

MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on June 22, 1989, at 10:30 a.m.

ROLL CALL

Members Present: 21

Members Excused: None.

Members Absent: Representative Kadas

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

Announcements/Discussion:

HEARING ON HOUSE BILL 21

Representative Harrington announced that the hearing on House Bill 21 was being cancelled due to the illness of the sponsor of the bill, Representative Janet Moore.

HEARING ON HOUSE BILL 23

A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT ECONOMIC DEVELOPMENT LEVIES FROM THE PROPERTY TAX FREEZE; AMENDING SECTION 15-10-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Presentation and Opening Statement by Sponsor:

Representative Bob Ream, House District #54, stated that HB 23 is a bill that was seen during the regular session which would allow local governments to run a one mill levy for economic development purposes. He explained that on Tuesday there had been a deadline of noon for turning in bills and shortly before that time he received the version of the bill which was printed and assumed it was the bill that he had sent over from the Missoula Economic Development Council in Missoula. Senator Crippen had asked for an identical bill to be drafted. However, there were two versions and, after consulting with Senator Crippen, the correct version of the bill is the one which Representative Ream had presented to the committee which is attached to these minutes as Exhibit 1.

He stated that the only difference in the two is that on the last page of the handout there is a provision for a window of

opportunity. It says that until December 31, 1990, if the voters have authorized the levy, it could be implemented. In other words, this bill is a compromise. The bill was carried by Representative Harrington in the House and was carried by a large majority but was subsequently vetoed by the Governor. According to this bill, it will be possible to come back in the next session and either permanently put it in place or sunset it at that time.

Testifying Proponents and Who They Represent:

Carol Daly, Flathead Economic Development Council
Janet Stevens, Missoula County
Chris Bruninga, Missoula Economic Development
Roger Foster, Helena Area Economic Development
Barbara Schneeman, MT Association of Counties
Chris Gallus, Butte Silver Bow BLDC
Alec Hansen, Montana League of Cities and Towns

Proponent Testimony:

Chris Bruninga, Resource Director at the Missoula Economic Development Corporation, said they support HB 23. It will allow the 1991 legislature to provide a local one-mill levy option for economic development. She said she felt the original bill was vetoed due to a concern by the Governor and his staff that this was an avenue to circumvent I-105 which was not the intent but was the interpretation. She said they had spoken with the Governor and he understands the importance of the legislation for local communities and economic development organizations. They further understand that this does not provide a mandatory levy but will be allowed only on the vote of the people and does illustrate that there is no intent to circumvent I-105.

Janet Stevens, County Commissioner from Missoula County, stated that she was at the hearing to support Representative Ream's amended bill. Economic development is critical to the state at this time. She said that local communities know their own turf best and this bill will provide seed. It will provide the window of opportunity so that counties can have the time to open the window and prove that a public/private partnership at the local level will work and provide a foundation the state can build upon. The state will not be able to build an economic development climate for Montana without the counties' support.

Carol Daly, Executive Director of the Flathead Economic Development Corporation, spoke in favor of the bill. She said it was a critically important bill to the survival of many local economic development agencies. One of the things she felt was very important was that at least one economic development organization was planning to go forward with funding through a mill levy, however, as a result of the veto they have closed their operation and are unable to

proceed. She urged support of this bill.

Roger Foster said he was the Vice President of the Helena Area Economic Development Corporation and was also speaking in behalf of the Billings local development groups as they were unable to be at the hearing. He said he thought this bill represented the will of the people and it essentially establishes the mechanism for achieving the intent of I-105 which is keeping property taxes down. It does that by establishing procedures within the community for them to engage in economic development which increases the tax base. He asked for support for the bill.

Alex Hansen, Montana League of Cities and Towns, spoke in favor of the bill. The important part of this bill, he said, is the portion which says levies for economic development are authorized by 90-5-112. He brought copies of this statute. Exhibit 2. He said that essentially what this section does is allow cities or counties with a majority vote of the electors to levy one mill to fund an economic development program. The reason this is so important and the reason the bill was introduced, was that the City of Bozeman attempted to do this under I-105 as it is currently written. Their City Attorney determined that to levy this additional mill, even if it was approved by the voters, they would have to declare a financial emergency to qualify under the existing provisions. It is not good public policy to force cities and counties into a financial emergency before voters in those jurisdictions can make affirmative decisions on whether or not to levy one mill to develop the economy of that particular area. The cities and counties in Montana have proven that local development efforts really do work.

Testifying Opponents and Who They Represent:

None.

Opponent Testimony:

None.

Questions From Committee Members: None.

Closing by Sponsor: Representative Ream said, in closing, that during the Executive Session he would move to adopt the amended bill which is different from the introduced version. He said he had received several phone calls and letters from other economic development groups around the state. There seems to be wide spread support around the state for this legislation. Chairman Harrington said he had also received a number of letters on this matter.

IMPOSE PROPERTY TAX LEVIES UNDER THE AUTHORITY OF TITLE 20, MCA, GOVERNING SCHOOLS, COMMUNITY COLLEGES, AND OTHER EDUCATIONAL ENTITIES, TO INCREASE THE MAXIMUM NUMBER OF MILLS THEY MAY LEVY TO A 3-YEAR AVERAGE IF THE NUMBER OF MILLS LEVIED IN 1986 WAS LESS THAN THE NUMBER OF MILLS LEVIED IN EITHER 1984 OR 1985;..."

Presentation and Opening Statement by Sponsor:

Representative Ben Cohen, State Representative from Whitefish, stated that he had introduced HB 24 specifically to address a rather interesting problem that had occurred in a number of school districts around the state, including his local community college. Certain school districts found themselves at the end of 1985 with substantial reserves and, in trying to be frugal and thrifty, they thought the responsible thing to do was to reduce their mill levy, and use up their reserves in the course of operations for 1986. They did not realize that the taxes would be frozen at a level which they could not get back up from. They have now depleted their reserves and are in a real crunch to fund their districts. What the bill does is allow the district to go back and if the levy in 1986 was smaller than the levy in 1984 or 1985, they could take the average of those three years to create the base year. Because of the changes in taxable value it had been pointed out to him by Mr. Groepper from the Office of Public Instruction that the mill levy itself should not be used to determine this and he asked Mr. Groepper to explain the amendment and the reason for the change.

Testifying Proponents and Who They Represent:

Greg Groepper, OPI

Eric Feaver, MEA

Terry Minow, MFT

Proponent Testimony:

Greg Groepper was not yet present at the hearing so the Chairman asked for testimony from other proponents of the bill.

Eric Feaver said the Montana Education Association supports this bill. He said he would also support the amendment to the bill. There are school districts which were, unfortunately, caught by I-105 with artificially lowered mill levies than they otherwise would have had. He said the utilization of reserves was one example but another example was in Helena where an annexation took place, which legislators approve of, they received bonus payments for three years and, in effect, lowered the millage in the Helena area. I-105 came along and right after that those bonus payments stopped, leaving the Helena School District as one of many that found themselves without the ability to tax its citizens as it had done and since the bonus payment was no longer available it found itself artificially depressed. He said that Representative Cohen had suggested a good way to resolve the

problem. He encouraged the committee to think of this matter in terms of dollars and not mills.

Greg Groepper, representing Nancy Keenan's office, said they would support this bill. He said he had talked with Representative Cohen and stated that rather than setting a mill levy limit, they should look at actual expenditures by the school district. This is what is tied into I-105; if the tax base drops you are allowed to levy additional mills to get back to the spending level in 1986. The mill levy is really an irrelevant measure since there have been so many reductions to the property tax base. Several million dollars have been lost in the property tax base. If you look at spending and don't want the districts spending more, an amendment would be appropriate that would target on spending rather than millage. The same thing would be accomplished but districts would not be damaged as a result of lowering their tax levy in 1986. He said his office would be happy to work with the Committee to suggest some ways of doing this.

Terry Minow, Montana Federation of Teachers, said they would also like to go on record in support of this bill to mitigate some of the effects of I-105.

Testifying Opponents and Who They Represent:

Tom Hopgood, Montana Association of Realtors

Opponent Testimony:

Tom Hopgood said he was appearing as a reluctant opponent to this bill, recognizing that there is a problem which exists which is a very unfortunate situation; however, his organization is responsible for looking out for the interests of the property taxpayer in Montana. The property taxpayers spoke through I-105 and they believe the emergency provision which allows a taxing jurisdiction to have an emergency levy should take care of any shortfalls which are caused by this unfortunate situation. He urged the committee to exercise caution in its deliberations on this bill.

Questions from Committee Members

Representative Raney asked Representative Cohen if he could give him some idea of what it would mean in each individual county. Representative Cohen said he did have the information and would make it available to committee members.

Representative Giacometto asked Representative Cohen if he would be opposed to putting the average expenditures or mills in but allowing the local people to vote on the increase. Cohen said that was exactly what they were talking about. The districts he is concerned with, it is the voted levy

which needs to be increased. Following up on this, Representative Giacometto said the language in the bill looks like it would be automatically go up to the three-year average and there wouldn't be a vote. He said he had no problem with the bill as long as the people in the community had a voice in it. Cohen said he could see where it might be a problem for certain wealthier districts where they never use the voted levy and are only into the permissive levy but he had no objection to giving the people that authority. Cohen said he would need more information and would have to talk to the OPI about it.

Representative Ellison directed his question to Representative Cohen. He asked how much the taxes were reduced for Columbia Falls and could they pass all of the decrease on to the rest of the taxpayers if this bill is passed. Cohen stated that the Columbia Falls Aluminum Plant rate went from 11% to 3% and the purpose of that was to get their taxable value down from \$130 million to \$30 million. In that case the drop in valuation was so great that the school district was able to raise it some but he said he was more concerned with the Flathead Community College. Anytime a tax is dropped for one segment of the community and you have to recover it, it has to be transferred to other segments of the community.

No further questions.

Closing by Sponsor: Representative Cohen closed.

HEARING ON HOUSE BILL 25

A BILL FOR AN ACT ENTITLED: "AN ACT TO ALLOW TAXING UNITS SERVED BY A CITY-COUNTY BOARD OF HEALTH TO INCREASE THE MAXIMUM NUMBER OF MILLS THEY MAY LEVY TO A 3-YEAR AVERAGE IF THE 1986 LEVY WAS LESS THAN THE NUMBER OF MILLS LEVIED IN EITHER 1984 OR 1985; TO AUTHORIZE THE GOVERNING BODIES OF THE TAXING UNITS SERVED BY A CITY-COUNTY BOARD OF HEALTH, IF NECESSARY TO ENSURE PUBLIC HEALTH, TO LEVY UP TO THE 5-MILL STATUTORY MAXIMUM MILL LEVY TO SUPPORT THE CITY-COUNTY BOARD OF HEALTH; AMENDING SECTION 15-10-412, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

Presentation and Opening Statement by Sponsor:

Representative Cohen said HB 25 is a crucial bill for the people in Flathead County and also other counties. It is similar to HB 24 but deals with county health departments. He said some research had been done and some counties have been identified counties where the mill levy for the county health department was dropped significantly in the base year. See Exhibit 3. In Flathead County in 1984 they had a 4.09 mill levy, in 1985 it was 4.82 and in 1986 it was 1.47. At the end of 1985 the health department and the county

commissioners discovered \$220,000 in reserves and the commissioners went to the health board and told them to use up the reserves and drop the mill levy. They dropped the mill levy down to 1.47 mills and used the reserves but they were then frozen at 1.47 mills and now they are talking about doing away with the program for inoculating school children and some other basic and essential services for human health. This bill provides a logical and fair way to deal with the problem. Five mills is the maximum levy for county health departments. This bill would average the mills for the three years and they could recover some of the lost money.

Testifying Proponents and Who They Represent:

Carol Daly, Flathead Economic Development
Jane Lopp, Flathead Health Board
V. A. Yaholkovsky, Flathead Health Board
Mary E. Adkins, Flathead County Commissioner
Steve Herberly, Flathead Regional Welfare
Darrell Fenner, Flathead Department of Health
Boni Stout, Flathead City County Health Department
Barbara Schneeman, MT Association of Counties

Proponent Testimony:

Jane Lopp, Chairman of the City County Health Board, explained that this is a critical bill to Flathead County. The mandate of public health department and county health boards is to protect public health. As a board member, and on behalf of their board and others similarly situated, she is concerned about the ability to do what is mandated by state law in protecting public health. She stated that they were in a crisis situation in Flathead County because of the situation with the mills dropped by two-thirds of what the prior levy had been. They have operated on reserves up to this point and at this time they are looking at decreasing their staff by 50%. As one of the few counties in the state that is growing they have increasing issues to be dealt with in terms of the public and this will make them less effective and less able to accommodate the needs of the community. Their county commissioners are supporting this proposal.

V. A. Yaholkovsky stated that he was a retired physician who had been recruited to serve as acting director of the Flathead County Health Department. He said that with the present millage they are faced July 1 with abandoning or not starting the following programs: low birth weight prevention, teen age pregnancy, air quality, gasoline and oil tank removal and monitoring, high risk pregnancy. He said they will not have the funds to operate these programs and it will also eliminate the possibility of matching funds that are available from other state and federal programs. The decrease in staff will lead to decreased sanitation,

water quality, septic system inspections and all will approach zero without increased tax support. With a growing community in an area that is booming in terms of construction, he felt they were critically jeopardizing the future of the environment in Flathead County without this support. On the medical side, he presented a letter from Dr. Marise Johnson and a copy of that testimony is attached as Exhibit 4.

Mary Adkins, Commissioner from Flathead County, said the commissioners were in support of this legislation. The department is deteriorating from the effects of I-105. She said she didn't feel the intent of I-105 was to punish this area of government. As a commissioner she felt it was very difficult to sit back and watch a valuable department suffer because they are in a situation they can't do anything about. She urged support of the bill.

Steve Herberly, Planning Director of the Flathead Regional Planning Office, said he was in support of Representative Cohen's bill. The Flathead has been pointed out as one of the few areas in the State of Montana that is growing and there is a sense of positive imaging and confidence in the business community and in local government if they can have the resources necessary to do the job to accommodate growth. In "Great Towns of the West" there is only one county that had more than one city mentioned. Flathead County has two cities. Big Fork and Whitefish are two places singled out as ideal environments for individuals to live. Quality of life issues are critical in Montana and the state legislature has historically supported water quality issues in the Flathead Basin with funding of the Flathead River Basin Environmental Impact Statement as well as the creation of the Flathead Basin Commission to do two things, safeguard water quality and promote economic development. There is a serious threat to their ability to promote and accommodate growth and protect the environmental quality of world class pristine waters in the Flathead Basin. He encouraged the committee to support the bill.

Boni Stout said she was a public health nurse from Flathead County. She said they don't have staff or money and yet they are expected to continue to do their job. If they are to continue to inspect restaurants, protect the lakes, take care of aging parents, protect from communicable diseases, take care of pregnant teenagers, they have to have help. They are in a crisis situation and asked for support of the bill.

Darrel Fenner stated that he is a citizen member of the Flathead City County Health Department who was appointed in January. He said he believed in the mission of the Department which is to protect the health and environment of the citizens. He stated that contamination from the Kalispell area would eventually find its way into the Columbia River System. The

constraints imposed by I-105 have made his job very difficult. He said he had ten meetings in the past weeks trying to resolve the financial problems. The commissioners have been supportive but they are also constrained in what they can do. The change in the tax structure for the Columbia Falls Aluminum plant in 1987 reduced direct tax revenue by \$400,000 and that caused a lot of dislocation and soaked up discretionary funds. He said he did not feel the intent of I-105 was to penalize entities such as the Flathead County Health Department for being frugal in 1986. As an individual serving on this board, he would prefer to spend his civic time dealing with problems such as aquifer contamination and valid health environmental problems rather than trying to resolve the fiscal problems created by I-105. He encouraged support of HB 25.

Carol Daly, Flathead Economic Development Council, said she would like to add her support to HB 25 by saying that the situation which so negatively impacts the public infrastructure in the Flathead Valley can't do any more good for economic development any more than it can do any good for public health.

Testifying Opponents and Who They Represent:

Tom Hopgood, Montana Association of Realtors

Opponent Testimony:

Mr. Hopgood stated that this was a companion bill to HB 24 and did the same thing so he would reiterate his testimony on HB 24. He said he heard a lot of scary terms like "critical" and "crisis" and "serious impairment of the environment", "inoculations of children" and other deteriorating health problems. He said these were emergency terms and there is a provision in the code right now to take care of emergencies. He said he had heard testimony that the health department had been hanging on for two years and they are tired of an on-going crisis but the taxpayers, when they passed I-105, voiced their feeling that they are tired of increased property tax. They are also tired of seeing I-105 eroded. He said these things could be put to a vote of the people and if it is truly an emergency situation there is a mechanism for taking care of it.

Questions From Committee Members:

Representative Raney asked Representative Cohen if he would respond to Mr. Hopgood's comment that the situation could be solved with an emergency levy. Representative Cohen stated that an emergency levy would have to be put up every year and the choice to do that would be for the County Commissioners. He suggested that the question be directed to Ms. Adkins from the County Commission. Ms. Adkins said they did have an emergency level last June because of the

measles epidemic. However, she did not feel they would want to do this every year because there is a continuing emergency.

Representative Raney asked Ms. Adkins if it was reasonable to expect the commissioners to go on year in and year out without knowing how much they have to fund their health department. She said she did not think it was reasonable. She said they also had to have an emergency levy for the fires they had and there is just so much money for emergencies. They feel that the health department is really in need and they need ongoing support because they were stuck with the lower millage.

Representative Giacometto inquired whether I-105 and I-27 passed in Flathead County and Commissioner Adkins responded that they did.

Representative Giacometto said that in following up on that, it goes back to the school issue in the preceding bill. He said that he realized that emergency levies would be a hardship because it would have to be done every year in advance, but he felt the commissioners were trying to get out of the responsibility of having to sell that to the people. Ms. Adkins replied that they could choose to do that and people could vote either way.

Representative Harrington said he thought the problem is that if they had to depend on an emergency levy, wouldn't this have to be done every year? Mr. Hopgood replied that was true.

Representative Gilbert asked Mr. Hopwood if what he was saying was that the people passed I-105, the people said governments are spending too many tax dollars so they froze dollars. Wasn't there a mechanism provided that if an emergency came up they could go to the people for just one small area? Mr. Hopgood said that was exactly correct. Representative Gilbert asked Mr. Hopgood if it appeared these people are coming in with these bills to take it upon themselves as government employees or officials to circumvent I-105 by pushing the emergency levy off to the side and they could get around the people easier this way to get the state legislature to circumvent I-105? Mr. Hopgood again said that was exactly right because they wanted the decision to be made in Helena because the voters in that district might not approve it.

Representative Driscoll said there is the same crisis in education and perhaps there should be an emergency level each year for schools and he wondered if that would be feasible? Mr. Hopgood said it could be carried to that point if that was the will of the legislature.

Representative Kadas asked what the cost of running a special election was. The reply was \$12,000 in Kalispell and in

Missoula it would be \$25 to \$30 thousand.

Closing by Sponsor:

Representative Cohen stated that he resented the direction of some of the questioning. He said he would like to explain that there are two kinds of emergencies. There is an emergency that occurs when you have an epidemic, when a bridge collapses, or when there is a large range fire that has to be paid for. They are one-time emergencies and for those emergencies it makes good sense to have a special levy to cover those emergencies. But the health department is talking about a funding emergency, on-going programs that the people have put in place and expect to have continue. This health department did the responsible thing in using their reserve, dropping the levy and then got caught in a one-year freeze. He said that he couldn't believe that any of the people who supported I-105 wanted to see this kind of crack occur in the funding of their health department. He said he was only asking that they take a look at the three previous years during which the reserve was being accumulated and then go to the average. He said they all thought it was good to have one mill for economic development and yet the executive director of the economic development program in Flathead County said that it won't mean much if the health department can't be taken care of. It was pointed out that when you come to Flathead Valley on vacation you expect that the food you get is going to be safe to eat and expect that you can swim safely in the rivers and lakes. He asked that the committee give them the power to protect their people.

HEARING ON HOUSE BILL 43

A BILL FOR AN ACT ENTITLED, "AN ACT TO EXEMPT FEDERAL RETIREMENT BENEFITS FROM STATE INCOME TAXATION; AMENDING SECTIONS 15-30-111 and 15-30-136, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THIS ACT AND FOR CHAPTER 532, LAWS OF 1987, AND SECTION 3, CHAPTER 617, LAWS OF 1989; AND PROVIDING A RETROACTIVE APPLICABILITY DATE."

Presentation and Opening Statement by Sponsor:

The sponsor of the bill is Mark O'Keefe, Representing Central Helena and the community of Unionville. He said he brought before the committee HB 43 which is another of the series of pension bills the committee will see this session. This bill is different from HB 5 which was heard on Monday and some of it came out of the questions and answers which revolved around Representative Swift's bill. First of all, he said he would like to share his personal philosophy about the pension system situation in Montana. He said he had a district with a lot of retirees, probably 35% of his district, and he said he believed that retired citizens are one of the best resources of the State of Montana. He said

he would like to introduce and push a bill which exempted all retirement benefits from taxation regardless of the source. However, his personal philosophy does not match up very well with political reality and because of that he was presenting HB 43. In the Davis vs. Michigan case, page 8 of the decision, one sentence tells how the problem can be resolved in Montana. It says, "In this case the appellant's case could be resolved either by extending the tax option to retired federal employees or by eliminating the exemption for retired state and local government employees." He said he had heard during the hearing on HB 5 that Montana has a written contract with state employees that exempts them from state tax since the law was passed in 1945. Of the two options, the easier to comply with would be what HB 43 does and that simply leaves the exemption on the state employees as is and exempts federal retirement benefits from the state income tax program.

Representative O'Keefe said this bill does not at all deal with the question of private pensions; however, he referred to the bill as a "tinker toy" bill and this morning in the Senate Senator Myers' bill with the \$18,000 exemption which was heard on the floor yesterday was sent back to committee and tabled by the Senate Taxation Committee. What this bill allows this committee to do is add to the basic solution as it goes through the houses. This builds a solution and allows a lot of room to make additions for anything that is necessary. There are a number of additions that he would bring to the committee and during executive session would add a technical amendment to clean it up and add a sunset amendment. This bill is only designed to give the state and the legislature some breathing room between now and the next session to deal with the complex issues of retirement, annuities, interest income, etc., that all came out in the hearing on Tuesday. He said he would also propose an amendment because of the equity question, to deal with the private pensions, take the limit from \$3,600 up to \$12,000. The committee can decide whether or not there is a need to give that relief to private pensioners. The Senate Committee members are working now with an amendment that came out of their discussions on Senator Myers' bill to set up a study of the problem and direct the Revenue Oversight Committee to bring the answers back to the next session. The base bill is simply what he interpreted to be the most simple solution available. The Senate has agreed that the most simple answer is to do nothing but he felt that there were about 42,000 retirees in the state who would not agree.

Testifying Proponents and Who They Represent:

Alve Thomas, Retired Teachers
Tom Ryan, Retired Teachers
Richard E. Williams, AMRPE
Terry Minow, Montana Federation of Teachers
Eric Feaver, MEA

Ed Sheehy, Retired Federal Employees
John Denherter

Proponent Testimony:

Alve Thomas from the Retired Teachers Association said they supported this bill. He said he thought it honored what the state had promised. He said that when he went to work for the State of Montana 43 years ago they had given him a book that assured him that his benefits would not be taxed and when he retired 36 years later he still had that assurance. He said he also believed this bill took care of the Supreme Court case and, for the time being this was the route to take. He did not oppose people receiving private pensions getting a benefit but he thought a study should be made in the interim.

Dick Williams stated that he was President of the Montana Association of Retired Public Employees and represented approximately 4,000 retired public employees. The provisions of the law that exempt retired public employees from Montana income tax was enacted by a grateful state for a job well done as well as to attract and retain qualified public employees. The recent Supreme Court decision has forced the state to address taxation of retired federal employees. The AMRPE does not object to the exemption of any retiree group; however, they cannot support taxation of retired state employees to obtain equality with other retiree groups. He said he thought this bill best addressed the concerns that they have and they would support O'Keefe's amendment to sunset the bill in 1991.

Tom Ryan, retired teacher, said he quit working for a utility many years ago because the pension system did not provide any equity when you quit or moved to another job. One of the attractions for teaching was the pension system and he said he would support this bill.

Terry Minow, Montana Federation of Teachers and Montana Federation of State Employees, stated that they would rise in support of HB 43. This bill simply deals with the Supreme Court Case. The State of Montana promised the teacher and state retirees that their entire income would be exempt from state taxation and that promise must be kept and is kept under this bill. This would be a quick and inexpensive solution and she asked the committee to give it a do pass recommendation.

Eric Feaver, MEA, said that his organization would also rise in support of this bill with some reluctance because it is not their first option. Their first option would be to do exactly what the Senate did and that is do nothing. He said that a "wait and see" position to consider what Congress is going to do in response to the U. S. Supreme Court decision is what other states are doing to respond to the

circumstances they find themselves in. It is appropriate to keep it in mind that in the world of judicial decisions, this decision has just been handed down and a bill was introduced in the regular session. It was determined at that time that it was precipitous for the legislature to act at that time and that holds true at this time also. This is a very complex issue, which the Senate has discovered, and there is a minefield of unfortunate possibilities and it is not something that would be easy to solve in executive session or conference committee in the short time that is allotted during the special session. He said that if you feel that doing nothing is not the legislative way, then HB 43 would be option two and only under those circumstances does the MEA support HB 43. They would agree with the amendment to sunset the bill and they would like to see the private pension amendment as it develops and they would hope that an interim study would look at this issue and consider very carefully the impact of any decision made on all pensions, annuities and that sort of thing on Montana's tax policies.

Ed Sheehy, State President of Retired Federal Employees, said he did not oppose this bill. He said that when they talk about federal law being changed, that simply is not true. The reason it is in existence is the federal government in an effort to deal with the intergovernmental community and to tax state workers had to consider the Public Salary Act of 1939. What has been happening since the Supreme Court decision on March 28, the Missouri Supreme Court ruled on May 26 that retirees in that state were entitled to refunds and that is another issue that should be looked at because there is some money you may owe in refunds, particularly with the problems you have in funding schools. He said he did think the first obligation of the legislature was to take care of its own employees. Nothing should be done to hurt state retirees.

John Denherter said he usually represented the Disabled American Veterans. He is a veteran of three wars and three uniformed services, a military retiree, a civil service disability retiree and a state retiree waiting for social security. He encouraged the committee to correct the Supreme Court ruling as an equitable situation and endorse most of the things heard this morning.

Testifying Opponents and Who They Represent:

Morris Mabry said he represented the equitable taxation group. He said he had been here two years ago and also at the regular session and every time the private retirees are left out and he couldn't understand why. He said he was beginning to feel like a peglegged fellow at a fanny kicking contest, always left out. He asked what the difference was between a lifetime of work for the private sector, the federal sector or the state sector? He said they are all

retirees that worked a lifetime and wasn't their blood as red and warm and wet as anyone else? He asked what he had done wrong. In regard to the Michigan ruling, he said an 8th grader could read it and tell you that you cannot take retirees and put them into three different brackets and tax them differently based solely on where the benefit comes from. He said Mr. O'Keefe had pointed out that in 1945 a law was passed to give state workers a free ride and that is honorable and good. He said they had no problems with schools because they don't have kids in school. They have no problem with workers' compensation or unemployment insurance or anything else -- they are a good clean industry. He said they aren't even going to make too many trails through the wilderness because there aren't enough restrooms. He again asked why they are being discriminated against. He said the state has been getting away with this for 44 years and he could see no reason to wait another two years to bring it up. The place to settle this is right here and right now. Mr. Mabry said he had never earned a penny in the State of Montana and had come here four years ago, and bought a home. The only thing he has done is spend in excess of \$25,000 a year in Helena, plus \$47,000 for his home plus \$11,000 in medical bills. He said they have not cost the state anything and they should encourage people to come to Montana to retire. He said the court's decision had made it clear that you cannot tax retirees differently because it is wrong. He said there is no need to study it, after 44 years it's time to give the private retirees a break and make them feel like they are as good as anyone else.

Lloyd E. Lamb, a representative from the private sector, said he had been studying some statistics and he shouldn't even be here because he has lived past his life expectancy. He said he was an opponent to the bill because he feels he has lived in the State of Montana all his life, 4 years in the service, combat veteran, worked 39 years, paid his taxes since 1940 and he is still paying taxes. He said he felt they were the invisible force, not being looked at, and they deserved some consideration.

Mary Craig spoke in opposition to the bill. She said she would encourage the committee to include the private retirees with an amendment and not study the issue. She said people come into her office, she is a CPA, and what they say is they are receiving money for performing services and it doesn't matter whether they are state retirees, federal employees or private employees, they are just receiving retirement income and they should all be treated the same. Therefore, there is no need for study, it is a matter of do you or don't you want to treat your citizens equally.

Questions From Committee Members:

Representative Harrington asked Mary Craig what she would think

of getting the amendment up to \$12,000. She said she would have to check with her people. Representative Harrington then asked Mr. Lamb how he would feel about that. Mr. Lamb said they would take it, as it would beat \$3,600.

Closing by Sponsor: Representative O'Keefe said he would like to thank both the opponents and the proponents. He said he totally agreed with Mr. Mabry's testimony and said he hoped he had made that clear in his opening statement about his philosophy on this matter. However, he felt they were dealing with political reality and he had a real concern about the equity question the same as the opponents do but he was not willing to compromise at \$12,000 for everyone across the board, or \$18,000 or anything else because of the commitment to the public employees. He said he would certainly support the private employees in a decision to exempt them from taxation also.

Chairman Harrington closed the hearing and called an Executive Session to consider some bills. He said that he would appoint a subcommittee to consider HB 39, the Kadas-Ramirez bill. He appointed Mike Kadas, Chairman, with Stang, Cohen, Grady and Gilbert serving on the subcommittee.

DISPOSITION OF HOUSE BILL 23

Motion: Representative Cohen made a motion that HB 23 do pass as amended by Representative Ream.

Discussion: Chairman Harrington said this is the bill which would provide for a one mill levy to support economic development councils.

Amendments, Discussion, and Votes: Chairman Harrington said the amendment is actually the new bill which is actually the Crippen bill. Representative O'Keefe asked for clarification of what the amendment did. Chairman Harrington said he had carried HB 125 in the regular session but the governor vetoed that bill and what this bill does is change the bill to give it a different way to go before the voters. He said the Governor had indicated that he would accept this version. On a voice vote the amendments were accepted.

Recommendation and Vote: The bill was given a DO PASS recommendation on a voice vote. The bill, as amended, will go to the floor.

DISPOSITION OF HOUSE BILL 24

Motion: Representative Cohen moved do pass.

Discussion: Representative Giacometto said that this was all

fine with him as long as it would go to a vote of the people in the school district to accept the three-year average. He asked Lee Heiman if it would be any trouble to change that and he said it would not.

Amendments, Discussion, and Votes: Rep. Giacometto made a motion to amend the bill by adding that it should go to a vote of the people in the school district to accept the three-year average. Representative O'Keefe asked the researcher how that would work because there would have to be something on the ballot that said they were going to change the base year of I-105. Mr. Heiman said that it wouldn't be part of the school vote, it would be a specific vote to reset the base year. Representative O'Keefe said he thought it would be quite complicated to do this because it would appear on two different places on the ballot. Representative Giacometto said he didn't see that as the language that would go in. It would be specifically to accept a three-year average for the base year rather than the 1986 level. The community would have to educate the people exactly as to what was being done. Discussion followed. The conclusion was that the vote is actually on dollars and not on mills and the researcher was confident that he could word the bill correctly.

Mr. Heiman said that the way he understood the amendment, it would provide that the voters would approve a change in the base year amount. When they approve that change in the base year amount would not necessarily have to be at the school election. The school could ask for a special election six months ahead of time. Representative Cohen said he would oppose Giacometto's amendment because people will vote anyway on the levy and if the school board uses the three-year averaging and they will vote on the dollar amount and it's gone up too much, they will lose the entire levy.

Giacometto asked when they go in to vote on these now, if you are locked in at the base year, the mills being voted on won't be changed because of I-105 so with this going into place you could sneak something in underneath that they don't understand unless, don't know how to word it, but it's a new deal and not under 105. Kadas said if this is passed they could levy a couple more mills in some circumstances on the first ballot. The citizens will know that it is more than they paid the year before and if it fails they will come back.

Giacometto said he would withdraw his amendment and they could run one through the department to see if they could draft something and it could be discussed on the floor.

Representative Cohen said that Mr. Groepper, because of the drop in taxable value suggested that to do it accurately, thought they should be looking at the dollar value rather than the mill value. Chairman Harrington said he thought

they should go ahead and amend it to that effect and Mr. Heiman and Mr. Groepper could work together on the wording of the amendment. This would be to make it dollar amounts rather than mills. Giacometto said the only thing about that is that if they started messing with the dollar amounts just for schools, they would be changing everything that happens with county valuations in other areas.

Mr. Heiman said the way the proposition reads now is, "shall a levy be made in addition to the levies authorized by law in such number of mills as may be necessary to raise the sum of". Representative Cohen said that it should then be changed to the amount raised in 1986, being less than the amount raised in 1984 and 1985. Representative Good suggested that they put it on second reading and get things moving out of the committee. Representative Cohen said he would accept that and work it on the floor. Gilbert said the heart of the issue was whether they were going to circumvent I-105 every time an entity that lived off of tax dollars came in and wanted to change what the people of the state of Montana did. Since the passage of I-105 people are coming in and saying they have to circumvent I-105 because they can't go on like they have. He said the people were the ones who said that and the people should have some say in any change. If it could be amended to where the people had a say in changing it, it would be fine but without the people having some say in it he believed it was terrible tax policy and he would oppose the bill for that reason. The bill was not amended.

Recommendation and Vote: Harrington asked for a roll call vote on the DO PASS motion. Twelve committee members voted yes and ten voted no.

DISPOSITION OF HOUSE BILL 25

Motion: Representative Cohen made a motion that HB 25 do pass.

Discussion: Representative Rehberg, again following up on Representative Gilbert's comments, said that they sympathize with the desire on the part of the people in the counties to have some relief, but I-105 is in place for a reason. He said they have given them the opportunity to solve this problem and until they are ready to come in and help address tax reform, he had very little sympathy for the people in the individual areas who come to state government and ask for help subsidizing their programs. He said he felt personally that city/county planning was more important than a scenario of county maintenance. It isn't the legislature's responsibility, it belongs to the county commissioners and they should go back to their people in their county and tell them that 105 is in place and until taxes are reformed in this state, they will have to live with it.

Representative Cohen said he could accept that if the freeze took place in 1985 but it was frozen at 1986 and the people voted to freeze it when they didn't know what the levy was. The mill levy was dropped down to be frugal, responsible and address the problem of a reserve and they are now being penalized for using that reserve. The crisis is in the funding because they are going to have to do away with ongoing programs, some of which are essential to public health. If it was a program that could be done without, like fixing roads or stop sending the police and sheriff out on patrol, but they certainly couldn't stop ensuring that the food and kids are kept safe. Representative Cohen said that the people who testified at the hearing are people who are working for tax reform but this was not an issue of whether there should be a sales tax, but it is an issue of whether there should be minimum public health.

Representative Good said she didn't agree with Representative Cohen about that being the particular issue. What they are talking about is that the folks in this valley passed I-27 to totally eradicate property taxes and I-105 freeze and to say they didn't know what they were doing is pretty condescending. She said she thought the people in the Flathead were smarter than that. She also commented that the whole purpose of I-105 was that people wanted to have more control. She said she thought it was O.K. for the people to have a spot on their ballot where they could O.K. the expenditure if that is what they want to do and the people have that choice. If it is as dire as it seems, the voters will back them up. However, the people do want to have control.

Chairman Harrington clarified that the big point is whether these people have the right to change this and they do not have the right, they would have to run an emergency levy every year and that was the problem he had with it. If this bill is not passed, these people won't have that opportunity and they will continually have to run that election because they cannot change the system. School districts run an election every year so they can do that but as far as local governments are concerned, there is a problem.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: The Chairman called for a roll call vote. The motion was a DO PASS. Twelve members voted yes, nine voted no.

ADJOURNMENT

Adjournment At: 12:30 p.m.



REP. DAN HARRINGTON, Chairman

DH/dg

150622a.min

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

DATE: *June 22, 1989*

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

STANDING COMMITTEE REPORT

HOUSE BILL 23

"An Act Exempting Economic Development Levies
From the Property Tax Freeze"

June 22, 1989

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that HOUSE BILL 23 (first reading copy -- white) do pass as amended .

Signed: 

Dan Harrington, Chairman

And, that such amendments read:

1. Title, line 5.

Following: "FREEZE"

Insert: "IF THE AUTHORIZATION FOR THE LEVY OCCURRED PRIOR TO
DECEMBER 31, 1990"

2. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-10-412"

Insert: "AND 90-5-112"

3. Page 5, lines 24 and 25.

Strike: "by 90-5-112"

Insert: "pursuant to 90-5-112(4)"

4. Page 7.

Following: line 6

Insert: "Section 2. Section 90-5-112, MCA, is amended to read:

"90-5-112. Economic development levy. (1) Upon an affirmative vote of a majority of the qualified voters voting in a city, county, or town on the question of whether the governing body may levy a tax for economic development, the governing body of that city, county, or town is authorized to levy in any one election up to 1 mill upon the taxable value of all the property in the county, city, or town subject to taxation for the purpose of economic

development for a period not to exceed 5 years.

(2) Funds derived from this levy may be used for purchasing land for industrial parks, constructing buildings to house manufacturing and processing operations, conducting preliminary feasibility studies, promoting economic development opportunities in a particular area, and other activities generally associated with economic development. These funds may not be used to directly assist an industry's operations by loan or grant or to pay the salary or salary supplements of government employees.

(3) The governing body of the county, city, or town may use the funds derived from this levy to contract with local development companies and other associations or organizations capable of implementing the economic development function.

(4) The authorization to levy up to 1 mill for the purpose of economic development, as provided in subsection (1), is not subject to the provisions of Title 15, chapter 10, part 4, if voter authorization for the levy occurred prior to December 31, 1990."

Renumber: subsequent section

STANDING COMMITTEE REPORT

HOUSE BILL 24

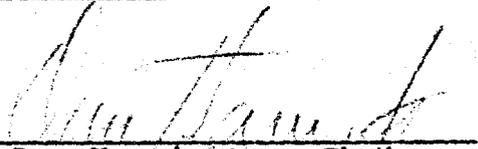
"An Act Allowing Those Taxing Units That Impose
Property Tax Levies Under Authority of Title 20, MCA,
to Increase Their Maximum Mills to a 3-Year Average"

June 22, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE
BILL 24 (first reading copy -- white) do pass .

Signed: _____


Dan Harrington, Chairman

STANDING COMMITTEE REPORT

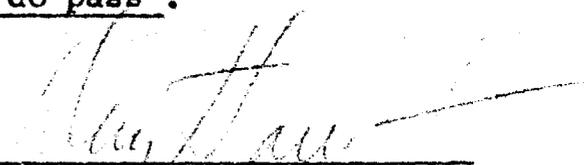
HOUSE BILL 25

"An Act Allowing Those Taxing Units Served
by a City-County Board of Health
to Increase Their Maximum Mills to a 3-Year Average"

June 22, 1989

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that HOUSE
BILL 25 (first reading copy -- white) do pass .

Signed: 

Dan Harrington, Chairman

EXHIBIT 1 LC 0093/01
DATE 6-22-89
HB 21

1 _____ BILL NO. _____

2 INTRODUCED BY _____

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO EXEMPT AN ECONOMIC
5 DEVELOPMENT LEVY FROM THE PROPERTY TAX FREEZE IF THE
6 AUTHORIZATION FOR THE LEVY OCCURRED PRIOR TO DECEMBER 31,
7 1990; AMENDING SECTIONS 15-10-412 AND 90-5-112, MCA; AND
8 PROVIDING AN IMMEDIATE EFFECTIVE DATE."

9

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

11 **Section 1.** Section 15-10-412, MCA, is amended to read:

12 "15-10-412. Property tax limited to 1986 levels --
13 clarification -- extension to all property classes. Section
14 15-10-402 is interpreted and clarified as follows:

15 (1) The limitation to 1986 levels is extended to apply
16 to all classes of property described in Title 15, chapter 6,
17 part 1.

18 (2) The limitation on the amount of taxes levied is
19 interpreted to mean that, except as otherwise provided in
20 this section, the actual tax liability for an individual
21 property is capped at the dollar amount due in each taxing
22 unit for the 1986 tax year. In tax years thereafter, the
23 property must be taxed in each taxing unit at the 1986 cap
24 or the product of the taxable value and mills levied,
25 whichever is less for each taxing unit, except in a taxing

1 unit that levied a tax in tax years 1983 through 1985 but
2 did not levy a tax in 1986, in which case the actual tax
3 liability for an individual property is capped at the dollar
4 amount due in that taxing unit for the 1985 tax year.

5 (3) The limitation on the amount of taxes levied does
6 not mean that no further increase may be made in the total
7 taxable valuation of a taxing unit as a result of:

8 (a) annexation of real property and improvements into
9 a taxing unit;

10 (b) construction, expansion, or remodeling of
11 improvements;

12 (c) transfer of property into a taxing unit;

13 (d) subdivision of real property;

14 (e) reclassification of property;

15 (f) increases in the amount of production or the value
16 of production for property described in 15-6-131 or
17 15-6-132;

18 (g) transfer of property from tax-exempt to taxable
19 status;

20 (h) revaluations caused by:

21 (i) cyclical reappraisal; or

22 (ii) expansion, addition, replacement, or remodeling of
23 improvements; or

24 (i) increases in property valuation pursuant to
25 15-7-111(4) through (8) in order to equalize property values

1 annually.

2 (4) The limitation on the amount of taxes levied does
3 not mean that no further increase may be made in the taxable
4 valuation or in the actual tax liability on individual
5 property in each class as a result of:

6 (a) a revaluation caused by:

7 (i) construction, expansion, replacement, or
8 remodeling of improvements that adds value to the property;
9 or

10 (ii) cyclical reappraisal;

11 (b) transfer of property into a taxing unit;

12 (c) reclassification of property;

13 (d) increases in the amount of production or the value
14 of production for property described in 15-6-131 or
15 15-6-132;

16 (e) annexation of the individual property into a new
17 taxing unit;

18 (f) conversion of the individual property from
19 tax-exempt to taxable status; or

20 (g) increases in property valuation pursuant to
21 15-7-111(4) through (8) in order to equalize property values
22 annually.

23 (5) Property in classes four, twelve, and fourteen is
24 valued according to the procedures used in 1986, including
25 the designation of 1982 as the base year, until the

1 reappraisal cycle beginning January 1, 1986, is completed
2 and new valuations are placed on the tax rolls and a new
3 base year designated, if the property is:

4 (a) new construction;

5 (b) expanded, deleted, replaced, or remodeled
6 improvements;

7 (c) annexed property; or

8 (d) property converted from tax-exempt to taxable
9 status.

10 (6) Property described in subsections (5)(a) through
11 (5)(d) that is not class four, class twelve, or class
12 fourteen property is valued according to the procedures used
13 in 1986 but is also subject to the dollar cap in each taxing
14 unit based on 1986 mills levied.

15 (7) The limitation on the amount of taxes, as
16 clarified in this section, is intended to leave the property
17 appraisal and valuation methodology of the department of
18 revenue intact. Determinations of county classifications,
19 salaries of local government officers, and all other matters
20 in which total taxable valuation is an integral component
21 are not affected by 15-10-401 and 15-10-402 except for the
22 use of taxable valuation in fixing tax levies. In fixing tax
23 levies, the taxing units of local government may anticipate
24 the deficiency in revenues resulting from the tax
25 limitations in 15-10-401 and 15-10-402, while understanding

1 that regardless of the amount of mills levied, a taxpayer's
2 liability may not exceed the dollar amount due in each
3 taxing unit for the 1986 tax year unless the taxing unit's
4 taxable valuation decreases by 5% or more from the 1986 tax
5 year. If a taxing unit's taxable valuation decreases by 5%
6 or more from the 1986 tax year, it may levy additional mills
7 to compensate for the decreased taxable valuation, but in no
8 case may the mills levied exceed a number calculated to
9 equal the revenue from property taxes for the 1986 tax year
10 in that taxing unit.

11 (8) The limitation on the amount of taxes levied does
12 not apply to the following levy or special assessment
13 categories, whether or not they are based on commitments
14 made before or after approval of 15-10-401 and 15-10-402:

- 15 (a) rural improvement districts;
16 (b) special improvement districts;
17 (c) levies pledged for the repayment of bonded
18 indebtedness, including tax increment bonds;
19 (d) city street maintenance districts;
20 (e) tax increment financing districts;
21 (f) satisfaction of judgments against a taxing unit;
22 (g) street lighting assessments; and
23 (h) revolving funds to support any categories
24 specified in this subsection (8); and
25 (i) levies for economic development authorized

1 pursuant to 90-5-112(4).

2 (9) The limitation on the amount of taxes levied does
3 not apply in a taxing unit if the voters in the taxing unit
4 approve an increase in tax liability following a resolution
5 of the governing body of the taxing unit containing:

6 (a) a finding that there are insufficient funds to
7 adequately operate the taxing unit as a result of 15-10-401
8 and 15-10-402;

9 (b) an explanation of the nature of the financial
10 emergency;

11 (c) an estimate of the amount of funding shortfall
12 expected by the taxing unit;

13 (d) a statement that applicable fund balances are or
14 by the end of the fiscal year will be depleted;

15 (e) a finding that there are no alternative sources of
16 revenue;

17 (f) a summary of the alternatives that the governing
18 body of the taxing unit has considered; and

19 (g) a statement of the need for the increased revenue
20 and how it will be used.

21 (10) The limitation on the amount of taxes levied does
22 not apply to levies required to address the funding of
23 relief of suffering of inhabitants caused by famine,
24 conflagration, or other public calamity.

25 (11) The limitation on the amount of taxes levied by a

1 taxing jurisdiction subject to a statutory maximum mill levy
2 does not prevent a taxing jurisdiction from increasing its
3 number of mills beyond the statutory maximum mill levy to
4 produce revenue equal to its 1986 revenue.

5 (12) The limitation on the amount of taxes levied does
6 not apply to a levy increase to repay taxes paid under
7 protest in accordance with 15-1-402."

8 **Section 2.** Section 90-5-112, MCA, is amended to read:

9 "90-5-112. Economic development levy. (1) Upon an
10 affirmative vote of a majority of the qualified voters
11 voting in a city, county, or town on the question of whether
12 the governing body may levy a tax for economic development,
13 the governing body of that city, county, or town is
14 authorized to levy in any one election up to 1 mill upon the
15 taxable value of all the property in the county, city, or
16 town subject to taxation for the purpose of economic
17 development for a period not to exceed 5 years.

18 (2) Funds derived from this levy may be used for
19 purchasing land for industrial parks, constructing buildings
20 to house manufacturing and processing operations, conducting
21 preliminary feasibility studies, promoting economic
22 development opportunities in a particular area, and other
23 activities generally associated with economic development.
24 These funds may not be used to directly assist an industry's
25 operations by loan or grant or to pay the salary or salary

1 supplements of government employees.

2 (3) The governing body of the county, city, or town
3 may use the funds derived from this levy to contract with
4 local development companies and other associations or
5 organizations capable of implementing the economic
6 development function.

7 (4) The authorization to levy up to 1 mill for the
8 purpose of economic development, as provided in subsection
9 (1), is not subject to the provisions of Title 15, chapter
10 10, part 4, if voter authorization for the levy occurred
11 prior to December 31, 1990."

12 NEW SECTION. Section 3. Effective date. [This act] is
13 effective on passage and approval.

-End-

EXHIBIT 2
DATE 6-22-89
HB 21

90-5-112. Economic development levy. (1) Upon an affirmative vote of a majority of the qualified voters voting in a city, county, or town on the question of whether the governing body may levy a tax for economic development, the governing body of that city, county, or town is authorized to levy in any one election up to 1 mill upon the taxable value of all the property in the county, city, or town subject to taxation for the purpose of economic development for a period not to exceed 5 years.

(2) Funds derived from this levy may be used for purchasing land for industrial parks, constructing buildings to house manufacturing and processing operations, conducting preliminary feasibility studies, promoting economic development opportunities in a particular area, and other activities generally associated with economic development. These funds may not be used to

directly assist an industry's operations by loan or grant or to pay the salary or salary supplements of government employees.

(3) The governing body of the county, city, or town may use the funds derived from this levy to contract with local development companies and other associations or organizations capable of implementing the economic development function.

History: En. 11-4111 by Sec. 1, Ch. 311, L. 1975; amd. Sec. 32, Ch. 566, L. 1977; R.C.M. 1947, 11-4111.

Cross-References

Counties — additional mill levies, 7-6-2532, 7-6-2533.

Municipalities — additional mill levies, 7-6-4432, 7-6-4434.

Tax levies to be made in mills and tenths and hundredths of mills, 15-10-201.

Mills levied for Board of Health in FYs 84, 85, 86

	FY 84	FY 85	FY 86	ave.
Cascade County	4.00	4.50	4.50	4.33
* Flathead County	4.09	4.23	1.47	3.26
* Gallatin County	2.16	2.58	2.18	2.30
* Hill County	1.00	0.75	0.83	0.86
* Lake County	5.00	3.99	3.22	4.07
* Lewis & Clark County	5.00	5.00	4.39	4.79
Mineral County	0.56	0.52	0.66	0.58
Missoula County	5.00	6.79	7.30	6.36
* Wheatland County	1.15	0.50	0.94	0.86

* mills levied for FY 86 were lower than those levied in either FY 84 or FY 85.

information from Montana Tax Foundation Property Tax Mill Series books 1984-85, 1985-86, 1986-87

KALISPELL MEDICAL OFFICES

1204 FIRST AVENUE EAST
KALISPELL, MONTANA 59901

EXHIBIT 4
DATE 6-22
HB 25

Legislature, State of Montana
State Capitol
Helena, Montana 59604

RE: House Bill 25

Dear Legislators:

In this day and age, people frequently forget exactly why we need a public health department. There is no doubt in my mind that we have forgotten the summer epidemics that crippled children with polio or the episodes of encephalitis and meningitis as well a other viral fevers that killed thousands. Despite public impressions that we can cure almost anything, this is not true. There still remain serious consequences of environmental hazards and serious diseases in which we frequently stand helpless knowing a lot about that process but not enough on how to fix it. As a physician and citizen, I am deeply concerned over the state of the local public health department economic condition. I know how vital the functions of public health are to the well being of my county's citizens, my friends, and my neighbors. The need for protection of air quality, water quality and prevention of communicable diseases has never been greater, and yet it remains a public function. There is no way a private physician can usurp the legal functions of the public. More importantly, there is no way with our current allowed county mill levy of 1.47, that we, through our public health department, can provide these services in a minimally professional manner despite our legal and ethical responsibilities to do so. Our only recourse is to seek legislative relief at the state level and urge all legislators involved to support and pass House Bill 25.

In my practice, I treat a multitude of patients with end stage respiratory diseases common to our large retired population. They cannot tolerate serious air pollution when they are already dependent on multiple expensive drugs, doctor visits, and oxygen. A loss of air quality can mean a hospitalization and even being placed on a ventilator for respiratory failure. There is nothing their physician can do. Protecting air quality is a public function.

In treating patients from all walks of life for giardia, a gastroenteritis-causing organism brought about by ground water contamination, I have come to know that I must always ask a patient with diarrhea, "Where do you get your water? Do you have a well? What about a septic system?"

Ex. #4
6-22-89

HB 25

Yours or your neighbors?" Digging a well is costly to any citizen, and if you have to replace it, doubly so. If a septic system, theirs or someone else's, isn't engineered correctly the first time, then we, the county, are responsible for passing on it. If someone is significantly harmed due to the transmission of ground water contaminated by fecal material, then we are liable for that as well.

The public health department is responsible for restaurant inspections as well. To sit down safely to a meal, out on the town, is a privilege we all take for granted. It is not sufficient to threaten you with a mild case of gastroenteritis, i.e. salmonella, because that doesn't make the point. People assume salmonella is a mild illness, you go to the doctor and get an antibiotic and then you are fine. However, salmonella, as a specific example, can be lethal. It can require hospitalization. It can cause bone infections and heart disease. It can cause an incurable, lifelong arthritis called reactive arthritis. In the recent salmonella epidemic in Chicago, there were several thousand people, who after the salmonella infection, came down with this reactive arthritis. As I said, it is incurable and lifelong. Imagine being crippled with a preventable arthritis at the age of twelve. Then imagine the county legally liable for it.

In our recent measles epidemic, local businesses lost a great deal of hard cash during the Christmas holidays. People who wanted to clerk in stores and earn money, lost an opportunity to do so. People stayed away from our resorts, and the resorts lost money. However, what people may not appreciate is that four children had to be hospitalized at Kalispell Regional Hospital for serious complications. In a recent epidemic in Texas, four children died. None of our local businesses want our children to risk their health or their lives, and they would, as I do, prefer to support a public health department to perform aggressive education and vaccinate children in order to prevent epidemics. In the long run, it is certainly the least costly avenue.

As I have said before, there is no way private doctors can replace the functions of public health. I cannot seize the dog or recommend the family seize the dog in a question of possible rabies bite. That is a legal and public function. In addition, in my county, the public health department is the only place I send patients for rabies vaccinations because they have the only steady and ongoing experience administering the vaccine. If not prevented appropriately, rabies is an unavoidable and horrendous death that no one should suffer. The risk of such an event could never be worth the balancing of a budget.

The key to good public health is prevention. Prevention costs money up front, without a crisis to urge

you on. To operate as we do under our current 1.47 mill levy is as though you were to ask a fire department to operate by only going out to rent a truck when you have the report of a fire. And yet, to fulfill our obligations up front is cheaper in dollars and less in human costs as well. For example, a subdivision in my county had faulty plumbing which grossly contaminated the ground water. People living there had health care costs, significant loss of property value, and expenses making their homes safe. When they attempted legal recourse to recoup their losses, the contractor declared bankruptcy. No one in the Flathead Valley wants it to happen again. However, we cannot hire sufficient sanitarians to meet our obligations nor to repair our antiquated equipment, let alone to replace it.

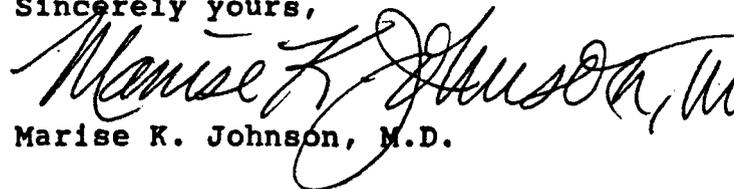
To my knowledge, no public health department functions in the state of Montana for less than 3.5 mills. Through a freak happenstance, Flathead County was frozen at 1.47 mills at a time when we expected that level to be a one-time low using up reserves which are now long gone.

I regret that I could not attend the legislative hearing on House Bill 25. I emphatically support it, and I know that the people of Flathead County support it. I have enclosed a copy of an article from the Daily Inter Lake which describes the spontaneous applause given to me after presenting this information to our county commissioners at a meeting in Flathead County on May 30, 1989.

As a taxpayer, I do not mind paying my taxes for the common good, but I would be very upset at having to pay taxes for legal fees, defending this county, for the consequences of not meeting our public health obligations responsibly in the first place. However, we ultimately require financial support in order to effect the appropriate changes and to protect the public health. That obligation, at this current time, falls to the legislature of the state of Montana.

I would be delighted to discuss this issue with any legislator who would like to call me. If I can be of any further assistance to you, please let me know.

Sincerely yours,


Marise K. Johnson, M.D.

MKJ/cn

Speakers plead to retain health department

By RICK HULL

The Daily Inter
The county cannot afford to let
the Flathead City-County Health
department fade away, speaker af-
ter speaker told the county com-
missioners Tuesday.

More than 35 people crowded into
the commissioners' office to sup-
port a plea for \$56,000 to \$96,000 in
additional funds for the health de-
partment. Even that boost would
still mean a bare-bones budget, said
Dr. V.A. Yaholkovsky, interim di-
rector of the department.

The department, which can
assess as much as 5 mills under
state law, was frozen at 1.47 mills in
1986 by Initiative 105. No health
department in the state gets by for
less than 3 1/4 mills, said
Yaholkovsky.

Applause greeted the remarks of
Dr. Marise Johnson of Kalispell,
who said, "In this day and age, we
don't remember why we have public
health."

A measles epidemic in Texas
killed three children recently,
hepatitis outbreaks are constantly
being nipped in the bud nationwide,
and food poisoning can cause a
lifetime arthritis, she said. Without
nurses to give shots or sanitarians
to inspect restaurants, these prob-
lems could happen here.

The county could be held legally
liable if a preventable epidemic
kills or disables someone, Johnson
said.

In addition, the health depart-
ment can legally do things that
private doctors cannot, such as
seize a dog for a rabies check after a

child is bitten, she said.

Susan Sandwell, a community
health nurse in the health depart-
ment, said she is quitting to take a
job in Washington state. "I've been
working for the lowest salary I've
been paid in 20 years of nursing,"
she said.

A representative of the Montana
Food and Consumer Safety Bureau
said the state does not have the
personnel to take over local food
inspections, which are now done by
the county department. Without a
local inspector, new restaurants
might not be able to get a license to
open.

Bill Leonard of the Whitefish
Water and Sewer District said the
department needs more sanitarians,
not fewer. The thousands of septic
systems installed before Flathead

County started requiring permits
and inspections pose a major water
quality problem, he said.

Several speakers noted that
many young families in the valley
don't have health insurance and
depend on the health department for
immunizations, prenatal care and
other medical help.

Darrell Fenner, a health board
member, chalked a proposed budget
on the blackboard. Sanitation needs
an extra \$28,000, community health
another \$25,000, and administration
\$3,000, he said. That would allow a
pay raise, but not enough money to
replace any of the department's
ailing vehicles.

The amount required comes to
\$56,000, he said. The figure will be
closer to \$96,000 if Medicare rejects

a plan to charge half its adminis-
tration costs to the home health
program, Fenner noted.

The department could try to
make up the shortfall by raising
septic fees from the present \$95-\$115
to \$300 and charging \$12-\$15 for
immunization shots instead of \$6,
said Yaholkovsky. But \$300 septic
fees would prompt more people to
install unauthorized systems, and
fewer people would pay the higher
immunization fees, which are volun-
tary by law.

"We're actually going to get
less; it's a rule of diminishing re-
turns," he predicted.

The commissioners made only a
few comments. Mary Adkins, who
represents the commissioners on
the health board, said, "Realistical-

Community

The Daily Inter Lake, Kalispell, Montana, Wednesday, May 31, 1989

PAGE

Whitefish Rotary

tment

ly, I don't think we can give \$96,000
from the general fund, but I'd like to
give something."

Commissioner Allen Jacobson
asked if Kalispell was going to pay
its share of the increase.
Yaholkovsky said city taxpayers ac-
tually have been paying more than
county taxpayers.

Adkins said she didn't want to
see the health department die be-
cause of an argument over the city's
share.

Commissioner Howard Gipe
noted that the 1-105 tax freeze pun-
ished the departments that had been
careful with their budgets. The
freeze caught the health departmen-
t when it had a particularly low ta-
levy because the department was
burning up accumulated reserves.

Ex. #4
6-22-89 HB25

EXHIBIT 5
DATE 6-22-89
HB 23

Amendments to House Bill No. 23
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
June 22, 1989

1. Title, line 5.

Following: "FREEZE"

Insert: "IF THE AUTHORIZATION FOR THE LEVY OCCURRED PRIOR TO
DECEMBER 31, 1990"

2. Title, line 6.

Strike: "SECTION"

Insert: "SECTIONS"

Following: "15-10-412"

Insert: "AND 90-5-112"

3. Page 5, lines 24 and 25.

Strike: "by 90-5-112"

Insert: "pursuant to 90-5-112(4)"

4. Page 7.

Following: line 6

Insert: "Section 2. Section 90-5-112, MCA, is amended to read:

"90-5-112. Economic development levy. (1) Upon an affirmative vote of a majority of the qualified voters voting in a city, county, or town on the question of whether the governing body may levy a tax for economic development, the governing body of that city, county, or town is authorized to levy in any one election up to 1 mill upon the taxable value of all the property in the county, city, or town subject to taxation for the purpose of economic development for a period not to exceed 5 years.

(2) Funds derived from this levy may be used for purchasing land for industrial parks, constructing buildings to house manufacturing and processing operations, conducting preliminary feasibility studies, promoting economic development opportunities in a particular area, and other activities generally associated with economic development. These funds may not be used to directly assist an industry's operations by loan or grant or to pay the salary or salary supplements of government employees.

(3) The governing body of the county, city, or town may use the funds derived from this levy to contract with local development companies and other associations or organizations capable of implementing the economic development function.

(4) The authorization to levy up to 1 mill for the purpose of economic development, as provided in subsection (1), is not subject to the provisions of Title 15, chapter 10, part 4, if voter authorization for the levy occurred prior to December 31, 1990."

Renumber: subsequent section

