MINUTES

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

COMMITTEE ON TAXATION

Call to Order: By Chairman Dan Harrington, on July 14, 1992, at 8:40 a.m.

ROLL CALL

Members Present:

Dan Harrington, Chairman (D)
Bob Ream, Vice-Chairman (D)
Ben Cohen, Vice-Chair (D)
Ed Dolezal (D)
Jim Elliott (D)
Orval Ellison (R)
Russell Fagg (R)
Mike Foster (R)
Bob Gilbert (R)
Marian Hanson (R)
David Hoffman (R)
Jim Madison (D)
Ed McCaffree (D)
Bea McCarthy (D)
Tom Nelson (R)
Mark O'Keefe (D)
Bob Raney (D)
Ted Schye (D)
Barry "Spook" Stang (D)
Fred Thomas (R)
Dave Wanzenried (D)

Members Excused: None

Members Absent: None

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

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 36

Presentation and Opening Statement by Sponsor:

REP. COBB, District 42, Augusta, said the bill imposes a 1% tax on hospital revenue accrued on or after November 1, 1992 and terminates July 1, 1993. It would raise approximately $3 million for the general fund and contains a reimbursement provision. Small rural hospitals are exempted which is a provision mandated by the federal government. He noted almost all hospitals will remain whole, although a few of the largest will lose from $100,000 to $200,000 which would be covered by their reserve funds. He submitted proposed housekeeping amendments (Exhibit #1).

Proponents' Testimony:

Julia Robinson, Director, Social and Rehabilitation Services (SRS), presented her testimony in support of the bill (Exhibits, #2, #3, and #4). As head of the welfare department she said the welfare and medical care costs in the state are going to continue to worsen. She said this bill would help the state move forward, not backward.

Opponents' Testimony:

James Ahrens, President, Montana Hospital Association, presented his testimony in opposition to the bill (Exhibit #5).

Cal Winslow, St. Vincent Hospital and Health Center, Billings, presented his testimony in opposition to the bill (Exhibit #6).

John Guy, St. Peter's Hospital, Helena, said that even though the non-profit hospitals in the state pay no taxes, they make a contribution in terms of free services. St. Peter's will pay over $2 million in free care and about $9 in below cost care. He agreed with Mr. Winslow's testimony and urged the Committee to oppose the bill.

Carl Hanson, Pondera County Hospital and Nursing Home, Conrad, said the bill will result in cost-shifting to patients, confusion on rates, and would be very hard on private-pay patients. He was concerned over the language "may" and "up to" in the grant provision portion of the bill.

Kirk Wilson, Great Falls Deaconess Hospital, Great Falls, and representing Bill Bowner, Great Falls Columbus Hospital, said the bill locks in a cost shift. He said rather than increase taxes or institute new ones, there needs to be work on health care reform.

Gordon Davidson, Finance Director, Bozeman Deaconess, Bozeman, said a gross receipts tax will have an adverse affect on hospital services. A recent survey said 17% of medicaid expenditures for in-patient health care are paid to providers outside the state. One reason for that is the unavailability of services. This bill would contribute to a further decrease in available services.

Tom McFarlane, Chief Finance Officer, St. James Hospital, Butte, presented his testimony in opposition to the bill (Exhibit #7),

Tom Ebzry, St. Vincent's Hospital, Billings, and the Montana Association of Physicians, presented testimony in opposition to the bill (Exhibit #8).

Tanya Ask, Blue Cross/Blue Shield, asked the Committee to defeat the bill as it is not in the best interests of the health of the "Blues" members.

LeDean Lewis, American Association of Retired People, this is a discriminatory tax. It is intergenerational, but hits hardest those people 65 and older who cannot afford supplemental insurance. It taxes people for getting sick.

Jerry Loendorf, Montana Medical Association, said his Association appreciates the problems facing SRS and the legislature. If hospitals use their reserves they will not have funds available for equipment and other special needs. They would have to borrow the money and the costs would be passed on to the patients. Those people most impacted would be patients who do not have insurance.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

REP. COBB said thirty other states have this tax. The federal deficit is going to result in medicaid caps which will result in Montana having to pick up even more costs. He said this is not a bad bill. The reimbursement provision is a great help and the bill sunsets in a year. The tax dollars are urgently needed to help those who cannot afford any health care.

HEARING ON HOUSE BILL 34

Presentation and Opening Statement by Sponsor:

REP. SHEILA RICE, District 36, Great Falls, said this bill is the same bill **SEN. ECK** introduced in the 1991 regular session. It increases the tax on a package of cigarettes by seven cents and increases the tax on smokeless tobacco products by 4.5%. She said it would raise $3.5 million in FY 1993. Noting there do need to be some amendments to the bill, she recommended it be put in a subcommittee for those revisions.

Proponents' Testimony:

Patrick Smith, American Lung Association of Montana, said his organization believes the bill will have a direct benefit to the health of Montana citizens now and in the future. An increase in price will deter teenage smoking. For every 10% increase in tax, there is a resultant 10% decrease in consumption by teenagers. This bill would result in a 3.5% decrease in consumption by teenagers. The Lung Association strongly supports the legislation.

Jerry Loendorf, Montana Medical Association, said this is a tax on a product that causes disease. He said this tax is fair because it makes a person contribute money to a fund that will eventually help fund his health care should he need it because of the risk he is taking by using tobacco products.

Opponents' Testimony:

Jerome Anderson, Tobacco Institute, presented his testimony in opposition to the bill (Exhibit # 9).

Mark Staples, Montana Tobacco and Candy Wholesalers, said federal legislation in the past two years has increased "sin taxes by eight cents a package of cigarettes. Sales have dropped by 30 million packages since 1982. He said if prohibition is the goal, it is working, but a lot of people are going out of business as a result.

Mike Parker, President, Pennington's, Great Falls and President of the Montana Association of Candy and Tobacco Wholesalers, said the difficulties of doing business in this state are well known. He said it will be hard on their employees if there is another increase. Workers' compensation rate increases have been a real blow to business recently. He asked the Committee not to make it any harder to stay in business.

Dean Woodring, Service Distributing, Helena, presented his testimony in opposition to the bill (Exhibit #10).

Gene Phillips, Smokeless Tobacco Institute, spoke in opposition to the bill, saying he supported the testimony given by **Mr. Anderson.**

John Delano, Phillip Morris, stated his opposition to the bill.

Roger Tippy, R. J. Reynolds, expressed opposition to the bill.

Questions From Committee Members:

REP. STANG asked about the status of the tobacco quota negotiations with the Indian reservations.

Denis Adams, Director, Department of Revenue (DOR), said the state has signed an agreement with the Fort Peck Tribes which will be generating additional revenue for the state. Negotiations are underway with several other tribes in the state. He said he did not have figures on the revenue loss to the state during the negotiation period, but would get it for the Committee members for Executive Session.

Closing by Sponsor:

REP. RICE said this bill is proposed as an alternative should the 7% surtax bill is not adopted. She reminded the Committee the bill should be amended to protect the integrity of the Long Range Building Fund.

HEARING ON HOUSE BILL 55

Presentation and Opening Statement by Sponsor:

REP. BACHINI, District 14, Havre, said the coal tax trust fund was established to provide for the future of the state. The rainy day is here and it makes sense to use coal trust money as a piece of the puzzle that addresses the budget problems of the special session. His constituents have repeatedly told him they do not want any taxes of any kind, not even a sales tax. This bill imposes no new taxes and gives the legislature the time to address total tax reform in the 1993 session. He said he estimates the bill would generate approximately $30 - $50 million.

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said his organization endorses the bill. It makes sense to borrow from our own resources.

REP. PAVLOVICH, referring to **REP. BACHINI'S** umbrella, said it is really raining hard and we need a bigger umbrella.

Opponents' Testimony:

REP. ELLIOTT said both Wyoming and Alaska have very large trust funds and that is why their taxes are so low. Wyoming has over one billion dollars in their trust fund and they get $100 million a year in interest from that trust with which to fund their state government. For every $10 million removed from the coal tax trust fund, $1 million in taxes will be needed to replace it in Montana. It is not a rainy day fund, but rather an income producing instrument and you do not spend down your savings.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

REP. BACHINI closed.

CHAIRMAN HARRINGTON announced the Committee would hear both HB 38 and 39 at the same time.

HEARING ON HOUSE BILL 38 AND HB 39

Presentation and Opening Statement by Sponsor:

REP. PAVLOVICH, District 70 Butte, said HB 38 diverts the coal tax severance payments from the permanent trust fund to the general fund until the year 2000. It caps the permanent trust by a vote of the people in November, 1992. He said there is $520 million in the permanent trust now and he wants half of what will be deposited this year, $25 million, to be deposited to the general fund this year. He said the bill should be passed and put on the ballot so the people can decide.

HB 39 reduces the percentage of coal severance taxes being deposited to the permanent trust fund from 50% to 25%, using the 25% for education. This bill would also require a vote of the people in November.

Proponents' Testimony:

REP. BACHINI expressed support for the bill.

Dennis Burr, Montana Taxpayers Association, said his organization supports the HB 38 diversion to the general fund. He pointed out the state is going broke while millions of dollars are going in the bank.

Opponents' Testimony:

REP. ELLIOTT stated his opposition to the bill for the same reasons he opposed HB 55.

SEN. TOWE said his remarks are addressed to all three bills, HB 38, HB 39, and HB 55. The coal tax permanent trust was never intended to be a rainy day fund. It is an endowment which makes the job of the legislature $50 million a year easier. He likened spending the money to spending "little Johnny's education fund". He said Colorado, South Dakota, Wyoming and Alaska have all allowed use of their trust fund money and those trust funds are gradually evaporating.

REP. RANEY said the trust fund money is derived from a non-renewable resource. When that resource is taken from the ground, nothing is left but holes and pollution. The money in the fund is for future generations. He said these bills are "stealing money from our kids".

REP. STELLA JEAN HANSON said she opposes the bills because once the money is gone from the general fund, the taxpayers will have to pay again. She said you cannot borrow money if there is no system to pay it back.

Questions From Committee Members:

REP. O'KEEFE asked how the three bills would impact the trust fund.

John Tuss, Department of Natural Resources (DNRC) presented a chart and narrative explaining the cash flow process of the trust fund (Exhibit #11).

Closing by Sponsor:

REP. PAVLOVICH closed saying the bills would have to be amended to take care of the bonding problem. He asked the Committee to pass the bills and let the people decide what to do in November.

HEARING ON HOUSE BILL 45

Presentation and Opening Statement by Sponsor:

REP. McCAFFREE, District 27, Forsyth, said the bill imposes a 1% realty transfer tax and creates a credit for those who file state income tax. There is a technical problem with the bill as it excludes corporations, which was not intended. He said the problem could be amended in the subcommittee. The exceptions to the tax are detailed in Section 6 of the bill. He reviewed the bill section by section for the Committee.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said it took three sessions for the Realty Transfer Act to pass in the 1970's. It passed by only one vote and the worry then was that it would eventually turn into a tax. He urged the Committee to take a close look at the amendment to make sure the credit mechanism is very clear.

Tom Hopgood, Montana Association of Realtors, said his organization has always opposed this tax. It is highly selective and highly regressive. It is a sales tax, pure and simple, which targets home sellers and buyers exclusively. He said this is a "foot in the door bill" which will allow the rate to bumped up again and again. He said the effective date of August 1, 1992, would be a problem. Most closings take 30 - 90 days and it would increase the amount of money that would have to be paid if the closing date falls after August 1.

Colin Bangs, Montana Association of Realtors, Missoula, said there are two problems with the bill. First, he said it seems strange to add layers of bureaucracy to take in money that will be paid back out again. Second, the buyer must pay the 1% realty transfer tax. First time home buyers are the people that have the most trouble buying a house. They usually use an FHA loan which requires a 5% down payment. Adding a 1% fee on top of that increases the down payment requirement by 20% which creates a real hardship.

Steve Mandeville, Legislative Chairman, Montana Realtors, a Helena real estate broker, said it is a good idea to get the money from out of state buyers, but it is very hard on the first time home buyer. He urged the Committee not to pass the bill.

Jim Peterson, Montana Stockgrowers Association, said the tax also applies to agricultural land. It is a selective sales tax which needs to be considered in a comprehensive tax reform measure at a different time.

Shirley Nelson, Realtor, Plentywood, submitted her testimony in opposition to the bill (Exhibit #12).

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

REP. McCAFFREE said the bill should go to subcommittee. He felt it could be a good bill and raise needed revenue if it were amended.

HEARING ON HOUSE BILL 47

Presentation and Opening Statement by Sponsor:

REP. HARRINGTON, District 68, Butte, said the bill imposes a 4% tax on all credit card transactions and is effective on passage and approval. There is a tax credit given to corporations and individuals at the end of the year. People who live and visit here from out of state will be taxed for the services they use if this bill is enacted.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

Denis Burr, Montana Taxpayers Association, expressed opposition to the bill.

Informational Testimony:

John Cadby, Montana Bankers Association, said banks are just intermediaries and are not expressing support or opposition to the bill. He said the debit card is coming in the very near future and cautioned the Committee to take into consideration the impact legislation of this sort would have on that type of card transaction. He said this type of tax could be circumvented by the increased use of a ready reserve account offered by most banking institutions.

Questions From Committee Members:

REP. RANEY asked how people who do not file income tax would get a refund.

REP. HARRINGTON said they would have to file for a refund even if they do not owe taxes.

Closing by Sponsor:

REP. HARRINGTON said this bill should be carefully considered by the Committee. It is an important part of tax reform and could help solve the special session budget problem.

HEARING ON HOUSE BILL 48

Presentation and Opening Statement by Sponsor:

REP. HARRINGTON, District 68, Butte, said the bill addresses renewal of liquor store agency lease agreements and establishes a preference for the agent already operating the agency store. He said the bill would have to go to subcommittee and be amended to address the discrimination problem against out of state wine and spirit sellers. The bill exempts agency stores and state stores from the Procurement Act. He said the whole leasing situation will have to be looked at in the 1993 regular session as the push toward privatization has confused this whole area.

Proponents' Testimony:

Mike Bruno, Lolo, liquor retailer and agent, said he has been working on the bidding and leasing process with agency and state liquor stores since 1991. He said there is no preference at lease renewal for individuals who have invested in their stores and operated them well. He gave the Committee copies of two resolutions passed by the Revenue Oversight Committee (Exhibit #13). It appears neither of the two resolutions is being honored by DOR. This is not a privatization issue. It is contract law. The liquor business is generating a great deal of revenue. Contributions to the general fund through April of calendar year 1992 are up $1.1 million dollars, taxes collected are up $1.3 million, sales are up $6 million. He said the problem needs to be addressed in detail in 1993, but this bill is very important now and should be passed.

REP. GILBERT said as ROC Chairman he supports the bill. It is very unfair for operators to have no preference when it comes to rebidding and renewing leases. The law needs to be changed.

Duard Svee, Montana Distillery Representatives Association, Billings, said the bidding process is very unfair. Some operators cannot afford to insure their bids. The preference provision is very important. He urged the Committee to take positive action on the bill.

Tim Dale, East Helena Agent, said he purchased a building for $110,000. His lease is for three years and he cannot amortize it in that amount of time. A preference provision would give him the leverage he needs to borrow the money for his store.

Bob Schreiner, Montana Distiller Representatives Association, Belt, spoke in favor of the bill.

Gary Giannini, Sand Coulee, expressed support for the bill.

REP. STANG stated he supported the bill.

Jim Hutcheson, Missoula, said he was concerned about the revenue that is lost when a whole section of liquor is closed out by the state.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

REP. McCARTHY asked if the length of the lease contract is addressed in the bill.

REP. HARRINGTON said the bill exempts the stores from the Procurement Act, gives preference to the leaseholder, and it allows DOR to grant longer leases.

Closing by Sponsor:

REP. HARRINGTON said the bill slows down the DOR rulemaking process until a full review can be conducted in the 1993 session. He said the state is not in good faith re leases. He said he would submit an amendment to address the out of state liquor wholesalers selling in the state.

HEARING ON HOUSE BILL 43

Presentation and Opening Statement by Sponsor:

REP. DOWELL, District 5, Kalispell, said the bill imposes a $2 per night fee on out of state vehicles at private and state campgrounds. He submitted proposed amendments (Exhibit #14), and a fiscal note (Exhibit #15).

Proponents' Testimony:

Arnie Olson, Administrator, State Parks Division, Fish, Wildlife, and Parks, expressed support for the bill.

Janet Ellis, Montana Audubon Legislative Fund, said her organization supports the bill. It is done in other states and would benefits parks as well as put revenue into the general fund.

Opponents' Testimony:

George Ochenski, Free the Parks, said increasing user fees is the beginning of the death spiral for parks. He wondered why the bill is before the Taxation Committee as it is a parks system bill. He said once fees go on, they tend to go up. It would be very hard to justify taxing KOA for out of state campers and then give the money to state parks who are, in effect, their competitors. This is probably a constitutional question. He said the fee could probably be imposed in public parks, but questioned how it could be forced on the private camping areas. He stated the fiscal note is insupportable. He questioned the camper nights figure and also felt the season dates would differ between the state campgrounds and private campgrounds. He also said the cost figures for resigning the existing campgrounds were ridiculously low. He urged the Committee to table the bill.

Wayne Hirst, Montana Park Association, said fees are up to $11 per night in some areas and this bill would create further discrepancies. There should be a symbiotic relationship between private and state parks. Making private campgrounds pay to fix up public campgrounds is not wise policy.

Questions From Committee Members:

REP. STANG wondered if this bill would force people to use Forest Service campgrounds.

REP. Wanzenried asked **Mr. Olson** about the competition factor and the fairness of using the fee from private campgrounds to fund public campgrounds.

Mr. Olson said he does not feel state campgrounds are in competition with private campgrounds. He said public campgrounds provide cultural resources and opportunities for people that are not available in private campgrounds. The cooperative relationship existing between state and private campgrounds works well. They exchange information and refer campers to each other as well as making attraction brochures available to campers. He said he was not aware of any particular competition problems.

__Closing by Sponsor__:

REP. DOWELL said a tourism article he saw recently said there is a 7% decline in tourism nationwide and a 7% growth in tourism in Montana. He said there is no way tourists are helping pay for their use of state services. This is a perfect tax - one that everyone else pays.

ADJOURNMENT

Adjournment: 10:30 a.m.

Dan Harrington

Rep. Dan Harrington, Chair

Jill D. Rohyans

Jill D. Rohyans, Secretary

DH/jdr

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL DATE 7/14/92

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

EXHIBIT 1
DATE 7/14/92
HB #B36

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

Amendment to House Bill 36
(Re: Revenue Tax on Hospitals)
Introduced Copy

1. Page 13, line 4
   Strike: "$1,194,650"
   Insert: "1,241,840"

2. Page 13, line 5
   Strike: "2,941,950"
   Insert: "3,058,160"

3. Page 13, line 6
   Strike: "4,136,600"
   Insert: "4,300,000"

-End-

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

"Working Together To Empower Montanans"

EXHIBIT 2
DATE 7/14/92
HB HB 36

June 25, 1992

To: Julia Robinson

From: Mike Billings MSB

Subject: Budget cut alternatives considered in SRS review process

Pursuant to your request, I have gone back to notes on our deliberations of various options for trimming programs in SRS, and have summarized for your reference the major items that were considered, the respective amounts of estimated savings for each item, and a brief note about why we decided not to go forward with the specific option.

Item	FY93 General Fund Savings	Concerns
Eliminate GA Program	$3,052,450	Would have created extreme hardship for several hundred people who have nowhere to turn for essentials of life.
Eliminate State Medical Program	$4,500,000	Would have denied publicly supported medical care for indigent people, thus causing them not to seek needed care, or causing the medical community to recover the costs of this care through rate increases to private payers and insurance companies.
Eliminate Medically Needy Program for economically disadvantaged citizens who are not residents of Nursing Homes or receiving Waiver services. Implement the 300% Special Income Limit for those Nursing Home and Waiver individuals. Implement a general fund "grandfather" program for those individuals who have income over the 300% limit.	$3,200,000	Would have denied publicly supported medical care to aged, blind and disabled citizens who have income in excess of public assistance levels. Much of the care required for these people would either not be received, or would be paid by private payers through higher rates.
Roll back OBGYN, Ped reimb rates to FY91 levels	$1,078,433	Might cause OBGYN and Peds to withdraw from Medicaid program, potentially leading to access problems for those on welfare requiring pre- and post-natal medical services.

Freeze NH reimb rates at FY92 levels	$1,890,000	Would result in law suite by NH operators, with potentially serious negative fiscal implications for the State. We would almost certainly lose the suit under the Boren Amendment.
Eliminate rate increases for DD group homes and VR/VS services providers	$1,044,944	Would have devastated programs that are already in desperate financial shape. Would probably force some group homes to close which would be extremely cost ineffective.

EXHIBIT 23
DATE 7/14/93
HB H036

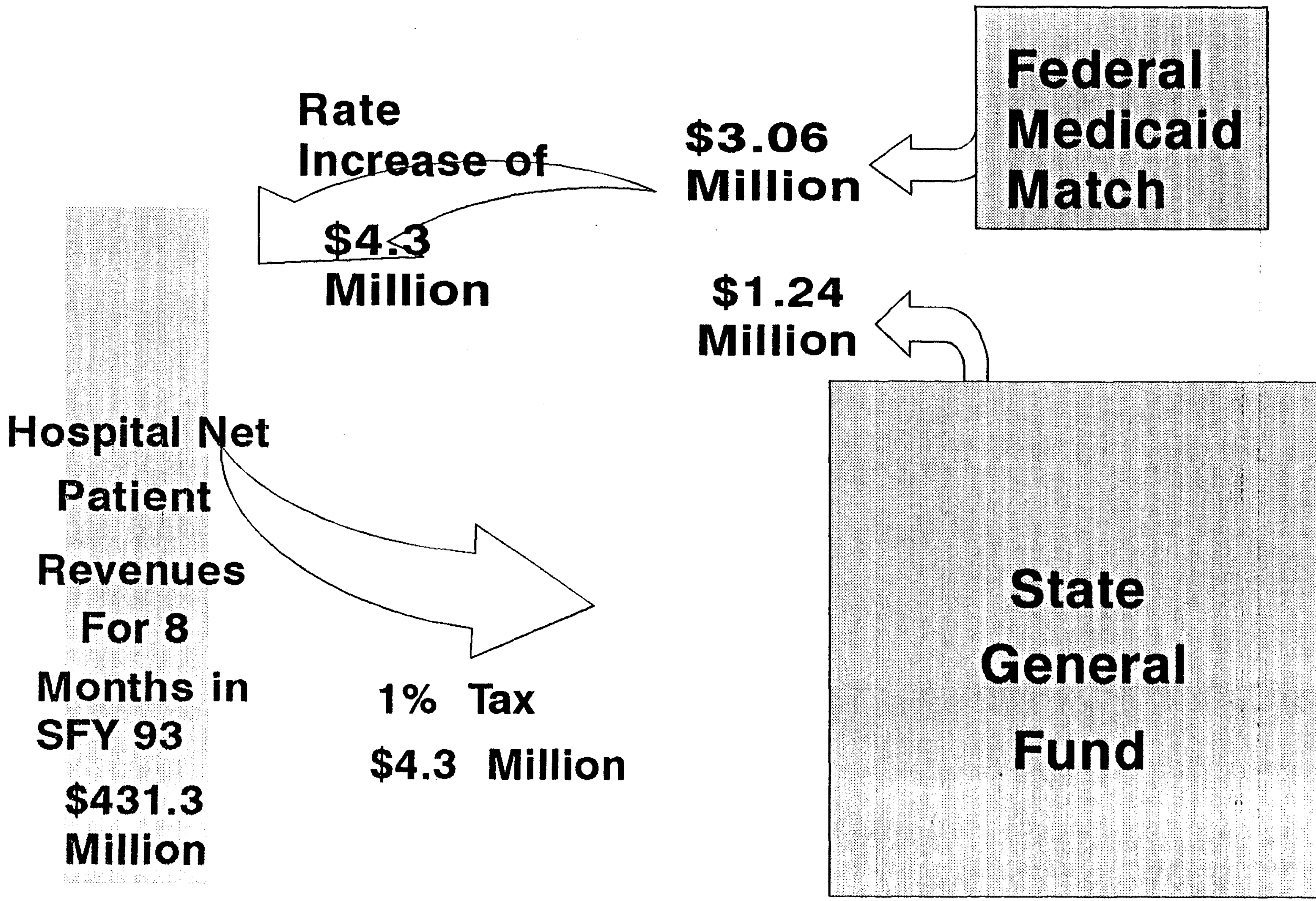
HOSPITAL REVENUE TAX SUMMARY
FY '93 IMPACT ONLY
July 13, 1992(3:30PM)

	PROPOSAL	
	ORIGINAL	NEW
TAX PERCENTAGE	2%	1%
TAX REVENUE	8.3	4.3
BASE MEDICAID PAYMENTS	$ 42.3	$ 42.3
HOSPITAL INCREASE - %	14.7%	15.2%
INCREASE EFFECTIVE DATE	1/1/93	11/1/92
HOSPITAL INCREASE-COST	3.1	4.3
INCOME TO GENERAL FUND	8.3	4.3
COST OF MEDICAID INCREASE:		
GENERAL FUNDS	.9	1.2
FEDERAL FUNDS	2.1	3.1
STATE MEDICAL INCREASE(GF)	.1	---*
EXCESS GENERAL FUNDS	**7.3**	**3.1**
USES OF EXCESS GF:		
Health Planning Commission	150,000	---
Health Planning Grants	1,100,000	---
Revenue Dept. Admin. Cost	9,000	9,000
Galen Tax Impact	66,000	28,000
Cost of Block Grants	---	115,000
SUNSET PROVISION:	NONE	7/1/93

* NOTE: If SB10, which would eliminate the State Medical Program, does not pass this amount will become .2 and the amount of Federal Funds and Excess General Funds will decrease to 2.9.

1% Hospital Revenue Tax

How It Would Work In FY 1993



EFFECT OF INCREASE VERSUS TAX
WORKSHEET 3-4
JULY 6, 1992 (5:00PM)

EXCLUDING HOSPITALS IN RURAL AND VERY RURAL COUNTIES

Ex. # 3 HB 36
7/14/92

HOSPITAL NUMBER	HOSPITAL NAME	HOSPITAL TAX @ 1% 1993	EFFECT OF RATE INCREASE	WINNERS/ (LOSERS) TAX	"LESS URBAN" BLOCK GRANTS	WINNERS/ (LOSERS) NET
412373	BARRETT MEMORIAL	29,405	25,803	(3,602)	5000	1,398
417599	BIG HORN COUNTY	11,393	17,008	5,615	5000	10,615
415688	BILLINGS DEACONESS	593,465	360,511	(232,954)		(232,954)
411047	BOZEMAN DEACONESS	149,599	86,805	(62,794)		(62,794)
410163	CENTRAL MONTANA	41,453	27,203	(14,250)	5000	(9,250)
411645	COLUMBUS HOSPITAL	302,302	275,720	(26,583)		(26,583)
412971	COMMUNITY OF ANACONDA	27,652	30,197	2,545	5000	7,545
413478	COMMUNITY MEMORIAL/SIDNEY	70,469	53,009	(17,460)	5000	(12,460)
418275	FRANCES MAHON DEACONESS	57,809	15,050	(42,759)	5000	(37,759)
572468	GALEN STATE HOSPITAL	34,686	1,629	(33,057)	5000	(28,057)
4101695	GLACIER MEDICAL CENTER	8,149	10,520	2,372	5000	7,372
417833	GLENDIVE COMMUNITY	60,546	35,661	(24,885)	5000	(19,885)
419666	HOLY ROSARY	74,024	62,622	(11,402)	5000	(6,402)
418938	KALISPELL REGIONAL	253,751	168,061	(85,690)		(85,690)
418158	LIVINGSTON MEMORIAL	36,509	19,915	(16,594)	5000	(11,594)
417898	MARCUS DALY MEMORIAL	53,213	54,425	1,212	5000	6,212
415909	MISSOULA COMMUNITY	269,762	279,923	10,161		10,161
416793	MONTANA DEACONESS	445,569	591,253	145,684		145,684
416065	NORTH VALLEY	45,080	65,226	20,147		20,147
412308	NORTHERN MONTANA	97,748	255,081	157,333	5000	162,333
411762	PONDERA MEDICAL CENTER	11,889	10,759	(1,130)	5000	3,870
419224	POPLAR COMMUNITY	12,784	27,073	14,289	5000	19,289
4105244	POWELL COUNTY MEMORIAL	7,795	2,871	(4,924)	5000	76
414583	ROOSEVELT MEMORIAL	6,101	4,455	(1,646)	5000	3,354
418340	ROSEBUD COMMUNITY	7,687	8,669	982	5000	5,982
419887	SAINT VINCENT	569,947	596,395	26,448		26,448
418782	ST. JAMES COMMUNITY	228,447	376,206	147,759		147,759
411931	ST JOHNS LUTHERAN	37,817	54,748	16,932	5000	21,932
4104516	ST. JOSEPH HOSPITAL	22,862	17,711	(5,152)	5000	(152)
412594	ST LUKE COMMUNITY	30,649	64,980	34,331	5000	39,331
411866	ST PATRICK	438,763	359,422	(79,341)		(79,341)
417677	ST PETERS COMMUNITY	236,400	267,234	30,834		30,834
415467	TOOLE COUNTY	16,401	19,437	3,035	5000	8,035
410540	TRINITY	23,225	47,337	24,112	5000	29,112
	TOTAL ACUTE HOSPITALS	4,313,351	4,292,920	(20,431)	115,000	94,569
		***	###			

*** Computed on a tax rate of 1% of total patient revenue.

Computed on an rate increase of 15.225% of Allowed Medicaid Payments

ASSUMES SAME RATES OF GROWTH IN TOTAL REVENUE, MEDICAID UTILIZATION AND COSTS FOR ALL FACILITIES.

FACILITIES EXCLUDED FROM TAX:

BIG SANDY MEDICAL CENTER
BROADWATER HEALTH CENTER
CARBON COUNTY HOSPITAL
CLARK FORK VALLEY HOSPITAL
DANIELS MEMORIAL HOSPITAL
FALLON MEDICAL CENTER
GRANITE COUNTY HOSPITAL
LIBERTY COUNTY HOSPITAL
MINERAL COUNTY HOSPITAL
MOUNTAINVIEW HOSPITAL
MADISON VALLEY HOSPITAL
MISSOURI RIVER MEDICAL CENTER
PHILLIPS COUNTY HOSPITAL
ROUNDUP MEMORIAL HOSPITAL
RUBY VALLEY HOSPITAL
SHERIDAN COUNTY HOSPITAL
SWEETGRASS COUNTY HOSPITAL
STILLWATER COMMUNITY HOSPITAL
TETON MEDICAL CENTER
WHEATLAND MEMORIAL HOSPITAL

EXHIBIT 4
DATE 7/14/92
HB #B 36

SUMMARY
Programs That Tax Medical Providers

STATE	PROGRAM	TAX RECEIPTS SFY 92 State funds	PARTICIPANTS	USE OF FUNDS
AL	Tax	$174 M	Hospitals; Nursing Facilities; Pharmacists	Pregnant women and infants up to 133% of poverty; OBRA 90 mandate for older children; on-going and new medical services costs; disproportionate share hospitals (DSH) payments
AR	Tax	$30 M	– 15% of state share All providers	OBRA 90 eligibility mandates; elimination of benefit limits
FL	Tax	$174 M	1.5% of net. op. revenues Hospitals, Ambulatory Surgical Centers; Clinical Laboratories; Diagnostic Imaging Centers	DSH payments; unlimited inpatient days for children; selected mandated and optional eligibility expansions
IL	Tax	~700 ~~$515~~ M helped balance budget	– 5% of medicaid revenues Hospitals; Nursing Facilities; DD Facilities; Community Mental Health and DD Service Providers	DSH payments; settlement of Boren lawsuit; increased institutional reimbursement
IN	Tax	$60 M	3-10% of total revenue Disproportionate Share Hospitals	DSH payments; administrative costs including outstationing eligibility workers
KY	Tax	$157 M	– up to 5% of operating costs Hospitals, Nursing Facilities, and Cost-Based Physicians, Dentists, Pharmacists, & Optometrists	Mandated eligibility expansions; DSH payments; reimbursement improvements for assessed providers; unanticipated program costs

STATE	PROGRAM	TAX RECEIPTS SFY 92 State funds	PARTICIPANTS	USE OF FUNDS
ME	Tax	$2 M	Hospitals	On-going medical services costs
ME	Tax	$83 M helped balance budget	Hospitals – 6% of total revenue	Hospital reimbursement and on-going medical services
MD	Tax	$142 M	Nursing Facilities, Physicians, Pharmacists, HMOs, Dentists, and Certain Nurses	Reduce Medicaid deficit and maintain current program
MN	Tax	$51 M	– 10% of medicaid revenue Hospitals, Nursing Facilities and Prepaid Health Plans recently switched to 2% of gross revenues	Increase reimbursement for nursing facilities, outpatient hospital services, physicians and dentists. Also avoid cuts in reimbursement for inpatient hospital services, inflation adjustments for various services, and service coverage such as chiropractors, community mental health services and case management for the seriously mentally ill
MS	Tax	$20 M	15% of state share All Providers	Increased professional reimbursement
MT	Tax	$1.5 M	Nursing Facilities	Increase nursing facility reimbursement rates
NV	Tax	$25 M	Hospitals and Other Providers Except Nursing Facilities	Hospital payments and on-going medical service costs
NH	Tax	$35 M – much larger now helped balance budget	Hospitals – 8% of gross receipts	DSH payments and on-going medical services costs
NJ	Tax	$8 M	Hospitals – 0.5% of revenues	Optional eligibility expansions

NJ also gets ~ $400m from a third party payer tax

[redacted]

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STATE	PROGRAM	TAX RECEIPTS SFY 92 State funds	PARTICIPANTS	USE OF FUNDS
NY	Tax also get ~ $300m from a third party payer tax	$200 M	0.6% of revenues All Health Care Providers Except Direct Care Individual Providers	On-going medical services costs; avoiding reductions in reimbursement
OH	Tax	$44 M	Hospitals - up to 5% of total costs	DSH payments; compensation to hospitals for indigent care
SC	Tax	$40 M	Hospitals and Nursing Facilities	Mandated and optional eligibility expansions; on-going medical services costs
TN	Tax	$344 M helped balance budget	Hospitals and Nursing Facilities	On-going medical service costs; OBRA 87 costs; minimum wage increases; program expansion to hospice care
VT	Tax	$7 M helped balance budget	1.8% of budgeted op. expenses Hospitals, Nursing Facilities	DSH payments; ongoing service costs
WA	Tax	$30 M	Hospitals - 10% of state share	DSH payments
WI	Tax	$16 M	Nursing Facilities	Increased reimbursement

TX has a large revenue program but calls it an intergovernmental transfer

MO recently converted their hospital donation program into a hospital tax - about $160m

PA + MI had large donation programs - likely will become tax programs
- both used to help balance budget

MA gets $500 m from hospitals - not sure exactly how it works
- balanced budget

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STATE	PROGRAM	TAX RECEIPTS SFY 92 State funds	PARTICIPANTS	USE OF FUNDS
NY	Tax	$200 M also est ~ $200m f...	0.6% of revenues All Health Care Providers Except Direct	On-going medical services costs; avoiding reductions in reimbursement

STATE	PROGRAM	TAX RECEIPTS SFY 92 State funds	PARTICIPANTS	USE OF FUNDS
ME	Tax	$2 M	Hospitals	On-going medical services costs
ME	Tax	$83 M helped balance budget	Hospitals ~6% of total revenue	Hospital reimbursement and on-going medical services
MD	Tax	$142 M	Nursing Facilities, Physicians, Pharmacists, HMOs, Dentists, and Certain Nurses	Reduce Medicaid deficit and maintain current program
MN	Tax	$51 M	~10% of medicaid revenue Hospitals, Nursing Facilities and Prepaid Health Plans recently switched to 2% of gross revenues	Increase reimbursement for nursing facilities, outpatient hospital services, physicians and dentists. Also avoid cuts in reimbursement for inpatient hospital services, inflation adjustments for various services, and service coverage such as chiropractors, community mental health services and case management for the seriously mentally ill
MS	Tax	$20 M	15% of state share All Providers	Increased professional reimbursement
MT	Tax	$1.5 M	Nursing Facilities	Increase nursing facility reimbursement rates
			Hospitals and Other	Hospital payments and on-going medical service costs

EXHIBIT 5
DATE 7/14/92
HB HB36

MHA MONTANA HOSPITAL ASSOCIATION
1720 NINTH AVENUE • PO BOX 5119
HELENA, MT 59604 • (406) 442-1911

Testimony by
James F. Ahrens, President
Montana Hospital Association

before the House Taxation Committee
July 14, 1992

Thank you for this opportunity to testify.

Montana's hospitals appreciate the financial difficulties facing the state. Hospitals would like nothing more than to support a plan that would restore health to the state's budget, and bring Medicaid payments closer to the cost of providing care.

But this plan isn't the way to achieve these goals. This plan is simply bad public policy. This plan is speculative. It offers an unreliable solution to a very real problem.

It is yet another one-shot, quick fix that just puts off finding a long-term solution to Montana's financial problems.

Moreover, this plan does nothing to solve the underlying funding problems facing Medicaid. The state will still pay hospitals at a reimbursement level below the cost of providing care, in continued violation of federal law.

Perhaps nothing illustrates the weaknesses of this plan more than the administration's ability to put together a sound and thorough piece of legislation.

By my count this is about the fourth version of a deficit reduction tax proposal we've seen. Each version of the bill has raised a new set of questions. Each time a new draft has been put forth, some erosion in the original concept has occurred.

This is what happens when proposals are drafted at the 11th hour, without adequate study, and without much thought about how they would actually be implemented.

For example, the reason the tax was lowered from 2 percent to 1 percent is that at the 2 percent level, SRS would have violated a federal standard governing the amount of provider taxes that can be used to support a state's Medicaid plan.

Another example of the flaws in this concept is that so far no one has spelled out how SRS will actually get that extra Medicaid funding to hospitals.

Finally, this proposal hinges on a federal waiver, a waiver that is not guaranteed. And if the waiver is rejected, the whole plan goes down.

There have also been questions about how the department would exempt nursing home revenue, about the assumptions used to figure all this out, about what revenue would be taxed, about where the money would go after July 1, 1993, about what this Health Care Planning Commission would do...and on and on.

Fourteen months ago all of us -- MHA, SRS, the budget office -- agreed on a process for addressing the funding problems facing hospitals. SRS agreed to conduct a study to determine the gap between Medicaid payments to hospitals and the cost of treating Medicaid patients.

Based on these results, SRS and the Budget Director promised to recommend an increase in Medicaid funding levels to bring payments in line with these costs.

This proposal is a significant -- and flawed -- change in that agreement.

To deal with the immediate budget crisis, the state needs a broad-based revenue-raising plan that is constructed within the current general tax structure. Such an approach would spread the burden of eliminating the budget deficit fairly.

For the long-term health of the state's economy, MHA advocates comprehensive tax reform that relies on broad-based sources of tax revenue.

Thank you.

EXHIBIT 6
DATE 7/14/92
HB 36

SAINT VINCENT HOSPITAL AND HEALTH CENTER
TESTIMONY OPPOSING HB 36
JULY 14, 1992

Saint Vincent Hospital and Health Center is a not-for-profit Montana corporation. Saint Vincent Hospital is a 302 bed tertiary hospital that provides care on a multi-state, regional basis. For the fiscal year ended May 31, 1992, the Hospital's staff of 1,614 employees cared for 12,000 inpatients and 100,000 outpatients. Saint Vincent Hospital is the largest Medicaid provider in the state. Sixty-five percent of the Hospital's services are provided to governmental, uninsured and self pay patients.

Saint Vincent Hospital and Health Center is opposed to HB 36 which imposes a one percent gross receipts tax on select Montana hospitals. The Hospital opposes this measures inasmuch as:

* The Hospital is paid only 56.7 percent of its charges for treating Medicaid patients by the State of Montana, which results in uncompensated care of $3,734,696 for Montana Medicaid patients (as of May 31, 1992). The proposed one percent tax will require that private insurance rates be increased approximately three percent, which may result in additional companies eliminating their health insurance benefits for employees. That in turn may impact the State's Medicaid costs.

* Per published reports, Saint Vincent Hospital is projected to be a "winner" in this scheme. However, the Hospital's tax of $1,034,809 would only be offset by additional Medicaid payments of $724,704, which produces a $310,105 shortfall.

  The staff at SRS has advised Saint Vincent Hospital that the SRS projections were based on statewide averages. They were not calculated on specific Medicaid patient cases nor on hospital specific information. Saint Vincent has done indepth financial modelling to make sure the impact of this ill conceived legislation is understood.

* The January, 1992, Legislative Special Session eliminated the proposed Medicaid payment increase for hospitals, which would have been the first one in three years. In effect, given the low level of payment from the State for Medicaid and the failure of the State to increase those rates, the Hospital has been significantly contributing to the State's deficit for at least three years.

* For the Fiscal Year just ended, the Hospital provided over $6 million in charity and uncompensated care to self-pay Montana patients. In many cases, the Hospital is providing care to patients, who might otherwise qualify for Medicaid, but refuse to deal with the Medicaid program. Therefore, the Hospital is already substantially subsidizing the State's

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"medical" program and needs.

* Many promises have been made in the four hastily developed drafts of this legislation. Not being well thought through, it might cause one to stop and consider whether the promises included in this legislation regarding rate increases will ever materialize. The 53rd Legislature will not necessarily be bound by the Special Session's commitments when it addresses potential state shortfalls next year.

* The proposed legislation exempts hospitals in counties with an "urban center" with less than 2,500 residents. It has never been made clear why. It has never been made clear what the rationale is. This will require a federal waiver. To date, waivers have required significant documentation and analysis. In short, the waiver process is rather time consuming. In addition, if the waiver is denied, where will this plan find itself - especially after hospitals have contributed significant net revenues to the State? According to the drafted legislation, the State will keep taxes collected to date.

In conclusion, Saint Vincent Hospital and Health Center asks that you stop this legislation in its tracks. The Hospital believes that this tax proposal was hastily conceived and developed, and thereof, remains fraught with inaccuracies and erroneous assumptions. HB 36 would represent an unfortunate precedent inasmuch as it sends the wrong message on health care costs to employers and individuals, especially at a time when the nation's focus is on rising health care costs.

Thank you.

EXHIBIT 7
DATE 7/14/92
HB 36

St. James Community Hospital, Inc.

ST. JAMES COMMUNITY HOSPITAL'S PERSPECTIVE ON ONE PERCENT (1%) TAX
July 14, 1992

This letter will explain St. James Community Hospital's perspective on the proposed one percent (1%) Hospital tax being considered by the special session. This letter is an update of our perspective from my initial letter dated July 2, 1992, based upon more recent data on the proposed legislation.

1 St. James Community Hospital is a Catholic non-profit sole-community Hospital which we feel has a very strong record of support for the community.

This letter will show the financial effects using our preliminary actual financial data from our most recent completed fiscal year which is May 31, 1992.

2 During Fiscal Year 1992, we provided $2.15 million of uncompensated care which was broken down as follows:

$ .9 million in charity care
$1.25 million in bad debt.

We also provided other services to the community such as providing free meeting space for community non-profit groups, providing educational workshops and financial support to non-profit agencies and civic development groups, coordinating food drives, and many other benefits too numerous to list.

3 The majority of our bad debt expense (70%) comes from admissions and registrations of patients in our emergency room which is a first class service provided to the community and regional area.

Our actual Gross Receipts (Net Inpatient Revenue, other Operating and Non-operating Revenue) for FY 1992 was $37,500,000. With this proposed 1% tax we would be required to pay to the State $375,000 - $420,000 in taxes for the full Fiscal Year 1993.

P.O. Box 3300 400 South Clark Street Butte, Montana 59702 (406) 782-8361

4 For the eight month period November 1, 1992 to June 30, 1993, we estimate approximately $250,000 - $280,000 in taxes will be due the State if this legislation is approved.

Also during the last fiscal year, we provided care to our Medicare, Montana Medicaid, and Montana Workers Compensation patients at rates at or below our operating costs. We had $11,600,000 in contractual allowances to these programs.

5 During the last fiscal year due to contractual allowances, charity and bad debt we had 28% of our gross charges as "fictitious" revenues.

6 Every year this situation gets worse with reduced funding from these programs which cause us to have to increase our rates above normal inflation rates in order to generate the dollars we need from our bottom line to continue to provide a quality facility for Butte and Southwest Montana.

The bill as written is extremely vague as to the increases in funding we are to receive

At St. James Community Hospital, we target approximately 5% of our net patient revenues (Gross Revenue less contractual allowances and charity) as a target net income from operations in order to repair and renovate our physical plant, purchase and upgrade equipment necessary to provide services, and to invest in potential new services which are needed by the community.

7 ~~We will continue to need these funds.~~ Any taxes we have to pay will need to be passed along to the patients. We will have to raise our rates anywhere from 1.0% to 3.3% in order to cover the State tax. This is pending whether we actually receive the full 15% increase in Medicare rates as being discussed~~, which as I will explain later, we feel is highly unlikely~~.

Our current financial class distribution of patients is as follows with our projection of how the tax will affect these groups.

<u>Medicare Patients</u> (elderly retired people on fixed incomes).

Total Percentage - 48% of Patient Revenue

The latest determination from our Medicare Intermediary is that the tax will be an allowable cost for purposes of Medicare. Also, because of the inpatient DRG prospective payment system, which is based on National rates and due to set fees for the majority of outpatient ancillary services, we will not receive any major amount of "cost reimbursement" from Medicare for this additional expense we will incur if passed.

Medicaid and State Medical Population (indigent population without any resources).

Total Percentage - 11% of Patient Revenue

Obviously this tax would not be able to be collected and would cause us to have to increase our rates to cover this tax.

Per the proposed plan, the State is projecting that we will receive a 15% increase across the board in rates, effective November 1, 1992, with the projected implementation. However, we feel there are inconsistencies in the narrative of the legislation.

1) The narrative states that the first six months of receipts will go into the general fund to reduce the budget shortfall. We will not receive the increases in State Medicaid funding as their schedule shows. We feel the schedules for the first eight months are erroneous and misrepresenting actual effects of the proposed plan.

2) We are hearing that the State might transfer the State Medical plan back to the counties which have this special funding with three mils of the levy. We have no way of knowing how the County will handle this levy if it is passed. They do not have a mechanism in place to administer, and potentially could use it for other purposes.

3) The State Medicaid program is funded through three parts which are inpatient, outpatient and capital allocations. Outpatient and capital are cost based and potentially not able to be increased. If we get a 15% increase in inpatient DRG rates, we will not receive a 15% increase overall.

4) The narrative states that the rates will be rebased, effective July 1, 1993. How will we get an increase November 1, 1992, if they are not adjusting the rates earlier.

5) There are no guarantees that the 53rd Legislature will approve the proposed rebasing of rates even if the tax is implemented. How much of previous monies from the general fund will be directed away from Medicaid funding because we have this additional tax?

6) The State is discussing closing the State Facility at Galen/Warm Springs which we feel would be a major burden on Silver Bow County and St. James Community Hospital. This would eliminate many jobs which would decrease tax revenues for the county. It would increase the number of potential

State Medical patients seeking psychiatric care without the ability to pay or to be covered under the State Medical program. This would happen at the same time the State Medical funding is proposed to go back to the counties at a lesser rate level than the current funding level for this program, and with the County having no system to administer the State Medical program as it currently exists, and with the county having greater flexibility and latitude to spend the monies for other purposes. This will have a very negative impact on St. James Community Hospital to generate income levels we need to continue to improve our facility and services.

Workers Compensation Patients

Total Percentage - 4% of Patient Revenue

Rates under this program have been frozen over the last four years. We will not be able to tax these patients. This is another financial class that will cause us to increase our rates to cover the taxes we can not collect from these patients.

Self Pay Patients (patients who work but do not have insurance and working poor not covered under State programs).

Total Percentage - 7% of Patient Revenue

This is the financial class which generated our uncompensated care (Charity and Bad Debts) of approximately 5% of our Gross Revenues. The large majority of the tax on these patients will be uncollectible and require us to raise our rates to cover the tax which will be uncollectible.

Blue Cross/Commercial Insurance

Total Percentage - 30% of Patient Revenue

This is the group of patients and third party payors who will primarily cover the proposed tax burden. In order to generate the tax dollars from this group if we do not see the Medicaid dollars come back to us as discussed in the proposal, we will need to raise our rates 2.6% to cover the 1% tax.

In Summary

We feel this is not a well conceived tax for the following reasons:

1) Why tax a group that provides the service in order to give us back the money. We are not responsible for the decision and lifestyles of people who wish to use our facility. Tax the products which can cause poor health, not the industry correcting the problems of patients.

2) The tax is primarily implemented to cover existing budget shortfalls. Why implement a tax that will provide for additional outlays.

3) The amount of proposed additional Medicaid funding is very tentative at best, and we highly doubt we will receive the monies as illustrated in the analysis presented for the first eight months, let alone the monies not approved yet for future years.

4) We feel the State Medicaid monies should be funded from the general fund from some other sort of tax. Strong consideration should be given to a tax on alcohol and tobacco products which are responsible for a large percentage of hospital utilization. The persons using these products should realize that they are responsible for their health decisions which cause poor health or major hospital stays due to accidents.

5) We already pay hidden taxes through current under-funding of the Medicare, Medicaid and Workers Compensation programs.

6) This is a State and local community problem related to utilization of healthcare services of which we are just one member of the community. We feel we are already providing more than our fair share through the uncompensated services we provide which totaled \$2.15 million or 5% of our net patient revenues in Fiscal Year 1992. Why should we be singled out to provide funding for ourselves. The net effect of this plan at its best is to provide funding back to us equal to the tax. At its worst, we would be taxed and not provided with additional funding which will further increase the cost of healthcare through increased rates to a very small percentage of third party payors who can pay.

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7) The State of Montana's logic is to increase State funds for healthcare to get matching Federal funds at a ratio of 2.5 to 1. The Federal government is looking for ways to reduce its healthcare expenditures when the Medicare program is currently not covering our cost to provide the services. How much longer will the Federal government provide this level of matching. If their level of matching is reduced, then the next step is to raise the tax on us even above the 1% level with still fewer third party payors able to cover our cost of the tax.

8) This legislation will amount to a net income tax of approximately 16 - 20% which is a very hefty tax for a non-profit community hospital already providing a tremendous amount of free care and community benefits.

If you have any questions, please contact Tom McFarland, Vice President, Fiscal Services at 782-8361, extension 1810.

TJM/lh

Thomas McFarland

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EXHIBIT 8
DATE 7/14/92
HB 36

MONTANA ASSOCIATED PHYSICIANS, INC.
TESTIMONY IN OPPOSITION TO HB 36
JULY 14, 1992

Montana Associated Physicians, Inc. represents 108 physicians, 35 practice sites and over 450 nonphysician employees. To date it has been a struggle at times to recruit physicians to Billings to serve the health care needs of Montanans, as well as to attract out of state people to the Billings market for health care services. Despite the struggle, Billings has been able to recruit physicians to replace retiring physicians and fill specialty/practice vacancies within physician ranks. This ability has been a significant contributor to the Yellowstone County economy.

Montana Associated Physicians, Inc. is opposed to HB 36 which imposes a one percent gross receipts tax on Montana hospitals. Minnesota recently implemented similar legislation which is causing Minnesota physicians to look for new states in which to practice. With the spectre of the tax, it will be even more difficult to attract physicians to Montana. Given the high property and income taxes that already plagued recruitment, the addition of provider taxes such as are proposed by HB 36, it will not only discourage physician recruitment for the State of Montana, but, moreover, may force Montana physicians to locate in states that are not nearly so "taxing".

MAPI also opposes HB 36 because:

1. From all appearances, it has been hastily developed without adequate analysis as to financial impact.

2. The drafters of this legislation have not considered the current level of uncompensated and charity care administered to Montanans by health providers.

3. It seems to be a desperate attempt to meet a state deficit that would be better dealt with by redesigning the State's tax structure and evaluating current state expenditures.

4. As we insightfully noted at Representative Bradley's hearing last week, the next Legislature could well ignore how the tax proceeds were to be distributed. Circumstances might prevent the State from honoring the promises of HB 36.

Montana Associated Physicians, Inc. respectfully requests that this committee reject HB 36. It will discourage physicians from locating in Montana because Montana's tax and economic environments will seem significantly unstable. Physicians with hundreds of thousands of dollars in school debts, could not risk that on Montana. Given the rural nature of Montana, let's not make recruiting any more difficult that it already is.

Thank you.

[signature]

EXHIBIT 9
DATE 7/14/92
HB 34

COMMENTS IN OPPOSITION TO HOUSE BILL 34

House Bill 34, introduced by Representative Sheila Rice and others, proposes to increase the tax on cigarettes by seven cents a package from 18 cents per package to 25 cents per package, a 32 percent increase and the tax on other tobacco products (pipe tobacco, cigars, chewing tobacco, et al) from 12½ percent of the wholesale price to 17½ percent of the wholesale price, a 40 percent increase. The bill would change the distribution of the monies collected from the cigarette and other tobacco products tax so that lesser percentages of the tax monies collected would be distributed to the Long-Range Building Program Fund and the Capital Projects Fund and would distribute 28 percent of the tax monies collected to a state special revenue fund to be appropriated for "health care purposes". The proposed legislation would not only cause economic hardship to consumers of tobacco products, as well as to those who distribute them, but would accelerate the decline in revenues from the tax on tobacco products, which has been occurring over the last ten years. Since the Long-Range Building Program Fund, set up to retire bonds issued to fund the construction of state buildings, relies upon tobacco tax collections for the source of its monies any action which endangers the capability of continued reliance on such tax collections for the source of its monies would be most detrimental to the building program.

We respectfully request that you consider the following comments with regard to the effect of HB 34.

The Cigarette Sales Tax and the Tax on Tobacco Products are a Rapidly-Diminishing Revenue Source

Sales of cigarettes in Montana peaked in 1982 when tax-paid cigarette sales in that year totaled 97.1 million packs. Since then, tax-paid sales of cigarettes have dropped to 66 million packs in 1991--a 32 percent decrease. This drop has occurred over a nine-year period, during which the federal tax was doubled from 8¢ to 16¢ per package in 1983 and the state tax was increased in two increments (in 1983 and then again in 1989) from 12¢ to 18¢ per pack. The U.S. Congress in 1990 again increased the federal cigarette tax by 4¢ a package, effective January of 1991, and another 4¢ a package, effective January of 1993, which places the ultimate level of the federal tax at 24¢ per package. The combined effect of these additional federal and state taxes has been a 210 percent increase. Thus, the combination of the present state tax of 18¢ per pack and the ultimate federal tax of 24¢ per pack will result in a total tax collection of 42¢ per package on cigarettes purchased in Montana.

The graph attached to these comments dramatizes this drop in cigarette sales. The drop has been continuous from 1982 through 1991. We believe it has been accelerated by the increases in the sales taxes on cigarettes--the federal tax doubling in 1983 and the Montana tax being increased in 1983 and 1989, with the federal tax again being increased commencing on January 1, 1991. The 1983 federal tax increase was a 100 percent increase. The additional federal tax increase passed in 1990, coupled with the 1983 tax increase constitute a 200 percent increase on that tax since 1982. The Montana tax has been increased by 33 1/3 percent since 1982.

HB 34 seeks to increase the state cigarette sales tax from 18¢ to 25¢ per pack--a 7¢ per package increase. This would amount to another 32 percent increase in Montana's tax.

Any increase in this selective sales tax will further accelerate decreases of taxed sales of cigarettes. This, in turn, will result in substantial reductions in the tax revenues, which are allocated toward the payment of obligations incurred by the Long-Range Building Program.

This forecast of additional decreases of taxed sales of cigarettes is supported not only by Montana's tax statistics on collections of tobacco taxes over the past ten years, but also by experiences in neighboring states. In 1989 Wyoming increased its cigarette tax from 8¢ to 12¢ per package. Wyoming has experienced a 10 percent reduction in taxed sales since that time. Idaho increased its cigarette tax to 18¢ a package in 1987 and has experienced an 11.6 percent decline in tax-paid cigarette sales.

<u>Present Revenues from Sales Taxes on Cigarettes and Other Products are Dedicated to the Long-Range Building Program Fund</u>

Presently, all monies collected from the cigarette and other tobacco products taxes are deposited in the Long-Range Building Program Fund. Approximately 70 percent of the money is then allocated for debt service, and approximately 30 percent of the funds are allocated to the Capital Projects Fund. Essentially, the collections go for debt reduction and maintenance costs, all associated with the Long-Range Building Program.

In 1989, the cigarette tax was increased by 2¢ per package to provide funds for the construction of a veterans nursing home to be located in Glendive. Although attempts have been made to raid this fund, it generally has been preserved. As we understand it, the project shortly will commence and the veteran's home will be constructed. There has been a delay in the construction program and we understand that the construction cost will be affected by inflation et al., thus probably resulting in a requirement of more funds for this project. Certainly nothing should be done by the Legislature to divert or lessen this funding and endanger that program.

HB 34 apparently seeks to preserve the amounts of revenue now going into the Long-Range Building Program Fund by allocating what apparently purports to be a sufficient percentage of the proposed collections to maintain a sufficient level of payments to that account. The amount going to that account, however, will be reduced by the amount of reduction in taxed sales of tobacco products that will be experienced because of the tax increases. During the 1991 regular session of the legislature, fiscal notes were prepared that estimated collections under the present levels of collection of cigarette taxes for fiscal year 1994 to be $8,644,129.00 for the debt service account and $3,212,871.00 for the Capital Project Fund. This amount totals $11,857,000, which is within $31,000 of being the amount collected in calendar year 1991 which was $11,888,000. We know from past history that these collections will decrease substantially year by year and it does not appear now that the estimate in that fiscal note for collections in calendar year 1994 will be borne out. Further increasing the tax as proposed in HB 34 will exacerbate the problem.

As you can see by the chart attached to these comments, cigarette tax increases have been followed by reductions in taxed sales. This phenomena, as we have previously noted, has not only been experienced in Montana but also elsewhere. In California, for instance, during the first year after its sales tax on cigarettes was increased on January 1, 1989, from 10¢ to 35¢ per package, taxed sales of cigarettes plunged by a significant 13.8 percent. Montana's experience has been similar. Taxed sales in Montana in 1988 totaled 72.5 million packs. The 2¢ increase followed in 1989, and in 1991, taxed sales had been reduced by 9 percent to 66.0 million packages. Continual reductions of this nature can severely reduce the amount of monies available for debt service and for the Capital Projects Fund in the Long-Range Building Program.

One of the reasons for the decrease in taxed sales of cigarettes that is experienced in Montana and the fact that these decreases seem to be even greater than those experienced in some other states is the ability of Montana purchasers to obtain untaxed cigarettes on Indian reservations and at federal facilities. Montana citizens can also obtain cigarettes in Wyoming and Idaho where the tax rate would be less (Wyoming's tax rate is 12¢ per package, and Idaho's is 18¢ per package). With regard to sales of cigarettes on Indian reservations, according to a 1985 study by the Advisory Council on Intergovernmental Relations, tax-exempt sales on Montana's Indian reservations represented 17.4 percent of all cigarette sales in the state--tops in the nation for that year. We believe that such sales have increased over time. One reason for keeping our cigarette taxes at present levels is to compete as successfully as possible with these untaxed sales.

Clearly, revenues dedicated to the Long-Range Building Program would be substantially reduced because of the tax increases proposed in HB 34.

Montanans do not Favor Excise Taxes or Their Increase

We all know that Montanans do not favor tax increases. We know that Montanans do not favor selective sales taxes. We know that Montanans do not favor increases in selective sales taxes.

The most recent opportunity that Montanans have had to demonstrate their dislike of selective sales tax increases was in the last general election. Initiative 115, which sought to impose a tax increase on cigarettes, as well as other tobacco products, was defeated by 59 percent of the Montana electorate. Voters in 54 of Montana's 56 counties voted it down. A map showing the counties in which the tax was defeated is attached to this statement.

The purpose to be accomplished by the bill may appear to be laudatory. Yet the bill is destructive of the principal purpose for collection of cigarette tax revenues--payment of the Long Range Building Fund's long-term debt, as well as building maintenance costs. In fact, as the collections are reduced because of the tax increase, the amount available from year to year for diversion into the special fund set up under the bill's provisions will dwindle away.

We submit that the legislature should be very careful in tinkering with the cigarette tax. As we have said before in these comments, cigarettes are a rapidly-declining source of tax revenues. If tax collections from this source become insufficient to meet the money requirements of the Long-Range Building Program Fund, then monies will have to be appropriated for this purpose from the General Fund, which, in turn, will require revenues from other sources.

The Cigarette Sales Tax is Discriminatory

Supporters of HB 34 are principally interested in the bill because of its provision that monies be set aside to be deposited in some sort of fund for health care programs. In this regard, the bill sets aside a segment of Montana's population for special treatment--the payment of a discriminatory sales tax for a special purpose which really is a state-wide obligation.

There is no logical basis for selecting a third of Montana's adult population and requiring them to ante up money for an obligation that is really the obligation of all of the tax payers of this state.

House Bill 34 Contains Similarities to Initiative 115 Which the Voters of Montana Soundly Rejected In the 1990 General Election

Initiative 115 provided that the increased revenues called for in that measure would be set aside and deposited in a tobacco education and preventive health care fund. HB 34 provides that the increased revenues called for in this bill would be set aside and deposited in "the state special revenue fund to be appropriate for health care purposes", whatever that is. Thus there is some similarity in the purposes of the two measures.

While HB 34 does not seek to impose as large a tax increase as that contained in I-115 the proposal in HB 34 constitutes a 32 percent increase in the selective sales tax. The purpose of the tax or the use to which the additional revenues are to be put in HB 34 is somewhat similar to the same provisions as contained in I-115. If anything, however, the description of the use of the funds sought in HB 34 is even more vague then those set forth in I-115.

As we prepare these comments, there has not yet been a fiscal note issued on HB 34. We do know, however, that each penny of cigarette tax generated $660,444.44 of tax collections during 1991. Multiplying that figure by the 7¢ per pack increase sought in HB 34 indicates that the resulting revenue to be set aside in the "State Special Revenue Fund to be Appropriated for Health Care Purposes" could amount to as much $4,623,111.08. That constitutes a sizeable amount of tax money. HB 34 does not specify with particularity how the funds in the new account are to be used nor whether the money will be expended through an existing state agency or whether a new agency will be established. It seems clear, however, that the development of a $4,600,000.00 slush fund, without any restriction as to its use except that it should be used for health care purposes can clearly result in the establishment of new bureaucracy associated with the use and distribution of the funds. The legislature is in the process of trying to reduce the size of state bureaucracy rather than to increase it. This bill would only, seemingly, result in an undesirable increase. Montanans have defeated a proposition in the last general election which would have resulted in the establishment of new bureaucracy. This legislature, in Regular Session in 1991, rejected similar legislation as contained in Senate Bill 353 in that Session. The people of this state don't want any more bureaucracy. HB 34 should not be approved.

We believe that the legislature and the people in Montana recognize that legislation such as HB 34 is totally destructive of the principal purposes of the collection of the tax revenues on tobacco products--payment of the building program's long-term debt and payment of maintenance cost engendered under that program.

<u>Summary</u>

1. Montanans have rejected an increase in the selective sales taxes on cigarettes and other tobacco products in the past election.

2. The proposed tax increase would reduce the revenues now available to the Long-Range Building Program Fund.

3. The tax is self-defeating--the tax increase would cause reductions in taxed sales and thus in revenues.

4. The cigarette tax is a selective sales tax, and an increase in this tax would simply exacerbate its discriminatory and regressive nature.

Jerome Anderson
Representing The Tobacco Institute

Mark Staples
Representing Montana Association of Tobacco and Candy Distributors

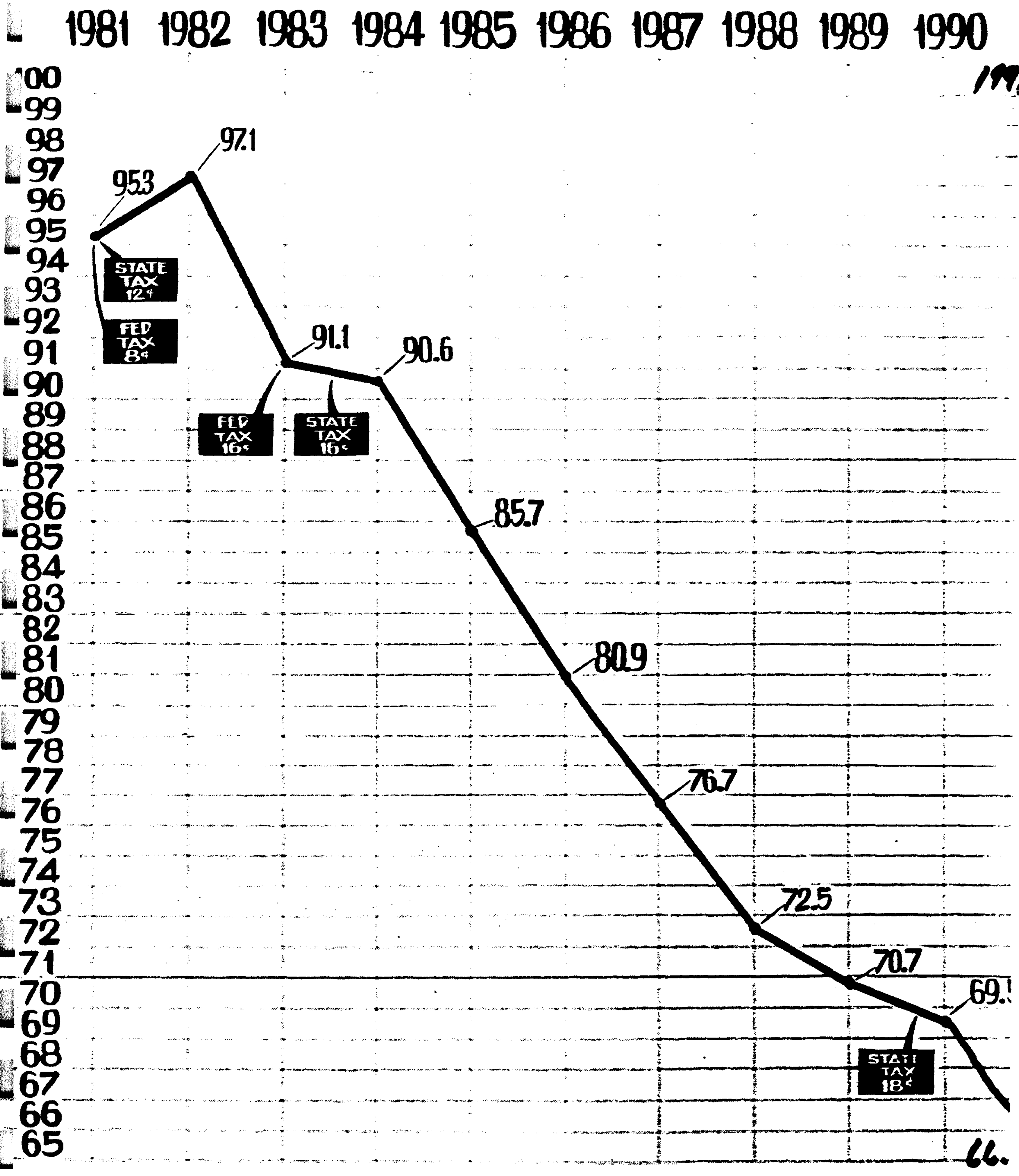
John Delano
Representing Phillip Morris Ltd.

Roger Tippy
Representing R.J. Reynolds Tobacco Co.

Gene Phillips
Representing The Smokeless Tobacco Council

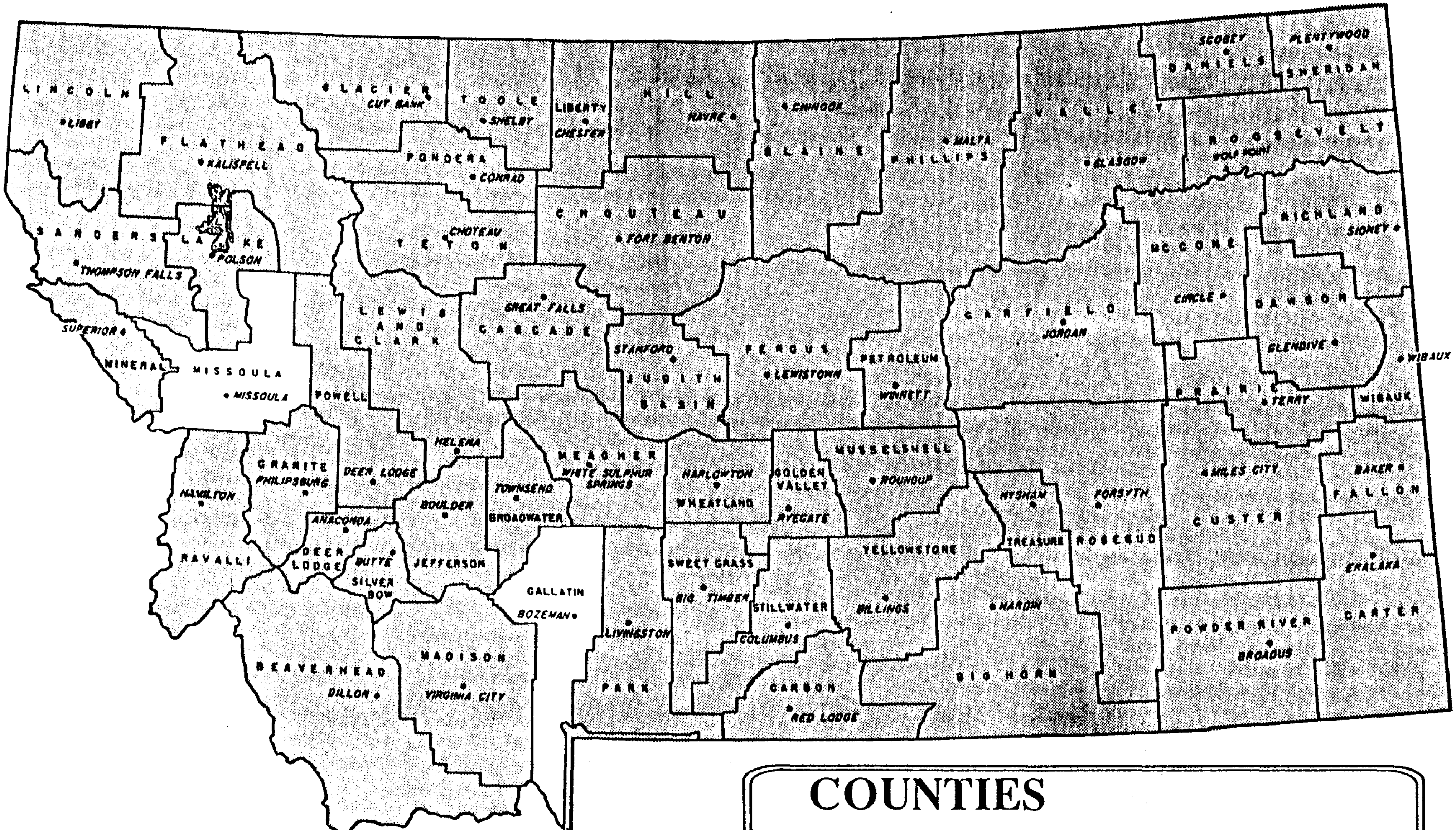
Ex. # 9 HB 34
7/14/92

CIGARETTE SALES IN MILLIONS OF PACKS 1981-1990



Ex. # 9 HB 34
7/14/92

COUNTIES VOTING AGAINST INITIATIVE 115



COUNTIES

- VOTING AGAINST 187,948 VOTES -- 59%
- VOTING FOR 130,221 VOTES 41%

HOUSE TAXATION

EXHIBIT 10
DATE 2/14/92
HB 34

TESTIMONY OF DEAN WOODRING, MANAGER
S.D.I. WHOLESALERS, INC. - HELENA
BEFORE THE HOUSE TAXATION COMMITTEE
JULY 14, 1992
OPPOSING HOUSE BILL 34

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE. MY NAME IS DEAN WOODRING. I AM THE MANAGER OF S.D.I. WHOLESALERS, INC. OF HELENA, MONTANA.

I FEEL ANOTHER 7 CENT TAX ON THE ALREADY HEAVILY TAXED CIGARETTES AND A 4.75% TAX INCREASE ON TOBACCO PRODUCTS WILL DECREASE SALES AND THEREFORE THREATEN THE LIVELIHOOD OF ALL INVOLVED IN TOBACCO SALES.

ALSO, IT IS MY OPINION THAT FUNDING FOR HEALTH CARE SERVICES SHOULD BE SHARED BY ALL TAXPAYERS - NOT JUST A SELECT FEW.

PLEASE CONSIDER VOTING "NO" ON HOUSE BILL 34. THANK YOU.

FIGURE 2

JULY 1992

COAL SEVERANCE TAX TRUST FUND FLOW OF FUNDS SUMMARY

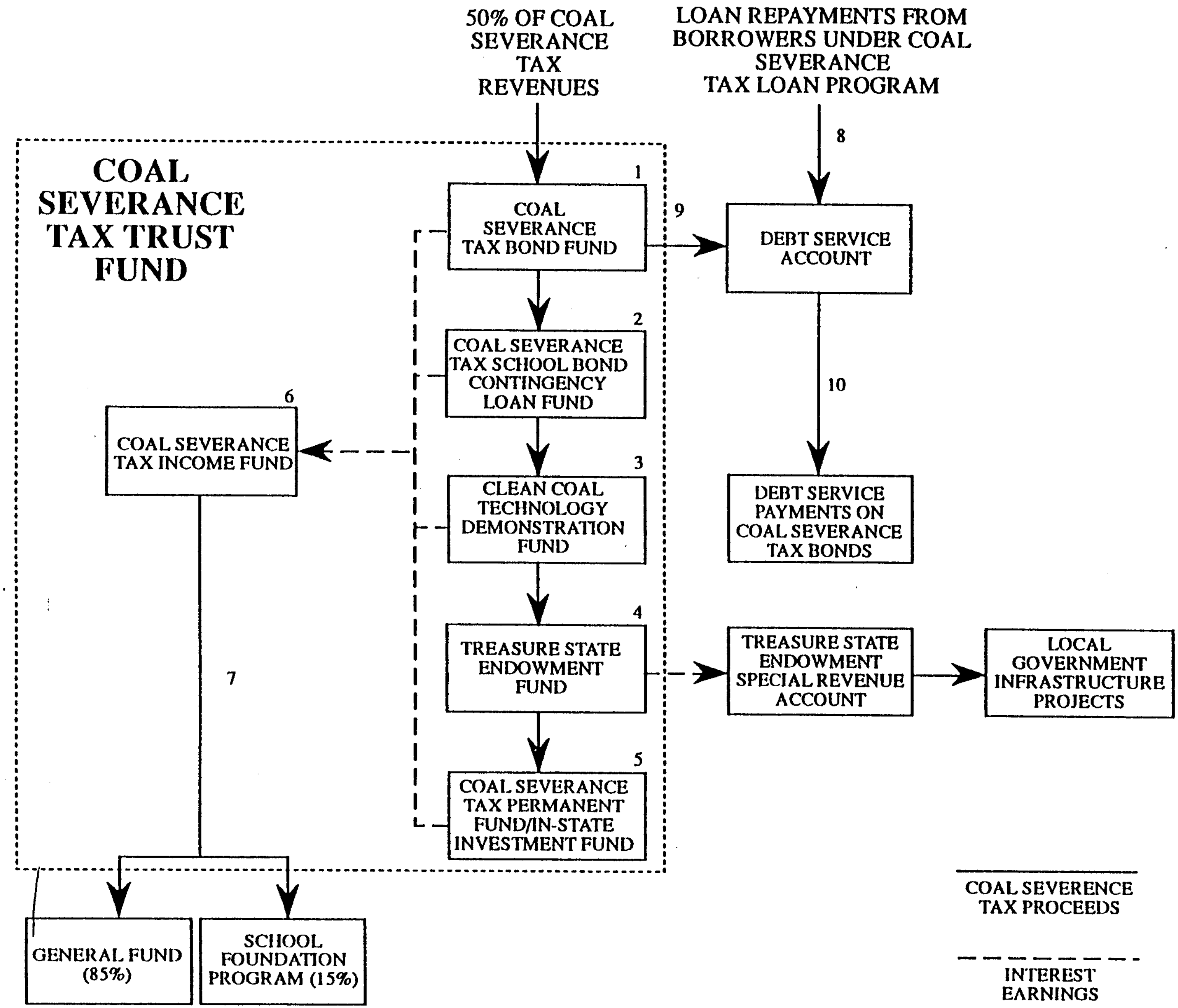


EXHIBIT 11
DATE 7/14/92
HB 38 & 39

7/14/92
HB 38 & 39

(1) Within 30 days of the end of each calendar quarter, coal severance taxes are paid to the state, 50 percent of which are deposited in the **Coal Severance Tax Trust Fund** (the **Trust**). Six accounts are established within the **Trust**: 1)the **Coal Severance Tax Bond Fund**, 2) the **School Bond Contingency Loan Fund**, the **Clean Coal Technology Demonstration Fund**, 4) the **Treasure State Endowment Fund**, 5) the **Coal Severance Tax Permanent Fund** (within which is established the **In-state Investment Fund**), and 6) the **Coal Severance Tax Income Fund**.

Coal tax revenues which flow in to the **Trust** are initially deposited in the **Bond Fund** and made available for payment of debt service on the Coal Severance Tax Bonds (see footnotes 8, 9, and 10). All amounts in excess of the amount needed to secure outstanding Coal Severance Tax Bonds for the next two ensuing semiannual payments shall be transferred to the **Coal Severance Tax School Bond Contingency Loan Fund**.

(2) The January 1992 Special Legislative Session passed an Act creating the **Coal Severance Tax School Bond Contingency Loan Fund**. A total of $25 million of School Bonds were authorized to be issued and secured by this fund. For as long as there are any outstanding school district bonds secured by the **Contingency Loan Fund**, an amount equal to the next 12 months of principal and interest payments due on any School Bonds will be retained in the **Contingency Loan Fund**. Any amounts in excess of the balance needed to secure outstanding School Bonds, shall be transferred to the **Clean Coal Technology Demonstration Fund**.

(3) The 1991 Legislature passed an Act creating the **Clean Coal Technology Demonstration Fund**. On July 1, 1991, $25 million was transferred into the **Demonstration Fund**. From July 1, 1991 through June 30, 1997, a maximum of $5 million per year will be transferred into the **Demonstration Fund** from the **Contingency Loan Fund**. In total a maximum of $55 million will be deposited in the **Demonstration Fund**. Any amounts in excess of the $5 million retained in the **Demonstration Fund** will be transferred to the **Treasure State Endowment Fund**.

(4) The **Treasure State Endowment Fund** was established when voters approved the measure on the June 2, 1992 ballot. All funds in excess of what is retained in the **Bond Fund**, the **Contingency Loan Fund**, and the **Demonstration Fund** will be deposited in the **Endowment Fund**. Annually, interest earnings required to meet the obligations of the state under this program are transferred to the **Treasure State Endowment Special Revenue Account**. Interest earnings not transferred to the **Revenue Account** are to be retained in the **Endowment Fund**. From time to time 50 percent of the principal transferred into the **Endowment Fund** will be transferred to the **Permanent Fund**.

(5) Twenty-five percent of the receipts to the **Coal Severance Tax Permanent Fund** are segregated into the In-state Investment Fund. As the name indicates, the purpose of this sub-fund is making investments in Montana.

7/17/92
HB 38 & 39

(6) Investment income on the monies in the **Bond Fund**, the **Contingency Loan Fund**, the **Demonstration Fund**, and the **Permanent Fund** are periodically transferred to the **Income Fund**. The only exception to this is the **Endowment Fund** where any interest earnings are either transferred to the **Revenue Account** or retained in the **Endowment Fund**.

(7) Eighty-Five percent of the balance in the **Income Fund** is transferred to the state's **General Fund**; the remaining 15 percent is transferred to the state's **School Foundation Program**.

(8) Under the Coal Severance Tax Loan Program, the state sells coal severance tax bonds and loans the proceeds to local government entities for various water projects. The borrowers make semiannual loan payments, which upon receipt are credited to a **Debt Service Account**. The terms of the loans vary, but generally involve an interest rate subsidy for the first five years of the loan followed by a direct pass-through of interest rate on the Bonds for the remaining life of the loan.

The Act creating the **Endowment Fund** also expanded the loan authority from strictly water projects and now includes all local government infrastructure projects approved under this Act.

(9) Debt service payments on the Bonds are due each June 1 and December 1. To the extent funds on hand in the **Debt Service Account** from loan repayments are insufficient to pay principal and interest on the Bonds when due, funds are transferred to the **Debt Service Account** from the **Bond Fund**.

(10) On each June 1 and December 1, the state pays debt service on the Bonds from amounts on hand in the **Debt Service Account**.

Big Sky Dividend

If the Constitutional Amendment creating the **Big Sky Dividend Fund** is placed on the November 1992 ballot and is approved by the voters, a seventh fund will be created. From July 1, 1993, through June 30, 2003, collections of the severance tax deposited in the trust fund and not obligated to the payment or security of debt payable from the trust fund and not obligated for deposited in other funds established prior to January 1, 1992, shall be held in the **Big Sky Dividend Fund**. Based on these conditions, the only fund that would be affected is the **Endowment Fund**.

DATE 7/14/93
HB 45

Mr. Chairman + Committee Members

My name is Shirley Nelson with Michels Realty from Plentywood.

I am opposed to house bill #45
It imposes a 1% tax to the buyer.
On a $50,000 house a buyer would have to come with $500 extra

I live in an area where financing is hard to get, if they go conventional the banks require 50 - 60% down because of the other bad loans. ~~FHA buyers would~~

Also against this because ag land is not exem

This tax goes into the general fund

~~[illegible]~~ This tax will discourage out of state buyers. We need to entice buyers - not discourage them

Thank You

Page 23

EXHIBIT 13
DATE 7/14/93
HB HB 48

He recommended that legislation clarify the Department of Transportation's responsibility for distributing revenue that is based on the domicile of each motor vehicle (61-3-325, MCA). He also recommended that both 20-9-331, MCA, and 20-9-333, MCA, be amended to exempt motor vehicles subject to taxation under 15-24-101, MCA.

Mr. Morris said that there was a conflict between 15-24-102, MCA, and 15-6-138 (f). In 1989, the property tax rate was reduced from 16 percent to 9 percent. The tax rate (15-24-102) is still 16 percent for proportionately registered vehicles. He suggested the tax rate in 15-24-102 be made consistent with 15-6-138.

Sen. Towe asked that Jeff Martin request comments from the Legislative Auditors Office concerning the recommended changes made by Mr. Morris. If the changes are needed, a bill should be drafted to make the changes.

REPORT FROM THE DEPARTMENT OF REVENUE ON THE REBIDDING FOR LIQUOR STORE LEASES

Denis Adams, Director, Department of Revenue (DOR) said the Montana Procurement Act was enacted in 1983. The purpose of the Act is to simplify, clarify, and modernize the laws governing procurement by the state and permit the continued development of procurement policies and practices; make as consistent as possible procurement among the various jurisdictions; provide for increased public confidence in the procedures followed by procurement; insure fair and equitable treatment of all persons who deal with the procurement systems of the state; foster effective broad-based competition for the free enterprise system; and provide safeguards of quality and integrity for the maintenance of the procurement systems. The Montana Procurement Act is applicable to all state agencies except that portion which deals with construction contracts.

The Department of Administration (DOA) is charged with adopting the rules for administering the Act. The DOA sets guidelines for all types of procurement. To ensure that the DOR followed those guidelines, the Department developed rules that deal with commission bids and the bidding of non-priced, non-dollar criteria. Agency stores located in communities above 3,000 in population must bid on a commission basis. Agency stores in communities with less than 3,000 in population receive a 10 percent commission as required by law.

Mr. Adams said that by December 1992, 26 building leases and 72 agency contracts will be rebid. Three stores will be converted from state operated stores to agency stores. Eventually, all the main agency contracts will be rebid. He referred to 18-4-313, MCA, "(Contracts--terms, extensions, and time limits) Unless otherwise provided by law, no contract, lease, or rental agreement for supplies or services may be made for a longer period than 3 years; however, the department may contract for the lease or purchase of telecommunications equipment and systems, data processing equipment, and the department of social and rehabilitation services medicaid management information system (MMIS) for a period not to exceed 10 years". These are the only exemptions from the Montana Procurement Act.

DOR is rebidding the leases of agency contracts for two reasons. First, periodic solicitation of bids and proposals from anyone who may be interested in providing space for agency services allows the state to obtain the best space and service it can for the money. Second, periodic solicitation gives new people the opportunity to do business with the state instead of limiting the opportunity to the same people. It fosters effective broad-based competition within the free enterprise system.

Mr. Adams said circumstances have changed since the DOR last solicited bids and requests for proposals (RFP) for agency stores. Existing contracts no longer conform to these changes. The following are some of those changes:

Agencies used to be bonded by the state's insurance carrier for theft of product and cash. This is no longer the case. The state can no longer obtain bond coverage for agency outlets because insurance carriers in Montana refuse to provide this coverage. Bonding requirements will be changed for agents.

These are the first contracts issued since the 1990 census. There are a number of communities in the state which have either gone above or below the 3,000 population threshold. This requires adjustments to commission levels and other criteria.

Another change deals with inventory management. The agent is required to better manage the inventory levels. The DOR looks at maintaining a 6-week supply of inventory.

Space requirements change because of inventory and sales levels. In some cases more space is needed, in others, less space. Some bidders that could not bid previously because of the higher space requirement, are now able to bid.

The last change has been in liquor liability insurance. Liquor liability is excluded unless it is specifically added to an agency's policy . The Tort Claims Division of the DOA said that there was a definite risk to the state without the coverage. There is no insurance company that the state does business with that will issue a liquor liability policy.

In conclusion, Mr. Adams said that another issue involves whether DOR can give preference to existing agents. The provisions of Title 18 are very specific as to who is entitled to preference.

Gary Blewett, Administrator, Liquor Division, Department of Revenue, gave a report on the status of the current bids. He said that DOR advertises for bids and RFP's in 37 locations. To date, there have been 86 requests for bid packets. All but two locations have one or more requests for bid.

PUBLIC COMMENT

Mike Grunow, Agent, Lolo, provided written testimony. (EXHIBIT #8) He said that he has been a liquor agent for 15 years and is the chairman of the Montana Agency Liquor Store Association (M.A.L.S.A.) Steering Committee. The Steering Committee has been formed because there are 100 agents who fear losing their livelihoods.

Mr. Grunow said a large percentage of the agency's leases are on a month-to-month basis and some agents have not had a lease or agreement for up to 2 years. The new requirements are making it virtually impossible to remain agents or landlords.

He said that the state has given the liquor agents contracts in the past and asked them to make an investment in the business. It has ask them to remain in the communities and raise families. It has asked them to sign the contracts. The agents have done it. He suggested to the Committee that if there is no major crisis or reason why the agency liquor stores have to be bid by a certain time, there should be no reason why the DOR shouldn't agree to waiting until the problem could be addressed by the Legislature.

Mr. Grunow said that the Steering Committee has worked diligently to deal with the insurance and bonding requirements. The agencies can provide the $1 million liability insurance and the bonding that is required. But, he finds unacceptable the portion of the contract which gives the DOR the discretion to waive any informality, cancel or terminate the request for proposal, reject any or all proposals received in response to the RFP, waive any undesirable, inconsequential, or inconsistent provisions of the RFP, and not sign any contract.

Mr. Grunow has invested $100,000 in his business. Because of the point system, another person can match him on points. If that happens, the two names are thrown into a pot and a third party draws a name. He does not believe this was the intention of the Legislature.

Tim Dalan, Agent, East Helena, said that he received an RFP from the DOR on May 12, 1992. The deadline was May 15, 1992, although it was extended to May 22. He did not have much time to find the insurance needed. The RFP states that if the bond is not received when the DOR requests it, the bid may be void. Mr. Dalan was the only bidder, but DOR dismissed his bid and were going to close the store. He thought that the issue should be decided by the Legislature.

Rep. Jim Rice, House District 43, East Helena, addressed the bidder preference issue. He has dealt with the bidder preference question for concessionaires on Canyon Ferry Lake. The Department of Fish and Game leases the concessions and have decided to put the concessions up for public bid. Many of those people have made million-dollar investments into docks and marinas and stand to loose it all to someone who could put in a better bid.

House Bill No. 2 (1992 Special Session) included a provision that gave liquor store agents preference during the bidding process. According to the DOR, there is a question of the legality of that provision. He did not want the state to move too quickly before the problem could be resolved legislatively. He said that if a lessee is doing a bad job, then the state should have the contractual right to cancel the lease. But if a person is doing a good job, is complying with the lease agreement, and has made a substantial investment, then the lessee is entitled to the opportunity to have a preference.

Questions from the Committee

Rep. Harrington said that DOR is using the Montana Procurement Act as an excuse to break the agency stores, and he found it ridiculous. He asked Mr. Adams to comment. Mr. Adams said that DOR had nothing to do with the Montana Procurement Act. It has been in the administrative rules since 1987. He added that there would probably not be a large turnover of agents with the new bidding process. DOR is not trying to eliminate agents, but it is his responsibility, as Director of DOR, to look out for the state's interests.

Rep. Harrington asked if DOR has always enforced the Montana Procurement Act laws or has DOR just begun enforcing the laws in the last few years. Mr. Adams said the Procurement Act was effective for contracts after 1984. The rule was then adopted to put DOR under that Law. Rep. Harrington suggested that the Committee review this issue as it pertains to the Montana Procurement Act.

Rep. Foster said that a moratorium would close the liquor store in Townsend. He asked Mr. Grunow if he would agree that a moratorium not apply to situations where there is a need for a new contract bid. Mr. Grunow said situations like Townsend could be addressed on an individual basis.

Rep. Foster asked Mr. Adams if a moratorium were to be put in place, could there be exceptions made. Mr. Adams said that DOR would have to look at it to see if any problems would arise.

Sen. Towe asked if DOR has required 3-year renewals in the past or is this something new; and if it is new, why is it being done now. Mr. Adams said that this was new. He does not know what happened before, but the DOR attorneys are now saying that the law must be followed.

Sen. Towe asked Mr. Adams to comment on bidder preference. Mr. Adams said the bidder preference was part of the HB 2 appropriations bill. **Lee Heiman, Staff Attorney,** said that any provision in an appropriations bill that does not directly relate it appropriations would not have an effect. Even if it does relate to appropriations but conflicts with substantive law, it has no effect. Sen. Towe asked Mr. Heiman if that meant that DOR is taking the position that since the bidder preference was attached to an appropriations bill, that it is meaningless. Mr. Heiman said yes.

Sen. Towe asked Mr. Adams if he would put a moratorium on the bidding, at the Committee request, until the issue could be addressed by the Legislature. Mr. Adams said he has reservations because contract changes have to be made, and there is no assurance that the Legislature will act.

Sen. Towe asked Mr. Grunow why he had a problem with letting DOR bid the stores. Mr. Grunow said he would not have a problem if there was a preference for existing agents.

Sen. Towe said the problem is that there is no bidder preference. The DOR attorneys have said that the bidder preference in HB 2 cannot be followed. He asked Mr. Adams if DOR is saying the highest bidder wins, regardless of who is bidding and how much money and time an existing agent has put into a business. Mr. Adams said this is the way it is in any other contract bid. New bidders are at a disadvantage because existing agents have a preference, in a way, because they know how the system works.

Rep. Gilbert presented the Committee with a letter from **Margaret Nelson, Agent, Victor,** regarding her concerns over the bidding process and bidders preference. (EXHIBIT #9)

Rep. Schye said that agricultural leases offer a preference. They are also offered to match a high bid, and they have a 10-year contract. He asked why agricultural leases do not have to go through the Procurement Act. Mr. Adams said that for whatever reason, DOR is under Title 18 for the procurement of services.

Sen. Crippen asked Mr. Grunow what would be a reasonable length of time for agents to amortize their investments. Mr. Grunow said his first agency contract was for 10 years. His second contract was a 3-year contract with some discussion on renewal clauses. He and his attorney understood that if he continued to do a good job, there would be no problem with regard to preference. He said a number of agents in Montana have renewal clauses in their contracts. Now, DOR has refused to honor the renewal clauses and has chosen to rebid the contracts. He thought that the Steering Committee would be comfortable with a 5- to 10-year term.

Sen. Crippen commented that he has leased property to the state in the past. He knows from experience that unless a person has a lease for a period of time, there is no way that person can come out ahead. The Committee must take a serious look at this problem.

Sen. Van Valkenburg asked if there was a court decision or an Attorney General's opinion that the Montana Procurement Act applies to contracts with agency liquor stores. Mr. Adams said he is not aware of any. Sen. Van Valkenburg asked if Mr. Adams would stop the procedure until there was an Attorney General's opinion on the issue. **Dave Woodgerd, Chief Legal Counsel, DOR,** said that an Attorney General's opinion could be requested, but he didn't know how long it would take.

Sen. Van Valkenburg read the purpose section of the Montana Procurement Act. Subsection 5 states "to ensure the fair and equitable treatment of all persons who deal with the state". Section 18-4-131 says "unless displaced by particular provisions of this chapter, the principals of law and equity including the Uniform Commercial Code, the law merchant, and law relative to capacity to contract supplement the provisions of this chapter. There are also provisions dealing with services and provisions, terms, extensions, and remedies that could subject the state to considerable liability if people are not dealt with fairly. He thought that all of these provisions needed an Attorney General's opinion.

Mr. Adams said fairness involves everyone, not just those who have the contracts, but also those who want an opportunity to bid. There are more requests for bids than there are locations available to bid. All parties must be treated fairly and equitably.

Rep. Foster asked for the Committee's support for situations such as in Townsend where an agency store may close. There is a need for immediate action to insure that this store is changed over to a new agent.

Rep. Gilbert said that he believed a liquor store agency contract does not properly come under Title 18 because those contracts should not be put under a 3-year renewable lease. The fact that the law was passed in 1981 but has not applied to agency stores until now indicates that there is no urgent need to suddenly enforce the law. The Legislature needs to look at this issue.

Sen. Towe asked Mr. Blewett if he agreed that it was the agent's understanding that if the agents did a good job, their contracts would be renewed. Mr. Blewett said he has heard that the agents are saying that this is their impression. However, this concept has never been the framework by which DOR offers the contracts. From a management standpoint, it is more convenient to extend contracts to agents doing a good job; but if public policy says different, he must follow the policy.

COMMITTEE ACTION

Sen. Towe quoted from 18-4-223 (3), MCA, which states "No rule may change a commitment, right, or obligation of the state or of a contractor under contract in existence on the effective date of such rule". For this reason and because it is clear that the legislative intent was to allow bidder preference for these types of contracts, Sen. Towe moved that the Revenue Oversight Committee recommend to the Department of Revenue that it suspend all current bidding on agency contracts and give extensions to existing agents until after the next session of the Legislature, or in some other manner, allow continuation of existing contracts until the Legislature has had an opportunity to act, unless a particular store should be rebid sooner in the best interest of the state.

Sen. Crippen said although he disagrees with the rule and the 3-year and 10-year provisions, he does not fault Mr. Adams for looking at the law and following it. The DOR has an obligation to obey the law as they see it. However, there is a problem with this issue and he would support the motion. Sen. Towe said it was not his intent with the motion to criticize DOR for attempting to follow the law. In this situation, it has caused problems, and it needs legislative review.

Sen. Towe's motion carried unanimously.

Sen. Van Valkenburg moved that the Revenue Oversight Committee ask Denis Adams, Director, Department of Revenue, to request an Attorney General's opinion as to whether the Montana Procurement Act applies to the awarding of agency liquor store contracts; and if such act does apply, whether there are any limitation on the Act's applicability to renewal of contract by existing agency liquor store operators. Motion carried unanimously.

Sen. Van Valkenburg said that there are 5 state liquor store building leases that are up for renewal. In Great Falls, a state liquor store fell below the 10 percent profit margin. DOR is now converting this store to an agency store because it changed locations due to a building lease change. He is concerned, with respect to building leases on state liquor stores, that DOR is trying to set it up so that the existing state liquor stores will fall below the 10 percent profit margin, and therefore, be able to move them towards a agency conversion. One of the easiest way to make sure that a state liquor store does not meet the 10 percent profit requirement is to force it to change locations. He wanted to bring this to the public's attention.

EXHIBIT 14
DATE 7/14/82
HB 43

Amendments to HB 43

Page 3, Line 5
Following: "proceeds"
Strike: through the end of Page 3, Line 9
Insert: "and shall remit in accordance with the provisions of Title 15, Chapter 65. Funds shall be deposited 1/2 into the general fund and 1/2 into the state special revenue fund referred to in 23-1-105(1).

Page 3, Section 3: Codification instructions must be corrected to reflect the above amendment.

EXHIBIT 15
DATE 7/14
HB 43

STATE OF MONTANA - FISCAL NOTE
Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0043, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

An act imposing a $2 per night fee on vehicles not licensed in this state and used for camping at private campgrounds and at areas owned or managed by the state; providing for distribution of the fee proceeds; and providing an immediate effective date.

ASSUMPTIONS:

Fish, Wildlife & Parks Campgrounds

1. Annually there are 25,000 non-resident camper nights in state-owned campgrounds.
2. Campground use begins 5/15 and ends 9/15 (4 months).
3. Collections of the $2 fee would start on 9/1/92.
4. Only 2 months of revenue would be collected in FY93.
5. Costs to resign existing state campgrounds is $1,000.
6. There will be no reduction in usage of state campgrounds by non-residents as a result of higher fees.

Private Campgrounds

1. According to the Montana 1992 Recreation Guide prepared by the Department of Commerce, there are 5,116 private RV stalls in Montana.
2. There is an 80% occupancy rate, of which 60% are non-residents.
3. The camping season begins 6/1 and ends 8/30 (3 months).
4. Only 1 month of revenue would be collected in FY93.
5. The fees would be collected through the same process as the bed tax (by the Department of Revenue).

[FWP does not have data on the amount of non-resident use at local government campgrounds. Consequently, the fiscal impact is understated.]

(Fiscal Impact - see next page)

7/13/92
STEVE YEAKEL, BUDGET DIRECTOR — DATE
Office of Budget and Program Planning

7/13/92
TIM DOWELL, PRIMARY SPONSOR — DATE

Fiscal Note for HB0043, as introduced

Ex. 15
7/14/92
HB43

FISCAL IMPACT:

	FY93
Revenue:	
Net FWP Campground Fee Collections	$ 23,000
Private Campground Fee Collections	147,000
Total	$170,000
Funding:	
General Fund	$ 85,000
State Special	85,000
Total	$170,000

(Data is not available on the fiscal impact of local government campgrounds.)

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Some local governments do have overnight camping and would be impacted by the bill. Data is not available to estimate the impact.

LONG-RANGE EFFECTS OF PROPOSED LEGISLATION:

The proposal should generate $492,000 ($246,000 General Fund) in FY94 when it is fully implemented.

TECHNICAL NOTES:

It is unclear who coordinates implementation of the act with private and local government campgrounds on such items as printing campground permits, remittances, audits, etc. It is assumed it would be handled in the same manner as the bed tax collection through the Department of Revenue. To fit this process, the bill should require quarterly rather than monthly remittance.

The bill is effective on passage and approval. To avoid disruption to campground operators in the middle of the camping season, an effective date after the end of this camping season may be more appropriate.

7/17/92

Homebuilders Assoc. of Billings
252-7533

S.W. Montana Home Builders Assoc.
585-8181

Great Falls Homebuilders Assoc.
452-HOME

Montana
BUILDING INDUSTRY
ASSOCIATION

Flathead Home Builders As
752-2522

Missoula Chapter of NAHB
273-0314

Helena Chapter of NAHB
449-7275

Nancy Lien Griffin, Executive Director
Suite 4D Power Block Building • Helena, Montana 59601 • (406) 442-4479

HB 45 - Realty Transfer Tax

Support with Modifications

Our organization, representing 700 homebuilder and associate members, supports the concept of a realty transfer tax. It is equitable that such taxes be assessed on the transfer of new as well as existing housing.

Objections

Deposits of the tax proceeds should be deposited with the county treasurer for local government and infrastructure improvements. Communities with economic growth and property transfers are those which also experience increased pressure on their streets, sewers and other housing support systems.

Suggested Amendments

Section 2. Section 15-7-302, MCA is amended to read:
"15-7-302. Purpose. The purose of this part is to:
(1) impose a tax on the transffer of certain real property and provide for deposit of the tax proceeds with the county treasurer; and
(2)

NEW SECTION. **Section 10.** Distribution of proceeds. Upon collection of the tax imposed by (section 8), the county treasurer shall deposit the proceeds of the tax to earmarked county infrastructure accounts.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. HB36

DATE 7/14/92 SPONSOR(S)

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Ebzery HB36	St Vincent Hospital		X
Lawrence T. McGovern HB36	MAPI (MT Assoc. Physicians)		X
R. Stella Hansen	Mont. for the Coal Tax HB 38-39		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. HB 34

DATE 7/14/92 SPONSOR(S) ______

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Patrick W. Smith	American Lung Assoc. of Montana	✓ Cig. Tax	
GENE PHILLIPS	SMOKELESS TOB. COUNCIL		X
MIKE GRUNOW	Ligwest	HB 48	
MIKE PARKER	PENNINGTONS, INC.		X
Dean Woodring	Service Dist. Helena		X
Bobbie Malee	Roach & Smith Dist. Butte		X
Michelle LeFevre	MT CART		X
Dennis Winters	MT CART		X
~~[illegible]~~	~~FWP~~		
~~Dave Mott~~	~~"~~		
Roger Tippy	RJ Reynolds		X
Jerome Loendorf	Mt. Med. Assn.	H34	
John Delano	Phil M		34
[illegible]	Tobacco Inst		X

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Natural Resources COMMITTEE BILL NO. 45

DATE 7/14/92 SPONSOR(S) ____________

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Walker - 1527 Jerome Pl.	Bill Walker Realty Realtors		X
Carol Turner 2007 Sweetgrass	Century 21 Heritage Realtors		X
Steve Mandeville, 826 Broadway	Mont Assoc Realtors		X
COLLIN BANGS 4607 MCRTH AVE. MISSOULA	MONT. ASSOC. OF REALTORS		X
Shirley Nelson Plentywood, Mt	Michels Realty		X
Robin Campbell	Mont Assoc of Realtors		X
Tom Hopgood	Mt. Ass. Realtors		✓
Wm M Spicer	Self		X
[illegible]	Mt. Stockgrowers Assn.		✓
Ellen Bergman	Candidate		
Chris Miner	Self		
Don Allen	Mt. Wood Products Assn.	Mountain	
Nancy [illegible]	Montana Building Industry association	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. HB 48

DATE 7/14/92 SPONSOR(S) Harrington

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Duard Svee Billings, MT	Montana Distillery Reps Assoc	✓	
Gary Giannini - Sand Coulee	Mont. Dist. Reps Assc	✓	
Tim Dalin	East Helena Liquor Store	✓	
Bob Schreiner Belt	Montana Distillery Reps	✓	
Bob Lemm Helena	Mt. Liquor Reps Assn	✓	
Michael Lemm Helena	MT Liquor Reps Assn.	X	
David A. Lemm Helena	MT Liquor Rep Assc	X	

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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

House Taxation COMMITTEE BILL NO. 43

DATE 7/14/92 SPONSOR(S) Dowell

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Janet Ellis	MT Audubon ?	X	
~~Tim Dahlin~~	~~Ligon Stove #53~~		
GEORGE OCHENSKI	FREE THE PARKS		X
Wayne Hirst			X

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#36-
#55
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HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Revenue Tax COMMITTEE BILL NO. all

DATE 7/14 SPONSOR(S) ____________

PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bob Olsen	MT Hospital Ass'n		✓
Gordon Davidson	Bozeman Deaconess Hosp		✓
Jack Casey	Shodair		✓
[illegible]	Rimrock		✓
JIM HUTCHESON - MSLA			
LARRY CURRAN	St. James Hospital, Butte		✓
TOM McFARLAND	ST JAMES HOSP., BUTTE		✓
Arnie Olsen	MDFWP	✓ #43	
Dave Mott	"	✓ #43	
KIRK WILSON	Great Falls Deaconess		✓
[illegible]	MWRD		~~47~~
JOHN A. GAY	ST. PETER'S HOSP - HELENA		✓ 36
[illegible]	Mt. Med. Assn		#36
John Delano	Phil M		34

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.