reasons best explored by anthropologists, but probably related to ignorance and luck (good and bad, depending upon the point of view), many less pleasant places have far more people in them. That is Montana's blessing, and its curse: The very thing that attracts some people to Montana -- remoteness -- is what repels many others, including businesses. That fundamental dichotomy is one of the factors that have tied the state in political and economic knots for many years.

CHAPTER FOUR

THE FOSTERED CLIMATE

This chapter involves controllable business-climate factors which have been in the news in recent years and which have had the effect of discouraging, or in a few cases encouraging, the location of business in Montana. A subsequent chapter will go into greater detail on quantifiable factors, not all of them controllable, commonly considered by businesses and independent organizations as they rate states and regions on the basis of suitability for business.

The factors in this chapter could be described as regulatory and developmental problems, real and perceived, which are not necessarily unique to Montana, but which have received attention as being special to the state.

The bulk of the chapter will focus on two issues involving the government, other than taxation: the relatively recent trend in which juries award large amounts of damages in liability lawsuits against corporations, and a costly workers' compensation insurance system. To varying degrees, their tax aspects are discussed in Chapter Six on taxation. But discussion of issues related to the programs themselves are included in this chapter. It should be noted here that Chapter Seven is an update on business-related actions taken by the 1989 Legislature, parts of which could just as easily fit in this chapter.

Liability Law

For reasons that are not clear, Montana has, in the past 15 years or so, developed into a national leader in an area in which most business people would prefer to be followers: Bad-faith liability law. According to University of Montana business professors Jerry Furniss and Jack Morton, both lawyers, the state's Supreme Court "has, without reservation, adopted the concept of bad faith, a novel legal theory that lies at the heart of the liability debate that exists in Montana today."[1]

The difference between the status of the law in Montana and in other states lies in the Montana court's extension of the concept of bad faith from its customary home in contract law (where only actual compensatory damages can be collected for a breach) to tort law (where the wrongdoer can be monetarily penalized and/or made an example of by way of "punitive" damages). "In most states today," Furniss and Morton write, "it is assumed by the courts that a party has the right to breach a contract if the breaching party is

[1]Jerry Furniss and Jack Morton, "Bad Faith: Liability Law in Montana," Montana Business Quarterly (Missoula, Mont.: Summer 1988), 16.

willing to compensate the other party for actual damages."[2]

Because of rulings by Montana courts, including the Supreme Court, many parties -- especially corporations -- breaching such contracts would find themselves exposed to punitive damages. In Montana, say Furniss and Morton, "juries have nearly unbridled freedom to determine the amount of punitive damages, and as a result, multi-million dollar punitive damage awards are not uncommon."[3]

The trend finds its roots in insurance cases. "For the past 20 years," say Furniss and Morton, "Montana courts have expressed concern about insurance companies dragging their feet when settling claims."[4] The result, they say, is that the court put pressure on the insurance companies by developing the theory that every contract implies the duty of good faith on the part of the contracting parties. Furniss and Morton say that the Supreme Court has not hesitated to apply the concept of bad faith, even though the court has never provided a standard for determining exactly what it is.[5]

Aside from the insurance industry, particularly affected as the case law unfolded were financial

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[2]Ibid.

[3]Ibid.

[4]Ibid., 17.

[5]Ibid.

institutions when dealing with borrowers and employers when seeking to discharge employees. Most of the financial cases involved some twist in a scenario in which credit was withheld or a loan was foreclosed, despite some alleged form of assurance that it would not happen. In several such cases, punitive damages exceeded actual damages by tenfold and more.

The cases in which fired or laid-off employees sue their former employers are known as wrongful discharge cases. "Historically, employers could discharge employees without cause," Furniss and Morton write. "This doctrine, referred to as the at-will doctrine, has remained relatively intact in all but a few states. The Montana Supreme Court has gone farther than any other court in abolishing the employment-at-will concept."[6]

A vivid example of the result is provided by a 1985 case in Great Falls in which a former president of Blue Cross of Montana insurance, Virgil Miller, sued Blue Cross claiming he had been wrongfully discharged. A jury found that Blue Cross did not discriminate against the man because of his age and did not merit punitive damages. Jurors interviewed after the trial said the amount awarded was a compromise the jurors felt would tide the plaintiff over

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[6]Ibid.

until he could get over his distress and find another job.[7]

Listening to those comments, most observers would have guessed that the plaintiff was given some token amount. But "token" to this jury amounted to an award of $650,000.[8] Blue Cross appealed the verdict to the state Supreme Court. A year and a half later, before the justices ruled in the case, Blue Cross and Miller reached an out-of-court settlement for an undisclosed amount of money.[9]

The direct result of the court's bad-faith rulings was a decade-long run of large damage awards by juries, often far in excess of actual damages. There were two less direct results:

First, several insurance companies claimed there was an "insurance crisis" in Montana because there were so few premium dollars to be had here in comparison with the risk of taking a large hit in a liability case. In the second half of 1985, seven insurance companies stopped offering some of their insurance coverage in the state, citing difficulty in obtaining re-insurance.[10] (The firms sell part of their coverage to secondary insurance companies to

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[7]"Jury awards Virgil Miller $650,000," Tribune, 2 October 1985, 1A.

[8]Ibid.

[9]"Miller and Blue Cross settle employment suit," Tribune, 9 May 1987, 3B.

[10]"State insurance firms stop offering policies," Tribune, 27 January 1986, 3A.

help spread the risk.)

One company, Firemen's Fund Mutual Insurance Co., announced that it was going to pull out of the state altogether after a Great Falls jury awarded a man injured in a traffic accident $3.5 million because Firemen's Fund failed to settle his claim promptly. The company appealed, and the plaintiff eventually settled for $1.2 million.[11] A check with the office of the state auditor, who also serves as insurance commissioner, indicates, however, that Firemen's Fund is still doing business in Montana, writing policies with a premium value of $2.5 million in Montana in 1988, two years after the initial jury verdict.[12]

The second indirect result of the state liability climate was that voters who had tired of the havoc went over the Supreme Court justices' heads in November 1986 and passed Constitutional Initiative 30 (CI-30), which amended the 1972 Constitution's liability provisions, authorizing the Legislature to approve specific limits on the damages that aggrieved parties could recover. The 1987 Legislature did so, but not in helter-skelter fashion. It passed:[13]

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[11] "$3.5 million damages awarded to plaintiff," Tribune, 18 January 1986, 1A; "Insurance suit settled for $1.2 million," Tribune, 1 October 1987, 1A.

[12] Telephone interview with Stephen Mack in the state Auditor's office, 14 July 1988.

[13] "Tort reform laws in danger from ruling," Tribune, 8 July 1987, 13A.

-- Limits on wrongful discharge actions and the damages that can be recovered in them;

-- A ban on damages for emotional and mental distress arising from breaches of contract, unless physical injury resulted;

-- Limits on punitive damages; and

-- Immunity from liability on the part of members of various boards of directors.

On March 23, 1987, Justice Frank Morrison, author of many of the court's "cutting edge" opinions, resigned to run for governor. Less than two months later, District Judge Russell McDonough of Glendive was sworn in as Morrison's replacement on the court. A week after that, on May 22, the Supreme Court fired off another salvo in the battle over liability limits, invalidating CI-30 itelf. It said an error in the text of the 1986 Voter Information Pamphlet may have misled voters.[14] The new Justice McDonough did not participate, however. Instead, District Judge Joseph Gary of Bozeman filled in for former justice Morrison, who had earlier removed himself from the case.[15] The high court's action left the laws passed by the Legislature in limbo, since they had been passed under the umbrella of the

[14]"Morrison quits court, enters governor's race," Tribune, 24 March 1989, 5A; "McDonough sworn in as an associate justice," Tribune, 16 May 1987, 7A; "Court says ruling on CI-30 to stand," Tribune, 8 July 1987, 1A.

[15]Ibid.

constitutional changes made by CI-30.[16]

A little more than two years later, the court took an action that is certain to be a landmark, perhaps signaling the beginning of a new era of liability law. On June 29, 1989, the newly constituted Supreme Court upheld the wrongful discharge limitations that had been passed by the 1987 Legislature. According to an Associated Press account of the Supreme Court ruling, a Great Falls man who had been fired from a $28,000-a-year job "sought punitive as well as actual damages and challenged the state law (limiting his ability to collect) on the basis that it denied his right to full legal redress for wrongs suffered."[17]

The 4-3 majority of the court (significantly, in an opinion written by Justice McDonough) said the law "does not violate the fundamental right of full legal redress, because no such 'fundamental right' is created" by the Montana Constitution. The justices upheld the entire law, which says that a fired employee cannot collect damages beyond the equivalent of four years of wages and benefits, and that no damages can be awarded for pain, suffering or emotional distress.[18]

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[16]"Tort reform laws in danger from ruling," Tribune, 8 July 1987, 13A.

[17]"Limits on firing damages upheld," Tribune, 30 June 1989, 3A.

[18]Ibid.

Perhaps the supreme irony of the law upheld in that opinion is that, despite its now-valid limitations on wrongful-discharge liability, it enshrines in statute a philosophical direction that the earlier Supreme Court had created out of whole cloth: Employers can no longer discharge employees at will. Nevertheless, if a subsequent election does not again change the philosophical make-up of the high court, this latest opionion opens the way for the Legislature to put a curb on jury awards. The Legislature now is likely to become the battleground for those seeking to promote business through tort limitations.

The Workers' Compensation System

The problems facing the workers' compensation system in Montana are extensions of, or at least analogous to, those outlined above under "liability law" problems.

In a nutshell, as might be expected, the key problem for the business climate is the amount of money business owners have to pay to obtain coverage for their workers. Those rates are criticized as too high, even though they are not covering the costs of the benefits, which also are criticized as too high. As in the case of liability law, Montana's courts are given much of the blame for increasing benefits.

According to a 1988 report by the Legislative Fiscal Analyst, this unfunded liability gap is the result of increasing medical costs and court-expanded benefits for injured workers, and, to a lesser extent, rate-setting policies at the Workers' Compensation Division.[19]

Therein lie three difficult questions:

1) Exactly what is an "injury," anyway?

2) What portion of "whole" should an injured worker be made?

3) How should the injured workers' bills be divided among employers, employees and the public?

With this set of problems as a backdrop -- the unfunded liability gap reportedly had reached $215 million by summer 1989[20] -- the Legislature in 1987 undertook to overhaul the system to solve those problems. The legislators' work was not received with open arms.

Attorney Terry N. Trieweiler, in a Montana Law Review article presenting a claimants' attorney's view of the Legislature's actions, summarized the changes this way:

> The most significant changes include the definition of injury, the definition of disability, the circumstances under which partial disability benefits are awarded, practical elimination of lump sum conversions, and limitations both by statute and agency regulation on the attorney fees that can be charged by

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[19]"Report: comp premiums don't cover costs," Tribune, 14 April 1988, 1C.

[20]"House passes work-comp plan," Tribune, 7 July 1989, 6A.

claimants' attorneys.[21]

In Trieweiler's view, of the changes were made "under the guise of making Montana competitive economically with other Western states." To support his argument, he cited a report issued by the workers' compensation administrator less than a year after the legislative session and before any rates went down. In it, Trieweiler said, the administrator "admitted that Montana rates did not rank even in the top ten of the Western states for most occupations."[22] He was referring to a report in the Tribune May 24, 1988, in which the head of the division, Bob Robinson, detailed a survey he and his staff conducted of 20 states west of the Mississippi, 13 of which had their own state-run funds.[23]

The survey examined 20 of the 370 job classifications used in Montana, focusing on the ones that pay the most money into the state fund. It compared the Montana fund with the state funds in the 13 states that have them, and with the largest private insurers in the 16 states that have private insurers.[24] Compared with private insurers, in all

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[21]Terry N. Trieweiler, "The New Workers' Compensation Act -- Something for All Montanans to Be Ashamed Of," Montana Law Review 50, no. 1 (1989): 83.

[22]Ibid., 84.

[23]"Montana's workers' comp rates in line with others, survey says," Tribune, 24 May 1988, 1A.

[24]Ibid.

occupations Montana's rate was eighth or lower.[25]

The survey found that Montana's rates ranked in the middle of the 13 state funds; in 9 of the 20 occupations Montana was in the bottom half of the states, and in the other 11 occupations Montana ranked from third to seventh.[26] "Our system is not out of whack with what's going on with the rest of the country," Robinson said. "That's not to say it isn't expensive. It is, but it's driven by the costs of providing a fair benefit to that worker who's injured."[27]

Another survey at first glance appears to contradict Robinson's findings. That investigation, done by the Minnesota Legislative Auditor and publicized in February 1988 by the Minneapolis Star Tribune (and, subsequently, the Tribune), simply looked at average work comp rates for self-insured companies in the 38 states that have self-insurer rates.[28] The headline in the Tribune said: "Montana workers' comp rates third highest." The article said Montana's 1987 rate of $3.88 for every $100 of payroll trailed only Oregon's $3.98 and Hawaii's $4.97. The national average was $2.04.[29] The headline and article were

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[25]Ibid.

[26]Ibid.

[27]Ibid.

[28]"Montana workers' comp rates third highest," Tribune, 24 February 1988, 6C.

[29]Ibid.

accurate, but misleading.

Workers' Compensation Division statistician Rocky Juneau pointed out in an interview that there are about 4,000 businesses in Montana insured with private companies, and about 26,000 insured through the state fund. There are 44 firms in Montana that self-insure their workers.[30] They have to be large firms in order to have qualified self-insurance plans, Juneau said, but there are not very many of them.[31]

Whether Montana's work-comp rates of any kind are moderate or high, the important point is that they are not sufficient to cover the benefits paid. As was noted earlier, in June 1989 the Montana fund was reported to be about $215 million in the hole.

Nevertheless, Trieweiler's conclusion was that the 1987 Legislature, in its attempt to repair the work comp system's effect on business climate, had been irresponsible, inhumane and short-sighted.[32] He wrote:

> By unreasonably and arbitrarily limiting the definition of an injury which is covered by the Act; by limiting the period of disability in a way that bears no meaningful or actual relationship to the worker's real disability; by eliminating partial disability benefits for actual impairment to a worker's earning capacity; by, for all practical purposes, eliminating a worker's right to convert future disability benefits to

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[30]Telephone interview with Rocky Juneau on 14 July 1989.

[31]Ibid.

[32]Law Review, 101.

> a lump sum regardless of the severity of his need; and by making it impossible for injured workers to retain the services of an attorney, even when their benefits have been wrongfully denied or terminated, the legislature has created a festering sore in Montana's economy which will eventually undermine the kind of employer-employee relations which are necessary for any real economic recovery in Montana.[33]

Not surprisingly, there is another side to that argument. It is presented in a companion Law Review article, written by Missoula defense attorney Bradley J. Luck. He sets the stage for the 1987 Legislature's actions by noting that they were the result of an advisory council appointed by Governor Ted Schwinden in 1985 to find a way to deal with a system that "had become too expensive, too litigious and too unpredictable."[34]

As evidence that the system was too expensive, Luck cites the April 1988 Legislative Fiscal Analyst's report, in which analyst Evan McKinney notes:

> Between fiscal years 1977 and 1986, the annual cost of claims with the State Compensation Insurance Fund increased 577 percent, from 9.5 million to 64.3 million dollars. During this same period, the number of claims increased by only 67 percent.[35]

As to the "litigiousness" of the system, Luck simply points to the numbers provided by the Workers' Compensation Court in Helena: "Petition filings in fiscal years 1981

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[33]Ibid.

[34]Bradley J. Luck, "The 1987 Amendments to the Montana Workers' Compensation Act -- From the Employer's Perspective," Law Review, 103.

[35]Ibid.

totaled 211, 1982 totaled 351, 1983 totaled 405, 1984 totaled 437 and 1985 totaled 646."[36]

Finally, to support his claim that the system was too unpredictable, Luck says one needs only to count the court decisions in the area from the late 1970s to 1985. "Regardless of one's opinion as to the propriety of the direction," Luck writes, "any objective analysis indicates a significant judicial expansion of concepts in workers' compensation during the period."[37]

Luck says that the intention of the system is to provide a no-fault safety net for uninsured injured workers, and to spread the cost of the safety net among employers. "There is not and cannot be an unlimited supply of such benefits," he writes. "No system could accomplish or afford the goal of making an injured person 'whole.'"[38] The system must, therefore, balance the needs of all of the interested parties, he says.

Increasing costs of the system are increasing business expenses, which, Luck says, discourages new business and limits the number of new jobs. He says:

> Less profits, fewer employees and fewer businesses create innumerable pressures on the Montana economy that affect all working people, injured and healthy. No small part of Montana's poor business reputation and inability to attract new jobs is directly related to

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[36]Ibid.

[37]Ibid.

[38]Ibid., 106.

> the various problems caused by the workers' compensation system.[39]

Despite the 1987 amendments, and despite the report in December 1988 that the rate of growth in the workers' compensation division deficit was slowing,[40] it was decided in May 1989 that a 22 percent rate increase should take effect July 1 1989. However, in one of its last actions during the June-July 1989 special session, the Legislature approved a one-time, $20 million infusion of general fund money to head off the increase.[41] In addition, the law, which was signed by the governor, continues the freeze on workers' compensation benefits that had been put in place by the 1987 legislature.[42]

Conclusions

In both areas, workers' compensation and, on a larger scale, liability laws, significant new developments appear to have put Montana on a new track toward what the business community will surely view as a more reasonable position in relation to other states.

Business people should refrain from celebrating yet, however. The Supreme Court in late July reaffirmed its

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[39]Ibid.

[40]"Comp deficit growing slower," Tribune.

[41]"Work-comp bailout plan goes to governor," Tribune, 12 July 1989, 9A.

[42]Ibid.

ruling upholding the law that limits damages in wrongful discharge cases, but one member of the thin majority, L.C. Gulbrandson, has announced that he plans to retire in the fall. The Judicial Nominating Commission has submitted a list of five nominees to Governor Stan Stephens, who has until late August to choose one of them to take Gulbrandson's place. Upon receiving the list of nominees, the Republican governor blasted the seven-member nominating commission for partisanship and sloppy procedures. In accordance with the law, two of the commissioners were appointed by the Supreme Court itself, one is a judge chosen by his fellow judges, and four were lay people appointed by Stephens' predecessor as governor, Democrat Ted Schwinden.[43]

The nominees' views on such things as liability limits have not been determined, but it is certain the conservative governor will be attempting to find out before he makes the appointment. The political heat generated by the court's wrongful discharge action is demonstrated by the language used by Justice John C. Sheehy in his dissent. He said the majority opinion marks "the blackest judicial day in the history of this state."[44]

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[43]"Stephens accuses judge nominators of haste, bias," Tribune, 23 July 1989, 7A.

[44]"Limits on firing damages upheld," Tribune, 30 June 1989, 3A.

CHAPTER FIVE

THE SOCIO-CULTURAL CONTEXT

As with its climate and topography, Montana's attitudes toward business and growth often are extreme and difficult to reconcile. There are active chambers of commerce, development groups, politicians and business concerns who, for a variety of reasons, would like to see growth for their communities and the state. And there are Montanans actively opposed to growth. They believe that growth outside the strict control of the people already living here could damage or destroy the very qualities that make Montana a fine place to live. A bumper sticker seen commonly in the 1970s summed up their attitude. It read simply: "Don't Californicate Montana."

It is likely that in Montana, as elsewhere, a majority of attitudes fall somewhere in the middle. There appear to be no surveys directly on that subject. But a fair barometer of public sentiment can be found in the protracted and often-heated debate over federal bills to preserve and protect portions of the state's remaining undeveloped national forest land.

This chapter will deal in a very limited way with social and recreational activities that comprise Montana lifestyles. But first, and more important, it will attempt to assess attitudes toward growth by examining a debate that is at the crux of Montana's business climate: Wilderness.

The Wilderness Question

At one extreme are conservationists who would like to see virtually all of Montana's estimated remaining 6.5 million acres of roadless forest lands designated as wilderness. They believe the land is important to the ecology and to future generations who otherwise may never know the spiritual peace of wilderness.

At the other extreme are developers who believe Montana already has far too much land (3.4 million acres)[1] "locked up" in wilderness. Some of the opponents are in the timber industry, some are in mining, some are in oil and gas and some are just philosophically opposed to the notion that government can preclude any legitimate use of public land. Alongside the developers are off-road-vehicle enthusiasts and snowmobilers. They oppose wilderness because motorized travel is banned in designated wilderness areas.

A 1987 survey of Montanans, the Montana Poll co-sponsored by the University of Montana Bureau of Business

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[1]Wilderness Society map, "The National Wilderness Preservation System," published in 1989 in conjunction with the 25th anniversary of the 1964 Wilderness Act.

and Economic Research and the Tribune, found that a large majority supports the concept of wilderness protection, but that a smaller majority opposed further additions to the wilderness system.[2]

If the political potency of the wilderness issue were ever in doubt, those doubts were buried forever in the 1988 general election. After 14 years of nearly constant wrangling, the state's congressional delegation, in October 1988, had managed for the first time to obtain full congressional approval of a bill that would have given wilderness protection to an additional 1.4 million acres in Montana. But then-President Ronald Reagan, a Republican, pocket-vetoed the measure.[3]

Reagan's action was announced in Montana by Republican political novice Conrad Burns, who was making a longshot attempt to unseat one of the bill's principal architects, Democratic Senator John Melcher. Burns, who made much of the wilderness issue during the campaign, apparently galvanized the anti-wilderness forces and defeated Melcher, a two-term incumbent who many believed could not be beaten. In so doing, he became only the second Republican Montana ever sent to the U.S. Senate, and the first in more than 40

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[2]Mary L. Lenihan, "Montanans Say Yes to Wilderness Protection but No to Adding More Wilderness," Montana Business Quarterly 25, no. 4, (1987).

[3]"Montana wilderness bill dead," Tribune, 3 November 1988, 1A.

years. In aftermath of the election, Melcher's advocacy of the wilderness bill was given primary blame for his defeat.[4]

The wilderness issue, like other components of Montana's business climate, is complex and peppered with ironies. For example, continued delay in passing a wilderness bill is worse for many interests, including some who oppose wilderness, than any wilderness bill itself would be. That is because the government does not allow development on lands in or adjacent to potential wilderness. That policy is a direct result of a federal court ruling in a California case which found the wilderness study process to have been legally inadequate.[5]

A further twist is exemplified by another study, "The Southwest Montana Mill Crisis" commissioned by the Montana Ambassadors and a division of the state Department of Commerce. Among other things, that study concludes:

> The key, for industry, is not minimization of wilderness acreage, but release of lands suitable and planned for timber management.
>
> We recommend to industry representatives a focus on release language which does not merely allow, but mandates, management of released lands as planned.[6]

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[4]"Burns wins Melcher Senate seat;" "Republican last elected in 1946," Tribune, 9 November 1988, 1A; "Conrad Burns scores shocker," Tribune, 10 November 1988, 1A.

[5]"Wildlands-bill OK a long, rocky trail," Tribune, 24 October 1988, 1A.

[6]Robert A. Heffner, Gary Kirkpatrick, Sharon Duckett, "The Southwest Montana Mill Crisis," a study by the Montana Ambassadors and the Montana Department of Commerce, 20.

In other words, designation of wilderness itself will harm timber interests less than will appeals of timber sales and forest management plans in the roadless areas that do not earn wilderness designation. For that reason, Representative Ron Marlenee, an outspoken Republican critic of wilderness who is credited with securing the 1988 Reagan veto, says he will support no wilderness bill that does not make "endless" appeals impossible.[7]

Industry has picked up the scent. Gordon Sanders of Champion International Corp. told the Tribune:

> Industry is going to maintain that with the wilderness bill, we are going to have to have something else. The industry wants changes in the rules that govern appeals of timber sales on national forests and management of non-wilderness lands.[8]

Their concerns appear at first blush to be well-founded. A report requested by Senator Max Baucus, D-Mont., and issued in February 1989 by Congress' investigative arm, the General Accounting Office, found that Forest Service appeals had more than doubled in the past 5 years and that the average processing time for them (just under a year) "is more than 2-1/2 times as long as generally provided for appeals processing." In Region 1, which includes Montana,

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[7]"Wilderness debate still divided," Tribune, 9 July 1989, 10A.

[8]Ibid.

the delays were even worse.[9]

The delays should be kept in perspective, though. The same GAO report also found that, in regions 1 and 6, the appeals had little effect on the overall level of timber sales. "Only a small portion of offered timber sales volume in the regions we examined had been appealed in fiscal years 1986 and 1987," it said, "and an even smaller portion was delayed by appeals." The GAO study said that about 6 percent of the total volume of timber offered for sale in regions 1 and 6 was appealed, and less than 1 percent of that volume was delayed.[10]

At a recent round of hearings across the state, sponsored by the newly constituted congressional delegation, another issue surfaced. It was the contents of another Baucus-requested study, this one by the Congressional Research Service. Although some data were acknowledged to be incomplete, the CRS study suggested that the economic impact of wilderness on Montana is minimal, regardless of how the issue is eventually resolved. Industry officials blasted the work, saying it "restated old rhetoric and draws conclusions when admitting a lack of information." The report's author, Ross Gorte, acknowledged some gaps in its

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[9]U.S. General Accounting Office, "Information on the Forest Service Appeals System," a briefing report to Max Baucus, U.S. Senate, 16 February 1989, 11.

[10]Ibid., 23.

data but defended its conclusion that "a Montana wilderness bill will have minor consequences to the economy of Montana."[11]

The key issues vary with the area. As the aforementioned Ambassadors' study showed, the fight in the Beaverhead and Gallatin forests is over availability of timber for two struggling sawmills that also happen to be major employers in their towns, F.H. Stoltze in Dillon and Brand S Corp. in Livingston. The study concludes that the mills, which directly employ 225 people, are unlikely to survive without some kind of relief, particularly in the areas of the timber-sale and management-plan appeals process.[12]

On the Rocky Mountain Front -- the eastern edge of the Rocky Mountains south of Glacier National Park and north of Montana Highway 200 -- the fight is over access to Overthrust Belt land for oil and gas exploration. Three of the four counties affected -- Pondera, Glacier and Teton (the more heavily populated Lewis and Clark to the south is the fourth) -- have a combined population of only about 24,000 people. Their populations and economies, like those of virtually all of their neighbors to the east, have been on a downward slide through the 1980s because of depressed

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[11]"Report on wilderness-bill job loss blasted at forum," Tribune, 7 July 1989, 9A.

[12]Heffner, Kirkpatrick and Duckett, 5.

energy prices and drought. Coming on the heels of the 1970s energy boom, and in light of the relatively high pay of workers in the oil and gas industry, it is easy to see why people in those three counties would oppose anything that might constrict the future flow of oil or gas. It should be noted that oil and gas provided a relatively small amount of work -- 192 of the 6,416 total jobs listed in those counties by the state in June 1988. It also should be noted that oil and gas employment in those counties had been more than three times higher just eight years earlier. The change in numbers gives an idea of the volatility of the nature of oil and gas jobs; the size of the numbers provides an idea of what could happen were a large gas field found in the Front -- especially when the high level of pay in that industry is considered. Nevertheless, few, if any, existing oil and gas jobs are jeopardized by wilderness proposals.[13] In still other areas, hard-rock mining potential is at the center of the controversy.

To be sure, there are jobs at risk in the wilderness dispute, and some planned development may be permanently shelved by an eventual wilderness bill. But overall, as the CRS report suggests, the actual dollars and employment numbers -- the economic impacts -- of any wilderness

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[13]Maxine C. Johnson, "The Rocky Mountain Front: Wilderness or Nonwilderness?" Montana Business Quarterly 25, no. 3 (1987): 3-5; Montana Wages and Employment, 35, 73 and 99.

alternative are not terribly significant in the statewide scheme of things.

Another study unpopular with those opposed to additional wilderness, this one by University of Montana economics Professor Thomas M. Power, sees the CRS study and raises it one: Not only are the deleterious effects of wilderness on a local economy insignificant; the positive effects are very significant.[14]

He notes the 1980s economic travail through which Montana suffered in all of its mainstay industries: agriculture, wood products, energy, metal mining and federal spending. Then he says:

> But for some counties things did not go all that badly. Interestingly, as with the nation, among the counties that did the best during these hard times in Montana were our wilderness counties.[15]

Seven of the top 12 counties in terms of population growth are adjacent to wilderness areas, he notes, and "those seven wilderness counties' gain in population accounted for almost all (97 percent) of the population growth in the state" from 1980 to 1987.[16] He continues:

> Each [of the wilderness counties] has one or several obvious centers of economic activity largely unrelated to adjacent wildlands, but the important

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[14]Thomas Michael Power, "Wilderness, Timber Supply, and the Economy of Western Montana," [draft] paper delivered to Montana Wilderness Association, 3 December 1988, Kalispell, Mont.

[15]Ibid., 4.

[16]Ibid., 5.

> point is that whatever wilderness has done, it has not locked resources away from these communities in a way that has impoverished them.[17]

Taken alone, the economic impacts of wilderness do not seem to justify the scope of controversy and the resources that have gone into solving (or not solving) the problem. Thus, while wilderness issues may be very real for the employees of F.H. Stoltze in Dillon and Brand S in Livingston, and for those who would explore for oil and gas on the Rocky Mountain front, it may be that they are more symbolic for the majority of Montanans.

That does not mean they are unimportant. Power suggests that "the land and the landscape and the way of life it supports" are what attract people to parts of Montana and holds them there despite economic fluctuations over which they have no control.[18] He says:

> That may lead to distressing statistics like high unemployment rates and low per capita incomes, but it also stabilizes communities and allows them to survive rather severe fluctuations in our extractive industries.[19]

Further, it is suggested that the wilderness debate provides a stage for giving voice to beliefs about the state's business climate. In that debate is the kernel of the dilemma that permeates any discussion of the entire

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[17]Ibid., 6.

[18]Ibid., 10.

[19]Ibid.

state's future -- the same fundamental blessing-curse dichotomy, mentioned in Chapter Three, that has tied the state in knots for years.

The packed congressional hearings this summer, the unseating of Senator John Melcher last November, and the countless volumes of reports and studies cranked out over the past 15 years by the federal government all testify to the seriousness and interest level of Montanans on the wilderness issue, even if its effect on jobs and federal payments to counties is negligible, as the CRS report claims.[20] As long as it can make headlines and inspire presidential actions, it probably will have an unintended effect on attitudes outside Montana toward the state.

After the recent hearings, Baucus said he hoped he and Burns "could fashion a new bill by late summer and possibly introduce it in the Senate." But Western District Representative Pat Williams, a Democrat, said: "The good news is Montanans are nearly unanimous in wanting to get the issue behind them. The bad news is we are no closer to agreement."[21]

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[20]"Report on wilderness-bill job loss blasted at forum," Tribune, 7 July 1989, 9A; Ross W. Gorte, "CRS Report for Congress: The Economic Impacts of Enacting Alternative Wilderness Proposals for the National Forests in Montana," 19 May 1989.

[21]"Wilderness debate still divided," Tribune, 9 July 1989, 10A.

Amenities

Further underscoring the wilderness debate's proximity to the hearts of most Montanans is the fact that outdoor recreation plays such an important role in their lifestyle. One of the most interesting sidelights that turned up in lifestyle cluster analysis of a marketing survey done in 1985 in Great Falls by the Tribune was the existence of a group termed "hunter/fishers" by the survey analyst.[22]

These people, who comprise the largest lifestyle cluster in the survey at 23 percent, have primary interest in hunting and fishing, "to the exclusion of everything else," according to Hazel Rinehart, who constructed and analyzed the survey. "As a group, (they are) hard working 'survivors' in an adverse economy but who also have dropped out of society to a large extent."[23]

Other clusters found in the survey (remember, it was done by a newspaper) were: News Buffs, 18 percent; Highbrows, 8 percent; Contemporary Pop Culture, 14 percent; Home-based, 21 percent; and Outdoors, 15 percent. The last category differs from "Hunter/fishers" in that its "members" are younger men interested in competitive sports such as golf, baseball and football.

Rinehart, who is vice president for marketing of Cowles

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[22]Hazel Rinehart, "Tribune Market Survey," Cowles Media Corp., (Minneapolis: 1985).

[23]Ibid.

Media in Minneapolis, and as such conducts the Minnesota Poll for the Star-Tribune there, says she has never run into a group of hunter/fishers before. She says that analysis indicates the hunter/fishers would be either in the outdoors group in most areas, or in a group characterized as "withdrawn" in surveys done in the Minneapolis area. However, she notes that the hunter/fishers' interests are quite different from any identifiable cluster in the Minneapolis surveys.

There is, of course, a good reason for the existence of such an unusual cluster in Montana. As the headline in the Montana Ambassadors' promotional publication says, it is because "The Good Stuff Is Just Minutes Away in Montana."[24] That "good stuff" includes some of the best and most accessible hunting and fishing in the contiguous 48 states. The fact is, just about anywhere in Montana, and especially in the western half, world-class outdoor recreation of almost any definition is just minutes away.

While other, more urban forms of entertainment -- such as operas, ballets and theater -- are not a nightly option in this part of the world, visitors might be surprised by some of the old-world culture that can be found, fairly frequently, in Montana. Without question there are more theater groups, symphonies and bands and groups that support

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[24]Rise and Shine In Montana, a promotional booklet published by the Montana Ambassadors (Helena: 1988), 24.

them in Montana than in Tulsa and Hartford, cities with populations comparable to Montana's. And since the state is served by planes, trains and automobiles, touring artists from around the world perform here frequently. Nevertheless, the 23 percent of Montana adults who are "hunter/fishers" cannot be wrong: The lifestyle of Montana, old-world cultural events notwithstanding, is decidedly rural and outdoor-oriented.

CHAPTER SIX

TAXATION AND ITS EFFECTS

This chapter presents an overview of Montana's existing tax structure, along with its relation to structures nationally and in nearby states. Much of the information herein is drawn from a recent study that covers much of the ground that needs covering for this paper's purposes. The study, by Montana State University economists Bruce R. Beattie and Douglas J. Young, was commissioned in April 1988 by the Burton K. Wheeler Center at MSU, and printed three months later. It is entitled, Montana Taxation and Expenditures: Issues and Options.

Included in the chapter will be brief discussion of the positive and negative effects of components of Montana's tax structure on business climate.

To some extent, this topic is a moving target because the tax structure is in a state of change. As will be detailed in the next chapter, a number of changes were approved in mid-July 1989 in a special session of the Legislature mandated by a lawsuit that overturned the existing system of local property-tax support of public schools. That system was held to be inequitable from one school district to the next, in violation of the state Constitution's guarantee of an equal education opportunity for all Montana children. The result, if the new school-funding plan is signed by the governor and upheld by the Supreme Court, is that some aspects of Montana's tax structure described here may become dated.

Overall Standing

Before examining specific components of Montana's tax system, it is important to understand Montana's standing in two of the broadest measures in comparison with national norms and neighboring states (with whom, presumably, Montana competes most keenly for new business). Both measures -- state and local revenue, and state and local expenditures -- involve per-capita and percentage-of-income computations.

By measuring both revenue and expenses on a per-person basis, state-to-state population differences are removed from interstate comparisons; by both sides of the ledger as percentages of personal income, regional differences in income levels are removed from consideration.

Revenue

The revenue figures include, in addition to money raised by state and local taxation, such things as royalty payments, interest (especially on workers' compensation, unemployment and public employee retirement funds), trust income and federal payments. The data, derived from U.S.

Bureau of the Census reports, show that Montana's $3,273 in state and local revenue per person, per year (1986) ranks the state 20th nationwide and just slightly above the $3,249 national average.[1] When stated as a percentage of income, Montana's 30 percent (based on 1985 income figures) moves its revenue ranking up to seventh nationwide.[2] That is because personal income in Montana is much lower than most of the rest of the nation, and Montana receives much more federal money than most other states.

(In an article in the Spring 1989 Montana Business Quarterly, University of Montana Bureau of Business and Economic Research Director Paul E. Polzin cited U.S. Department of Commerce figures showing that Montana's per-capita income was $12,225 in 1987, just 80 percent of the national level, which is in excess of $15,000.[3])

(That figure stands in contrast with the post-World War II pay levels in Montana, which reportedly were 8 percent above the national average.[4])

Eliminating non-tax revenue from the equation,

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[1]Bruce R. Beattie and Douglas J. Young, Montana Taxation and Expenditures: Issues and Options (Bozeman, Mont.: Burton K. Wheeler Center, July 1988), 11.

[2]Ibid.

[3]Paul E. Polzin, "1989: Montana's State and Local Area Outlook," Montana Business Quarterly 27, no. 1 (1989): 3.

[4]K. Ross Toole, Twentieth Century Montana: A State of Extremes, (Norman, Okla.: University of Oklahoma Press, 1972), 282.

Montanans' tax bite, per person, comes to $1,376, which is 29th in the nation. That constitutes 11.7 percent of Montanans' 1986 personal income, a percentage that ranks 9th in the nation.[5]

Even this "tax bite as a percentage of income" figure is somewhat misleading, because one component of the tax bite -- about $270 per person, per year, by one estimate -- is net and gross proceeds taxes on natural resources, which are, arguably, exported to taxpayers in other states. (If that amount is deducted from the tax bite per person, the personal percentage of income taken by taxes would be closer to 9.4 percent.)[6]

Figures for neighboring states' revenues, shown in Table 6.1, no doubt contain similar, exported components -- in fact, one of them, Wyoming, lists property taxes almost double those of Montana, and the reason is that much of that state's "property tax" consists of various taxes on its not-inconsiderable coal, oil and gas production.

At the same time, Wyoming's population base is less than 500,000 -- fewer than any other state. Because of that, along with the large amount of federally owned land there, Wyoming also receives far more federal aid than its

[5]Beattie and Young, 14.

[6]Douglas J. Young, in remarks to a League of Women Voters/Chamber of Commerce/Cascade County Extension Service tax workshop March 14, 1989, in Great Falls.

neighboring states (or any other besides Alaska).

The table shows the sources of revenue for Montana, Idaho, North Dakota, South Dakota and Wyoming, as well as the national average and Montana's rank.

Table 6.1

State/Local Revenues, by Source
(Fiscal Year 1986; Dollars Per Person)

Source	MT	ID	ND	SD	WY	U.S. Avg.	MT Rank
Fed'l Govt.	669	447	602	579	968	469	5
Taxes							
Property	650	299	364	477	1173	463	9
Income	282	298	191	33	--	391	34
Gen'l Sales	--	250	264	351	444	376	--
Other Sales	172	129	154	170	113	184	25
Total Taxes	1376	1054	1284	1141	2628	1547	29
Charges	263	301	495	269	532	334	41
Interest	274	113	207	262	796	149	6
Rent/Rylties	122	13	65	19	387	61	7
Trusts	401	352	275	297	479	393	--
All Other	168	156	172	188	245	296	--
GRAND TOTAL	3273	2436	3100	2755	6035	3249	20

Source: U.S. Census data, by Bruce R. Beattie and Douglas J. Young, Montana Taxation and Expenditures: Issues and Options, (Bozeman, Mont.: Burton K. Wheeler Center, July 1988), 14.

Beattie and Young, who derived the table from U.S. Bureau of the Census data, note: "All taxes taken together (in Montana) were about 43 percent of revenue, with property taxes contributing a bit less than half of all taxes. Revenue from the Federal government -- primarily for welfare, highways and education -- was 20 percent of total revenues. The various insurance trusts produced 12 percent of revenues, and user fees (8 percent), interest (another 8 percent), and other miscellaneous revenues made up the remaining 25 percent."[7]

Expenditures

This side of the ledger shows that Montanans spend more -- about one-third of all expenditures -- on education than on any other category of expense, and considerably more than most other states.[8] Of that, most -- $813 per person, per year -- goes to local schools, a contribution that ranks Montana fourth in the nation. Most of the balance, $214, goes to higher education, an undistinguished contribution that ranks the state 29th.[9] There is no doubt that the rank has slipped further in the 2 years since those figures were compiled.

According to Beattie and Young's Census computations, transportation, which is mainly highways, streets and roads, follows the education share of expenditures at just under 14 percent, and social services, including welfare, health and

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[7]Beattie and Young, 14.

[8]Ibid., 11.

[9]Ibid., 12.

hospitals, are next at just under 13 percent.

Table 6.2 provides a more detailed look at expenditures in the region and nationally.

Table 6.2

State/Local Expenditures, by Function
(Fiscal Year 1986; Dollars Per Person)

Source	MT	ID	ND	SD	WY	U.S. Avg.	MT Rank
Education							
Local	813	517	660	598	1237	640	4
Higher	214	246	380	193	430	235	29
Social Services							
Welfare	255	155	276	210	204	318	22
Hospitals	66	134	90	61	345	158	47
Health	79	50	55	60	119	65	11
Highways	416	255	354	372	702	205	2
Public Safety							
Police	71	68	53	59	129	94	29
Fire	21	26	19	19	33	40	41
Corrections	41	29	21	32	58	62	32
Environment and Housing	260	212	198	225	350	233	--
Admin.	161	106	112	125	233	132	--
Interest	204	82	141	166	358	154	--
Trusts	264	201	166	66	257	193	--
All Other	264	160	434	263	513	452	--
GRAND TOTAL	3128	2240	2950	2448	4967	2980	15

Source: U.S. Census data, by Bruce R. Beattie and Douglas J. Young, Montana Taxation and Expenditures: Issues and Options (Bozeman, Mont.: Burton K. Wheeler Center, July 1988), 13.

Beattie and Young note that education spending in the other states in the region also is above average (except in Idaho). They suggest that may reflect either higher education costs in rural, sparsely populated areas, or greater willingness to pay.[10] They continue:

> Welfare, including Aid to Families with Dependent Children, Food Stamps, Medicaid, and General Assistance, is more than 60 percent of spending in social services. Montana's expenditures are below average for the nation in this category, but higher than in most of the surrounding states. Unlike many other states, Montana does not spend much on public hospitals. Its other health expenditures are above average.[11]

"As one might expect," they say, "highway expenditures are very high in Montana, being exceeded only by those of Wyoming." They point out that spending for public safety functions are below average, and for environment and housing (including parks and recreation), administration, interest, and insurance trusts are all above average. In fact, insurance trust expenditures are the only line on which Montana's spending tops Wyoming's.[12]

On the bottom line, Montana spends about 5 percent more than the national average. It has an even greater margin over all of its neighbors except Wyoming. The state's spending is 15th highest in the nation on a per-capita

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[10]Ibid.

[11]Ibid.

[12]Ibid.

basis.[13] As a percentage of personal income, Montana's spending ranks 5th nationally.[14]

Tax Structure and Business Climate

At the outset of this section, it must be noted that tax structure is only one of many, often more important factors that businesses consider in their locational decision. It is a major factor only if those other factors -- such as climate, transportation, utility rates and workforce -- are about equal among potential sites. Many of the other factors are discussed elsewhere.

Beattie and Young cite a relatively recent (1986) study in which Bruce Benson and Ronald Johnson conclude: "The principal findings . . . suggest that taxes negatively affect economic activity, contradicting widely accepted conclusions of numerous empirical studies."[15]

One of Benson and Johnson's main points is that a state's tax structure alone is not as important to business climate as is the burden that tax structure places relative to the burdens placed by the tax structures of competitive

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[13]Ibid.

[14]Ibid.

[15]Bruce Benson and Ronald Johnson, "The Lagged Impact of State and Local Taxes on Economic Activity and Political Behavior," Economic Inquiry 24, 400, quoted in Montana Taxation and Expenditures, 24.

states.[16] Further, the latter researchers found a delay in when the effects of a tax change are noticed. They said that half of the effects of a change in relative tax position of a state were not felt until more than two years after the change, with most of the long-run effect felt within five years.[17] This so-called "lagged effect" is a primary reason previous researchers had not detected tax structures' deleterious effects on business climate, they said.[18]

In the rest of this section, no attempt is made to comparatively rate every aspect of Montana's tax structure. Instead, the Beattie and Young study is relied upon to highlight the areas that are seen as exceptionally burdensome to existing or potential businesses.

With all of that said, which aspects of Montana's tax structure are believed to be unduly burdensome and in need of reform?

Economist George F. Break, writing on the "Tests of a Good Tax System" as part of a series of newspaper articles on taxation in 1978, said: "In essence, 'tax reform' for

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[16]Ibid.

[17]Ibid.

[18]Ibid.

most people means getting their own burdens lightened."[19] But he went on to suggest that what reform really means is sorting out the tradeoffs: "For either the income or the property tax to be made more fair to individuals with special problems, it must become more complex and more expensive to administer," he said. "Making the sales tax progressive in structure might increase its equity but reduce its simplicity."[20]

In Montana, as was already noted, there are property taxes and income taxes to be considered in weighing the tradeoffs mentioned by Break, but there is no general sales tax. Young, speaking to a workshop on Montana's tax structure March 14, 1989, in Great Falls, suggested that Montana has substituted its natural resources taxes -- especially a severance tax on coal -- for sales taxes.[21] But he also suggested that that system does not work well today because of a decline in demand for energy resources, coupled with the fear that taxing those resources too heavily will inhibit further development. A third reason that system fails today is that Montana's resource taxes

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[19]George F. Break, "Tests of a Good Tax System," Taxation: Myths and Realities (Menlo Park, Calif.: Addison-Wesley Publishing Co., 1978), 7.

[20]Ibid., 9.

[21]Young remarks to Great Falls workshop.

have been reduced in recent years.[22] As a result, Young said, Montana is in need of another source of revenue -- such as a sales tax. Indeed, the shortage of revenue to pay for a court-ordered school equalization plan in Montana stymied the Montana Legislature for 111 days in 1989.[23]

In their study, Beattie and Young cite two other negative aspects of the Montana tax structure:

1) The fact that the top marginal personal income tax rate, with the surcharge that has been attached to it for the past two years, is the highest in the nation. Say the economists: "In our opinion, executives, entrepreneurs and wealthy people are likely to be sensitive to high state personal income taxes."[24]

Speaking to a conference on taxation in Helena in 1986, business locator James Brady of Fantus Company put it more bluntly, saying that

> . . .it tends to create instant lockjaw among most higher-level managers who will often shudder at the prospect of having to pay this much money. . . . With a top rate of 11 percent, you instantaneously turn off a lot of decision-makers potentially looking at Montana."[25]

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[22]Ibid.

[23]Ibid.; "Equalization bill approved by House," Tribune, 15 July 1989, 1A.

[24]Beattie and Young, 26.

[25]Beattie and Young, 26, citing James Brady of Fantus Co. during a 1986 University of Montana/Montana State University conference, "Taxation and the Montana Economy," in Helena.

2) The fact that the property tax is "hopelessly complex" and inequitable.[26]

Based on economic theory, the Beattie-Young study says, a strong case can be made for simplifying a property tax system that has 20 different classes of property, some with subclasses, and 37 different tax rates. They say there are two instances where different rates for property classes are justifiable: When the benefit or cost is on parties other than the property's owner (such as in the case of pollution-control equipment, which benefits the neighbors), and when the property is mobile and competition for the business from other states is stiff. "Montana's property tax classification system appears to bear little relation to either of these principles," Beattie and Young say. "Rather, the hodgepodge of tax rates results from lobbying by a variety of interested groups, each with its own special agenda." To illustrate their point, they note that agricultural property is taxed at an average rate of about one-half of one percent of asset value, compared with radio and television broadcasting equipment, which is 14 times higher at 7 percent.[27]

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[26]Beattie and Young, 25.

[27]Ibid.

CHAPTER SEVEN

1989 LEGISLATIVE ACTION

In the context of taxation and business climate, the 1989 Legislature, including its 21-day special session in July, was more notable for what it did not do than for what it did. Primarily, it did not manage any significant tax reform, which to the business community is a euphemistic way to say that no sales tax was approved. Many sales tax measures were considered, including one in the special session. Most of them would have granted significant tax relief to businesses, and attempts were made to structure them as progressively as possible. Business interests held out hope that 1989 was the year for a sales tax, but on June 7, at a tax forum in Great Falls between the regular and special sessions, Republican House Leader Jack Ramirez of Billings declared, to the surprise of many on both sides of the issue, that "the sales tax is dead."[1] And it was.

While the Legislature failed to take any grand actions to simplify property taxes or broaden the tax base, it did approve some measures were are seen as steps toward

[1]Jack Ramirez, in remarks at a Tribune and League of Women Voters tax forum, 7 June 1989, Great Falls Civic Center.

improving the state's business climate:

Workers' Compensation

Already mentioned in Chapter 3 was approval of a $20 million infusion from the general fund to the Workers' Compensation insurance fund and continuation of a freeze on work-comp benefits, both aimed at forestalling a planned 22 percent increase in employers' insurance rates.[2]

Personal Property Tax Relief

In a compromise with Governor Stan Stephens, the Legislature reduced personal property taxes on three classes of property to 9 percent from 11, 13 and 16 percent. The governor had wanted to reduce the tax to a flat rate of 4 percent, paying for it by tapping the coal-tax trust fund, but the Legislature basically split the difference with him. The estimated $14-15 million tab for reducing taxes on manufacturing machinery, farm implements, office furniture and fixtures, computers and telecommunications equipment will be paid out of the general fund. "I'm glad we're beginning to realize, slowly but surely, that a reduction in business property taxes is an incentive to industrial development in this state," Sen. Tom Keating of Billings

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[2]"Work-comp bailout plan goes to governor," Tribune, 12 July 1989, 9A.

told the Tribune.[3]

Opponents of the bill had argued that the tax relief it contained was misdirected. "It's not the kind of break that's going to benefit Main Street business," Ann Prunuske of the Montana Alliance for Progressive Policy told the Tribune. "We don't see this as much other than a handout to large corporations." The head of the Montana Taxpayers Association, Dennis Burr, estimated the bill would reduce Montana effective personal property tax rate to 4 percent from the current 4.5 percent, but he said the Dakotas and Minnesota have no personal property taxes, Wyoming's rate is 0.89 percent and Idaho's and Utah's rates are 1.2 percent. "We may have been five times as high as surrounding states," Burr told the Tribune, "and this will get us down to four times."[4]

Canola Plant Subsidy

The 4 percent rate that the governor tried unsuccessfully to implement across the board was approved for canola-oil processing plants. The measure was intended to make Montana generally, and Butte specifically, more attractive to a Canadian canola company that is considering

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[3]"Stephens to sign property tax bill, but reluctantly," Tribune, 15 July 1989, 5A.

[4]"Property tax cut receives mixed reviews," Tribune, 15 July 1989, 5A.

Butte and Boise, Idaho, as possible sites for a new plant.[5]

School equalization

The issue that produced the legislative stalemate also yielded the most questionable piece of legislation, both constitutionally and in terms of effect on business climate. The constitutional issue -- the one that caused the special session in the first place -- remains to be settled. Under a Supreme Court mandate to "equalize" statewide school funding to eliminate disparities among rich and poor districts, the Legislature appears to have at best only moderately equalized school funding. But the legislators defused criticism from the powerful education community by increasing the funding level, which had been relatively flat since 1981.[6]

Governor Stan Stephens signed the legislation on August 11, but the state Supreme Court, which has retained jurisdiction in the case originally filed by some 70 disadvantaged school districts, will still have the power to disapprove what is at best a step in the direction of equalization.

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[5]"Session's over: What was accomplished?" Tribune, 16 July 1989, 1B; "Butte woos canola-oil plant," Tribune, 16 July 1989, 2B.

[6]"New bill improves funding -- but doesn't equalize," Tribune, 16 July 1989, 1B.

As for the measure's effect on the business climate if it is upheld, that, too, appears to be a mixed bag. For many communities, the real property tax levy will decrease substantially because of the equalization aspects of the bill.[7] But somewhere, the legislators had to come up with the difference and with money to pay for the increased funding level. That "somewhere" appears to have been the so-called "rich" school districts, which predominantly are energy-rich and sparsely populated. People, and corporations, in those districts will take substantial property tax hits.[8]

The Legislature mitigated the size of the tax hit in those counties by paying for the rest of the equalization measure with a two-year, 5 percent surcharge on individual and corporate income taxes.[9] Thus it added 5 percent to what was already one of the nation's highest state income tax rates (at least for the highest-income taxpayers).

Conclusions

Forrest H. "Buck" Boles, president of the Montana Chamber of Commerce, said after the regular session that most of the chamber's successes "were based on the fact that

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[7]"Bill would change school finances," Tribune, 16 July 1989, 1B.

[8]Ibid.

[9]"Session's over: What was accomplished?" Tribune, 16 July 1989, 1B.

we stopped the bad stuff from happening rather than making the good stuff happen."[10] In a stalemated legislative body, business, and other interests for that matter, could have expected little more.

Put another way, if compromise means no one is happy with the result, then this Legislature did an extraordinarily good job of compromising. And once again, we see the tightness of the knot into which Montana's polarized populace has pulled the state.

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[10]"State businesses nervously await next chapter," Tribune, 30 April 1989, 1B.

CHAPTER EIGHT

The View From the Outside

A number of national organizations compile or collate statistics which, when compared from state to state, yield some kind of ratings. Ostensibly, they are for use by businesses seeking new places to do business and by local businesses seeking leverage to obtain more favorable treatment from their local and state governments. The two most credible such surveys are the annual survey of manufacturing climates by the international accounting firm Grant Thornton, and the Development Report Card for the States developed by the Washington, D.C.-based Corporation for Enterprise Development. This chapter will summarize the surveys and go into some detail on the latter's "report card" approach to presenting the data.

Grant Thornton

Not surprisingly, Montana fared poorly in both surveys, especially Grant Thornton's rating of manufacturing climates. The state placed dead last among the 21 states exhibiting "low manufacturing intensity."[1]

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[1] "Survey of manufacturing draws criticism," Tribune, 15 June 1989, 1A.

The Grant Thornton study divided the states into two categories, "high" and "low" manufacturing intensity. According to published reports, the 29 high-intensity states were those which contributed more than 2 percent of the value of manufacturing shipments in the United States over the past four years and have more than 16.43 percent of their work forces involved in manufacturing. It then based its rankings on 21 different factors grouped in five categories:

-- State and local fiscal policies;

-- Unemployment benefits and workers' compensation;

-- Labor costs;

-- Energy costs and work lost because of strikes;

-- Quality of life.[2]

Of the 21 low-intensity states, all but Maryland, Kentucky and West Virginia were in the West or Midwest, where rural areas predominate. North Dakota got the highest rating, followed by South Dakota and Nebraska. Montana was last, just behind Oklahoma and Alaska.[3]

When it was released, the survey drew immediate criticism from a variety of sources, including many in Montana. A spokesman for the Montana AFL-CIO, Don Judge, said, "This survey gives the best grades to the worst

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[2]Ibid., 2A.

[3]Ibid.

states, rewarding them for low wages, low benefits, low unionization and strong right-to-work laws" which outlaw the "closed shop" in which union membership is a condition of employment. The director of Montana's Department of Commerce, Mike Letson, however, used the survey to underscore what he said are the state's business-climate deficiencies, especially its tax structure. A spokesman for the Chicago-based business-locator consulting firm of PH&H Fantus Inc. said, "The study has little if any value. Some of the specific statistics used in the study do have merit." The spokesman, Ford Harding, said the survey's problem is that it generalizes beyond most businesses' need for information. Every business is different and has different needs, he said. "Trying to use something generic defeats what is important to the company."[4] The Corporation for Enterprise Development, in a preamble to its own survey, was mildly critical, though not specifically of the Grant Thornton survey. The CED study says:

> . . . Any index that simply ranks the business climates of the states from 1 to 50 on a single list -- or even two lists -- fails to recognize the different perspectives of different users. For that matter, it also fails to recognize the uniqueness of each state. Trying to rank fifty states on a single list is a

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[4]Ibid.; "Letson, AFL-CIO official pan survey," 16 June 1989, 1B.

little like asking your grocer: 'Which is better, this apple or this orange?'[5]

Corporation for Enterprise Development

The CED's 1989 Development Report Card for the States, which was released April 12, 1989, is far more comprehensive and useful than the Grant Thornton survey. While specific rankings do find their way into the report, the more general assessments it contains take the form of school-like grades, A through F.

The 170-page CED report consists of four broad indices, Performance, Business Vitality, Capacity and Policy. Each index is made up of several subindices, each of which, in turn, is composed of a variety of data and rankings -- more than 100 separate measurements. The awarding of letter grades is done on a top-weighted curve, so that about 10 states receive A's, 10 receive B's, 15 receive C's, 10 receive D's and 5 receive F's. That means if one state does not improve its situation and the rest of the field does, that state is not likely to maintain its grade.

The rest of this chapter focuses on the details of the CED study. First will be a detailed summary of the components of its four major indices, followed by the scores Montana received and brief discussions of them. The chapter

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[5]Corporation for Enterprise Development, The 1989 Report Card for the States, March 1989, 4.

concludes with the CED's summary of trends.

Performance Index

The CED report opens with the Performance Index, which comprises 17 economic performance measurements clustered in four general subindices.[6] They are:

-- Employment, which seeks to gauge the extent to which the economy provides jobs for those who seek them. The most basic measurements are used in this subindex -- long-term employment (growth between 1979 and 1987 in the 1989 report card), short-term employment (growth between 1986 and 1987), the unemployment rate and unemployment duration.

-- Earnings/job quality, which measures how workers are compensated. Measurements in this subindex include average annual pay, recent changes in average annual pay, and health insurance coverage, which the CED says is the "only job-related fringe benefit for which data are readily available."

-- Equity, which seeks to measure "the extent to which the opportunity to attain a higher standard of living is widely shared." Included in this subindex are measurements of the poverty rate, metropolitan-rural disparities in the poverty rate, the distribution of income among the people in the state, and changes in that distribution.

-- Environmental health and safety, which is described

[6]Ibid., 18.

as "a rough measure of the environment in which people live when they're not working." Data on which this subindex is based include the crime rate, a composite measurement of environmental quality (including air quality, superfund dumpsites, hazardous waste generation and surface water discharge), and infant mortality rate.

The environmental health and safety subindex measurements are displayed in the report but not used in calculating the overall Performance Index because of the difficulties associated with compiling meaningful data in that area, the CED says.[7] From the point of view of many Montanans, this can be seen as a shortcoming in the CED report, inasmuch as "quality of life" considerations are often cited as a prime reason for desiring to live in Montana.

Business Vitality Index

This index is made up of eight measurements which compose two subindices and another, more complex, composite subindex that is, itself, a measurement. The subindices are:

-- Competitiveness of existing businesses, which seeks to gauge how well, compared with their competitors, existing businesses can "marshal resources and develop new technologies to create and produce new goods and services."

[7]Ibid., 20.

Included in the subindex are measurements of how much value is added to products sold outside of each state, the business failure rate and "manufacturing capital investment," which is capital investment per worker (to adjust for population variations) divided by value-added per worker (to adjust for different economies' capital intensity). The CED acknowledges the latter measure is imperfect, but says it is the best available.[8]

-- Entrepreneurial energy, which includes five measurements, the birth and growth rates of new businesses, the level of entrepreneurship among minorities and women, and new enterprise growth rates in metro and rural areas.

-- Structural diversity, which attempts to measure the extent to which changes in the employment level of one traded industry move parallel to changes in other industries. The CED acknowledges that parallel moves can occur in even the broadest-based economies, so it gives this measurement less weight in computing the Business Vitality index.[9]

Capacity Index

This index attempts to quantify the states' predisposition to growth. It covers areas other than government policy (which is the fourth index). It includes

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[8]Ibid., 35.

[9]Ibid., 38.

22 measurements grouped in four subindices. They are:

-- Human resources, which gauges education levels of workers. The components of this subindex are high school graduation rates, adult illiteracy rates and college educational attainment rates.

-- Technological resources, which seeks to measure the level of technological innovation. It includes measurements of the number of scientists and engineers in the workforce, the number of science and engineering doctoral students, the number of patents issued (which, the CED acknowledges is imperfect because corporate patents are usually issued where companies are headquartered, not where laboratories are located[10]), the scale of research-and-development spending at universities, and the level of federal research and development.

-- Financial resources, which measures the availability of capital. The five data sets in this subindex are commercial bank deposits, loan-to-equity ratios, an economic-base-adjusted measurement of commercial and industrial loans, level of venture capital investments and the level of income from dividends, interest and rents.

-- Physical infrastructure and amenity resources, which measures the level and condition of public and cultural facilities and systems. It includes nine measurements:

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[10]Ibid., 53.

highway deficiency as reported by the Federal Highway Administration, bridge deficiency reported by the same agency, urban mass transit availability (which the CED says may shortchange some predominantly rural areas, although it also notes that some -- Alaska, Nevada, Arizona, South Dakota and Utah -- fare well despite sparse populations[11]), electricity costs, sewage treatment needs (per capita dollar cost of unmet sewage treatment plant needs), urban housing costs, doctor availability, level of foundation grants and tourism spending.

Policy Index

This index is a still photo of a moving subject. It attempts to quantify the level of effort made by states to enhance their business climates, and it comprises a fair amount of original research on the part of the CED. However, what appears in the 1989 Report Card more than likely represents research done in 1988 concerning 1987 realities. Thus, as the CED says, "A state that revolutionized its development policies in 1988 is not going to see the economic benefits of those actions reflected in this year's Report Card."[12]

The CED describes this index as a "bellwether," saying that pursuit of policies measured in the index will lead "to

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[11]Ibid., 56.

[12]Ibid., 5.

a better economic climate -- to greater economic capacity, more vital businesses and stronger overall performance."[13] It contains about 70 separate measurements, or, in many cases, check-offs indicating the presence of a particular program. They are grouped into six subindices:

-- Tax and fiscal environment, which generally assesses how solid the states' tax structures are. It uses three criteria, fiscal stability and balanced revenue sources ("The use of an appropriate range of revenue-raising vehicles to establish a stable revenue base and support a consistent level of public investment," in the words of the CED report[14]), tax fairness (so no individual or firm carries an unfair load) and fiscal equalization (so no community has an unfair tax advantage).

-- Education, which gauges education quality in two broad, complex, composite measures: support for education (spending) and reform of education (state accountability, teacher policies and student policies aimed at improving student performance).

-- Infrastructure and amenities, which measures the effort being made to maintain or improve infrastructure and environment. It assesses, using composite measures, public capital budgeting, housing programs, environmental concern

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[13]Ibid., 71.

[14]Ibid., 72.

and farmland protection.

-- Business support, which measures the degree to which a state assists, or at least does not hinder, businesses in their attempts to grow or diversify. It involves composite measurements of state-supported technology programs, international trade assistance, special services such as incubators, labor-management help and one-stop permitting.

-- Development finance, which gauges the degree to which state government has innovated in providing start-up and growth capital and advice. It includes composite assessments of the type and diversity of financing, leveraging innovations, and regulatory innovations.

-- Disadvantaged communities and individuals, which looks at the ways states try to "bootstrap" the less fortunate in an effort to trim the gap between the "haves" and the "have-nots." Among other things, it gauges aid to distressed communities and the investment of transfer payments in programs to help their recipients.

How Montana Scored

In the four broad indices of the CED report, Montana received two C's and two D's. The D's came in the Performance and Policy indices, and the C's were in Business Vitality and Capacity. A closer look at how those scores were reached is illuminating.

<u>Performance Index</u>

Montana's D grade and ranking of 43 are based on F grades in two of the three subindices in this category, employment and earnings/job quality. The final performance grade was salvaged by a B in the equity subindex.

Under employment, Montana ranked 39th in long-term growth, with a rate of 5.63 percent from 1979 to 1987, and 46th in short-term (one-year) growth with a decline of 0.26 percent. The unemployment rate of 7.4 percent ranked 34th, and the duration of unemployment ranked 44th.

In the earnings/job quality subindex, Montana ranked 47th in average annual pay and 46th in the pay level's growth. The state ranked 31st in health insurance coverage.

The equity subindex grade of B was based largely on the rural nature of the population, because the state was in a 26-way tie for the number 3 ranking in its disparity between rural and metro-area poverty rates. What the data show is that there was no difference in the rate in Montana. The state ranked 39th in the actual poverty rate, 30th in the distribution of income and 12th in the percentage change in the distribution of income.

In the environmental health and safety subindex, which was not used in calculating the overall grade, Montana ranked number 1 (with 9 other states) in air quality, 20 in infant mortality, 27 in both hazardous waste tons per capita and surface water discharge, and 46th in superfund cleanup dumpsites per unit of population.

Business Vitality Index

Montana's C and ranking of 31 were based on C grades in competitiveness and entrepreneurial energy and an A -- and a ranking of 3 -- in structural diversity.

The A in structural diversity seems surprising given that Montana's economy is often described as narrow and overly concentrated in a few big industries. However, as was noted above, the CED's measurement in this category is a complex one seeking to track the degree to which various components of the economy move independently of one another, and there is little doubt that agriculture has little effect on mining or timber, and vice versa.

In terms of competitiveness, Montana's ranking of 32nd is probably generous and owing to a quirk in the way the CED calculates one of its components. The state ranked next-to-last in value added per worker and just 32nd in business failures, yet it placed 3rd in manufacturing capital investment per worker. That is probably because the CED attempted to adjust for varying degrees of capital intensity in the economies of different states by dividing the value-added figure into the capital dollars invested per worker. Since there was very little (ranked 49th) value added to Montana's traded products, this figure is probably misleadingly high.

The C in entrepreneurial energy results from rankings of number 1 in minority and women business ownership, 12 in business startups per 10,000 workers, 28 in growth of jobs in new rural enterprises, 32 in growth of jobs in new metro enterprises and 48 in the growth rates of new businesses.

Capacity Index

The overall C grade and 35 ranking are due in large part to a number 1 ranking in the human resources subindex. The state received D's in technological and financial resources, and a C in infrastructure and amenity resources.

Montana's A and number 1 ranking in human resources was based on rankings of 6 in percentage of high school students who graduate, 4 in adult literacy and 15 in college attainment.

Physical infrastructure and amenity resources are a mixed bag for Montana, which received an overall C in the subindex. At one end of the spectrum are rankings of 47 in mass transit expenditures and 45 in bridge deficiencies, as rated by the Federal Highway Administration, and at the other end are rankings of 3 in energy (electricity) costs and sewage needs per capita. In foundation grants, a quality-of-life measure, Montana ranked 16. In highway deficiency, about which many complaints are heard in Montana, the state ranked 20. Montana was 38th in the number of doctors per 1,000 residents, and 36th in urban housing costs. Curiously, in a sparsely populated state that touts its tourist industry, Montana ranked only 29 in tourism spending per capita.

The D in technological resources results from rankings of 47 in scientists and engineers per 1,000 workers, 44 in patents issued per unit of population, 43 in federal research and development spending per capita, 38 in science and engineering doctoral students per unit of population, and 32 in university research and development per capita, which undoubtedly is what saved the state from receiving an F in this subindex.

The D in financial resources arises from a 5-way tie for last place in venture capital, and rankings of 44 in loan-to-equity ratios, 28 in commercial/industrial loans per unit of population, 27 in per-capita income from dividends, interest and rents, and 20 in bank deposits per unit of population.

Policy Index

Montana received a D and a 37 ranking in this complicated index based on an A in development financing, a C in effort for disadvantaged communities and individuals, D's for business support, education and investment in infrastructure and amenities, and an F in tax and fiscal environment.

The F and 47 ranking in tax and fiscal environment is based on rankings of dead last in stability and balance, 46 in fiscal equalization and 25 in tax fairness. Although it probably will not show up in next year's CED report, the changes passed by the 1989 Legislature should improve, to some degree, the state's score in the equalization portion of this subindex. However, in the area of tax stability and balance, where the state already ranks last, the fact that a 21-day special session came up with a last-minute patchwork of add-ons and adjustments seems unlikely to improve the state's rating.

The D and ranking of 41 in education are based on relatively low teacher salaries (average salary ranked 38 and average beginning salary 39), a salary increase that ranks 39, higher education spending that ranks 15, elementary and high school spending that ranks 5, and a virtual absence of state accountability measures and policies aimed at improving performance. The CED's methodology in this area is not clear, but it is curious that student performance levels -- reportedly very high in Montana -- are nowhere taken into account.

The infrastructure and amenities grade of D is the result of another near absence of programs and policies, this time in the areas of housing assistance, solid waste abatement, public capital budgeting processes and hazardous waste handling. The state appears to have been spared an F on the basis of its relatively aggressive air and water pollution standards.

The D in business support appears to be at least partly a function of the state's small population, because the CED does not appear to have adjusted many of these data for population variations. For example, some of the criteria include the number of staffers working on exports, the amount of time spent counseling businesses in export matters, the number of foreign offices, and so on. One suspects that Montana's effort in this area is at least as aggressive as that of the cities whose population bases are similar.

The state's C in assistance programs for disadvantaged communities and individuals reveals that the state is roughly in the middle in terms of its participation in such transfer payment investment programs as workfare and transitional support services. Closer inspection reveals no apparent anomalies in this area.

Finally, the state's A in development finance is the result of having in place programs and policies in 9 of the 15 areas identified as important by the CED. The state has available a fairly broad range of financing and leveraging programs. It was not quite as strong in the area of regulatory innovation.

Overall Portrait

The general picture of Montana one gets from looking at the CED report -- and the fact that the state fared worse in 1989 than in 1988 -- is not a bright one. The lead sentence in a newspaper article summarizing the report in the Tribune aptly put it: "Montana: The air's clean, the workers are bright, but the economy is not well."[15]

If it is any solace, Montana did no worse -- and, in a couple of cases, did better -- than its neighbors. Table 8.1 summarizes the overall index grades of the Dakotas, Wyoming, Idaho and Montana.

Table 8.1

Report Card for the Northern Rockies

State	Performance Grade	Performance Rank	Vitality Grade	Vitality Rank	Capacity Grade	Capacity Rank	Policy Grade	Policy Rank
Montana	**D**	**43**	**C**	**31**	**C**	**35**	**D**	**37**
N Dakota	C	28	D	42	C	31	D	39
S Dakota	D	37	F	46	D	36	F	50
Wyoming	D	39	F	47	C	27	D	45
Idaho	D	42	C	27	C	33	D	43

Source: Corporation for Enterprise Development, The 1989 Development Report Card for the States, 17, 33, 49 and 69.

[15] Tribune, 21 March 1989, 1A.

The poor showing by that regional cluster did not escape the notice of the CED authors. A section of the report in which salient data are noted contains two ominous subheadings: "Acute Economic Distress Has Become Chronic in the Great Plains and Mountain West," and "Rural America Is in Trouble."[16] In those sections, the authors note that of the 13 states receiving no A's or B's on any of the four indexes, seven (the five listed in Table 8.1 and Nebraska and New Mexico) are in this region. The report continues:

> More troubling than their current economic distress, however, is the evidence that they are doing little about it. Six of these seven states receive D's on the Policy Index; the seventh receives an F. . . . These states appear simply to be waiting for the next upturn in energy, mineral, timber and agricultural commodity markets. But those markets have changed fundamentally in the last decade, and the old "boom/bust" rules no longer apply.[17]

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[16] <u>1989 Report Card</u>, 13.

[17] Ibid.

CHAPTER NINE

CONCLUSION

Throughout this paper, it has been seen that Montana faces numerous difficult, basic struggles, and that, to some extent, it always has. Because of the factors that have led to poor ratings in studies such as the Corporation for Enterprise Development report card detailed in the previous chapter, steps have been taken in recent months which may signal a new era in the way Montana is perceived by people from other states. The extent to which those changes will show up in surveys such as the CED study remains to be seen.

In some cases, such as the personal property tax relief granted in the special session of the 1989 Legislature, the steps were small and hard-fought. In others, such as the Supreme Court ruling upholding limitation of damages in wrongful discharge lawsuits, they represented major reversals of historical trends.

Whether they will yield the desired results for the more conservative forces which spawned them will, as always, be open to question -- one of the few certainties about business in Montana is that the results will be questioned. That questioning has historical roots, and it is close to the heart of the state's most fundamental and difficult problem: Montana is remote, and some people are driven to the wildness that others are driven to tame. The remoteness has led big corporations to come in and plunder, and less directly it has prompted employees to curse their out-of-state-based employers. It has caused juries to award hundreds of thousands of dollars to individuals in suits against "big business," and it has allowed divergent, sometimes mutually exclusive, interests to lay righteous claims to a dwindling public domain.

For whatever reason -- the causes and effects pose a chicken-or-egg dilemma -- there has never been very much business going on here. That makes for a fragile and overly dependent economy, and it means there are not very many options for workers. In many parts of the country, workers displeased with their present employers can simply walk across the street to other employers; elsewhere, unhappy workers just move away. But, because of the remoteness of the place, Montana workers cannot do the former, and, because of the grandeur of the place, they do not want to do the latter. That is what makes Montana different. The Place has a hold on many of its residents. Whether it is the hunting, the view, the family farm, the skiing or the rodeo, they would rather not leave. That makes life harder here for the employer and the employee. And it makes it harder for the politicians, who must try to please their constituents.