MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 11, 1991, at 8:00 a.m.

ROLL CALL

Members Present:
- Mike Halligan, Chairman (D)
- Dorothy Eck, Vice Chairman (D)
- Robert Brown (R)
- Steve Doherty (D)
- Delwyn Gage (R)
- John Harp (R)
- Francis Koehnke (D)
- Gene Thayer (R)
- Thomas Towe (D)
- Van Valkenburg (D)
- Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

EXECUTIVE ACTION ON HOUSE BILL 970

Amendments, Discussion, and Votes:

Jeff Martin presented proposed amendments from the Department of Revenue (Exhibit #1). The amendments change gross operating sales to gross operating income and establish an applicability date of 1991 rather than 1990.

Senator Harp presented proposed amendments (Exhibit #2) which would require the governing body to notify all taxing jurisdictions by certified mail when a 50% tax exemption is approved.

Senator Harp moved the adoption of the Exhibit #2 amendments.

The motion CARRIED unanimously.

Senator Doherty moved the adoption of the Exhibit #1 amendments.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved HB 970 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 452

Amendments, Discussion, and Votes:

Senator Harp moved to amend the bill as per the attached Exhibit #3.

The motion CARRIED unanimously.

Jeff Martin presented the committee with proposed amendments from the Department of Revenue (Exhibit #4).

Denis Adams, Director, Department of Revenue, said the amendments would affect tax year 1992 as it is already past this year's deadline for 1991. The amendments clarify if an industry is located within a city both the city and county are notified so that the county is not waiving city mills.

Senator Eck asked why schools are not included in the bill.

The committee members agreed schools should be included.

Senator Harp moved to reconsider action already taken in order to withdraw the Exhibit #3 amendments.

The motion CARRIED.

Senator Eck moved to amend the bill to include schools and to removed the Exhibit #3 amendments.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved HB 452 Be Concurred In As Amended.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 973

Discussion:

Senator Harp expressed concern about a penny tax here, a penny tax there. The highway fund will be adversely affected in two years when an increase is needed. He noted there has been a quarter cent increase passed already.

Senator Thayer said he didn't think the EPA can tell the state that we have to cap the fund.

Senator Doherty said the EPA has the power to do what they want and they will take over the fund if we try to put other limitations on it.

Senator Thayer suggested the one cent be divided 50% to the small tank fund and 50% to the Highway Reconstruction Fund.

Amendments, Discussion, and Votes:

Senator Doherty moved the one cent be divided 50% - 50% between the Highway Reconstruction Fund and the small tank cleanup fund.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Doherty moved HB 973 Be Concurred In As Amended.

The motion CARRIED.

EXECUTIVE ACTION ON HOUSE BILL 558

Recommendation and Vote:

Senator Harp moved HB 558 Be Concurred In.

The motion CARRIED unanimously.

EXECUTIVE ACTION ON HOUSE BILL 869

Jeff Martin presented amendments requested by Rep. Simpkins which would ensure that the sod farmer earns at least $1500 from the sod operation. The original language excluded sod farmers from that provision. Amendment #3 addresses improvements related to crops not included in Class 4 property.

Denis Adams said this has been a real problem. Some of the operations are using the front of the shop for the commercial outlet and the back half for production. It makes it very difficult to assess for valuation.

Senator Towe said there is typographical mistake. Class 4 property should read Class "14" and "crops" should also be changed to "crop production" in amendment #3.

Senator Towe moved the amendments as per Exhibit #5 with the corrections as stated in the preceding paragraph.

The motion CARRIED unanimously.

Senator Gage felt the "contiguous" provision was unnecessarily limiting, therefore he moved to strike it on page 8 and in the title.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Thayer moved HB 869 Be Concurred In As Amended.

The motion CARRIED unanimously.

Senator Doherty said if taxes go up it will be the first time in recorded history that people may want to get out of agriculture.

EXECUTIVE ACTION ON HOUSE BILL 701

Amendments, Discussion, and Votes:

Jeff Martin noted the bill needs a coordination clause with HB 795.

Senator Towe moved to amend the bill with a coordinating section.

The motion CARRIED.

Senator Towe moved to amend the bill as per the attached standing committee report.

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Thayer moved HB 701 Be Concurred In As Amended.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 93

Presentation and Opening Statement by Sponsor:

Representative Thomas, District 62, presented the bill for Rep. Cobb, the sponsor, who could not attend due to a family illness. The bill was submitted at the request of the Department of Social and Rehabilitative Services. It implements the nursing facility usage fee and was considerably amended in the House. The bill imposes a fee on each patient who receives medicaid or medicare. The state reimburses by the third party $1.25 in 1992 and $1.50 in 1993 per patient per day. This revenue would be used as match money for federal funding. Rep. Thomas noted that private patients are making up the difference between public and private patients in nursing homes today. Sixty-two percent of the nursing home beds are paid for by medicaid. The federal government allows the fee to be utilized through the end of 1991 and there are bills pending in Congress to extend that deadline. Rep. Thomas submitted a memo re the federal regulations (Exhibit #6).

Proponents' Testimony:

Julia Robinson, Director, Department of SRS, presented her testimony in support of the bill (Exhibit #7). She presented proposed amendments to the bill which remove the termination date (Exhibit #8).

Rose Hughes, Executive Director, Montana Health Care Association, presented her testimony in support of the bill (Exhibit #9).

Jean Johnson, Executive Director, Montana Homes for the Aging, said the association she represents supports the bill.

Opponents' Testimony:

Rep. Bradley, District 79, said she has served as the Chairman of the appropriations subcommittee on Human Services and as such has resisted this bill from the beginning because it is the wrong concept. The subcommittee spent a great deal of time this session on the "re-basing" issue. The bill originally had funding provisions for re-basing plus the addition of 2% per year which would increase medicaid payments for all services. The 2% was removed in the House, but the approximately 7% re-basing money is still in the bill.

If this is such a creative financing idea, it should have been utilized before, she felt. She said the legality of using medicaid money to match federal medicaid money in order to obtain more medicaid money for the state is still to be decided on the federal level. She felt the 2% should be put in for everyone and be paid for. Tax policy must be carefully contemplated. She felt a selective sales tax on low income and medical services is a tax on basic services and should not be enacted.

Questions From Committee Members:

Senator Towe asked for a definition of "re-base".

Rep. Bradley said the state has fallen so far behind in basic funding it is given one big boost in funding which establishes a new base.

Senator Towe asked what recourse there is if the federal government rejects this provision.

Rep. Bradley said rebasing is intact in HB 2 and a basic increase of 2% and 2% is needed in addition for everyone providing medicaid services.

Senator Doherty asked what would happen to the budget is match is declared illegal.

Ms. Robinson replied there is a clause on page 15, line 17, which says if it is voided by the federal government, the state would have to go to the general fund. In that case, SRS would have to request a supplemental. She said she has been assured by the federal government that the funds would be available for at least this biennium.

Closing by Sponsor:

Rep. Thomas closed by saying he disagrees with Rep. Bradley who is certainly acknowledged to be an authority in this field. However, he said this is a silly debate. The bill tries to mitigate a cost shift to the private patient and provides an

innovative approach to matching state and federal funds with federal government funds. If the federal government is going to mandate more costs, they should help pay for them, he felt. HB 93 saves $1.8 million in HB 2.

HEARING ON HOUSE BILL 312

Presentation and Opening Statement by Sponsor:

Rep. Hoffman, District 74, said this is a very resilient bill. It has been killed three times in the committee and two or three times in the House. It provides state reimbursement payments for district court expenses to counties that have expended the revenue from the minimum permissible mill levy for district court funding by means of an additional .05%. local option motor vehicle tax.

Proponents' Testimony:

Rep. O'Keefe presented a letter from Erik Thueson, President, Montana Trial Lawyers, (Exhibit #10). He also presented proposed amendments which would fund the courts from the fee on judgements (Exhibit #11).

Steve Powell, County Commissioner, Ravalli County, said as a result of the changes in redistricting of property taxes, schools in his district have gotten an $80,000 increase and court funding shortfalls have run $50 - $60,000 for the last two years. He asked for a clarification of the effective date and removal of the termination date.

Alec Hanson, Montana League of Cities and Towns, proposed an amendment to the bill (Exhibit #12).

Dave Fuller, Chairman, Lewis and Clark County Commissioners, said he doesn't care how it is done, but the Courts need money desperately. It is ludicrous that the courts can force cities to levy taxes,. His county taxpayers pay for the state courts and h he felt the legislature has a moral obligation to help.

Tom Schneider, Montana Public Employees Association, said this is one of his organizations five major priorities to relieve financial pressure on local governments. He supported the bill for aid to counties.

Gordon Morris, Montana Association of Counties, expressed support for the bill. He said MACo has worked hard on the bill and is confident the bill will come out of the session with a workable compromise to help alleviate the funding problem,

Larry Fasbender, Cascade County, said it is very important that this bill be passed, even if it provides temporary relief to the courts. The state must address this problem over the next two years to devise a comprehensive solution. He said he supports the amendments presented by the League of Cities and Towns.

Rep. Whalen said Yellowstone County has the same problem. A short term solution must be passed now while the long term solution is devised.

Rep. Simpkins said he is introducing a study resolution to address means of raising the money to adequately fund the courts. He said .05% can be raised now by the county commissioners without any effort. Forty-two counties have not chosen to do so. Only 14 counties are taking advantage of that option. It is important to decide whether the state or local communities are going to finance the court system.

Eric Thueson, President, Montana Trial Lawyers, said the proposal will tax the people who use the court system the most. Insurance companies are often non-residents and they pay nothing in taxes for the use of the court system and are the biggest users. Pre-judgement interest is the time frame from the injury until the settlement is reached which is an average of 3.77 years. Currently, there is no pre-judgement interest but it could be easily applied and used for funding and will raise anywhere from $1 million to $7 million.

Opponents' Testimony:

Loren Frazier, School Administrators and Montana School Boards Association, said he didn't oppose the way the bill started, but does oppose the amendments. It represents a shift of the funding responsibility to other areas. If the money is not used it will revert to the general fund, yet it represents a property tax increase to the county where it is used.

Ernie Jean, Superintendent, Florence Schools and representing the Superintendent of Missoula Schools, said the bill represents a revenue shift. The tax will shift to the permissive levy.

Gene Phillips, representing the National Association of Independent Insurers and the International Association of Insurers, said there is no doubt that insurance companies pay court costs in this state. The pay costs in probate, marital disputes, adoptions, mandamus, and many other areas. The bill does not have a stable base of funding.

Rep. Boharski said he was embarrassed by the actions of the House on this bill. The impact of diverting the vehicle tax funds from the 14 counties now using them for schools would be a negative impact of $1.4 million. He said we should not be shifting the tax burden.

Roger McGlenn, President, Independent Insurance Agents of Montana, said he has worked with Senator Towe in the past on a pre-judgement interest bill. It was responsible and fair legislation then, however, this is not the time or place to use it now.

Jacqueline Terrell, American Insurance Association, said the amendment represents a dramatic shift in policy with no study. The effect of the amendment would restrict access to the court for some people as insurance companies stand in court in most instances to protect the insured person. The amendment would not affect any other type of court cases or issues which tends to be discriminatory. She was disturbed by the allegation that insurance companies pay nothing to support the courts when they pay $5.6 million a year in taxes. There is a priority system for cases coming to court and many are prioritized ahead of insurance cases. She said 90% of the cases are settled. This bill will ensure that settlements are not made on the merit of the case, but for the wrong reason.

Ron Ashabraner, State Farm Insurance, said this is an out of state company with 196,000 owners in Montana. He said he opposes only the amendment. He noted State Farm has only gone to court three times in the last two years and only one of the cases was settled against the company.

Questions From Committee Members:

Due to time constraints, Senator Halligan asked the committee to save questions for executive session. He appointed a subcommittee comprised of Senators Doherty, Towe, Thayer and Halligan to study the bill further and make recommendations to the full committee for action.

Closing by Sponsor:

Rep. Hoffman closed saying this is a critical problem for the counties and the courts. He said he would work with the subcommittee to arrive at a more palatable solution in order to keep the bill alive and moving.

At this point, the Secretary had to leave the meeting. The rest of the meeting was tape recorded for later transcription in these minutes. Due to tape failure, the minutes are very sketchy and incomplete from the beginning of the hearing on HB 904 through the testimony from James Loftus in support of HB 809. Index notes to the tape were taken and the following is an attempt to reconstruct this portion of the hearing.

HEARING ON HOUSE BILL 904

Presentation and Opening Statement by Sponsor:

Rep. Kasten, District 28, presented the bill which is an act excluding social security income paid directly to a nursing home from the definitions of income used to calculate the low-income property tax reduction and the residential property tax credit for the elderly. It provides an immediate effective date and a retroactive applicability date.

Proponents' Testimony:

There were no proponents and no opponents. The committee took executive action on the bill immediately.

EXECUTIVE ACTION ON HOUSE BILL 904

Recommendation and Vote:

Senator Thayer moved HB 904 Be Concurred In.

The motion CARRIED.

HEARING ON HOUSE BILL 790

Presentation and Opening Statement by Sponsor:

Rep. Messmore, District 38, said the bill revises the Montana individual income tax credit for elderly family members, lowers the qualifying age limit to 65 years of age, deletes the physical requirement for affliction with Alzheimer's disease and substitutes that the individual must be determined disabled for social security purposes, establishes a higher income qualification for a married individual, and provides for payments

for care in a long-term health care facility are a qualifying expense. The bill contains an immediate effective date and a retroactive applicability date. The bill is product of the Office of Aging.

Rep. Messmore presented two separate sheets of proposed amendments prepared by Greg Petesch requested by Rep. Lee and Rep. Messmore (Exhibits #12 and #12a).

Rep. Messmore said the bill will be needed by 2000 parents of the "baby-boom" generation who will be elderly and in the care of their adult children.

Proponents' Testimony:

Hank Hudson, Governor's Commission on Aging, said the bill encourages the delivery of long-term health care services. The majority of the care is provided by families in the home. The credit would allow care-taking families a credit for expenses of home health care and care in a nursing facility. It encourages families to care for their elders at home with the appropriate support services. He presented the committee with a paper on long-term health care issues (Exhibit #13).

Sally Cerny, Easter Seals, said the tax credit is one more way to assist with home care assistance which helps maintain a sense of dignity for the elderly. Charities are seeking ways to provide immediate help as well as endowment provisions to guarantee perpetual help. Current law is vague about insurance contributions for charitable institutions. In many instances, insurance is the only practical way for donors to contribute. She said the amendment eliminates the vagueness in the law and urged its adoption.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

The question period was not adequately noted to be able to reconstruct it for this section of the minutes (see note re tape failure following HB 312).

Closing by Sponsor:

Rep. Messmore closed by saying the bill represents an expansion of existing law as our country ages. Benefits from the legislation may apply to all the elderly.

EXECUTIVE ACTION ON HB 790

Amendments, Discussion, and Votes:

Senator Eck moved to amend the bill as per the attached standing committee report.

The motion CARRIED with Senator Halligan voting no.

Recommendation and Vote:

Senator Eck moved HB 790 Be Concurred In As Amended.

The motion CARRIED.

HEARING ON HOUSE BILL 809

Presentation and Opening Statement by Sponsor:

Rep. Mary Lou Peterson, said the bill increases the tax on fire insurance premiums for maintenance of state fire prevention and investigation activities and creates a fire prevention and investigation account in the state special revenue fund to fund fire prevention and investigation activities of the Department of Justice. The bill was amended in the House from a tax of 3/4 of 1% to 1.5% and finally amended to 1% as it has come to the Senate.

Proponents' Testimony:

Marc Racicot, Montana Attorney General, spoke in support of the bill. He said the bill will benefit rural as well as urban areas of the state. It is very difficult to maintain high quality and comprehensive inspections and investigations with the very limited funding the Fire Marshall's Office now receives. He urged the committee to support the bill.

Anita Varone, Program Manager, Fire Marshall Bureau, presented testimony and supporting data (Exhibits #15 and #16).

James Loftus, Montana Fire District Association, expressed his support for the bill.

Rich Lwandowcki, State Fire Marshall, spoke in favor of the bill and presented written testimony (Exhibit #16).

Opponents' Testimony:

Roger McGlenn, Independent Insurance Agents Association, spoke in opposition to the bill saying only $32,500 of new money will go the State Fire Marshall as a result of the bill. He submitted a listing of 1990 fire tax provisions in all the states (Exhibit #17) and urged the committee to oppose the bill.

Jacqueline Terrell Lenmark, American Insurance Association, said the association has a deep concern over the inequity the bill presents. She said this is a selective sales tax on a service for the public good. All citizens should pay for the services and the funding should come from the general fund.

Gene Phillips, American Association of Insurers, and National Association of Independent Insurers, expressed opposition to the bill. He also felt the funding should be generated from the general fund.

Questions from Committee Members:

The question period was not adequately noted for reconstruction for these minutes due to tape failure (see note following HB 312 portion of the minutes).

Closing by Sponsor:

Rep. Peterson closed by saying the plan was devised 80 years ago, the present rate was put in 20 years ago, and after 20 years of development there needs to be increased funding to meet the investigative and prevention needs of the state.

HEARING ON HOUSE BILL 781

Presentation and Opening Statement by Sponsor:

Rep. Kimberley, District 90, said the bill is a response to the Clear Air Act. The goals of the bill are to maintain primacy and use fees from the permits to support the air quality program.

Proponents' Testimony:

Jeff Chaffee, Department of Health and Environmental Sciences, Air Quality Bureau Chief, presented his testimony in support of the bill (Exhibit #18). He also presented a letter from the EPA Regional Office in Denver (Exhibit #19).

John Alke, Montana Dakota Utilities, presented his testimony in support of the bill (Exhibit #20).

Ken Williams, Entech, said he supports the as it is fair.

Rex Manuel, Cenex, said he supports HB 781 in its present form and would resist amendments.

Jim Mockler, Montana Coal Council, expressed support for HB 781 in its present form.

Mary Westwood, Montana Sulphur and Chemical Company, said the bill is an appropriate response to the Clean Air act. She expressed support for the bill.

Kay Foster, Billings Chamber of Commerce, presented her testimony in support of the bill (Exhibit #21).

John Fitzpatrick, Pegasus Gold Corporation, agreed with the previous testimony and urged the committee to support the bill.

Don Allen, Montana Timber Association, expressed support for the bill with no amendments.

Kay Blehm, Northern Plains Resource Council, presented testimony on the bill with proposed amendments which she submitted for the committee's consideration (Exhibit #22).

Jim Jensen, Environmental Information Center, said the House was incapable of acting properly, therefore, it is up to the Senate to enact the amendments.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

The question portion of the minutes was not adequately noted because of a tape failure (see note re minutes following HB 312 in early portion of these minutes).

Closing by Sponsor:

Rep. Kimberley closed on the bill stressing its importance to the state and local communities.

ADJOURNMENT

Adjournment At: 12:00 noon

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 970 (third reading copy -- blue), respectfully report that House Bill No. 970 be amended and as so amended be concurred in:

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 1.
Following: "CREDIT;"
Insert: "REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF A TAX BENEFIT;"

3. Title, page 2, line 2.
Following: "~~15-24-1402,~~"
Insert: "15-24-1402,"

4. Title, page 2, line 3.
Strike: "A RETROACTIVE"
Insert: "AN"

5. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

6. Page 9.
Following: line 6
Insert: "Section 3. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry -- assessment -- notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority

vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.""
Renumber: subsequent sections

7. Page 10, line 16.
Strike: "RETROACTIVE"

8. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-109," on line 19

9. Page 10, line 19.
Strike: "1990"
Insert: "1991"

Signed: [signature]
Mike Halligan, Chairman

LB 4/12/91
Amd. Coord.
SB 4/12 2:35
Sec. of Senate

SENATE

HB 970

SENATE TAXATION
EXHIBIT NO. 1
DATE 4/11/91
BILL NO. HB 970

Amendments to House Bill No. 970
Third Reading Copy

Requested by Department of Revenue
For the Committee on Taxation

Prepared by Jeff Martin
April 8, 1991

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 3.
Strike: "A RETROACTIVE"
Insert: "AN"

3. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

4. Page 10, line 16.
Strike: "RETROACTIVE"

5. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-109," on line 19

6. Page 10, line 19.
Strike: "1990"
Insert: "1991"

discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) The governing body approving the resolution under this section shall notify by certified mail all taxing jurisdictions affected by the tax benefit.""

Renumber: subsequent sections

SENATE TAXATION
EXHIBIT NO. 2
DATE 4/11/91
BILL NO. HB 970

Amendments to House Bill No. 970
Third Reading Copy

Requested by Senator Harp
For the Committee on Taxation

Prepared by Jeff Martin
April 9, 1991

1. Page 9.
Following: line 6
Insert: "**Section 3.** Section 15-24-1402, MCA, is amended to read:

"**15-24-1402. New or expanding industry -- assessment.** (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 50% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 1/11

53rd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE 4/11/91

COMMITTEE ON Senate Taxation Page one

HB 904, 93, 312, 809, 781, 790

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Steve Powell	Ravalli County Commissioner	HB312	✓	
Julie Robinson	SRS	HB93	✓	
Ernie Jean	Supt. Florence-Carlton			✓
Gordon Morris	MACo	HB312	✓	
Kay Bulow	[illegible]	HB781	✓	
Tom Schneider	MPEA	HB312	✓	
Loran Frazier	SAM	HB312		✓
Bob Anderson	MSBA	HB312		✓
Jean W. Johnson	MT Assoc of Homes for the Aging	HB93	✓	
Joe Roberts	MCHA	HB93	✓	
Erik Thueson	Self	HB312	✓	
Jan Cool	Exxon	H781	✓	
SALLY CERNY	Easter SEALS	HB790	✓	
Hank Hudson	Gov. Office on Aging	HB790	✓	
Jon Allen	MT Wood Products Assoc.	HB871	✓	
Roger McGlenn	Independent Ins. Agents Assoc of MT	HB312		✓
Roger McGlenn	Independent Insurance Agents Assoc. of MT	HB809		✓
Ron Ashabrawer	State Farm Ins	HB312		✓
James D. Loftus	MT Fire Dist Assoc	HB809	✓	
Tom Rambolt	Farmer Ins. Group	HB312		✓
Gene Phillips	Nat. Assoc. Ind. Ins Alliance Amer. Ins	HB312		X Amend.
Kay Foster	Billings Chamber	HB781	✓	
Dick Simpkins	State Rep HD 39	HB312	✓ Implemented	
Rex Manuel	GENEX	HB781	✓	
Jacqueline N. Terrell	Am. Ins. Assoc.	HB312		X amdt
Jacqueline N. Terrell	Am. Ins. Assoc.	HB 809		✓

DATE 4/11/91

COMMITTEE ON Senate TAXATION Page Two

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Rich Lewandowski	Fire Marshal Bureau	809	X	
Ken Williams	Entech / MPC	HB-781	X	
GENE PHILLIPS	AAI NAII	HB 809		X
Tom Ramboldt	FARMERS Ins. Group	HB 809		✓
Anita Varone	Fire Marshal Bur	HB 809		
Jeff Cloffer	DHES	HB 781	✓	
Mary Westwood	Montana Sulphur	HB 781	X	
[illegible]	[illegible]	[illegible]		
John Fitzpatrick	Pegasus Gold Corp	HB 781	✓	
Robert Turner	Dept. of Revenue	HB 781		
[illegible]	[illegible]	[illegible]		
Ward Shanahan	Chevron	HB 781	✓	
Janet Ellis	MT Audubon	HB 781	✓	
J Augustine	Conoco	HB 781	Vis is	

(Please leave prepared statement with Secretary)

DATE 4/11/91

COMMITTEE ON Senate TAXATION

HB 120, HJR 6

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Kay Morsberg	WIFE	HB120	✓	
Keith Bales	Montana Stockgrowers	HB120	✓	

(Please leave prepared statement with Secretary)

EXHIBIT NO. 3
DATE 4/11/91
BILL NO. HB 452

Amendments to House Bill No. 452
Third Reading Copy

Requested by Senator Harp
For the Committee on Taxation

Prepared by Jeff Martin
April 9, 1991

1. Page 7.
Following: line 3
Insert: "(6) The governing body approving the resolution must notify by certified mail all taxing jurisdictions affected by the decrease in taxable value."
Renumber: subsequent subsections

SENATE TAXATION
EXHIBIT 4
DATE 4/11/91
BILL NO. HB 452

AMENDMENTS
HB 452
THIRD READING
PROPOSED BY THE DEPARTMENT OF REVENUE

1. Page 3, line 23
   Page 5, line 7
   Strike: "January 1, 1992"
   Insert: "December 31, 1991"

2. Page 6, line 9
   Following: "of"
   Insert: "either"
   Following: "or the"
   Insert: "affected"
   Following: "town"
   Insert: "or both ~~of them~~"

3. Page 6, lines 11 ~~and 12~~
   Strike: "The"
   Insert: "Each"

   Page 6, line 12
   Strike: "A2"
   Insert: "A"

4. Page 6, line 25
   Following: "by"
   Strike: "the"
   Insert: "each"

PURPOSE OF AMENDMENTS

Amendment 1:
Clarify the tax treatment is available beginning with taxable year 1992.

Amendments 2 through 4:
Clarify how an industry located within an incorporated city requires hearings before, and approval by, both the city government and the county government if a reduction is sought against both city and county mills.

EXHIBIT NO. 5
DATE 4/11/91
BILL NO. HB869

Amendments to House Bill No. 869
Third Reading Copy

Requested by Representative Simpkins
For the Committee on Taxation

Prepared by Jeff Martin
April 9, 1991

1. Page 6, lines 13 and 14.
Strike: "EXCEPT" on line 13 through "CONTIGUOUS" on line 14
Insert: "Contiguous"

2. Page 7, line 25.
Following: "(8)"
Insert: "Subject to the provisions of subsection (2)(a) and (2)(b),"

3. Page 8, line 3.
Following: "LAND."
Insert: "Improvements devoted to crops described in this subsection may not be included in class four property."

6

OFFICE OF THE GOVERNOR
BUDGET AND PROGRAM PLANNING

STAN STEPHENS, GOVERNOR

STATE CAPITOL

STATE OF MONTANA

(406) 444-3616

HELENA, MONTANA 59620

M E M O R A N D U M

To: Representative John Cobb
Seat 57

From: Jane L. Hamman, Assistant Budget Director
Office of Budget and Program Planning

Date: April 10, 1991

Subject: HB93 - NURSING HOME UTILIZATION FEE

Additional Information from the National Association of State Budget Officers

At the NASBO spring meeting on April 6 and 7 in Chicago, I had an opportunity to learn more about what states are doing to adopt utilization fees and donations from providers in their Medicaid programs. By the end of current legislative sessions, nearly every state will have a plan for fees and/or donations.

Jim Martin, National Governors' Association Director of State-Federal Relations; Bill Lasowski, Health Care Financing Administration (HCFA) Director of the Medicaid Bureau Division of Financial Management; and Paul W. Timmreck, President of NASBO and Virginia State Budget Director all urged states to take action this year.

The U. S. Congress has authorized the use of donations from hospitals and other providers, and HCFA is expecting states to use these donations to help with Medicaid costs, which are increasing at a rate of more than 25% per year.

Revised federal regulations are anticipated in January 1992 and it is projected that all utilization fees approved by the states will be grandfathered into the state plans. Therefore, it is important that the 52nd Legislature adopt a nursing home utilization fee which is not temporary during this session.

C: Steve Yeakel
Julia Robinson

attachments

SENATE TAXATION
EXHIBIT NO.
DATE
BILL NO.

Presentation User Fee
Senate Taxation

Good morning, Chairman Halligan and members of the committee. Thank you for the opportunity to testify.

Licensed nursing facilities are the most widely available long term care service option purchased with public funds in Montana. Medicaid is the primary payer of nursing home costs. Montana Medicaid pays for 62% of all nursing home beds in the state.

All state Medicaid nursing home programs are required to be in compliance with the "Boren Amendment" which provides that states must set reimbursement rates that are reasonable and adequate to meet the cost which must be incurred by efficiently and economically operated facilities. When states have failed to adjust rates in a reasonable manner, providers have successfully gone to court to secure more funding. Montana, in fact, was sued in 1984 and in an out of court settlement Medicaid rates were substantially increased.

After the last legislature, the nursing home providers met with me and asserted that Medicaid reimbursement rates for nursing facilities were inadequate and did not meet the criteria established by the Boren Amendment. Specifically, nursing homes contended that the rate increases over the past several years have failed to keep pace with the rising costs of providing care.

In order to assess what the actual costs of providing nursing home care were in Montana I agreed to finance a reimbursement study and present the legislature the findings of this study. The study, completed by a nationally recognized independent consulting firm, showed that Medicaid nursing home reimbursement in Montana is substantially less than the identified cost of providing care.

With three goals in mind (a) improving quality of service, (b) preventing cost shifting to the private pay and (c) avoiding a lawsuit over adequacy of Medicaid rates which the state probably couldn't win and would be more costly than correctly addressing the problem in the first place, I agreed to propose a substantial rebase of the nursing facility reimbursement system.

SRS has proposed, and House Bill 2 contains, a nursing home rate increase that complies with the federal requirements, but more importantly will enable nursing facilities to provide quality care. In fiscal year 1992 average Medicaid reimbursement would go from $56.00 to about $60.00 dollars per day. The following year, rates would rise additionally almost $4.00 per day. The total cost to the general fund of this initiative is about 4.5 million dollars for the biennium.

When my staff first brought me these cost estimates, I was appalled at their size and the impact on the SRS budget. The Governor has been very generous with SRS and has allocated more than 17.9

million dollars in new general fund to the agency. However, as you can see, without identifying an additional revenue source, this increase would gobble up a major part of the SRS new funds like an out-of-control pack man. This gobbling is done at the expense of other programs such as children's health, handicapped services, welfare reform, the home and community based waiver for elderly and disabled, all of which I believe deserve equal attention.

Given that I felt we had to meet our commitment to providers but at the same time I felt it was unconscionable not to fund other needs in the SRS budget, I asked my staff to research how other states were trying to meet the ever increasing costs of Medicaid. They came back with a variation of a creative financing approach currently used in California, Florida, Georgia, Ohio, Tennessee, Arkansas and Texas. The original legislation was to assess $1.00 per day on every occupied nursing home bed in order to raise a large portion of the state funds required for the nursing home reimbursement increase. When we developed this proposal last summer we included funds in the SRS budget to raise nursing home rates an additional $1.00 per day to offset the cost of the utilization fee.

The original legislation proposed a one dollar per day nursing home utilization fee on all occupied beds in nursing homes in 1993. Concerns were raised that individuals that are paying the cost of their own nursing home care, private pay residents, would be

assessed the fee through cost shifting. It is up to each facility to decide whether or not to pass along the cost of the fee but they would most likely pass the cost on to the private pay resident.

In response to comments from the public and in light of recent changes in federal law, several amendments to the original legislation have been proposed. One of these amendments dropped the assessment of the fee on private pay residents. Beginning in July of 1992, nursing homes would be assessed a fee of one dollar and fifty cents per day for each day of nursing home care that is paid for by Medicaid or other insurers. The fee would not be assessed for days of care paid for by private individuals. The increase in the fee from $1.00 to $1.50 makes up for the revenue lost due to the amendment that exempts the 31% of nursing home care paid for by private individuals from the fee. The amount of money providers will receive remains the same. The fee proposed by SRS was expected to raise 2.4 million dollars per year in revenue for the state to use as matching funds in the nursing home program. House Bill 93 has since been amended to include spending levels beyond the executive budget, and funds these increases by bringing on the fee in fiscal year 1992. If you want to return to the executive level I have amendments to restore spending to the executive budget levels and remove the fee from fiscal year 1992.

The nursing home amendments put the fee on the 1st year, & increase the compensation to providers. These changes are fully funded by the fee this biennium and save $200,000 during this biennium. However they raise the base in the next biennium over 1.6 million. This could be covered by the fee

~~We have called the proposal a utilization fee. Some groups have derogatorily labeled it a bed tax. The name at this point is~~

The executive prefers the lower figures but you will have

5 level As you can see under ~~see this~~ either funds ~~proposal~~ the executive or the nursing home ~~irrelevant~~. ~~What is relevant is that~~ This proposal takes a creative approach to financing a growing segment of the state budget by taking advantage of the substantial federal match the state of Montana receives from the federal government. Through a small investment of state funds, the state is rewarded with a large return in federal dollars. * We do need one amendment to continue the program — elimination of sunset clause

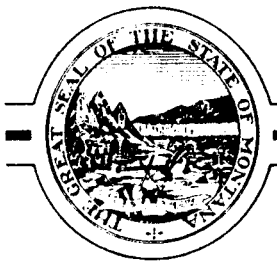
Medicaid recipients, in other words, low income individuals, will not pay the fee from their own funds, nor will Medicare recipients, a group of people who do not necessarily have low incomes. By law the cost cannot be passed on to these individuals. Nursing homes would have no reason to charge persons paying for their own care the cost of the fee since privately paid care would be exempt from the fee as a result of the proposed amendment. People paying for their own care will benefit from higher Medicaid rates because low Medicaid reimbursement rates also mean lower quality care for all residents due to shortages of staff and scarcity of services. When Medicaid rates are adequate, the need for shifting costs to private pay residents is eliminated and the quality of care offered to all residents, regardless of payment source, will increase in this case and there should be a long term cost savings to private pay through reduced cost shifting of Medicaid costs. An additional benefit to persons paying for their own care is the improvement in services the additional Medicaid dollars should bring.

In summary, the need for this bill is a direct outgrowth of

Montana's failure to keep up with the increasing costs of nursing home rates over time and the need to look at creative ways of financing the ever increasing costs of human services. I believe it is essential that you as representatives of the people understand the problems of administering this complex program so you can make well informed decisions. I would appreciate your support of this creative opportunity.

SENATE [illegible]
EXHIBIT NO. 6
DATE 7/11/91
BILL NO. HB 93

DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210
(406) 444-5622
FAX (406) 444-1970

Amendment to House Bill #93
(Re: Nursing facility utilization fee)
Third Reading Copy as Amended

1. Title, line 15.
   Following: "DATES~~,~~"
   Insert: "AND"

2. Title, lines 16 and 17.
   Following: "~~TERMINATION DATE,~~"
   Strike: "AND A TERMINATION DATE"

3. Page 17, line 13.
   Following: "21,"
   Strike: "23,"

4. Page 17.
   Strike: lines 21 and 22

- End -

Rationale: The proposed amendment will remove the termination section of this act.

Montana Department of Social
& Rehabilitation Services

Submitted by: Julia E. Robinson
Julia E. Robinson, Director
Montana Department of Social and
Rehabilitation Services

MONTANA
HEALTH
CARE
ASSOCIATION
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TESTIMONY OF

MONTANA HEALTH CARE ASSOCIATION

BEFORE THE SENATE TAXATION COMMITTEE

April 11, 1991

HOUSE BILL 93 - NURSING HOME USER FEE

For the record, I am Rose Hughes, Executive Director of the Montana Health Care Association, an association representing nursing homes throughout the state of Montana.

We support House Bill 93, which provides for a fee to be charged to nursing homes for Medicaid, Medicare and other third party payor patient days. The fee does not apply to days used by privately paying individuals.

In its original form, this bill was a source of revenue to help fund the nursing home rebase contained in the executive budget. It accomplished this with a $1 per bed fee on nursing home utilization.

Amendments by the House Human Services and Aging Committee made many improvements to this bill. As it stands before you now, it accomplishes several things that we believe are important.

1. First, it still helps to fund the nursing home rebase contained in HB 2, as originally intended.

2. Second, it helps reduce the gap between the cost of providing care to Medicaid beneficiaries and the Medicaid rates paid to nursing homes to provide that care. Currently, the gap between costs and rates is $8.26. Without HB 93, the gap will still be $7.60 at the end of the biennium. With HB 93, the gap is still nearly $5 per patient day but we feel this is a major step in the right direction.

3. Third, it reduces the amount of the "hidden tax" (otherwise called the "cost shift") to private pay patients from the current

$13.48 to $8.06. Without HB 93, the cost shifted to each private pay patient because of inadequate Medicaid rates would still be $12.40 at the end of the biennium. The "cost shift" has grown as Medicaid rates have failed to keep pace with new regulations and inflation, becoming a "hidden tax" to those who pay for their own care.

According to the Myers & Stauffer nursing home rate study contracted by SRS, the gap between costs and rates was $2.86 per patient day in 1986. According to the same study, the gap is presently $8.80. Since we are dealing with actual, verifiable costs expended by facilities to provide care, when Medicaid doesn't pay, someone else does. In most instances, the privately paying patient pays the difference. Since 62% of all patients are Medicaid, the cost shift to the 38% that are not Medicaid is substantial.

4. Fourth, it reduces the amount of the "cost shift" to county property taxpayers in those counties operating nursing homes. In many instances these counties subsidize the operation of their nursing home with tax dollars. When Medicaid does not pay the costs associated with caring for Medicaid patients in these facilities, the subsidies continue to rise. The increased reimbursements provided in HB 93 should provide some relief to these county facilities, many of which are both small and struggling.

HB 93 is a step in the right direction in terms of adequately funding the cost of care in nursing homes. And, it does so <u>without additional general fund dollars</u>. In fact, the net effect of HB 93 is to provide new revenue to the state of approximately $2 million.

House Bill 93, as amended by the House Human Services and Aging Committee, and passed by the House, helps:

(1) the state general fund;

(2) your local nursing home;

(3) private pay patients in nursing homes; and

(4) county taxpayers who subsidize their county nursing homes.

We believe that Montana's nursing homes have come to you with a problem--Medicaid rates which don't come close to covering the cost of providing good patient care in our facilities. We also believe we have helped find a solution--House Bill 93 which helps increase our rates without requiring additional state general fund.

PLEASE SUPPORT HOUSE BILL 93.

COST SHIFT - COMPARISON WITH AND WITHOUT HB 93

REBASE (BUT WITHOUT HB93)

FY	Cost of Care	Medicaid pays	Shortfall	Cost Shift
91	64.85	56.59	$8.26	$13.48
92	68.09	60.16	$7.93	$12.94
93	71.49	63.89	$7.60	$12.40

REBASE AND HB 93

FY	Cost of Care	Medicaid pays	Shortfall	Cost Shift
91	64.85	56.59	8.26	$13.48
92	68.09	61.48	6.61	$10.78
93	71.49	66.55	4.94	$ 8.06

COMPARISON OF FACILITIES' COSTS VS. MEDICAID RATES

Sample facilities, Myers & Stauffer study:

FY	Cost	Rate	$ Under-funded
86	47.79	44.93	$2.86
87	50.10	46.87	$3.23
88	52.44	48.51	$3.93
89	56.56	49.86	$6.70

All facilities, Myers & Stauffer study:

87	52.05	48.27	$3.78
91	64.85	56.05	$8.80

FY93 Biennium Proposal:

92	68.09*	59.82	$8.27
93	71.49*	63.76	$7.73

*Assumes 5% inflation each year of the biennium.

SENATE JUDICIARY
EXHIBIT NO. 2
DATE 4/11/91
BILL NO. HB 312

Montana Trial Lawyers ASSOCIATION

Directors:
Wade Dahood
Director Emeritus
Monte D. Beck
Thomas J. Beers
Joe R. Bottomly
Michael D. Cok
Dennis P. Conner
Karl J. Englund
Bernard J. Everett
Gene R. Jarussi
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Secretary-Treasurer
William A. Rossbach
Governor
Donald W. Molloy
Governor

April 8, 1991

HAND DELIVERED

The Honorable Mark O'Keefe
State Representative
Montana Legislature
Capitol Building
Helena, MT 59601

Dear Representative O'Keefe:

Enclosed please find the result of the research done by Frank Adams of the cases he has reported in his newspaper.

It should be remembered that these are not complete tallies on the verdicts in Montana. Some of the information concerning the time between accrual of the injury and the time of the judgment has to be approximated. However, so long as we look at these figures to display the potential for revenues to support our court system, they should give us a ballpark idea of what we are talking about.

My calculations are set forth below.

ESTIMATES FOR 1989

First, for the year 1989, the total amount of all verdicts reported by Frank Adams was $10,934,279. The actual amount of verdicts throughout the state would be higher, since Frank Adams cannot possibly report on all jury verdicts throughout the state.

The average time between injury and verdict was 3.77 years during 1989. I did conservative adding. Where the exact date of injury

was not known, I could not estimate the time. Where the year of the injury was known, but not the month, I assumed that the month was the twelfth month of the year to keep my figures conservative.

Using these rough, but conservative estimates, the gross amount of "user fees" possible would be $4,122,223.10 for the year 1989. ($10,934,279 x 10% x 3.77 years).

The actual amount of user fees for the year 1989, of course, could be somewhat less depending upon the circumstances. This is because some of the judgments might include within them prejudgment interest which is allowed by law as damages to the injured party. Additionally, it has to be assumed that some of the verdicts were appealed but were not affirmed. This, of course, would be offset to some degree by the fact that Mr. Adams does not report all of the verdicts.

ESTIMATES FOR 1990

For the year 1990, the total amount of verdicts reported by Frank Adams was $7,489,119. Using my same method of calculation, the average time between injury and judgment was 3.28 years. Therefore, the prejudgment user fee would be approximately $2,390,831. Of course, the same uncertainties considered with the 1989 figures should be considered here.

CONCLUSION

Despite the incompleteness of these judgments and the time period involved, I think these figures will give us a good ballpark figure. I think it is safe to say that assessment of a user fee will generate at least over $1,000,000 a year. It will probably generate well over $2,000,000 a year on the average.

Although this may not be adequate funds to solve our court system funding problems, it certainly will provide substantial help. Moreover, the fact that this type of user fee will deter frivolous or unnecessary litigation would reduce some of the court system's workload and therefore, also diminish the funding problem.

If you have any questions or need further assistance, please let me know. If I am unavailable contact our lobbyist Mike Sherwood, who should be able to contact one of our directors for support.

Thank you for your consideration.

Sincerely yours,

Erik B. Thueson / caj

Erik B. Thueson,
President

EBT:caj

Enclosure

Jill's
SENATE TAXATION
EXHIBIT NO. 12a
DATE 4/11/91
BILL NO. HB 790

Amendments to House Bill No. 790
Third Reading Copy

Requested by Representative Messmore
For the Committee on Taxation

Prepared by Greg Petesch
April 10, 1991

1. Title, line 18.
Following: line 17
Insert: "CLARIFYING THAT A CHARITABLE INSTITUTION HAS AN INSURABLE INTEREST IN CERTAIN INDIVIDUALS;"
Strike: "SECTION"
Insert: "SECTIONS 15-30-121,"
Following: "15-30-128,"
Insert: "AND 33-15-201,"

2. Page 4, line 21.
Following: line 20
Insert: "**Section 2.** Section 15-30-121, MCA, is amended to read:

"**15-30-121. Deductions allowed in computing net income.** In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-123;

(b) state income tax paid;

(2) federal income tax paid within the taxable year;

(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f) as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

(i) a dependent under 15 years of age for whom an exemption can be claimed;

(ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to care for himself because of physical or mental illness; and

(iii) a spouse who is unable to care for himself because of physical or mental illness;

(b) employment-related expenses incurred for the following services, but only if such expenses are incurred to enable the taxpayer to be gainfully employed:

(i) household services which are attributable to the care of the qualifying individual; and

(ii) care of an individual who qualifies under subsection (3)(a);

(c) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an

individual or, if the individual is married during the applicable period, is furnished by the individual and his spouse;

(d) the amounts deductible in subsection (3)(a) through (3)(c) are subject to the following limitations:

(i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during the year only to the extent such expenses do not exceed $4,800;

(ii) expenses for services in the household are deductible under subsection (3)(a) for employment-related expenses only if they are incurred for services in the taxpayer's household, except that employment-related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent such expenses incurred during the year do not exceed:

(A) $2,400 in the case of one qualifying individual;

(B) $3,600 in the case of two qualifying individuals; and

(C) $4,800 in the case of three or more qualifying individuals;

(e) if the combined adjusted gross income of the taxpayers exceeds $18,000 for the taxable year during which the expenses are incurred, the amount of the employment-related expenses incurred must be reduced by one-half of the excess of the combined adjusted gross income over $18,000;

(f) for purposes of this subsection (3):

(i) married couples shall file a joint return or file separately on the same form;

(ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are deductible only if:

(A) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

(iii) an individual legally separated from his spouse under a decree of divorce or of separate maintenance may not be considered as married;

(iv) the deduction for employment-related expenses must be divided equally between the spouses when filing separately on the same form;

(v) payment made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and payments made to an individual with respect to whom a deduction is allowable under 15-30-112(5) are not deductible as employment-related expenses;

(4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

(5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income; and

(6) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set

forth in 15-30-156."

Section 3. Section 33-15-201, MCA, is amended to read:

"**33-15-201. Restrictions on contracting for personal insurance -- insurable interests -- violation.** (1) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his personal representative may maintain an action to recover such benefits from the person so receiving them.

(3) "Insurable interest" with reference to personal insurance includes only interests as follows:

(a) in the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) in the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by or would be enhanced in value by the death, disablement, or injury of the individual insured.

(4) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm or of shares of stock of a closed corporation or of an interest in such shares has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

<u>(5) A charitable institution has an insurable interest in an individual if:</u>

<u>(a) the individual authorizes the charitable institution to purchase insurance naming the charitable institution as an irrevocable beneficiary; and</u>

<u>(b) the insurance is purchased with contributions made by the individual.</u>""

Renumber: subsequent section

SENATE TAXATION
EXHIBIT NO. 13
DATE 4/11/91
BILL NO. HB 790

MYTHS & REALITIES

Why Most of What Everybody Knows about Long-Term Care Is Wrong

Joshua M. Wiener and Katherine M. Harris

The place of long-term care on the national policy agenda has risen dramatically in recent years. Over the past year, *Newsweek* devoted a cover story to Alzheimer's disease, the *New York Times* ran a four-part story on long-term care, and Walter Cronkite narrated a special program on financing issues. Several key members of Congress in both houses have introduced legislation to overhaul the financing of long-term care. And long-term care is receiving equal billing with hospital and physician care in major reviews of health policy by the U.S. Bipartisan Commission for Comprehensive Health Care (the Pepper Commission), the White House Domestic Policy Council, and the Social Security Advisory Council.

As policymakers have hurriedly educated themselves about chronic disability, nursing homes, and home care, a body of conventional wisdom about long-term care has developed. Unfortunately, much of it is simply wrong. Of the many unfounded notions about long-term care currently in circulation, eight myths are especially prevalent.

Joshua M. Wiener is a senior fellow in the Economic Studies program at the Brookings Institution, where he has conducted extensive research on long-term care. He is the coauthor, with Alice Rivlin, of Caring for the Disabled Elderly: Who Will Pay? *(Brookings, 1988). Katherine M. Harris, who recently received a master's degree in economics from the University of Michigan, is a research assistant in the Economic Studies program at Brookings.*

MYTH 1: THE LONG-TERM CARE ISSUE AFFECTS ONLY THE ELDERLY

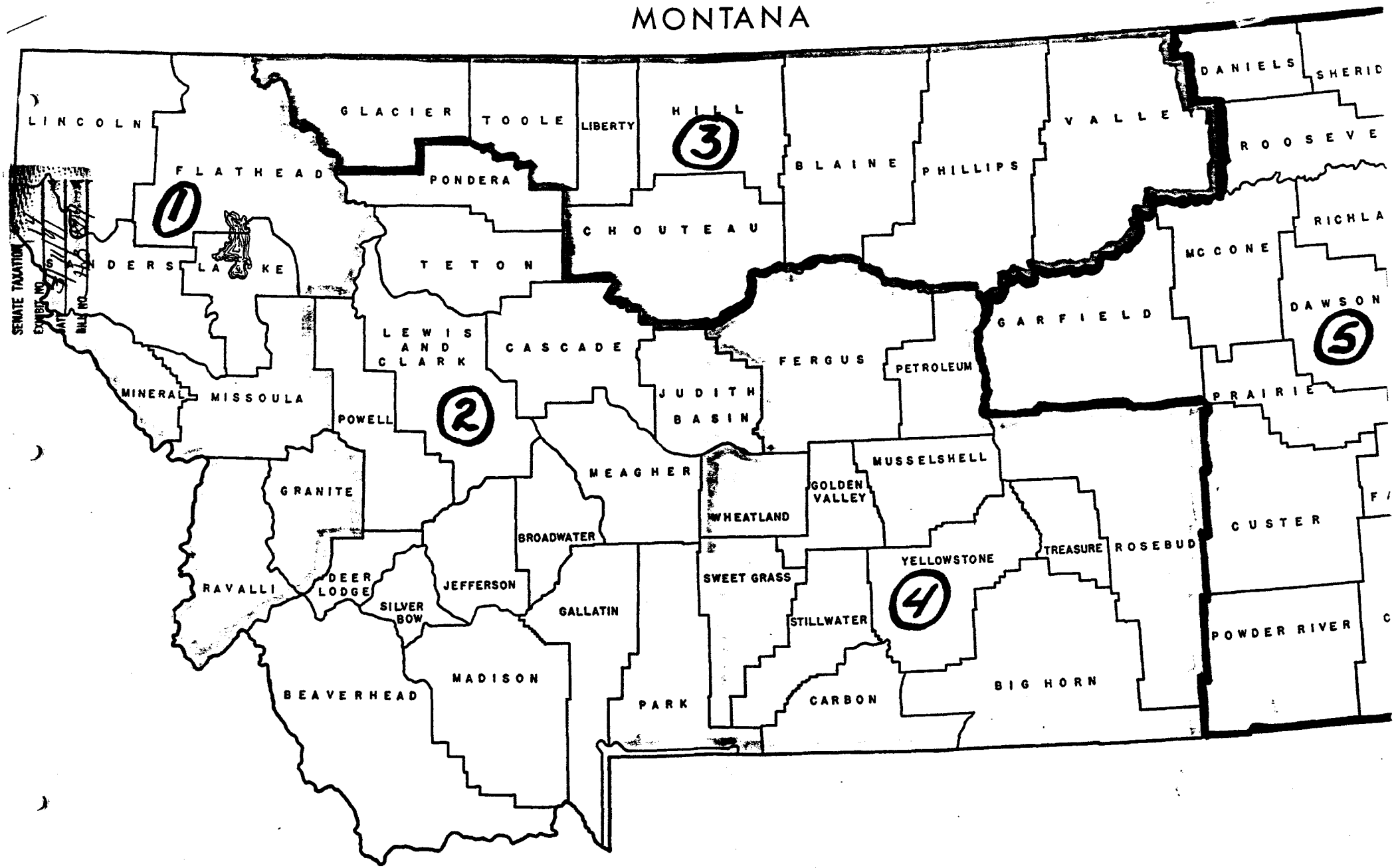
It is true that long-term care disproportionately concerns people aged 65 and over. But great numbers of people under 65 are also affected, both as the chronically disabled and as caregivers.

First, not all disabled people are old. At least a quarter of all adults who have trouble performing such basic personal tasks as eating, bathing, and dressing are under age 65. Broader definitions of disability that include such tasks as doing housework, shopping, and managing money increase the figure to 46 percent. Although disability is much more prevalent among the over-65 population, there are many more people under the age of 65 than over. So even a low disability rate among those under 65 produces a significant number of nonelderly disabled.

Despite their numbers, we know little about the characteristics and service needs of disabled people under age 65. We do know that they tend to make less use of paid services, such as home care and nursing home care, than do the elderly. But we don't know why.

Second, long-term care issues affect not only disabled Americans themselves, but also their families. When aging parents require care, it is usually their children who are called upon to provide it. Almost two-thirds of unpaid caregivers to the disabled elderly are under 65. And coping with a disabled elderly relative is becoming an increasingly common experience, largely because

MONTANA



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PETROLEUM
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GOLDEN VALLEY
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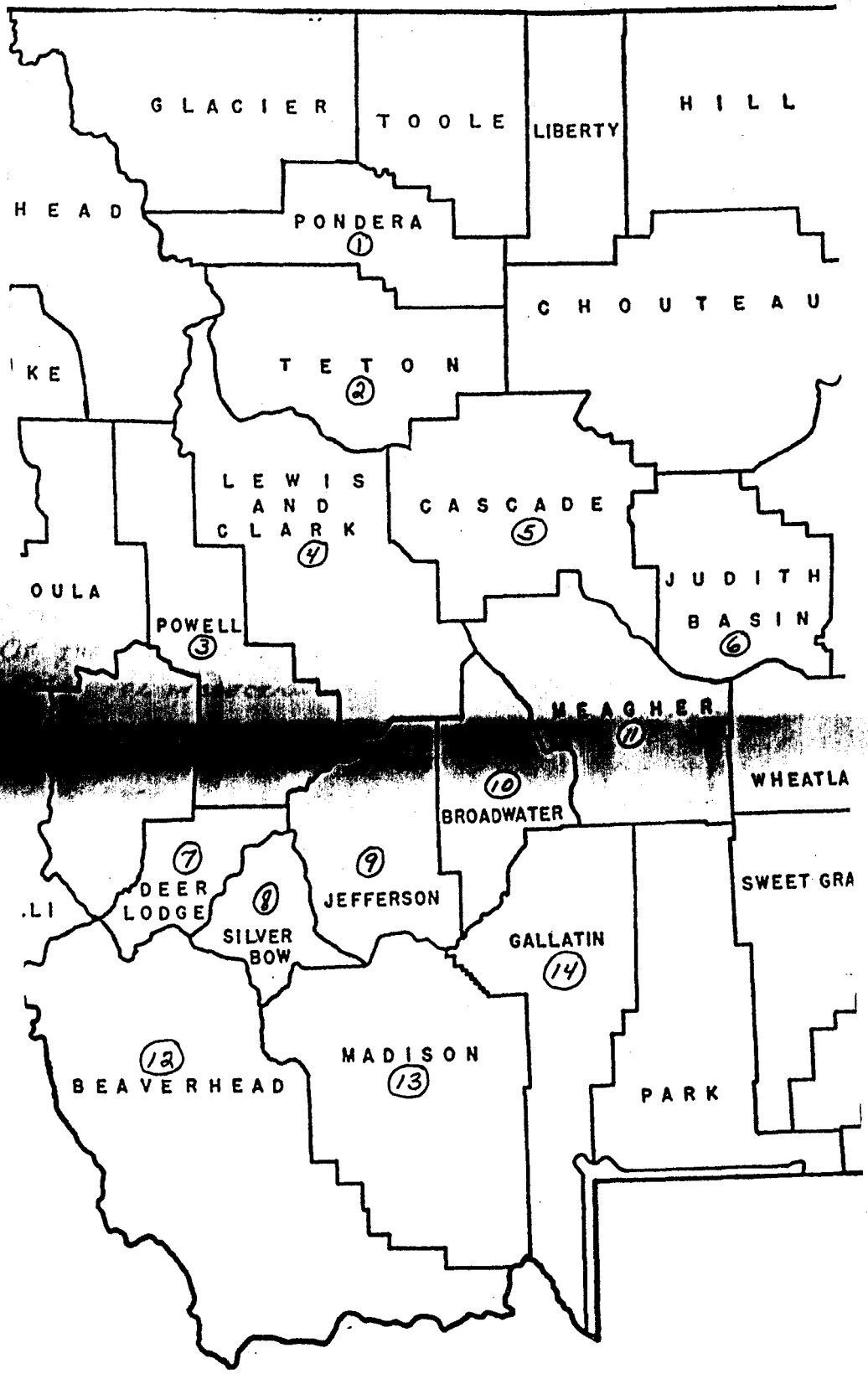
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① PONDERA COUNTY - CONRAD

PER DEPT. OF COMMERCE THERE ARE 650 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS FIGURE DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

1 - DD HOME

1 - DD WORKSHOP

NO DAY CARE CENTERS

OF THE 11 SCHOOLS IN THIS COUNTY THE 4 IN CONRAD ARE INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 7 RELY ON THE FMB FOR INSPECTION.

② TETON COUNTY - CHOTEAU

PER DEPT. OF COMMERCE - 370 INSPECTABLE PROPERTIES IN THIS COUNTY. DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

1 - DD HOME

1 - DD WORKSHOP

NO DAY CARE CENTERS

OF THE 12 SCHOOLS IN THIS COUNTY ALL 12 RELY UPON THE FMB FOR INSPECTION.

③ POWELL COUNTY - DEER LODGE

PER DEPT. OF COMMERCE THERE ARE 265 INSPECTABLE PROPERTIES IN THIS COUNTY. DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

1 - DAY CARE CENTER

1 INSTITUTION CONSISTING OF MONTANA STATE PRISON - THIS COMPLEX CONSISTS OF 34 SEPERATE BUILDINGS.

OF THE 10 SCHOOLS IN THIS COUNTY 4 IN DEER LODGE ARE INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 6 RELY ON THE FMB FOR INSPECTION.

④ LEWIS & CLARK COUNTY - HELENA

PER DEPT. OF COMMERCE - 2536 INSPECTABLE PROPERTIES IN THIS COUNTY. DOES NOT INCLUDE SCHOOLS.

NOTE: LOCAL JURISDICTION (HELENA) PERFORMS APPROXIMATELY 1200 OF THE 2536 INSPECTIONS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

14 + DD HOMES
4 DAY CARE CENTERS
1 DEACONESS HOME FOR CHILDREN (5 BUILDINGS)
1 MOUNTAIN VIEW SCHOOL (10 BUILDINGS)
1 CAPITOL COMPLEX (28 + BUILDINGS) NOTE: FMB ACCOMPANIES LOCAL JURISDICTION ON THESE INSPECTIONS WHEN ABLE.

OF THE 29 SCHOOLS IN THIS COUNTY 14 IN HELENA ARE INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 15 RELY ON THE FMB FOR INSPECTION.

⑤ CASCADE COUNTY - GREAT FALLS

PER DEPT. OF COMMERCE - 6830 INSPECTABLE PROPERTIES IN THIS COUNTY. DOES NOT INCLUDE SCHOOLS.

NOTE: LOCAL JURISDICTION (GREAT FALLS) PERFORMS APPROXIMATELY 3135 OF THE 6830 INSPECTIONS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

12 + DD HOMES
14 DAY CARE CENTERS
1 INSTITUTION CONSISTING OF THE SCHOOL FOR THE DEAF & BLIND (8 BUILDINGS)

OF THE 40 SCHOOLS IN THIS COUNTY 28 IN GREAT FALLS ARE INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 12 RELY ON THE FMB FOR INSPECTION.

⑥ JUDITH BASIN COUNTY – STANFORD

PER DEPT. OF COMMERCE THERE ARE 309 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

OF THE 8 SCHOOLS IN THIS COUNTY ALL RELY ON THE FMB FOR INSPECTIONS.

⑦ DEER LODGE COUNTY – ANACONDA

PER DEPT. OF COMMERCE THERE ARE 501 INSPECTABLE PROPERTIES. IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

1 - DD HOME
1 - DD WORKSHOP
1 - YOUTH GROUP HOME
1 - INSTITUTION CONSISTING OF AN EXTENSION OF MENS MONTANA STATE PRISON (OLD FORENSIC BLDG.) AT WARM SPRINGS.
1 - INSTITUTION CONSISTING OF WOMENS CORRECTIONAL FACILITY AT WARM SPRINGS (2 BUILDINGS)
2 - INSTITUTIONS CONSISTING OF MONTANA STATE HOSPITAL AT WARM SPRINGS (19 BUILDINGS) AND GALEN (5 BUILDINGS).

OF THE 6 SCHOOLS IN THIS COUNTY ALL 6 ARE INSPECTED BY THE LOCAL JURISDICTION (ANACONDA).

(8) SILVER BOW COUNTY - BUTTE

PER DEPT. OF COMMERCE THERE ARE 2415 INSPECTABLE BUILDINGS IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

NOTE: LOCAL JURISDICTION (BUTTE) PERFORMS APPROXIMATELY 1100 OF THE 2415 INSPECTIONS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

4 + DD HOMES

1 DD WORKPLACE

(?) YOUTH GROUP HOMES (THIS FIGURE KEEPS CHANGING) LAST COUNT WAS 4.

7 DAY CARE CENTERS

1 UNIT OF UNIVERSITY SYSTEM CONSISTING OF MONTANA TECH (15 BUILDINGS)

OF THE 16 SCHOOLS IN THIS COUNTY 13 IN BUTTE ARE INSPECTED BY THE LOCAL JURISDICTION.

(9) JEFFERSON COUNTY - BOULDER

PER DEPT. OF COMMERCE THERE ARE 246 INSPECTABLE BUILDINGS IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

2 - DAY CARE CENTERS

1 - INSTITUTION CONSISTING OF THE MONTANA DEVELOPMENTAL CENTER (HOSPITAL) AT BOULDER (13 BUILDINGS)

OF THE 9 SCHOOLS IN THIS COUNTY 1 AT MONTANA CITY IS INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 8 RELY ON THE FMB FOR INSPECTION.

(10) BROADWATER COUNTY - TOWNSEND

PER DEPT. OF COMMERCE THERE ARE 203 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

2 - SCHOOLS IN THIS COUNTY (IN TOWNSEND)

(11) MEAGHER COUNTY - WHITE SULPHUR SPRINGS

PER DEPT. OF COMMERCE THERE ARE 214 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

4 - SCHOOLS IN THIS COUNTY.

(12) BEAVERHEAD COUNTY - DILLON

PER DEPT. OF COMMERCE THERE ARE 1089 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

NOTE: LOCAL JURISDICTION (DILLON) PERFORMS APPROX. 100 OF THE 1089 INSPECTIONS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

1 - DD HOME

1 - DD WORKSHOP

3 - DAY CARE CENTERS

1 UNIT OF UNIVERSITY SYSTEM CONSISTING OF WESTERN MONTANA COLLEGE (12 BUILDINGS)

OF THE 15 SCHOOLS IN THIS COUNTY 2 IN LIMA ARE INSPECTED BY THE LOCAL JURISDICTION. THE OTHER 13 RELY ON THE FMB FOR INSPECTION.

(13) MADISON COUNTY - VIRGINIA CITY

PER DEPT. OF COMMERCE THERE ARE 1288 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

2 - DAY CARE CENTERS; 1 IN ENNIS & 1 IN SHERIDAN

OF THE 9 SCHOOLS IN THIS COUNTY ALL RELY ON THE FMB FOR INSPECTION.

(14) GALLATIN COUNTY - BOZEMAN / BELGRADE

PER THE DEPT. OF COMMERCE THERE ARE 4395 INSPECTABLE PROPERTIES IN THIS COUNTY. THIS DOES NOT INCLUDE SCHOOLS.

NOTE: LOCAL JURISDICTION (BOZEMAN) PERFORMS APPROXIMATELY 1300 OF THE 4395 INSPECTIONS AND LOCAL JURISDICTION (BELGRADE) PERFORMS APPROXIMATELY AN ADDITIONAL 200.

FM BUREAU PERFORMS ANNUAL INSPECTIONS OF:

3 - DD HOMES
1 - DD WORKPLACE
9 - DAY CARE CENTERS
1 UNIT OF UNIVERSITY SYSTEM CONSISTING OF MONTANA STATE UNIVERSITY (45 BUILDINGS)

OF THE 31 SCHOOLS IN THIS COUNTY 8 ARE INSPECTED BY LOCAL JURISDICTION (BOZEMAN) AND 4 BY LOCAL JURISDICTION (BELGRADE). THE OTHER 19 RELY ON THE FMB FOR INSPECTION.

SENATE TAXATION
EXHIBIT NO. 15
DATE 3/11/91
BILL NO. HB 809

STATE
OF
MONTANA

DEPARTMENT OF JUSTICE

FIRE MARSHAL BUREAU

Room 371, Scott Hart Building, 303 North Roberts, Helena, Montana 59620-1417 (406) 444-2050

FIRE MARSHAL BUREAU PROGRAMS

INSPECTIONS

The Bureau has responsibility for inspections in virtually every type of occupancy except private homes. The majority of effort gets placed on inspections which have separate statutory requirements such as the university system, institutions, homes for the developmentally disabled, and day care centers. In recent years, inspections related to flammable liquids and liquor license transfers have increased dramatically.

CODE DEVELOPMENT AND ADOPTION

The Bureau adopts model codes for fire prevention inspections, with such modifications as are needed to insure that the adopted codes conform to state law. Further, in those areas of regulation where there is no model code available, the Bureau develops administrative rules to implement state law .

INSPECTION SUPERVISION AND CODE INTERPRETATION

The Bureau is responsible for supervision and direction of local officials in implemention and enforcement of fire safety rules adopted to provide for public safety.

FIRE INVESTIGATION AND INSPECTION TRAINING

The Bureau presents training programs to fire and law enforcement personnel, as time and resources permit. Budgeted funds are offset by fees charged to particular parts in the programs. The Bureau also participates with the Fire Services Training School in course development and delivery.

FIRE PREVENTION AND SAFETY

The Bureau provides information to public officials and the public on fire safety. This includes home safety, heating safety, fire prevention grant administration, wild land fire interface safety, public presentations, development of PSA's and other efforts.

FIRE INVESTIGATION

The Bureau provides assistance in the determination of fire cause and origin to local authorities and further investigation of suspicious and incendiary fires.

THREATS OF EXPLOSIVES IN STATE BUILDINGS

The Bureau is responsible for establishing rules for buildings housing state offices.

FIRE REPORTING PROGRAM

The Bureau collects fire and hazardous materials reports on forms provided by the Bureau to local agencies. The MFIRS system used is based on the National Fire Information System and Montana data is included in the national data base. The Bureau provides training to local agencies as time and resources permit.

FIRE PROTECTION EQUIPMENT

The Bureau provides licenses, permits and certificates of registration for fire extinguishers, fire alarm systems and fire extinguishing systems. These are required to install, service or sell such equipment.

LIAISON ACTIVITIES

Bureau personnel participate in programs with local, state and federal governments as well as insurance organizations and model code bodies on fire related issues.

SENATE TAXATION
EXHIBIT NO. 16
DATE 4/11/91
BILL NO. HB 809

FACT SHEET: HB 809
Office of the Attorney General
April 10, 1991

Purpose: To fund the fire prevention and investigation activities of the State Fire Marshal Bureau of the Department of Justice.

Funding Source: Presently, state law requires a tax on fire insurance premiums of 3/4 of one percent for the purpose of funding the Fire Marshal Bureau. That tax raises nearly $480,000 per year, which goes into the general fund; however, the Fire Marshal Bureau historically has not received the full appropriation of the funds generated. The Bureau's budget for FY 91 was just under $347,000, nearly $125,000 less than the revenue generated.

Under HB 809, as amended, the tax would be increased to one percent, which would generate an additional $160,000 each year of the next biennium. Rather than going into the general fund, however, the revenue would be placed into a special revenue account out of which the Fire Marshal Bureau would be funded.

Because the revenue above and beyond that appropriated for the Fire Marshal's budget has historically remained in the general fund, HB 809 would have a net negative impact on the general fund of approximately $100,000 each year of the next biennium. The Fire Marshal Bureau, however, would no longer be funded by general fund monies. It is expected that the Bureau would hire an additional six FTEs, including four additional deputy state fire marshals.

Need: State law requires regular fire safety inspections of all public buildings, as well as annual inspections of schools, day care centers, homes for the disabled, units of the Montana university system, and state institutions. The fire marshal also is responsible for arson investigations throughout the state (100 last year), maintaining reports of all fires occurring in the state, and providing training and information to local fire officials. The Bureau cooperates in programs with local, state and federal governments as well as with insurance organizations and model code bodies on fire-related issues. There are presently six deputy state fire marshal positions, located throughout the state, who are expected to meet these responsibilities. Lack of adequate staffing results in only a fraction of the necessary inspections being conducted, and training programs have been severely limited. Recent reports show that 6 out of 11 state institutions (a total of 81 buildings), 3 out of 6 units of the university system (a total of 79 buildings), 1 unit of state government (a total of 27 buildings), 529 of 774 schools, and approximately one-half of the approximately 1400 day care facilities and 50,000 other public buildings in the state have not had a fire safety inspection as required by law.

Relationship of Funding to Services Performed: Since 1911, the tax has been assessed against all residential and commercial buildings covered by fire insurance. That would remain the same under HB 809. It is estimated that there are approximately 500,000 such buildings in the state, and that the annual cost to homeowners would be less than 50 cents. Even though the Fire Marshal Bureau does not inspect private single-family dwellings, the Bureau does respond to many requests from private individuals and provides inspection services to publicly- and privately-owned buildings frequented by all members of the public. Additionally, the Bureau regularly investigates home fires to determine cause and origin, and provides training and information to local fire departments for application to all types of structures.

EXHIBIT NO. #18
DATE 4/11/91
BILL NO. HB 790

FIRE
1990 TAX PROVISIONS BY STATE

State	Premium Tax Foreign Rate	Premium Tax Domestic Rate	Fire Marshall Taxes*	Other State Taxes and Special Assessments	Municipal Tax Provision
Alabama	4.00%	1.00%			1.00%
Alaska	2.70%	2.70%			
Arizona	2.20%	2.20%			
Arkansas	2.50%	2.50%			
Colorado	2.25%	1.00%			
Connecticut	2.00%	2.00%			
Delaware	1.75%	1.75%		0.25% (a)	
District of Columbia	2.00%	2.00%			
Florida	1.75%	1.75%	0.63%		
Georgia	2.25%	2.25%	0.79%		2.30%
Hawaii	4.28%	2.96%			
Idaho	3.00%	3.00%			
Illinois	2.00%	0.00%	1.00%		0.14%
Indiana	2.00%	2.00%			
Iowa	2.00%	2.00%			
Kansas	2.00%	1.00%	3.25%		
Kentucky	2.00%	2.00%	0.75%		
→ Louisiana	3.00%	3.00%	3.50% (1.50)	0.82% (c)	0.70%
Maine	2.00%	2.00%	0.95%		
Maryland	2.00%	2.00%			
Massachusetts	2.28%	2.28%		0.49% (d)	
Michigan**	1.33%	1.33%			
Minnesota***	(1.00) 2.00%	(1.00) 2.00%	0.50%		
Mississippi	3.00%	3.00%	1.00%	0.03% (e)	
Missouri	2.00%	2.00%			
Montana	2.75%	2.75%	2.25%		
Nebraska	1.00%	1.00%	0.75% (.38)		
Nevada	3.50%	3.50%			
New Hampshire	2.00%	2.00%			
New Jersey	2.00%	2.00%			
New Mexico	3.00%	3.00%			
New York (f)	–	–			
North Carolina	1.75%	1.75%	1.74%		
North Dakota	1.75%	1.75%			
Ohio	2.50%	0.00%	0.75%		0.75%
Oklahoma	2.25%	2.25%	0.31% (0.00)		
Oregon	2.25%	0.00%	1.00%		
Pennsylvania	2.00%	2.00%			
Puerto Rico	4.00%	0.00%			
Rhode Island	2.00%	2.00%			
South Carolina	1.25%	1.25%	1.10%		1.00%
South Dakota	2.50%	2.50%	0.50%		
Tennessee	2.50%	2.50%	0.75%		
Texas	–	–			
Utah	2.25%	2.25%			
Vermont	2.00%	2.00%			
Virginia	2.25%	2.25%	0.80%	0.08% (g)	
Washington	2.00%	2.00%			
West Virginia	4.00%	4.00%	0.50%		
Wisconsin (h)	–	0.00%	2.00%		
Wyoming	2.50%	2.50%			

*Applies to both foreign and domestic companies. Domestic rate, if different from foreign rate, is in parentheses.

**The Michigan Premium Tax was repealed on August 3, 1987. All insurers doing business in Michigan are subject to the Single Business Tax.

***Qualifying Mutual companies pay 1.00% premium tax in Minnesota for 1989.

SENATE TAXATION
EXHIBIT NO. #18
DATE 4/11/91
BILL NO. HB 781

TESTIMONY ON
HOUSE BILL 781

BEFORE THE TAXATION COMMITTEE
OF THE MONTANA SENATE

BY JEFFREY CHAFFEE, P.E.,
CHIEF OF THE AIR QUALITY BUREAU
MONTANA DEPARTMENT OF HEALTH
AND ENVIRONMENTAL SCIENCES

A BILL FOR AN ACT ENTITLED: "AN ACT AUTHORIZING THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT RULES FOR THE COLLECTION OF FEES FOR THE ISSUANCE AND RENEWAL OF AIR QUALITY CONSTRUCTION AND OPERATING PERMITS; PROVIDING FOR THE EXPIRATION OF THE PERMITS; CLARIFYING THE AUTHORITY OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES TO ISSUE AN OPERATING PERMIT; AMENDING SECTIONS 75-2-111 AND 75-2-211, MCA; AND PROVIDING AN EFFECTIVE DATE AND RETROACTIVE APPLICABILITY DATES."

Introduction

The Federal Clean Air Act Amendments of 1990 (CAAA) were passed and signed into law on November 15, 1990 by President Bush. Passage of the CAAA brings us into a new era in regulating sources of air pollution. One of the most significant titles in the CAAA, Title V, requires all states to develop a program of operating permits for all major air pollution sources. To enable the Department of Health and Environmental Sciences to accomplish this mandate, we are presenting H.B. 781 for your consideration and approval.

Purpose of the Bill

H.B. 781 accomplishes two major objectives:

* It provides statutory authority for the department to develop operating permit regulations and thereby maintain primacy for issuing air quality permits in Montana.

* It provides financial resources through a system of permit fees to support both the maintenance and growth of the state's air quality permitting program.

The CAAA require the department to develop an operating permit program and to submit it to the U.S. Environmental Protection Agency (EPA) by November 1993. To develop the regulations necessary to implement an operating permit system for the EPA submittal, the department needs statutory authority this session. As shown in the attached chart, the rulemaking process must begin well before the 1993 legislative session to ensure meeting the November 1993 deadline.

Resources to develop an operating permit program in Montana are crucial to our success in obtaining primacy for the permitting program. The department has developed an estimate of staff and expenses needed to address EPA requirements, while still maintaining our base permitting program. We have presented these estimates in the department's biennial budget and they are addressed in the bill's fiscal note. We plan to present an emissions-based ($ per ton) fee schedule to the Board of Health and Environmental Sciences to raise the requested revenue.

Last year, the department's Air Quality Bureau permitted over $400 million in new construction projects in Montana. We want to continue our primacy for the entire permitting program by receiving delegation to issue operating permits from EPA. Maintaining primacy for the air quality

permitting program is key to ensuring that we control economic development in our own state.

Failure to meet the requirements and deadlines in the CAAA will result in a number of negative consequences to our state:

* EPA must apply sanctions, including withholding highway funding, emission offsets for new industry, and withholding the state air program grant.

* Primacy will be lost, EPA will operate the permitting program and collect the permit fees from industry. In this case, EPA is authorized to collect fees not less than $25 per ton of emissions or such other amount that covers the reasonable costs for operating the program.

As presented to the committee, the bill has been amended to incorporate language required by the federal CAAA governing coverage of the fees. Changes to address industry concerns on the expiration and renewal of permits have also been included to assure that these activities are scheduled consistent with the federal act. Additional language provides for fee collection from all sources (including grandfathered industries) starting October, 1991 and it provides an appeals procedure for sources who dispute a fee assessment.

Summary

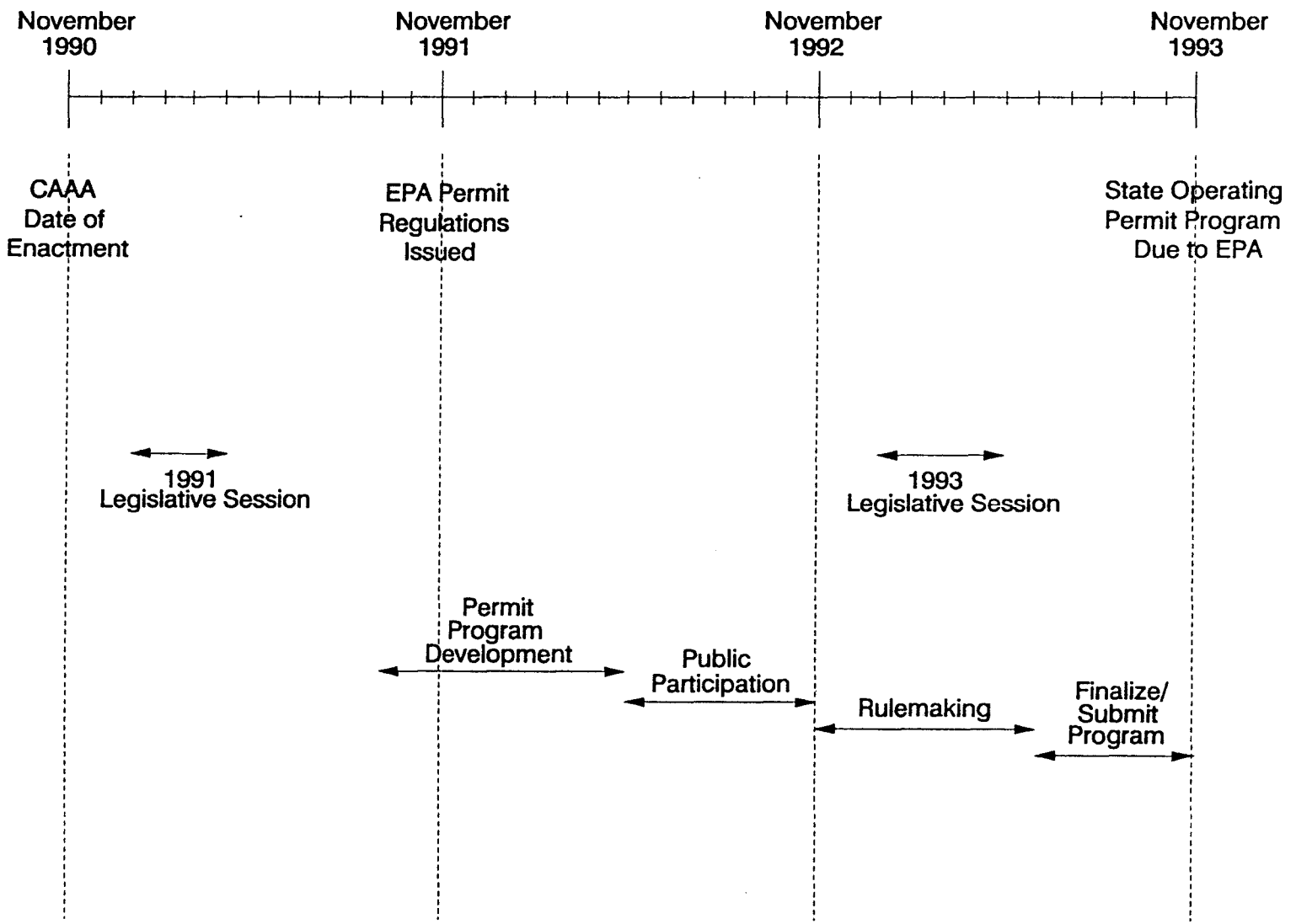
H.B. 781 is a critical bill for the future of the state air program. Its passage will provide the authority and resources for the department to meet federal requirements. More importantly, it will ensure that Montanans

continue to control economic development in our state, and it ensures a local voice in our efforts to provide clean air to our citizens.

Air Quality Operating Permit Program Development Timeline

Failure to Submit:

1. Sanctions Against State
2. Loss of Primacy
3. EPA Collect Permit Fees



SENATE TAXATION
EXHIBIT NO. 19
DATE 4/11/90
BILL NO. HB 781

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION VIII
999 18th STREET - SUITE 500
DENVER, COLORADO 80202-2405

MAR 12 1991

ENVIRONMENTAL PROTECTION AGENCY

Ref: 8AT-AP

MAR 15 1991

MONTANA OFFICE

Jeffrey T. Chaffee, Director
Air Quality Bureau
Department of Health and Environmental Sciences
Cogswell Building
Helena, Montana 59620

Dear Jeff:

We have been discussing legislative needs in Montana with our Headquarters staff. Specifically, Montana is one of 11 states in which the Legislature meets every two years. The majority of these states are aggressively pursuing enabling legislation to "ramp up" for implementation of the new Clean Air Act - in particular, the operating permit program, to ensure that their operating permit programs are fully approvable by the deadlines specified in the Clean Air Act Amendments.

The State must submit an approvable operating permit program to EPA within three years of the date of enactment of the Clean Air Act Amendments of 1990 (November 15, 1993). In order for the State to be in a position to implement its operating permit program within these time frames and to avoid the need for the EPA to promulgate, administer, and enforce a Federal air permit program for the State of Montana, I believe it would be prudent that you begin now to enact the appropriate enabling legislation.

Section 110(a)(2)(L) of the Clean Air Act (42 U.S.C. 7410(a)(2)) requires that a fee program be submitted with the SIP and is amended to read as follows:

"(2) Each implementation plan submitted by a State under this Act shall be adopted by the State after reasonable notice and public Hearing. Each such plan shall-

(L) require the owner or operator of each major stationary source to pay to the permitting authority, as a condition of any permit required under this Act, a fee sufficient to cover-

(i) the reasonable costs of reviewing and acting upon any application for such a permit, and

(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect to such sources by the Administrator's approval of a fee program under title V;"

We believe the above language is clear and provides the basis for you to ask your Legislature for the necessary interim fee program authority. We recognize it will not be an easy task to get from where you are now to where you must be in less than three years. Unless you begin the process now, the Agency believes you may not be able to submit an approvable operating permit program in 1993.

In addition, an interim fee program will begin to place the resource burden on the sources rather than the State's general fund. This would free up some general funds for other State priorities the Legislature may identify.

Please call me if I can be of any help. We have some difficult issues ahead of us, but, working together, we can make it happen.

Sincerely,

Irwin L. Dickstein, Director
Air and Toxics Division

SENATE TAXATION
EXHIBIT NO. 20
DATE 4/11/91
BILL NO. HB 781

Testimony of John Alke on HB 781:

John Alke, Montana Dakota Utilities, appeared in support of the bill as passed by the House. He worked with Tim Baker of the Department of the Health to draft the bill. HB 781 will assure the state primacy of the air permitting program. He emphasized a key component of the bill is that permits be levied against the polluting source which will pay for the permitting process. That provision is required by federal law for sources subject to federal law. The Board must be given the discretion to determine how the fee would be spread in order to ensure the state has primacy over the permitting process. The program the state designs must be approved by the EPA and the state does not know in advance what EPA will require. Therefore, the Board must have some discretion in the fee application. The only control in the bill is that the appropriations process will determine how much the Department will spend. Whatever is done in the permitting process to comply with federal law must be brought to the legislature for approval of the appropriation and the Board and Department then have the discretion to determine how to spread the appropriation in order to conform to federal law.

Only one issue is left, and that is the proposed amendment which has been proposed and rejected by the House Taxation Subcommittee, the full House Taxation Committee, and the House as a whole. The amendment seeks to empower the board, unilaterally, to determine which special studies will be conducted and to levy a fee to pay for the study. He said MDU is adamantly opposed to the amendment. He said it is wrong for the legislature to empower an administrative agency to determine if it wishes to spend money and give it the mechanism to raise that money.
(END OF FORMAL TESTIMONY)

SENATE TAXATION #27
DATE 4/11/91
BILL NO. HB781

BILLINGS
AREA CHAMBER OF COMMERCE®

April 9, 1991

Senator Larry Stimatz, Chairman
Members of the Senate Natural Resources Committee

RE: Support of HB781

The Billings Area Chamber of Commerce urges your support of HB781 regarding air quality construction and operating permits. The Chamber of Commerce has been committed to the efforts of BLAQTC in the past and will continue to be actively involved in their work to monitor and improve the air quality in the Yellowstone Valley.

We urge your favorable consideration of HB781 as it currently stands.

Respectfully,

Butch Ott
President/CEO

BO/kf

815 So. 27th St. • P.O. Box 31177 • Billings, MT 59107-1177 • (406) 245-4111 • FAX (406) 245-7333

SENATE TAXATION #2
EXHIBIT NO.
DATE 4/11/91
BILL NO. HB 781

Northern Plains Resource Council

AMENDMENT TO HB 781
FOR SPECIAL GEOGRAPHIC STUDIES FOR NON-ATTAINMENT AREAS
April 10, 1991

The Yellowstone Valley Citizens Council, a local affiliate of the Northern Plains Resource Council, is offering an amendment to HB 781 to ensure that the Montana Air Quality Bureau will have the authority to conduct special geographic studies that could be needed for the following reasons.

Permitting new industries in non-attainment areas

Existing industries in Yellowstone County argue that their monitoring indicates that progress has been made in cleaning up the Billings/Laurel area voluntarily through the efforts of the Billings/Laurel Air Quality Technical Committee (BLAQTC). However, according to the Air Quality Bureau, "*The minimum number of monitors needed [in conjunction with a special study] to conclusively predict ambient air impacts from existing industries [in the Billings/Laurel area] would be about 20 sites.*" Since BLAQTC was created, however, there have been only 5 monitors. So while current monitoring may indicate limited improvement in air quality, the data being relied upon to make this claim is inconclusive.

Even if the industries have made limited progress in cleaning up the air, the EPA will not look at *actual* emissions to determine whether new industries may be permitted in a non-attainment area. Instead, they will review whether *allowable* emissions would need to be reduced in order to site new industry sources. Allowable emissions for existing industries in the Billings/Laurel area are likely to cause exceedences of federal air quality standards, and so could block the permitting of new industries. *Special geographic studies may be needed to site new industries in non-attainment areas like Yellowstone County in order to allow for new economic development in Montana.*

Existing polluters are lobbying vigorously against this amendment because they effectively have a lock and key on the airsheds in non-attainment areas. The state does not have strong technical or legal grounds to make them clean up either for siting new industries, or for enforcement of air quality standards.

Bolstering the Air Quality Bureau's enforcement authority

According to the Air Quality Bureau, a source apportionment study is likely to be needed in Yellowstone County because:

> *Although the Billings/Laurel area has an EPA-approved state implementation plan (SIP) which contains an SO2 control plan, it is difficult (if not impossible) to show that the area can meet and maintain ambient standards with the current SIP [plan].* [Air Quality Bureau Special Studies Fact Sheet.]

Special geographic studies may be needed in other potential non-attainment areas such as East Helena, Butte, Columbia Falls and Thompson Falls.

Ensuring that only polluters responsible for non-attainment pay for needed special studies

With the current language in HB 781, the Air Quality Bureau would probably have to charge all industrial sources across the state to pay for a special study needed in a non-attainment area. *The proposed amendment would give the department the authority to charge*

Amendments to House Bill No. 781
Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
April 1, 1991

1. Title, line 13.
Following: "PERMITS;"
Insert: "ALLOWING FEE ASSESSMENTS TO FUND DEPARTMENTAL AIR QUALITY ACTIVITIES FOR PARTICULAR GEOGRAPHIC AREAS;"

2. Page 3.
Following: line 23
Insert: "This bill also allows for the assessment of those fees necessary to fund activities of the department that are intended to address specific air quality problems in the state. For example, it may be necessary to conduct additional ambient monitoring in a particular geographic area in order to determine the compliance status of that area with applicable ambient air quality standards. The legislature intends that this provision be used only to fund those activities that examine specific problems in particular geographical areas. The assessments for funding should be levied in an equitable fashion and only upon those sources whose emissions are both of the type being focused upon and thought to impact the geographical area."

3. Page 8.
Following: line 4.
Insert: "(5) In addition to the fee required under subsection (4), the board may order the assessment of additional fees required to fund specific activities of the department that are directed at a particular geographic area, including emissions or ambient monitoring, modeling analysis or demonstrations, or emissions inventories or tracking. Additional assessments may be levied only on those sources that are within or are believed by the department to be impacting the geographical area and whose emissions are of the type within the focus of the activities to be funded. Before the board may require the assessments, it shall first determine, after opportunity for hearing, that the activities to be funded are necessary for the administration or implementation of this chapter and that the assessments apportion the required funding in a equitable manner."
Renumber: subsequent subsections

4. Page 9, line 13.
Strike: "(8)(A)"
Insert: "(9)(a)"

5. Page 9, line 17.
Strike: "(8)"
Insert: "(9)"

6. Page 10, line 6.
Strike: "(6)"
Insert: "(7)"
Strike: "(11)"
Insert: "(12)"

7. Page 10, line 19.
Strike: "(12)"
Insert: "(13)"

8. Page 11, line 5.
Strike: "(12)"
Insert: "(13)"

9. Page 11, line 24.
Strike: "(5)"
Insert: "(6)"

10. Page 12, line 4.
Strike: "(6)"
Insert: "(7)"

11. Page 12, line 13.
Strike: "(15)"
Insert: "(16)"

SENATE STANDING COMMITTEE REPORT

April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 970 (third reading copy - blue), respectfully report that House Bill No. 970 be amended and as so amended be concurred in:

1. Title, lines 15 and 17.
Strike: "OPERATING"

2. Title, page 2, line 1.
Following: "CREDIT;"
Insert: "REQUIRING THAT A GOVERNING BODY NOTIFY AFFECTED TAXING JURISDICTIONS BY CERTIFIED MAIL PRIOR TO APPROVAL OF A TAX BENEFIT;"

3. Title, page 2, line 2.
Following: "~~15-24-1402~~,"
Insert: "15-24-1402,"

4. Title, page 2, line 3
Strike: "A RETROACTIVE"
Insert: "AN"

5. Page 4, lines 19 and 21.
Page 6, lines 12 and 14.
Strike: "OPERATING"

6. Page 9.
Following: line 6
Insert: "Section 3. Section 15-24-1402, MCA, is amended to read:

"15-24-1402. New or expanding industry - assessment notification. (1) In the first 5 years after a construction permit is issued, qualifying improvements or modernized processes that represent new industry or expansion of an existing industry, as designated in the approving resolution, shall be taxed at 10% of their taxable value. Each year thereafter, the percentage shall be increased by equal percentages until the full taxable value is attained in the 10th year. In subsequent years, the property shall be taxed at 100% of its taxable value.

(2) (a) In order for a taxpayer to receive the tax benefits described in subsection (1), the governing body of the affected county or the incorporated city or town must have approved by separate resolution for each project, following due notice as defined in 76-15-103 and a public hearing, the use of the schedule provided for in subsection (1) for its respective jurisdiction. The governing body may not grant approval for the project until all of the applicant's taxes have been paid in full. Taxes paid under protest do not preclude approval.

(b) The governing body may end the tax benefits by majority

vote at any time, but the tax benefits may not be denied an industrial facility that previously qualified for the benefits.

(c) The resolution provided for in subsection (2)(a) shall include a definition of the improvements or modernized processes that qualify for the tax treatment that is to be allowed in the taxing jurisdiction. The resolution may provide that real property other than land, personal property, improvements, or any combination thereof is eligible for the tax benefits described in subsection (1).

(3) The taxpayer must apply to the county assessor on a form provided by the department of revenue for the tax treatment allowed under subsection (1). The application by the taxpayer must first be approved by the governing body of the appropriate local taxing jurisdiction, and the governing body must indicate in its approval that the property of the applicant qualifies for the tax treatment provided for in this section. Upon receipt of the form with the approval of the governing body of the affected taxing jurisdiction, the assessor shall make the assessment change pursuant to this section.

(4) The tax benefit described in subsection (1) applies only to the number of mills levied and assessed for local high school district and elementary school district purposes and to the number of mills levied and assessed by the governing body approving the benefit over which the governing body has sole discretion. In no case may the benefit described in subsection (1) apply to levies or assessments required under Title 15, chapter 10, 20-9-331, 20-9-333, or otherwise required under state law.

(5) Prior to approving the resolution under this section, the governing body shall notify by certified mail all taxing jurisdictions affected by the tax benefit.""

Renumber: subsequent sections

7. Page 10, line 16.
Strike: "RETROACTIVE"

8. Page 10, lines 18 and 19.
Strike: "RETROACTIVELY" on line 18 through "1-2-103," on line 19

9. Page 10, line 19.
Strike: "1990"
Insert: "1991"

Signed: _____
Mike Halligan, Chairman

_____
Amd. Coord.

_____
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

April 1[illegible], 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 452 (third reading copy - blue), respectfully report that House Bill No. 452 be amended and as so amended be concurred in:

1. Page 3, line 23
Strike: "January 1, 1992"
Insert: "December 31, 1991"

2. Page 6, line 9.
Strike: "or the"
Insert: ", consolidated government,"
Following: "town"
Insert: ", or school district"

3. Page 6, line 11.
Strike: "The"
Insert: "Each"

4. Page 6, line 12.
Strike: "The"
Insert: "A"

5. Page 6, lines 22 through 24.
Strike: subsection (a) in its entirety
Renumber: subsequent subsections

6. Page 6, line 25.
Following: "by"
Strike: "the"
Insert: "each"

7. Page 7, line 3.
Following: "levies"
Insert: "if the governing body approving the tax reduction is a county, consolidated government, or incorporated city or town"

Signed: _____
Mike Halligan, Chairman

SB 4/12/91
Amd. Adopted.
SB 4/12 [illegible]
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

April 12, 1991

MR. PRESIDENT:
We, your committee on Taxation having had under consideration House Bill No. 973 (third reading copy -- blue), respectfully report that House Bill No. 973 be amended and as so amended be concurred in:

1. Page 7, line 10.
Following: "15-70-201."
Insert: "For the purposes of this chapter, gasoline does not include JP-4 jet fuel sold to the federal defense fuel supply center."

Signed: _____
Mike Halligan, Chairman

4-12-91
Amd. Coord.

SB 4-12 3:55
Sec. of Senate

781546SC.Sji

SENATE STANDING COMMITTEE REPORT

Page [illegible]
April [illegible] [illegible]

MR. PRESIDENT:

We, your committee on taxation having had under consideration House Bill No. 558 (third reading copy [illegible] blue), respectfully report that House Bill No. 558 be concurred in.

Signed _____
Mike Halligan, Chairman

_____
Amd. Coord.

_____
Sec. of Senate

781[illegible]

SENATE STANDING COMMITTEE REPORT

April 1[illegible], 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 869 (third reading copy - blue), respectfully report that House Bill No. 869 be amended and as so amended be concurred in:

1. Title, line 8.
Strike: "CONTIGUOUS"

2. Page 7, line 25.
Following: "(8)"
Strike: "PROPERTY"
Insert: "Subject to the provisions of subsections (2)(a) and (2)(b), property"

3. Page 8, line 2
Strike: "CONTIGUOUS"

4. Page 8, line 3.
Following: "LAND."
Insert: "Improvements devoted to crop production described in this subsection may not be included in class fourteen property."

Signed: [illegible]
Mike Halligan, Chairman

[illegible]
Amd. Coord.

[illegible]
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

April 15, 1991

MR. PRESIDENT:
We, your committee on Taxation having had under consideration House Bill No. 701 (third reading copy -- blue), respectfully report that House Bill No. 701 be amended and as so amended be concurred in:

1. Page 9.
Following: line 3
Insert: "NEW SECTION. Section 13. Coordination instruction. If House Bill No. 795 is passed and approved, then the clean coal technology demonstration fund created in 17-5-703(1)(b) of [this act] becomes 17-5-703(1)(c) and the code commissioner shall change references to the coal severance tax bond fund in [section 3(3) of this act] and [section 4(1) of this act] to the coal severance tax infrastructure fund."
Renumber: subsequent section

Signed: _____
Mike Halligan, Chairman

4-15-91
Amd. Coord.

SB 4-15
Sec. of Senate

801130SC.Sji

SENATE STANDING COMMITTEE REPORT

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 790 (third reading copy - blue), respectfully report that House Bill No. 790 be amended and as so amended be concurred in:

1. Title, line 18.
Following: line 17
Insert: "CLARIFYING THAT A CHARITABLE INSTITUTION HAS AN INSURABLE INTEREST IN CERTAIN INDIVIDUALS;"
Strike: "SECTION"
Insert: "SECTIONS 15-30-121,"
Following: "15-30-128,"
Insert: "AND 33-15-201,"

2. Page 4, line 21.
Following: line 20
Insert: "Section 2. Section 15-30-121, MCA, is amended to read:

"15-30-121. Deductions allowed in computing net income. In computing net income, there are allowed as deductions:

(1) the items referred to in sections 161, including the contributions referred to in 33-15-201(5)(b), and 211 of the Internal Revenue Code of 1954, or as sections 161 and 211 shall be labeled or amended, subject to the following exceptions which are not deductible:

(a) items provided for in 15-30-121;

(b) state income tax paid;

(2) federal income tax paid within the taxable year;

(3) expenses of household and dependent care services as outlined in subsections (3)(a) through (3)(c) and subject to the limitations and rules as set out in subsections (3)(d) through (3)(f), as follows:

(a) expenses for household and dependent care services necessary for gainful employment incurred for:

(i) a dependent under 15 years of age for whom an exemption can be claimed;

(ii) a dependent as allowable under 15-30-112(5), except that the limitations for age and gross income do not apply, who is unable to care for himself because of physical or mental illness; and

(iii) a spouse who is unable to care for himself because of physical or mental illness;

(b) employment related expenses incurred for the following services, but only if such expenses are incurred to enable the taxpayer to be gainfully employed:

(i) household services which are attributable to the care of the qualifying individual; and

(ii) care of an individual who qualifies under subsection (3)(a);

(c) expenses incurred in maintaining a household if over half of the cost of maintaining the household is furnished by an individual or, if the individual is married during the applicable period, is furnished by the individual and his spouse;

(d) the amounts deductible in subsection (3)(a) through (3)(c) are subject to the following limitations:

(i) a deduction is allowed under subsection (3)(a) for employment-related expenses incurred during the year only to the extent such expenses do not exceed $4,800;

(ii) expenses for services in the household are deductible under subsection (3)(a) for employment related expenses only if they are incurred for services in the taxpayer's household, except that employment related expenses incurred for services outside the taxpayer's household are deductible, but only if incurred for the care of a qualifying individual described in subsection (3)(a)(i) and only to the extent such expenses incurred during the year do not exceed:

(A) $2,400 in the case of one qualifying individual;

(B) $3,600 in the case of two qualifying individuals; and

(C) $4,800 in the case of three or more qualifying individuals;

(e) if the combined adjusted gross income of the taxpayers exceeds $18,000 for the taxable year during which the expenses are incurred, the amount of the employment related expenses incurred must be reduced by one-half of the excess of the combined adjusted gross income over $18,000;

(f) for purposes of this subsection (3):

(i) married couples shall file a joint return or file separately on the same form;

(ii) if the taxpayer is married during any period of the taxable year, employment-related expenses incurred are deductible only if:

(A) both spouses are gainfully employed, in which case the expenses are deductible only to the extent that they are a direct result of the employment; or

(B) the spouse is a qualifying individual described in subsection (3)(a)(iii);

(iii) an individual legally separated from his spouse under a decree of divorce or of separate maintenance may not be considered as married;

(iv) the deduction for employment related expenses must be divided equally between the spouses when filing separately on the same form;

(v) payment made to a child of the taxpayer who is under 19 years of age at the close of the taxable year and payments made to an individual with respect to whom a deduction is allowable

under 15-30-112(5) are not deductible as employment related expenses;

(4) in the case of an individual, political contributions determined in accordance with the provisions of section 218(a) and (b) of the Internal Revenue Code that were in effect for the taxable year ended December 31, 1978;

(5) that portion of expenses for organic fertilizer allowed as a deduction under 15-32-303 which was not otherwise deducted in computing taxable income; and

(6) contributions to the child abuse and neglect prevention program provided for in 41-3-701, subject to the conditions set forth in 15-30-156."

Section 3. Section 33-15-201, MCA, is amended to read:

"**33-15-201. Restrictions on contracting for personal insurance -- insurable interests -- violation.** (1) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. But no person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(2) If the beneficiary, assignee, or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement, or injury of the individual insured, the individual insured or his personal representative may maintain an action to recover such benefits from the person so receiving them.

(3) "Insurable interest" with reference to personal insurance includes only interests as follows:

(a) in the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) in the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by or would be enhanced in value by the death, disablement, or injury of the individual insured.

(4) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm or of shares of stock of a closed corporation or of an interest in such shares has an insurable interest in the life of each individual party to such contract and for the purposes of such contract only, in addition to any insurable interest which may otherwise exist as to the life of such individual.

(5) A charitable institution has an insurable interest in an individual if:

(a) the individual authorizes the charitable institution to purchase insurance naming the charitable institution as an irrevocable beneficiary; and

(b) the insurance is purchased with contributions made by the individual.""

Renumber: subsequent section

Signed: _____
Mike Halligan, Chairman

_____
Amd. Coord.

_____
Sec. of Senate

SENATE STANDING COMMITTEE REPORT

April 12, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 904 (third reading copy -- blue), respectfully report that House Bill No. 904 be concurred in.

Signed: _____
Mike Halligan, Chairman

_____
Amd. Coord.

_____
Sec. of Senate