

Law Lib.

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

April 11, 1983

The sixty-fifth meeting of the Taxation Committee was called to order at 8 a.m. by Chairman Pat M. Goodover in Room 415 of the Capitol Building.

ROLL CALL: All members were present.

Chairman Goodover announced that because we are nearing the end of the session and because of the increasing importance of the bills upon which the committee is acting, he would allow voting by proxy.

CONSIDERATION OF HOUSE BILL 511: Representative Francis Bardonouve, House District 6, sponsor of the bill, said this is one of the more important bills of the session. This will finance a long-range building program for the 1983-85 biennium. As originally conceived by the administration, it would put an assessment on cigarettes and on liquor, but the House amended the bill to take out liquor. It originally increased the cigarette sales tax from 12 cents to 15 cents, but the House amended that up to 16 cents. HB 900, he said, will finance the projects listed on pages 3 through 6 of HB 900, attached as Exhibit A to these minutes. Representative Bardonouve compared Montana's cigarette sales tax to that of other states (figures are in cents):

| | | | |
|--------------|----------|--------------|------|
| Oklahoma | - 18 | Connecticut | - 21 |
| Oregon | - 19 | Delaware | - 14 |
| Pennsylvania | - 18 | Minnesota | - 18 |
| South Dakota | - 15 | Idaho | - 9 |
| Wyoming | - 8 | Indiana | - 10 |
| California | - 10 | Michigan | - 21 |
| Hawaii | - 40% of | Maryland | - 16 |
| | retail | Kentucky | - 3 |
| Alabama | - 16 | Washington | - 23 |
| Arizona | - 13 | North Dakota | - 18 |
| Arkansas | - 17.75 | | |

PROPONENTS

J. D. Holmes, representing the Montana Arts Advocacy, said their particular interest is getting funding to construct the Veterans and Pioneer Building Addition in the Capitol Complex. It funds a much needed "make work" program. There is no other feasible means of putting this into effect, so they support HB 511. The cigarette sales tax has always been a favorite money raiser. Raising the cigarette sales tax never drove down cigarette consumption.

Dave Lewis, from the Office of Budget and Program Planning, said they intend to submit a measure that would pay for this biennium's building program. It would pay the debt service without taking money out of the general fund.

Ken Heikes, Administrative Vice President at Eastern Montana College, supported HB 511 (Cisel Hall remodeling and addition, EMC, under HB 900).

OPPONENTS

Jerome Anderson, representing the Montana Cigarette Institute, submitted written testimony, attached as Exhibit B.

Jerry Fetters, representing Jerry's Highway Service, complained that he and other cigarette retailers are forced to pay the sales tax up front, and it hurts their cash flow. After the federal taxes went up, he couldn't purchase cigarettes for vending machines.

Tom Maddox, representing the wholesale tobacco distributors in Montana, submitted written testimony, attached as Exhibit C. Mr. Maddox said he was asked by Senator Stephens to prepare a "fiscal note" for HB 511, showing the impact on Montana consumers of cigarettes. The note and Mr. Maddox's explanation thereof are included in his testimony (Exhibit C).

Mike Parker, representing Penningtons, Inc., said they are a wholesaler of different products, including cigarettes. They may hold 40,000 cartons of cigarettes in inventory. They pay \$2.80 in taxes per carton of cigarettes, which amounts to \$112,000 in prepaid cigarette taxes. This year they have to pay \$32,000 in federal sales taxes. HB 511 will add another 40 cents per carton, or an additional \$16,000 in prepaid sales taxes, an interest-free loan to the government. It limits their freedom to invest those funds in other resources. We live in a competitive market. He noted that 11.5 billion cigarettes--\$7 million worth--were purchased tax-free on reservations last year by law-abiding citizens. The next few years could see a \$20 million loss like that. He urged the committee not to pass HB 511.

Tucker Hill, representing the Tobacco Institute, said that if refunding occurs, \$6 million will become available due to the elimination of the reserve fund in HB 448. The Department of Natural Resources and Conservation stated in their testimony on HB 448 that their current rental payments are \$250,000 a year, and their utilities are in addition to that (referring to HB 900 and the appropriation of money for construction of a new DNRC facility at the Capitol Complex). Section 3 of HB 448 does away with the long-range building program, he said.

Keith Anderson, Montana Taxpayers Association, said Montana should have moderate taxes which are high enough to produce

revenue but low enough for public acceptance. There are side effects when taxes are raised, and with property taxes, there is the classification act. Look at Montana's cigarette sales tax. Twenty-eight states have a higher cigarette sales tax than Montana; 8 are the same; and 14 have a lower cigarette sales tax. As of July 1, if HB 511 is enacted, 18 states will have a higher cigarette sales tax; 3 (at 16 cents) will be the same; and 29 will have a lower sales tax. Whether a 33.3% cigarette sales tax will bring about a black market for cigarettes remains to be seen. Montana will have a higher cigarette sales tax than its surrounding states. See Exhibit D. HB 448 has been mentioned. This bill is misleading, he said. If you review the long-range building program, the excess of the cigarette sales tax flows into the general fund over the next three years. Mr. Anderson asked that if HB 511 is passed that it be made a general fund source of revenue. Milton Friedman, a well-known economist, once said that you control spending by controlling revenue. One poll Mr. Anderson was aware of showed that 98% of those polled were against the building of the new DNRC facility. He felt the committee should take another look at the wish list (in HB 900).

Jerome Anderson explained the long-range building program as it is shown on the chart attached as Exhibit E. The administration wants to continue the flow of money into the general fund. There is adequate money being raised now to fund the additional long-range building program without the necessity of HB 511. If you want a reasonable program, you can fund that program out of the existing revenues from the cigarette tax. He asked that the committee also look at the new bond program that has been authorized by HB 448. Under HB 448, any new bonding will not be done under the long-range building program sinking fund operation. Everything else will be general obligation bonds. HB 448 also provides for refunding bonds. They have been in the process of examining refinancing existing bond issues through new bond issues. They have two proposals. The complete proposal of The First Boston Corporation is attached to the original set of these minutes (Historical Society copy) as Exhibit F, and copies of the letter directed to Morris Brusett and a copy of the "table of contents" are attached to the Law Library and Legislative Council copies of these minutes. The First Boston's arrangement has fairly level payouts. The second proposal was from Boettcher & Co., which has a declining payout arrangement. They could not get a complete copy of the proposal from anyone; however, Boettcher did release a copy of a "Comparison of 3 Options to 20 Year Level Debt Plus Existing 5 Issues" at a \$43 million level, attached as Exhibit G. Mr. Anderson criticized Boettcher because he felt the legislature should have access to the complete proposal. The Department of Administration has gone to a third party organization to have this reviewed, he said. He asked the committee to consider this when passing the bill at 4 cents, or less, or not at all. This is an unfair tax. He suggested taxing art for the museum or taxing student fees for the riverfront property at the U of M in Missoula to raise revenue.

Questions from the committee were called for.

Dave Lewis, Office of Budget and Program Planning, noted that one cent equals about \$950,000, so 4 cents is \$3.8 million a year.

Senator Norman asked Mr. Lewis to comment on HB 448. Mr. Lewis deferred to Mr. Brusett, who said they didn't want reserves any longer; all future bonds will be sold under the new act.

Senator Norman asked if HB 448 contemplated that the long-range building program would be phased out. Mr. Brusett said the old act requires a sinking fund where you keep one year's redemption; the new act does not have that requirement.

Senator Towe asked about the obligations of the general fund and future bonds under HB 448. Mr. Brusett replied that the old act was a double-barrelled act. You had to pledge a lot more than you ever needed to get a good rating. Then they began general obligation bonds, so now the state has stepped over to all general obligation bonds.

Senator Towe asked if they were changing the income and corporation taxes (11%) or if they would still flow through. He wondered if all of the cigarette and tobacco taxes would be required to pay the bonds. Jerome Anderson responded that the cigarette and tobacco taxes raised \$11.6 million. If new bonds are refinancing the existing debt, this program will continue because payments need to be made out of the sinking fund. If they are all paid, the sinking fund is gone, and it all flows into the general fund. At the present time, there is an excess amount of money in there to be applied to the additional debt requirement. Under the present tax of 12 cents, you may not get the overflow into the general fund, but the money is there for a dedicated purpose, and it is being misused. Of the \$9 million that is reserved, about \$3 million is earmarked for specific agencies that have other bond payments involved from other money sources. They will get that money back. That leaves \$6 million in cash that could be used for immediate cash payment against the prison, for debt service or whatever, and he urged the committee to recognize that when they make their decision. Dave Lewis agreed with Mr. Anderson and said that was the principle suggested earlier.

Mr. Anderson said that if HB 511 is passed at 4 cents and the program is reduced; there will be more excess. He mentioned the Billings Gazette article on Sunday, April 10, 1983, in which 93% of the people polled said they would vote no on special school levies. One third said they might vote for a smaller levy, but 2/3 said they would vote for no additional levies. According to the poll, the bond levy on May 31 will fail. The legislature should recognize that also, he said. The Business and Industry Committee makes the proposals, but the Taxation Committee holds the pursestrings. Taxation has the responsibility of determining what Montanans can afford to spend.

Senator Goodover asked Representative Bardanouve to comment on the adverse reaction to the DNRC program. Representative Bardanouve said they recognized 8-10 years ago, that DNRC was in inferior facilities. They looked at the situation in 1977, 1979, and 1981, but other projects were more important. The present DNRC facilities aren't all bad and aren't all good. Some of it is very antique and inefficient. From a fire standpoint, it is unsafe. The elevator can be used only for freight.

Senator Lynch asked if cigars and pipe smokers would be affected by HB 511, and Representative Bardanouve said no.

Senator Crippen asked what the rationale was for deleting liquor from the bill, and Representative Bardanouve responded that Butte was opposed to it.

Senator McCallum said that right now, they are bringing in \$3 million above the debt service (\$6 million) and wondered if, under the long-range building program, they could sell another \$30 million in bonds. Dave Lewis replied that they could sell as many as they want, but they reduce the general fund by that amount. They would have to lower the general fund by \$6 million.

Senator Elliott wondered if the Office of Budget and Program Planning had considered diminishing returns on the rate of tax. Mr. Lewis stated no, that the tax per pack of cigarettes has not been increased since 1971. State taxes decreased substantially.

Jerome Anderson said cigarette sales increased until about 4 or 5 years ago. The state sales have declined about 5% so far this fiscal year. It is estimated that tax increases will decrease sales by 6% nationally. There has been some indication that sources for cigarettes sold on the reservation are coming from Washington or Oregon.

Mike Parker added that Montana wholesalers and others go to the reservations.

Morris Brusett said the state would lose \$23 million in the First Boston Corporation deal and only \$16 million in the Boettcher deal. Boettcher came to them suggesting that it was advantageous to refund the bonds. They had agreed to send Boettcher's proposal to Peat, Marwick and Mitchell for an opinion before releasing the contents of the proposal. On refunding bonds, we lose \$20 million. However, we make \$36 million on the new issue, so it nets out to \$16 million. The advantage is in restructuring the debt.

Senator Towe asked Mr. Brusett to give the committee an idea of where the state is now. Dave Lewis responded, saying that by rolling in with the state issues they got a better interest rate.

In closing, Representative Bardanouve said that this may be one of the last long-range building programs for a few sessions. He doubted that there would be a revenue source to support a long-range building program. He said he didn't understand Tom Maddox's figures and said it just confuses the issue. The only possible money you will have freed up is refunding all the bonds. He was surprised that Jerome Anderson would oppose HB 511, saying the Tobacco Institute had long been in favor of the tax. He was surprised, too, that Butte opposed the bill, since HB 900 gives them a classroom at Montana Tech.

The hearing on HB 511 was closed.

CONSIDERATION AND DISPOSITION OF HOUSE BILL 739: Senator Elliott moved that the 20% investment credit go back into effect on January 1, 1985. The motion was seconded.

Senator Towe suggested inserting an applicability date section stating that the figure in section 1 (amending 15-30-162(2)(a)) and in section 2 (amending 15-31-123(4)(a)) go from 5% back up to 20% on January 1, 1985, and that Cort Harrington draft amendments to accomplish this.

In 1985, Senator Elliott wanted the credit to go back to 20%, back to the \$5,000 plus 50% limit, with carryovers and carrybacks and with the exclusion of the rehabilitation credit.

Senator Halligan felt a credit should be given for rehabilitation costs and made a substitute motion to include a credit for rehabilitation costs. The motion was seconded.

Senator Elliott spoke against Senator Halligan's motion to amend because he felt an industry's determination to renovate would not be swayed by what is allowed as a credit. When this first came into effect in Montana, we did not have the rehabilitation credit.

Senator Eck wondered whether this was cost effective.

Senator Towe had reservations as to whether it was incentive enough. Senator Elliott has a good point, he said. A large part depends on whether we have the carryover and carryback provisions. It could be expensive to the state. It could be limited to the income made on a particular building.

A roll call vote was taken on Senator Halligan's motion, and it failed 7-8 (attached to standing committee report as Exhibit H to these minutes).

Senator Norman asked what HB 739 was going to do to the fiscal note. Senator Eck responded it would be a \$7 million effect instead of \$9 million.

Senator Lynch asked Chairman Goodover if he was going to allow members to vote by proxy. Chairman Goodover replied yes, if the absent member was going to vote the same as the person he appointed as a proxy.

Dan Bucks from the Department of Revenue said the amendments adopted April 9 cost \$6 million this next biennium, which is the top figure in the total column of Exhibit I attached hereto.

Senator Elliott asked Mr. Bucks if it was clear in the bill that any pre-1983 investment credit could be used. Mr. Bucks said carryovers earned under prior law are already earned, and this applies to any new carryover.

Senator Eck said we have been limiting how much this costs during this fiscal year, and the impact will come next fiscal year. An amendment to put in a cap of \$5,000 on separate returns and \$10,000 on joint returns would be reasonable and would give us something to start with when we come back.

A roll call vote was taken on Senator Elliott's motion to amend. The motion passed 15-0. (The roll call vote sheet is attached to the standing committee report and is marked Exhibit J.)

Senator Towe moved the following amendment:

Page 7, line 6.

Following: "1982."

Insert: "Credits earned in taxable years prior to taxable years beginning on January 1, 1983, are not affected."

The motion was seconded.

Mr. Bucks stated that it was the view of the Department of Revenue that a carryover earned under prior credits can still be credited on individual and corporate income tax returns. The basis is that revenue estimates they provided to the legislature on HB 739 assume that no pending bills affect prior carryovers.

Senator Mazurek asked if that would be the policy of the Department. Mr. Bucks stated that that was his understanding. He thought matters unclear from the Department were better addressed by the legislature in the laws.

Senator Elliott asked if Senator Towe would include in his motion that Cort be allowed to make the language in his motion clearer, and Senator Towe agreed.

A vote was taken on Senator Towe's motion, and it passed unanimously.

Senator Elliott then moved that HB 739 BE CONCURRED IN AS AMENDED. The motion was seconded.

Senator Hager stated that in accordance with the Joint Rules of the Legislature, Rule 9-2, he was required to disclose to the committee the fact that he had a personal or private interest in HB 739. Senators McCallum and Elliott also made that disclosure.

There was some discussion as to whether Senator Turnage's votes by proxy, carried by Senator Goodover, should be allowed. Some of the committee members felt it was a dangerous precedent to set.

Senator McCallum said that Senator Halligan's motion, without Senator Turnage's vote, would have been lost by a tie vote anyway.

A roll call vote was taken on Senator Elliott's motion that HB 739 BE CONCURRED IN AS AMENDED, and the motion passed 15-0. (See Exhibit K, attached to the standing committee report.)

CONSIDERATION OF HOUSE BILL 740: Senator Elliott moved that HB 740 be tabled. The motion was seconded. A roll call vote was taken on the motion, and it passed 11-4 (Exhibit L).

CONSIDERATION OF HOUSE BILL 841: Senator Elliott moved that HB 841 be tabled. The motion was seconded. He said tip income will never show up on a W-2 unless an employee is working for a large restaurant somewhere. Otherwise, a waitress only has to report what she actually receives in tips regardless of what the W-2 says. The IRS considers tips as income, which is a logical assumption to make, and Montana should continue to tax tips also.

Dan Bucks from the Department of Revenue said withholding can be on tips reported, and a waitress can request her employer to withhold on the basis of amounts reported as tips. If there is no withholding for federal purposes, then there is none on the state level.

Senator Towe said that, according to the Internal Revenue Code, tips may be treated as supplemental income. If they keep track of tips, they may get that money withheld refunded.

Senator Lynch said that there were no opponents to the bill at the hearing, and he resisted the motion. A roll call vote was taken, and Senator Elliott's motion to table passed 9-6 (Exhibit M).

DISPOSITION OF HOUSE BILL 511: Senator Eck moved that all of the stricken material from the beginning of the bill to page 2, line 5, be reinserted. She felt the alcohol should be put back

in the bill. The motion was seconded.

Senator Towe said in other words, restore what was section 1, and Senator Eck replied affirmatively. Senator Lynch said doing that would jeopardize the bill. Senator Towe said the net effect of Senator Eck's motion would be to add \$2.3 million to the general fund.

A roll call vote was taken, and the motion failed, 4-11. (The roll call vote sheet is attached to the standing committee report and is marked Exhibit N.)

Senator Towe moved that HB 511 BE CONCURRED IN. The motion was seconded. A roll call vote was taken, and the motion passed unanimously. (The roll call vote sheet is attached to the standing committee report and is marked Exhibit O.)

The meeting adjourned at 10:45 a.m.


Chairman

ROLL CALL

SENATE TAXATION

COMMITTEE

48th LEGISLATIVE SESSION -- 1983

Date 4/11/83

| NAME | PRESENT | ABSENT | EXCUSED |
|---|---------|--------|---------|
| SENATOR GOODOVER, CHAIRMAN | ✓ | | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | | |
| SENATOR BROWN | ✓ | | |
| SENATOR CRIPPEN | ✓ | | |
| SENATOR ELLIOTT | ✓ | | |
| SENATOR GAGE | ✓ | | |
| SENATOR TURNAGE <i>present by proxy</i> | | | ✓ |
| SENATOR SEVERSON | ✓ | | |
| SENATOR HAGER | ✓ | | |
| SENATOR ECK | ✓ | | |
| SENATOR HALLIGAN | ✓ | | |
| SENATOR LYNCH | ✓ | | |
| SENATOR NORMAN | ✓ | | |
| SENATOR TOWE | ✓ | | |
| SENATOR MAZUREK | ✓ | | |

DATE 11 APRIL, 1983

COMMITTEE ON TAXATION

VISITORS' REGISTER

| NAME (PLEASE PRINT) | REPRESENTING | BILL # | Check One | |
|---------------------|---|--------|-----------|-------|
| | | | Support | Oppos |
| Hugh R. Kelleher | Helena Airport Mgmt | 511 | ✓ | |
| Thomas W. MADDOX | MONTANA ASSN. of TOBACCO AND CANDY DISTRIBUTORS | 511 | | ✓ |
| FRANK H. BISHOP | SHEEHAN'S of HELENA INC | 511 | | ✓ |
| TUCKER Hill | TOBACCO INSTITUTE | 511 | | ✓ |
| MIKE PARKER | PENNINGTON'S, INC | 511 | | ✓ |
| Susan J. Binkard | Pennington's Inc | 511 | | ✓ |
| Dave Lenn | O B P P | | ✓ | |
| Ken Heiser | EMC | 511 | ✓ | |
| Jerry Titus | Jerry's Hwy Service | | | ✓ |
| Lloyd Crippen | NFIB | 511 | observing | |
| J.D. Holmes | MT. ARTS ADVOCACY | 511 | ✓ | |
| Bob Durbin | MT TAVERN | 511 | | ✓ |
| REP ROBERT TAYLOR | SILVER BOW TAV ASSC | 511 | | ✓ |
| Gene Huntington | GOV. OFFICE | | ✓ | |
| Paul Strope | MT Taram ASA | 511 | ✓ | |
| Keith Anderson | Monta Taxpayers Assoc. | | | ✓ |
| SKIP PENNINGTON | PENNINGTON'S INC | 511 | | ✓ |
| John Long | Pennington's, Inc | 511 | | ✓ |

(Please leave prepared statement with Secretariat)

Approved by Comm.
on Appropriations

1 HOUSE BILL NO. 900
2 INTRODUCED BY MANUEL
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO APPROPRIATE BOND
5 PROCEEDS AND OTHER FUNDS FOR CAPITAL PROJECTS FOR THE
6 BIENNIIUM ENDING JUNE 30, 1985; TO PROVIDE FOR OTHER MATTERS
7 RELATING TO THE APPROPRIATIONS; AND PROVIDING AN IMMEDIATE
8 EFFECTIVE DATE."
9

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

11 Section 1. Definitions. For the purposes of this act,
12 unless otherwise stated, the following definitions apply:

13 (1) "Agency" includes each state office, department,
14 board, commission, council, committee, unit of the
15 university system, or other entity or instrumentality of the
16 executive branch, office of the legislative branch, or
17 office of the judicial branch of state government.

18 (2) "Approved budget amendment" means approval by the
19 budget director of a request submitted through the
20 Architecture and Engineering Division of the Department of
21 Administration to transfer excess funds appropriated to a
22 capital project within an agency in order to increase the
23 appropriations of another capital project within that agency
24 or to obtain financing to expand a project with funds which
25 were not available for consideration by the Legislature.

1 (3) "BPICA" means the bond proceeds and insurance
2 clearance account.

3 (4) "Capital project" means acquisition of land or
4 improvements, planning, capital construction, renovation,
5 furnishing, or major repair projects authorized in this act.

6 (5) "Other appropriated funds" means money, other than
7 general fund or BPICA money, that accrues under the
8 provisions of law to an agency indicated in this act.

9 Section 2. Expansion required to be authorized. No
10 existing capital project may be expanded beyond the scope of
11 the project as approved by the 48th Legislature unless the
12 capital project expansion is authorized by an approved
13 budget amendment.

14 Section 3. Federal funds for administration. All
15 federal funds received as a reimbursement for the cost of
16 administering the federal funds when the cost was financed
17 from the general fund shall revert to the general fund.

18 Section 4. Reappropriation. Notwithstanding any other
19 provision of law, the remaining balances on capital projects
20 previously appropriated are reappropriated until June 30,
21 1985, for the purposes for which originally appropriated.

22 Section 5. Appropriation of bond proceeds and other
23 funds. The following money is appropriated from the BPICA
24 and the other indicated accounts to the Department of
the capital projects described in this

SENATE TAXATION COMMITTEE

EXHIBIT A

April 11, 1983

House BILL/RES. 511

1 section, contingent upon the authorization and sale of
 2 general obligation bonds by the 46th Legislature and the
 3 Board of Examiners, respectively:

| 4 | Agency/Program | BPICA | Other |
|---|----------------|-------|--------------|
| 5 | | | Appropriated |
| 6 | | | Funds |

7 MAJOR EXPANSION PRISON \$14,416,400

8 (1) THE GOAL OF THE LEGISLATURE IN PROVIDING FOR MAJOR
 9 EXPANSION OF THE MONTANA STATE PRISON IS TO PROVIDE HOUSING
 10 FOR 737 PRISONERS WITHIN THE SECURITY COMPOUND AT THE PRISON
 11 WHILE ACHIEVING THE FOLLOWING OBJECTIVES:

12 (A) INMATE HOUSING SHOULD BE SEPARATED INTO AT LEAST
 13 THREE LEVELS OF SECURITY. THE SEPARATION SHOULD BE PURSUED
 14 TO THE MAXIMUM POSSIBLE EXTENT TO PREVENT COMMUNICATION BY
 15 PERSONAL CONTACT, SIGHT, AND SOUND AMONG THE SEPARATE AREAS
 16 OF THE PRISON. STAFF INTERACTION AMONG THESE SECURITY LEVELS
 17 SHOULD ALSO BE MINIMIZED TO ENHANCE THE SEPARATION. THE
 18 LEGISLATURE REGARDS THE SEPARATION OF MAXIMUM SECURITY
 19 PRISONERS TO BE AN ESPECIALLY IMPORTANT OBJECTIVE.

20 (B) PERIMETER SECURITY SHOULD BE IMPROVED WITH THE
 21 OBJECTIVE OF MINIMIZING THE PRISONERS' ABILITY TO BREACH THE
 22 PERIMETER. THE LEGISLATURE INTENDS THAT THE FENCE LINES
 23 SHOULD BE STRAIGHT AND PROVIDED WITH ADEQUATE GUARD TOWERS
 24 AND STATIONS TO PROVIDE FULL VISUAL COVERAGE OF THE ENTIRE
 25 PERIMETER ON BOTH SIDES OF THE FENCE.

| 1 | Agency/Program | BPICA | Other |
|---|----------------|-------|--------------|
| 2 | | | Appropriated |
| 3 | | | Funds |

4 (C) INTERIOR SECURITY IS TO BE IMPROVED BY DESIGNS
 5 ALLOWING SUPERVISION AND MOVEMENT OF SMALL, MANAGEABLE
 6 GROUPS OF INMATES WITHOUT THREAT TO STAFF.

7 (D) THE EXPANSION SHOULD BE DESIGNED TO BE COMPATIBLE
 8 WITH PRISONER WORK AND REHABILITATION ACTIVITIES TO THE
 9 EXTENT POSSIBLE.

10 (E) THE EXPANSION SHOULD ALLOW SPACE TO BUILD HOUSING
 11 FOR AN ULTIMATE TOTAL POPULATION OF 1,150 PRISONERS WITHIN
 12 THE COMPOUND WITHOUT CHANGES IN PERIMETER SECURITY
 13 FACILITIES OR SUPPORT FACILITIES.

14 (2) (A) THERE IS A PRISON EXPANSION OVERSIGHT
 15 COMMITTEE THAT CONSISTS OF FOUR MEMBERS, THE SPEAKER AND
 16 MINORITY LEADER OF THE HOUSE SHALL EACH APPOINT ONE MEMBER
 17 OF THE HOUSE, AND THE PRESIDENT AND THE MINORITY LEADER OF
 18 THE SENATE SHALL EACH APPOINT ONE MEMBER OF THE SENATE.

19 (B) THE PRISON EXPANSION OVERSIGHT COMMITTEE SHALL
 20 CONSULT REGULARLY WITH AND ADVISE THOSE PERSONS RESPONSIBLE
 21 FOR IMPLEMENTING AND PLANNING THE MAJOR EXPANSION OF MONTANA
 22 STATE PRISON. THE COMMITTEE SHALL PARTICIPATE IN THE
 23 PRELIMINARY SCREENING AND RECOMMENDATION OF AN ARCHITECT TO
 24 PERFORM DESIGN WORK. THE COMMITTEE SHALL MONITOR THE
 25 DEVELOPMENT OF PLANS AND ADVISE THE PLANNERS AS TO WHETHER

| 1 | Agency/Program | BPICA | Other |
|----|--|--------------|--------------|
| 2 | | | Appropriated |
| 3 | | | Funds |
| 4 | PLANS MEET THE GOALS AND OBJECTIVES OF THE LEGISLATURE | | |
| 5 | OUTLINED ABOVE. THE COMMITTEE SHALL FILE A REPORT WITH THE | | |
| 6 | 49TH LEGISLATURE ON ITS ACTIVITIES, INCLUDING ANY ANALYSIS | | |
| 7 | OR RECOMMENDATIONS IT MAY HAVE. | | |
| 8 | (C) THE APPROPRIATION FOR MAJOR EXPANSION OF MONTANA | | |
| 9 | STATE PRISON CONTAINS SUFFICIENT FUNDS TO REIMBURSE | | |
| 10 | COMMITTEE MEMBERS AS PROVIDED IN 5-2-302 WHILE ENGAGED IN | | |
| 11 | AUTHORIZED COMMITTEE BUSINESS. | | |
| 12 | COMPLETE CISEL HALL REMODEL AND | | |
| 13 | ADDITION, ENC | \$ 625,000 | |
| 14 | CONSTRUCT NEW DNRC BUILDING. | | |
| 15 | CAPITOL COMPLEX | \$ 958,000 | |
| 16 | CONSTRUCT ENGINEERING | | |
| 17 | LABORATORY/CLASSROOM | | |
| 18 | BUILDING, TECH | \$ 250,000 | |
| 19 | EXPAND GREENHOUSE/HEADHOUSE | | |
| 20 | COMPLEX, MSU | \$ 302,000 | |
| 21 | PURCHASE RIVERFRONT LAND, UM | \$ 500,000 | |
| 22 | CONSTRUCT VETERANS' AND PIONEER | | |
| 23 | MEMORIAL BUILDING ADDITION. | | |
| 24 | CAPITOL COMPLEX | \$ 2,063,225 | |
| 25 | RENOVATE SOCIAL SCIENCE BUILDING. | | |

| 1 | Agency/Program | BPICA | Other |
|----|--|--------------|--------------|
| 2 | | | Appropriated |
| 3 | | | Funds |
| 4 | UM | \$ 492,000 | |
| 5 | AIRPORT IMPROVEMENTS, STATEWIDE | \$ 1,300,000 | |
| 6 | COWAN HALL REMODEL, NMC | \$ 175,000 | |
| 7 | CONSTRUCT OFFICE/LABORATORY. | | |
| 8 | WESTERN TRIANGLE | | |
| 9 | AGRICULTURAL RESEARCH CENTER | \$ 121,000 | |
| 10 | CONSTRUCT FISH HATCHERY, CRESTON | | \$ 455,000 |
| 11 | SPRINGS | | |
| 12 | RENOVATE FISH HATCHERY, GREAT | | |
| 13 | FALLS | | \$ 1,900,000 |
| 14 | RENOVATE FISH HATCHERY, BIG | | |
| 15 | IMBER | | \$ 500,000 |
| 16 | GLASGOW REGIONAL HEADQUARTERS | | \$ 220,000 |
| 17 | Section 6. Planning and design. The Department of | | |
| 18 | Administration may proceed with the planning and design of | | |
| 19 | capital projects prior to the sale of bonds or the receipt | | |
| 20 | of other appropriated funds. The Department may utilize | | |
| 21 | interaccount loans 2011-1983 FISCAL YEAR-END in accordance | | |
| 22 | with 17-2-107 to pay such planning and design costs incurred | | |
| 23 | prior to the receipt of bond proceeds or other appropriated | | |
| 24 | funds. | | |
| 25 | Section 7. Capital projects -- contingent funds. If | | |

1 any capital project is financed in whole or in part with
 2 appropriations contingent upon the receipt of other
 3 appropriated funds, the Department of Administration may not
 4 let such projects for bid until the agency has submitted a
 5 financial plan for approval by the director of the
 6 Department of Administration. No such financial plan may be
 7 approved by the director if:

8 (1) the level of funding provided under the financial
 9 plan deviates substantially from the funding levels provided
 10 in this act for that project; or
 11 (2) the scope of the project must be substantially
 12 altered or revised from the preliminary plans presented for
 13 that project in the 1983-85 Long-range Building Program
 14 presented to the 48th Legislature.

15 Section 8. Legislative consent. The appropriations
 16 authorized in this act must be considered as legislative
 17 consent for the capital projects contained in this act
 18 within the meaning of 18-2-102.

19 SECTION 9. APPROPRIATION. CONTINGENT ON PASSAGE OF
 20 HOUSE BILL 511. THERE IS APPROPRIATED FROM THE GENERAL FUND
 21 TO THE DEPARTMENT OF ADMINISTRATION AN AMOUNT SUFFICIENT TO
 22 PAY ALL INTEREST AND PRINCIPAL DUE AND OWING ON BONDS ISSUED
 23 AND SOLD BY THE BOARD OF EXAMINERS PURSUANT TO HOUSE BILL
 24 558. AND THE DEPARTMENT OF ADMINISTRATION IS HEREBY
 25 IRREVOCABLY INSTRUCTED TO PROVIDE FOR PAYMENT OF PRINCIPAL

1 INTEREST, AND REDEMPTION PREMIUM ON SUCH BONDS, IF ANY, FROM
 2 MONEY IN THE GENERAL FUND AND, IF THE GENERAL FUND IS NOT
 3 SUFFICIENT FOR SUCH PURPOSE, TO PROVIDE FOR PAYMENT THEREOF
 4 FROM ANY OTHER FUNDS OF THE STATE LEGALLY AVAILABLE FOR
 5 PAYMENT THEREOF.

6 SECTION 10. DEPARTMENT OF FISH, WILDLIFE, AND PARKS. --
 7 BOND PAYMENT. THE DEPARTMENT OF FISH, WILDLIFE, AND PARKS
 8 SHALL TRANSFER PRIOR TO THE PAYMENT DATE SUFFICIENT FUNDS TO
 9 RETIRE \$3,075,000 OF THE GENERAL OBLIGATION BONDS AUTHORIZED
 10 BY THE 48TH LEGISLATURE AND THE BOARD OF EXAMINERS,
 11 RESPECTIVELY. THIS PAYMENT OBLIGATION IS NOT ENFORCEABLE BY
 12 BONDHOLDERS.

13 Section 11. Severability. If a part of this act is
 14 invalid, all valid parts that are severable from the invalid
 15 part remain in effect. If a part of this act is invalid in
 16 one or more of its applications, the part remains in effect
 17 in all valid applications that are severable from the
 18 invalid applications.

19 Section 12. Effective date. This act is effective on
 20 passage and approval.

-End-

THE CIGARETTE TAX INCREASE

Why Should So Few Foot the Bill For So Many?

SENATE TAXATION COMMITTEE

EXHIBIT B

Apr. 11, 1983

House BILL/RES. 511

H.B. 511, a bill which originally provided for an increase in the state cigarette sales tax from 12¢ per pack to 15¢ per pack and an increase in the state liquor sales tax, is now to be considered by the Senate as the only method of funding the Long Range Building Program. The Bill, as amended by the liquor interests in the House, now provides for a single source of taxation --- an increase in the cigarette sales tax from the present level of 12¢/pack to 16¢ per pack --- an increase of 4¢ per package. The tax on liquor sales was amended out by House action.

The increase in the cigarette sales tax is opposed for the following reasons:

- (a) H.B. 511 provides for a 33 1/3% increase in a regressive selective sales tax.
 - (b) H.B. 511 provides for a substantial increase in a tax which is discriminatory in its application. 30% of Montanans are asked to provide facilities for 100% of Montanans.
 - (c) H.B. 511 provides for a self-defeating increase in a sales tax.
 - (d) H.B. 511 adds an additional tax burden on a commodity on which the Federal Government doubled the tax from 8¢ to 16¢ per pack effective in January of 1983.
 - (e) No relationship exists between the subject of this tax and the facilities which are being constructed.
 - (f) It is questionable whether Montana can afford the building program which this tax increase is designed to fund.
 - (g) Alternative methods exist to fund the Long Range Building Program and thus an increase in the Cigarette Sales Tax is not necessary.
 - (h) All, not a limited group, of Montanans should be asked to provide funding for facilities that will be used by, or for the benefit of, all Montanans.
- (a) H.B. 511 provides for a 33 1/3% increase in a regressive selective sales tax.

The present tax on a package of cigarettes is 12¢ per pack. This is on top of the Federal Tax which, effective in January, was raised from 8¢ to 16¢ per pack. Thus the present total tax on a package of cigarettes in Montana is 28¢ per pack or

\$2.80 per carton. This is approximately 30% of the price of a package of cigarettes.

The state tax raised \$11,649,438 in the fiscal year ending June 30, 1982. To this were added federal taxes in excess of 7.7 million dollars. The Federal tax collection will double to approximately 15.4 million dollars in the fiscal year ending June 30, 1982 if sales continue at the same level.

Cigarette tax revenue is produced by approximately 35% of the state's population. It, the tax, falls most heavily on those who are least able to pay. Since the percentage of income devoted to buying cigarettes falls as income rises, Montana cigarette taxes are already levied at higher effective rates on the poor than on the more affluent. An increase in the current tax rate will only add to the tax burden on the lower income groups and will contribute further to the over-all regressivity of the Montana tax structure.

Almost 21% of Montana's families have an average buying income of less than \$8,000 per year. It is these families who will suffer most from an increase in this sales tax.

A family at the below poverty level of \$8,000 per year with 2 pack a day smokers pays over 4 times as much of its income in cigarette taxes for the pleasure of smoking than does the more affluent family making \$35,000 per year.

For those elderly Montana citizens living on a fixed income during this time of economic unrest, any increase in the Montana cigarette tax may take away this last affordable pleasure.

| <u>Income</u> | <u>Percent of Income Paid in Cigarette Taxes (at current rate)</u> | <u>Percent of Income Paid in Cigarette Taxes (at proposed rate)</u> |
|---------------|--|---|
| \$ 3,000 | 6.8% | 7.5% |
| 5,000 | 4.1 | 4.5 |
| 8,000 | 2.6 | 2.8 |
| 10,000 | 2.0 | 2.3 |
| 15,000 | 1.4 | 1.5 |
| 25,000 | 0.8 | 0.9 |
| 35,000 | 0.6 | 0.6 |

Average household effective buying income in Montana is \$21,173 a year. Under the current tax rate the average household with two pack-a-day smokers is required to pay \$204.40 in taxes a year on cigarettes for the pleasure of smoking.

There is no doubt that the cigarette tax is a sales tax. It is a tax on each package of cigarettes sold in Montana. Its regressivity is demonstrated by the foregoing information.

- (b) H.B. 511 provides for a substantial increase in a tax which is discriminatory in its application. 35% of Montana are asked to provide facilities for 100% of Montanans.

The 201,900 residents of Montana who smoke cigarettes now produce substantial tax revenues for the benefit of all Montanans. This select group of Montana's adult population is already paying more than its fair share of the cost of state government.

Thirty-five percent of Montana's adult population are funding state government facilities used by all in Montana. Since the tax, to a large extent, also flows over into the general fund, this limited group of people are called upon now to provide approximately 2.8 percent of the state's total tax revenue. Those supporting H. B. 511 seek to add to this discriminatory burden now laid upon the backs of this limited group of tax-payers.

There is no justification for requiring this limited group of Montanans to be the sole source of funding for such projects as the state prison, a Department of Natural Resources building, a new greenhouse at Bozeman, an enlargement of the museum in Helena, a flood dispersal project in Helena, a new building at Montana Tech, or any other of the facilities covered by the projects initially suggested in the long-range building proposals. All Montanans will benefit from these projects. All Montanans should be called upon to pay for them.

- (c) H.B. 511 provides for a self-defeating increase in a selective sales tax.

If H. B. 511 passes the total tax, federal and state, on a package of cigarettes will be 32¢ per pack. This will amount to \$3.20 per carton of cigarettes. The natural reaction will be an effort on the part of many cigarette users to purchase cigarettes from sources where the state tax is lower or where no state tax applies.

The most obvious alternative source of cigarettes which are not subject to state taxation are the "smoke shops" on the numerous Indian Reservations in Montana. Montanans can now save \$1.20 per carton on cigarettes by purchasing them at these "smoke shops". That saving would increase to \$1.60 per carton if H. B. 511 passes. For instance, residents of Missoula could save \$16.00 during a Sunday afternoon drive by driving to the Flathead Reservation and buying 10 cartons of cigarettes for themselves and their neighbors. State cigarette tax officials estimate that the state is losing nearly 1.5 million dollars to non-tax sales at "smoke shops" and on federal reservations such as Malmstrom Air Force Base and Fort Harrison.

Other Montanans purchase cigarettes in surrounding states where the tax levels, for the most part, are less than in Montana.

Tax data on Montana and surrounding states shows the following with respect to comparative tax rates and levels of sales:

| <u>State</u> | <u>Cigarette Tax Rate</u> (¢/pack) | <u>Difference With Montana</u> (¢/pack) | <u>Tax-Paid Per Capita</u> (in packs) | <u>Difference With Montana</u> (in packs) |
|--------------|---|--|--|--|
| Wyoming | 8¢ | -4.0¢ | 157.7 | +35.3 |
| Idaho | 9.1 | -2.9 | 111.5* | -10.9 |
| North Dakota | 12 | ----- | 126.8 | + 4.4 |
| South Dakota | 15 | +3.0 | 113.0 | - 9.4 |
| Montana | 12 | ----- | 122.4 | ----- |

- Montana's cigarette tax rate is already higher than two of its neighboring states (Idaho and Wyoming) and equal to one neighbor (North Dakota) and three cents less than its other border state (South Dakota).
- Tax differentials, which mean price differentials, can induce residents of one state, particularly in border areas, to cross state lines to purchase cigarettes. When otherwise honest citizens engage in casual bootlegging, it deprives the state of cigarette tax revenue and hurts the legitimate businessmen of the state who lose sales to other states.
- Any increase in the tax in Montana will further widen the price differentials with Idaho and Wyoming, eliminate the status quo effect with North Dakota and may eliminate the advantage over South Dakota.

Bootlegging of cigarettes, now a serious and severe problem in large urban areas such as New York and Chicago, is now spreading into the West. This involves the sale of cigarette purchased in such states as North Carolina where the state tax is 2¢ per pack and transportation of these cigarettes to high tax states for re-sale without the application of the other state tax. The Advisory Commission on Intergovernmental Relations study on bootlegging done in 1975 with revisions made by the Federal Bureau of Alcohol, Tobacco and Firearms in 1979, estimated that Montana was losing \$100,000 per year to such tax evasion at that time. It is reasonable to assume that such activity has increased. Raising the tax burden in Montana will certainly raise the level of cigarette bootlegging in this state.

An increase in the cigarette sales tax in Montana will only serve to increase the level of untaxed sales. Thus, the tax increase could well be self-defeating in its application.

- (d) H. B. 511 adds an additional tax burden on a commodity on which the Federal Government doubled the tax from 8¢ to 16¢ per pack effective in January of 1983.

In late 1982, Congress increased the Federal tax on cigarettes from 8¢ to 16¢ per pack effective January 1, 1983. It is anticipated that this increase in the Federal tax will result in a 6% reduction in sales nationally. In Montana cigarette sales were already down approximately 5% in the first five months of this fiscal year. An additional increase in the cigarette tax will only serve to increase this decline in sales.

If H. B. 511 passes, cigarettes will have been subjected to a total increase in Federal and State taxes from 20¢ per pack to 32¢ per pack or an increase of 62.5%. Even the most punitive of taxes have generally not reached such a one-time level of increase.

- (e) No relationship exists between the subject of this tax and the facilities which are being constructed.

Most selective taxes are levied on items which are related to the use of the tax revenues. Thus, for instance, the gasoline and diesel fuel tax is a "user" tax or fee and is so justified. Gasoline is used to fuel and operate automobiles and trucks which, in turn, wear away highways. Proceeds from the gasoline and diesel fuel taxes are used to maintain and reconstruct highways. Thus, there is a relationship between the item taxed and the use of the resulting revenues. No such relationship exists between the cigarette tax and the use of the revenues gained from the tax.

No relationship exists between the use of cigarettes and the construction of prison facilities. No relationship exists between the cigarette tax and the construction of additional art gallery facilities. No such relationship exists between the construction of a greenhouse at M.S.U. and the cigarette tax. No such relationship exists with respect to a new Department of Natural Resources building, a flood dispersal facility, new cottages at Pine Hills School, or any of the other projects proposed in the long-range building program. Perhaps if, for instance, the new greenhouse at M.S.U. were to be used to conduct experiments designed to foster new strains of tobacco or somehow benefit the tobacco growing farmer, some relationship could be established. No such relationship now exists.

There is no causal relationship between a tax on cigarettes and the use of the revenues gained from the tax.

- (f) It is questionable whether Montana can afford to support the building proposed which this tax increase is designed to fund.

It is clear that the budget for the coming biennium is now stretched to the nth degree. It is reasonable to assume the same problem will face the Legislature in future years. Montanans have recently demonstrated by their votes on school bond levies, etc. that they are demanding more economy in state and local government. Creating new facilities creates new costs and budget requirements.

New buildings must be furnished. Expanded facilities increase costs for utilities such as heat and lights. Maintenance costs increase. Operational staffing is enlarged.

Cost increases associated with new projects don't stop when construction is completed. It is only then when increased and ongoing costs commence. The Legislature should make itself fully aware of such cost factors before approving new projects.

Given the state of the economy and the mood of Montana citizens concerning increased taxes and economy in government, this is not the time for the state to embark on overly ambitious building programs.

- (g) Alternative methods exist to fund the long-range building program and thus, an increase in the cigarette sales tax is not necessary.

Several weeks ago, H. B. 448 was signed by the Governor. That Bill changes bonding statutes and requirements in Montana. One important provision of this new law which is now effective provides that:

"No additional long-range building bonds may be issued under Title 17, Chapter 5, Part 4."

From now on, all bonds will be general obligation bonds paid out of the general fund. The "sinking fund" method of bonding will no longer be used.

H. B. 448 also provides a method to be followed for re-funding or re-financing bonded indebtedness. The Department of Administration, anticipating passage of H. B. 448, has been dealing with two investment banking houses toward the end of re-funding present bonded indebtedness and adding additional bonded indebtedness sufficient to fund whatever building program is adopted by this session of the Legislature. Re-funding existing bonds will result in freeing approximately \$9,000,000 in cash reserves from the sinking fund account. \$3,000,000 of this will be returned to various state agencies and the remaining \$6,000,000 will be available for use as cash to pay for

portions of any new building program or for use in debt services.

The decision to follow the re-funding plan rests with the Board of Examiners. We believe that the Department of Administration will recommend the adoption of one of the two bond re-funding proposals after the Legislature has adjourned. Since this action is contemplated by the Department, it seems logical that the Legislature should be fully advised of this alternate method of financing before action is taken on H.B. 511. The use of this method of financing will have a marked effect on the dollar amounts required by the state for new debt service.

- (h) All, not a limited group, of Montanans should be asked to provide funding for facilities that will be used by, or for the benefit of, all Montanans.

The Cigarette tax now generates more money than is required to fund existing debt service associated with the long-range building bond program. The fiscal note for H.B. 511 anticipates revenues of 11.3 million dollars from the present cigarette tax for each year of the new biennium. Payments required for debt service are 8.4 million dollars in fiscal year 1984 and 8.1 million dollars in fiscal year 1985. Excess monies are available for additional debt service payments without raising the tax. The excess amount is approximately 3.0 million dollars per year which could be applied to retiring any additional bond requirements. However, the proponents of H.B. 511 seek to burden a limited group of people with an additional tax regardless of the fact that no need exists for such an increase for debt service purposes.

Fair treatment and equity demands that all Montanans pay for facilities that benefit all people in the State. It is patently wrong to load the burden upon a small portion of Montana's population.

Prepared and circulated by Jerome
Anderson and Otis Tucker Hill,
Registered Lobbyists for the Tobacco
Institute.

(This sheet to be used by those testifying on a bill.)

NAME: THOMAS W. MADDOX

DATE: 11 APRIL 1983

ADDRESS: P.O. Box 123

PHONE: 406 442-1582

| |
|---------------------------|
| SENATE TAXATION COMMITTEE |
| EXHIBIT <u>C</u> |
| <u>APR 11, 1983</u> |
| <u>HOUSE BILL 511</u> |

REPRESENTING WHOM? MONTANA ASSOCIATION OF TOBACCO AND CANDY DISTRIBUTORS

APPEARING ON WHICH PROPOSAL: HB 511

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ☒

COMMENT: Attached _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Apr 11, 1953House BILL/RES 511

I am Tom Maddox. For 21 years I have served as executive director of the Montana Association of Tobacco and Candy Distributors. I represent the wholesale tobacco distributors, who are licensed by the state of Montana to prepay, administer and enforce the state cigarette tax. The Montana wholesale distributors are the primary victims of such legislation as HB511. Not the manufacturers, for whom Mr. Jerome Anderson speaks. The greater the tax the greater the burden the government imposes upon the wholesale distributor. He is the one whose capital is held hostage by the government. Each month the Montana wholesale cigarette distributors must advance 2 million dollars in taxes. Before the wholesale distributor can offer cigarettes for sale--one on an extended credit basis---he must pay the federal tax virtually on delivery of cigarettes -- within a few days. and he must pay the state tax before the cigarettes can be moved from his warehouse. He will be paid by the retailers within a month if he's lucky.

Some legislators have asked me to prepare a true fiscal note relating to HB511. These requests occurred after the revenue department research person showed a lack of knowledge about the state-wholesale distributor "partnership". The department fiscal note stated that the revenue department collections come from the manufacturers---instead of from the Montana cigarette wholesale distributor.

Our fiscal note on HB511 shows the impact on the wholesaler if 511 passes. Moreover, it shows the impact 511 would have on Montana cigarette consumers. Consumers would pay a total of more than 31 million dollars in taxes, for the first effective year under 511. At 16 cents a pack federal tax, and ¹⁵ ~~16~~ cents ⁶⁰ ~~additional~~ under the HB511, the wholesalers' capital would be used by the state at the rate of more than 2 and a half million monthly.

CIGARETTE MARKET TRENDS

Statistics published for the tobacco industry are based upon cigarettes which are sold bearing federal and state sales taxes. Therefore, there is a large volume of cigarettes which are sold through the black market, or bootlegged, or sold on federal reservations. These include cigarettes sold without state tax on Indian reservations, at military installations such as those in Billings, near Cut Bank and at Malmstrom air force base, and by concessionnaires at Veterans' Hospitals at Helena and Miles City.

Statistics on cigarettes bearing state tax show a ~~substantial~~ decline for the fiscal year, ended June 30, 1982, compared with the year before. *In Montana for July-AND-*

August the decline
was 9.22 per cent. Cigarettes in Montana with state tax prepaid continued to drop in sales for the second 6 months of 1982, at a rate of 4.67 per cent.

Nationally, all 50 states showed *A GAIN OF LESS THAN*
one per cent — .76, For Montana for fiscal 1982.
For Montana there was a drop in state taxed
sales — 2.55 per cent

1076 - 5
104 - 9
50 - 12
000 - 12

SOURCE:
MONT. DEPT OF REVENUE

INDIAN SALES WITHOUT TAX -

| | TOTAL CARTONS | TOTAL VALUE | 3% DISCOUNT | TAX |
|------|-------------------|----------------|----------------|------------|
| 1972 | 114626 | 137551.20 | 4126.54 | 137138.66 |
| 1973 | 365694 | 438832.80 | 13164.98 | 425667.82 |
| 1974 | 279251 | 335101.20 | 10053.03 | 325048.17 |
| 1975 | 310127 | 372152.40 | 11164.56 | 360987.84 |
| 1976 | 314929 | 377914.80 | 11337.44 | 366577.36 |
| 1977 | 392020 | 470424.00 | 14112.75 | 456311.25 |
| 1978 | 374375 | 449250.00 | 13477.50 | 435772.50 |
| 1979 | 325564 | 390676.80 | 11720.30 | 378956.50 |
| 1980 | 551127 | 661352.40 | 19840.58 | 641511.82 |
| 1981 | 1332335 | 1598802.00 | 47964.11 | 1550837.89 |
| 1982 | 1,400,000 | 1,600,000 | | |
| 1983 | | | | |
| 1984 | 5,760,048 | | | |
| 1985 | 1,400,000 CARTONS | CARTONS | | |
| 1986 | X .30 INCREASE | X 30% | | |
| 1987 | = 4290000 | | | |
| 1988 | X 10 YEARS | | | |
| 1989 | 4,200,000 | | | |
| 1990 | | | | |

Total Value of Sales

1972-1981 - 5,232,054

but now escalated
to \$1.6 million

or more for 1982

with 1982 projected

1,600,000

5,760,048

.25%

1,152,009.60

181
4,550,837 projected
X 10 YEARS

1,550,837.0

16 million @ \$1.20
X 25% INCREASE
4 million

Projected - 20 million dollars Indian Tax
during 10 years

137,551
438,833
335,101
372,152
377,914
470,424
449,250
390,676
661,352
1,598,802
1,600,000
6,832,000

82
Pro-
posed

Montana Association of

Tobacco and Candy Distributors

1777 Le Grande Cannon Blvd., P.O. Box 123, Helena MT 59624

Telephone (406) 442-1582

Tom Maddox,
Executive Director

(By hand)

The Honorable Stan Stephens,
President of the Montana Senate,
Capitol,
Helena MT 59624

Dear Stan:

You asked for figures on the dollar impact on Montana consumers of cigarettes if HB511 is passed by the Senate in its present form.

The figures and related conditions are attached.

The governor's director of the budget and planning has been quoted in the press as saying the governor has an alternative source for funds to building more prison facilities if HB511 does not pass. As you know, the reference was to HB448, which now has been signed into law (March 22nd) by the governor. There are reported to be financial institutions already expressing interest if the state wishes to issue bonds under today's more favorable terms for the prison and other new construction proposed in the building program.

I hope that you will vote "no" on HB511.

I appreciate the opportunity to provide the statistics on cigarette sales nationally and in Montana. Our source is "The Tax Burden on Tobacco, Volume 17, 1982," which also is used for reference by the Montana Department of Revenue.

Sincerely,



26 March 1983

Attachment:

" FISCAL NOTE " ON HB511

Statistics re: HB511 , proposed 35 per cent increase in tax on sales of cigarettes

——Fiscal year ended June 30, 1982:

| | |
|---|-----------------------------|
| Federal tax was 8 cents a pack; 80 cents a carton) | Total tax : 20 cents a pack |
| Montana tax was 12 cents a pack; \$1. 20 a carton) | \$2. 00 a carton |

ONE cent of tax generated \$970,750.00 from Montana cigarette consumers.

Thus, cigarette consumers in Montana paid a total tax of:

\$19,415,000

(Montana state tax on cigarette sales amount to \$11,649,000)

——As of January 1, 1983, Congress increased the federal tax by 100 per cent, to 16 cents a pack, or \$1. 60 a carton

As the retail cost of cigarettes increased, the volume of taxed cigarettes declined for January 1983 9. 7 per cent, compared with January 1982, nationally.

For the seven month period July 1, 1982 through January 1983, taxed cigarettes declined .04 per cent from the corresponding period of the year before.

For Montana for the seven months July 1, 1982 through January 31, 1983, sales of taxed cigarette declined 3. 74 per cent, compared with the corresponding period the year before.

The difference in decline for Montana, compared to national volume, may be attributed in part to Montana already incurring a general loss in sales of taxed cigarettes over recent years, due to increasing sales of cigarettes without state tax by Indians, and at military reservations and veterans' hospitals.

——If HB511 is enacted, bringing the state tax to match the federal 16 cents, effective July 1, 1983, and if projected sales may be assumed as continuing at the fiscal 1982 volume, In Montana cigarette consumers would pay in the ensuing year:

| | |
|--------------------------------|---------------------------|
| At 16 cents a pack federal tax | \$15, 532, 000. 00 |
| At 16 cents a pack Montana tax | 15, 532, 000. 00 |
| Total tax | <u>\$31, 064, 000. 00</u> |

——Additionally, other factors to be considered in a "fiscal" note:

Historically, losses in sales occur after such tax increases. The 35 per cent increase in tax would of course yield more than before, but not 35 per cent more for the ensuing year.

Some loss would occur as a result in consumers buying more cigarettes without state tax from Indians, military and veterans' hospital sources and in neighboring states, such as Wyoming with its 8 cent tax, Idaho with its 9. 1 cent tax, North Dakota with its 12 cents tax or Colorado with its 10 cents tax.

Based upon Department of Revenue estimates for its latest year of record (1981), and a 16 cent tax, Indian sales for the ensuing 10 years would mean a loss of state tax of 18 million dollars. However, any higher state tax reasonably can be expected to enhance the volume of reservation sales of cigarettes

In the Montana legislature a majority of representatives has proposed that BIG GOVERNMENT hit cigarette consumers with \$31 million in sales taxes.

The Montana Senate has an opportunity to correct part of the highly discriminatory sales tax on cigarettes, and to choose one or more alternatives.

If HB511 is passed by a majority of the Montana Senate, Montana cigarette smokers will pay tax the first effective year totaling \$31,064,000 (m) or more!

If you can't believe it, get your pencil or calculator. Start with the Department of Revenue statistics for the latest official year ended June 30, 1982. At that time the state sales tax was 12 cents a pack of cigarettes and the federal tax was 8 cents a pack, for a total tax on a purchase of a pack of cigarettes of 20 cents. Thus, Montana cigarette consumers paid BIG GOVERNMENT a total of \$19,415,000 (m) for 1982.

As of January 1, 1983, the U. S. Congress increased the federal cigarette tax 100%. A majority of the House of Representatives in Helena has voted to increase the state cigarette sales tax by 35% -- to the same sales tax figure as the federal tax: 16 cents, effective July 1, 1983.

This is the way it computes:

One cent sales tax a pack on Montana smokers in 1982 yielded \$ 970,750.00. If 26 or more Montana Senators vote for HB511, Montana cigarette users will be assessed a combined state-federal tax of 32 cents a pack. If 1982 sales volume continues, cigarette consumers in Montana will pay in the first effective year of the combined taxes a total of \$31,064,000.00 (m).

If estimates of cigarette smokers are accepted at roughly one-third of the adult Montana population, this underscores the discrimination on about 233,000 taxpayers.

Many intelligent, knowledgeable legislators say there's no need for more sales taxes. These legislators say there are alternative resources to care for more prisoners; build a greenhouse for Montana State University, or construct more government administrative or education buildings.

When the governor and his House majority "sold" their budget, they referred to millions of dollars, even a billion state-federal dollars, to impress Montana taxpayers with the need. The minority saw a \$40 million lower budget. The news media tosses out such references for public consumption as "millions" change from day to day.

Although the governor said he doesn't want more general tax nor more sales tax, he asked for support of HB511 with its original proposal for \$2.9 million more sales taxes. Then the House boosted this levy to \$3.9 million.

When House sponsors were "selling" HB511, they sold it as just costing taxpayers a few more pennies. At first they asked for just 3 cents more. Now HB511 has been "sold" to the House majority as only 4 cents more sales tax. The news media so far has gone along with this just-a-few-pennies more and the rest -- "after all, only one out of 3 Montanans will be paying this tax.

Some knowledgeable legislators believe there is no honest need for more taxes; no need for more sales tax on a select few people. Just some of the alternatives include, but are not limited to, the following:

1. The state has collected and holds on to millions of dollars from coal taxes. Their investment generates more millions. This coal tax is dedicated for emergencies and today's emergency is need for a prison.

Representatives Robert Ellerd and Carl Seifert has offered HB18 as an opportunity to use \$14 million or more necessary for more prison facilities from the coal tax cache as an emergency measure.

2. The governor's budget director was quoted by news media as saying that if HB511 does not pass, the governor has another way to go. No further details were provided by news media, although this should be of interest to all taxpayers.

On March 22, Governor Ted Schwinden signed into law HB448, providing a viable alternative to prison and other government-education building needs. HB448 is a fresh concept as a revenue source which allows all taxpayers to fairly shoulder the burden of providing state building needs. No longer would the state be dependent upon tobacco consumers' sales taxes for construction of government buildings (wherein many sections are "no smoking" areas).

HB448 now gives the state opportunity to refinance outstanding bonds, obtain instant millions of dollars for buildings, at today's lower terms.

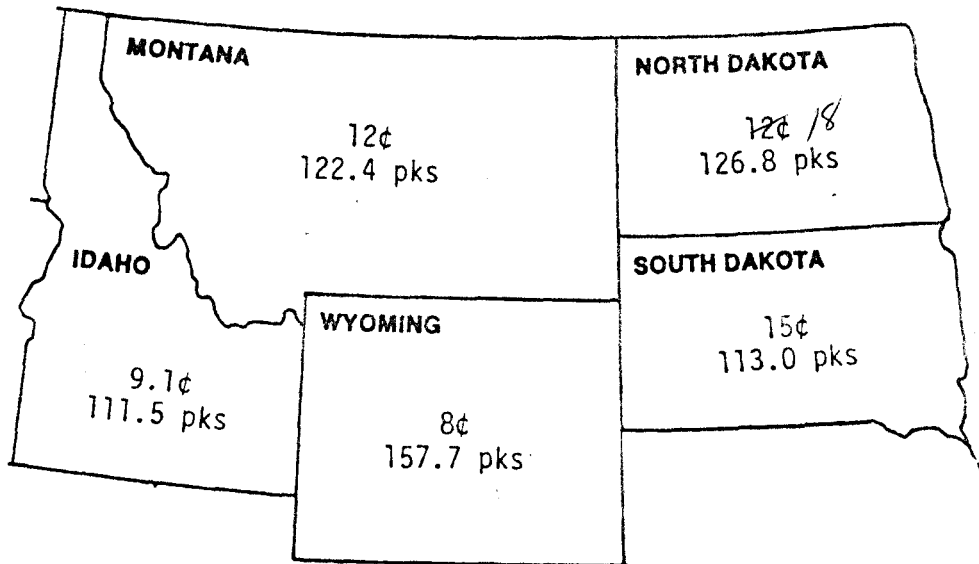
3. HB915 by Speaker Daniel Kemmis proposes an increase of "just a few more dollars" for average income taxpayers. Opponents of a general sales tax prefer personal income tax as fair as a tax can be.

4. HB917, by Representatives Ellerd and Harrison Fagg, proposes what may be an unique combination of trading a general sales tax for the individual's real property tax; moreover, affording citizens opportunity to go to the polls to make a collective choice.

5. Some legislators believe there exists the best alternative of all: that prudent government management of existing revenue resources will prove that there is no need for more selective sales tax as in HB511, nor need for any other tax increase.

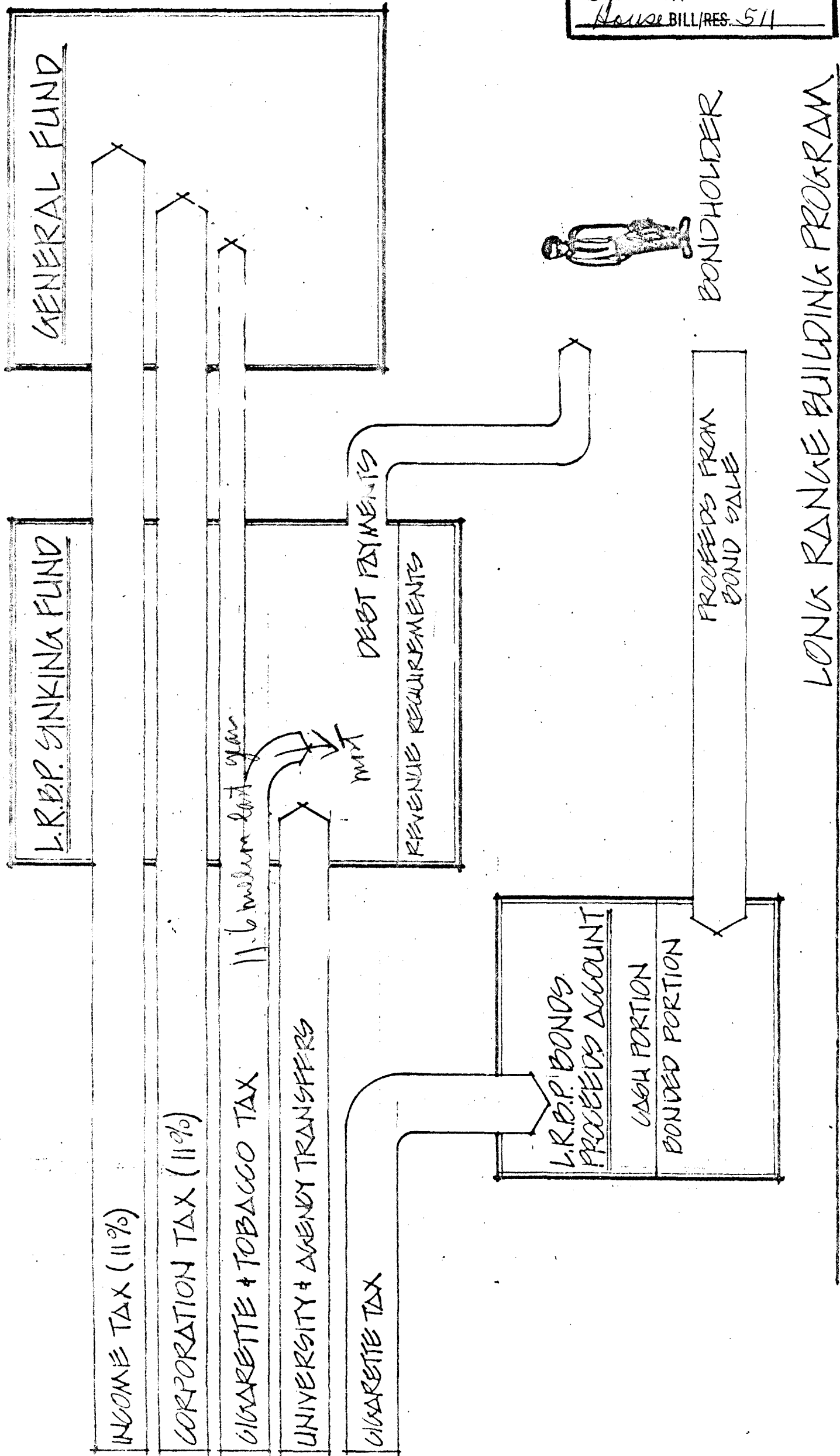
Under this subject is a tax loophole that government has failed to correct: Loss of state taxes on cigarette sales by Indians. The House Taxation Committee was informed that if HB511 is enacted, a loss of \$20 million dollars will occur in the ensuing 10 years.

This projection is based upon Montana Department of Revenue figures for the past 10 years since Indians began selling cigarettes without the state tax. For the latest tax year of record, the department estimated the state tax loss on Indians' taxless cigarette sales at \$1.3 million ---and no one has figures on the loss of untaxed cigarettes being bootlegged onto reservations. Nor has the state calculated similar losses on cigarette sales on military and federal hospital reservations.

April 11, 1983House 511**CIGARETTE TAX RATE AND TAX-PAID PER CAPITA SALES****KEY**

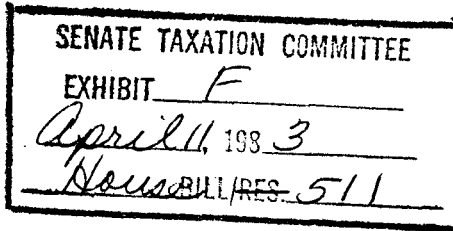
TOP FIGURE: RATE PER PACK AS OF JANUARY 1, 1983

BOTTOM FIGURE: TAX PAID PER CAPITA SALES AS OF JUNE 30, 1982





First Boston



February 26, 1983

Hon. Morris Brusett
Director
Department of Administration
State of Montana
Room 155, Sam W. Mitchell Building
Helena, Montana

Dear Morris:

Pursuant to your request, we have updated our refunding analysis to reflect (i) your department's comments, (ii) certain changed assumptions, and (iii) developments in the tax-exempt market. The enclosed materials are intended to replace our presentation dated February 10, 1983. In all of the analysis provided here, we have assumed that it will be possible for the State to recapture issuance costs pursuant to the results of the State of Washington case.

We believe the State will achieve five important objectives with the implementation of an advance refunding.

- A reduction of debt service in present value terms when a comparison is made between existing debt service and that which would be due on a new refunding issue. (\$115,107)
- Fiscal 1983 budget relief which would result from the deferral of certain debt service payments. (\$5,279,006)
- The release of certain reserve funds currently required to be maintained under the indentures associated with existing bonds. (approximately \$9,000,000)
- Leveling out the State's General Obligation debt service to facilitate future financial and budgetary planning.
- A reduction of debt service in present value terms when a comparison is made between doing a stand alone \$40 million new general obligation issue and a \$40 million issue done in conjunction with the refunding issue but completed at a later date. (\$1,766,264)

Dave - Jonathan can be
have this afternoon
if you've got a
free minute. We'll
call you after
lunch to
see if it makes
sense for him
to come by. I'll
see you next
time.

Harry

It is important to note that the last item referenced above is one that will require extensive review by bond counsel. The tax issues associated with the implementation of a combined program of refunding and new money issuance are quite complex. In response to your request, we have analyzed the impact of doing a refunding without the deferral of the May 1, 1983 debt service payment. The results of that analysis appear behind Schedule IV.

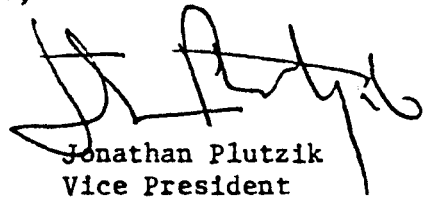
We are pleased to be continuing our dialogue concerning the development of a well-structured program of general obligation bond issuance for the State. Please do not hesitate to call on us if we can provide any additional information concerning any of the issues addressed in this brochure or any other matters relating to the tax-exempt market. Please refer any questions concerning this analysis to Shelby Chodos at (212) 909-2943, Tom Jacobs at (212) 909-2827, or either of us at the numbers provided below.

Best regards.

Very truly yours,



Henry Lanier
Vice President
(212) 909-2887



Jonathan Plutzik
Vice President
(212) 909-2823

cc: Dave Ashley



First Boston

Refunding Analysis
Prepared for the
State of Montana

Schedule I Statistical Summary

Schedule II Analysis of Refunding
without Issue for
New Money

- Existing Debt Service
- Proposed Refunding
Issue Debt Service
- Calculation of Debt
Service Savings
- Escrow Cash Flow, Yield,
and Proposed Sources and
Uses of Funds

Schedule III Analysis of Refunding
and \$40 million New
Money Issue

- Existing Debt Service
Combined with
\$40 million New Money
Issue Debt Service
- Debt Service on
Proposed Combination
of New Money and
Refunding Issues
- Calculation of Debt
Service Savings
- Escrow Cash Flow, Yield,
and Proposed Sources and
Uses of Funds

Schedule IV Analysis of Refunding Not
Including Payments Due
May 1, 1983

- Existing Debt Service
- Proposed Refunding Issue
Debt Service
- Calculation of Debt
Service Savings
- Escrow Cash Flow, Yield,
and Proposed Sources and
Uses of Funds

Comparison of 3 Options to
20 Year Level Debt
Plus Existing 5 Issues
State of Montana

| Year Ending 6/30 | 1983 Issue Total Debt Service-\$43mm 20 Year Level | Existing Debt Service 5 Issues | Total Debt Service | Comparison of Alternatives | | |
|------------------------|---|--------------------------------------|-----------------------|--|--|--|
| | | | | Total Debt Service Option 1: Combined Debt Limit | Total Debt Service Option 2: \$13mm Annual Limit | Total Debt Service Option 3: \$13.5mm Annual Limit |
| 1984 | \$ 4,681,040.00 | \$ 8,584,942.50 | \$13,265,982.50 | \$13,107,645.00 | \$12,788,520.00 | \$13,316,967.50 |
| 1985 | \$ 4,681,420.00 | \$ 8,294,990.00 | \$12,976,410.00 | \$12,855,995.00 | \$12,830,890.00 | \$13,352,967.50 |
| 1986 | \$ 4,680,650.00 | \$ 7,898,846.25 | \$12,579,496.25 | \$12,498,985.00 | \$12,868,470.00 | \$13,407,317.50 |
| 1987 | \$ 4,678,320.00 | \$ 7,552,586.25 | \$12,230,906.25 | \$12,193,315.00 | \$12,914,920.00 | \$13,453,392.50 |
| 1988 | \$ 4,679,020.00 | \$ 7,426,343.75 | \$12,105,363.75 | \$12,105,635.00 | \$12,962,895.00 | \$13,504,242.50 |
| 1989 | \$ 4,676,930.00 | \$ 7,124,132.50 | \$11,801,062.50 | \$11,841,205.00 | \$13,015,385.00 | \$13,562,592.50 |
| 1990 | \$ 4,676,640.00 | \$ 6,928,252.50 | \$11,604,892.50 | \$11,690,745.00 | \$13,100,045.00 | \$13,620,842.50 |
| 1991 | \$ 4,677,330.00 | \$ 6,656,412.50 | \$11,333,742.50 | \$11,466,215.00 | \$13,107,520.00 | \$13,608,242.50 |
| 1992 | \$ 4,678,180.00 | \$ 6,239,117.50 | \$10,917,297.50 | \$11,074,415.00 | \$13,095,320.00 | \$13,559,505.00 |
| 1993 | \$ 4,673,370.00 | \$ 6,069,222.50 | \$10,742,592.50 | \$10,857,305.00 | \$13,052,320.00 | \$13,519,617.50 |
| 1994 | \$ 4,672,490.00 | \$ 5,924,035.00 | \$10,596,525.00 | \$10,656,455.00 | \$13,011,920.00 | \$13,503,930.00 |
| 1995 | \$ 4,674,310.00 | \$ 5,218,385.00 | \$ 9,892,695.00 | \$ 9,914,255.00 | \$13,004,720.00 | \$13,499,255.00 |
| 1996 | \$ 4,672,600.00 | \$ 5,472,140.00 | \$10,144,740.00 | \$10,149,480.00 | \$13,001,740.00 | \$ 3,607,625.00 |
| 1997 | \$ 4,669,550.00 | \$ 2,351,617.50 | \$ 7,021,167.50 | \$ 7,025,530.00 | \$ 2,725,440.00 | |
| 1998 | \$ 4,667,350.00 | \$ 1,706,852.50 | \$ 6,374,202.50 | \$ 6,379,490.00 | | |
| 1999 | \$ 4,670,300.00 | \$ 1,682,365.00 | \$ 6,352,665.00 | \$ 6,353,640.00 | | |
| 2000 | \$ 4,667,755.00 | \$ 1,679,465.00 | \$ 6,347,220.00 | \$ 6,352,785.00 | | |
| 2001 | \$ 4,667,375.00 | \$ 1,683,045.00 | \$ 6,350,420.00 | \$ 6,350,725.00 | | |
| 2002 | \$ 4,665,830.00 | \$ 1,682,495.00 | \$ 6,348,325.00 | \$ 6,352,940.00 | | |
| 2003 | \$ 4,664,700.00 | \$ 1,687,710.00 | \$ 6,352,410.00 | \$ 908,850.00 | | |
| 2004 | | \$ 1,682,197.50 | \$ 1,682,197.50 | | | |
| 2005 | | \$ 1,677,137.50 | \$ 1,677,137.50 | | | |
| 2006 | | \$ 1,681,087.50 | \$ 1,681,087.50 | | | |
| 2007 | | \$ 1,674,057.50 | \$ 1,674,057.50 | | | |
| 2008 | | \$ 1,681,625.00 | \$ 1,681,625.00 | | | |
| 2009 | | \$ 1,526,025.00 | \$ 1,526,025.00 | | | |
| 2010 | | \$ 1,533,600.00 | \$ 1,533,600.00 | | | |

Totals \$93,475,160.00 \$113,318,686.25 \$206,793,846.25

\$190,135,610.00

\$171,480,105.00

\$165,526,497.50

\$16,658,236 savings

PV at 8% \$45,935,688.52 \$ 62,269,765.72 \$108,205,454.24

\$104,811,708.67

\$103,328,653.84

\$102,843,708.45

\$3,393,746 - savings in present value dollars.

SENATE TAXATION COMMITTEE

EXHIBIT

April 11, 1983

House BILL/RES. 511

ESTIMATED INVESTMENT CREDIT CLAIMS
AT 5% OF FEDERAL CREDIT
(All Numbers in Millions of Dollars)

5% Investment Credit With \$500 Cap

| | <u>\$</u> <u>FY84</u> | <u>\$</u> <u>FY85</u> | <u>\$</u> <u>Total</u> |
|-----------------------------|--------------------------|--------------------------|---------------------------|
| Individual Claims | 1.624 | 1.705 | |
| Carryover (from prior year) | .550 | .550 | |
| Total | 2.174 | 2.255 | |
| Corporate Claims | .427 | .448 | |
| Carryover (prior years) | .350 | .350 | |
| Total | .777 | .798 | |
| TOTAL | 2.951 | 3.053 | 6.004 |

5% Investment Credit \$500 Cap Plus Carryover/Carryback

| | <u>\$</u> <u>FY84</u> | <u>\$</u> <u>FY85</u> | <u>\$</u> <u>Total</u> |
|-------------------|--------------------------|--------------------------|---------------------------|
| Individual Claims | 1.624 | 1.705 | |
| Carryover | .550 | .565 | |
| Carryback Refunds | .070 | .072 | |
| Total | 2.244 | 2.342 | |
| Corporate Claims | .427 | .448 | |
| Carryover | .350 | .372 | |
| Carryback Refund | .157 | .165 | |
| Total | .934 | .985 | |
| TOTAL | 3.178 | 3.327 | 6.505 |

5% Investment Credit C \$5,000 Limit + 50% Tax Liability

| | <u>\$</u> <u>FY84</u> | <u>\$</u> <u>FY85</u> | <u>\$</u> <u>Total</u> |
|-------------------|--------------------------|--------------------------|---------------------------|
| Individual Claims | 1.678 | 1.761 | |
| Carryover | .550 | .557 | |
| Carryback | .051 | .053 | |
| Total | 2.279 | 2.371 | |
| Corporate Claims | .673 | .706 | |
| Carryover | .350 | .367 | |
| Carryback | .125 | .132 | |
| Total | 1.148 | 1.205 | |
| TOTAL | 3.427 | 3.576 | 7.003 |

STANDING COMMITTEE REPORT

April 11

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **739**

Kennan (Elliott)

Respectfully report as follows: That **House** Bill No. **739**

third reading copy, as follows:

1. Page 1, line 25.

Following: line 24

Insert: "However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit."

2. Page 2, line 4.

Following: line 3

Strike: line 4

Renumber: subsequent subsection

3. Page 2, line 10.

Following: "{a} 30%

Strike: "20%

Insert: "5%

~~XXXXXX~~

(Continued on page 2)

N.C.

4. Page 5, line 5.

Following: line 4

Insert: "However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit."

5. Page 5, line 9.

Following: line 8

Strike: line 9

Renumber: subsequent subsection

6. Page 5, line 14.

Following: "~~a~~ 30%"

Strike: "20%"

Insert: "5%"

7. Page 6, line 24.

Following: line 23

Insert: "Section 3. Section 15-30-162, MCA, is amended to read:

"15-30-162. Investment credit. (1) There is allowed as a credit against the tax imposed by 15-30-103 a percentage of the credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended.

(2) The amount of the credit allowed for the taxable year is the sum of:

(a) ~~30%~~ 20% of the amount of credit determined under section ~~46(a)(2)~~ of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (4); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (4).

(3) Notwithstanding the provisions of subsection (2), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 50% of the tax liability in excess of \$5,000. In the case of a husband and wife who file separate returns, the investment credit may not exceed \$2,500 plus 50% of the tax liability in excess of \$2,500 unless the spouse of the taxpayer has no qualified investment for and no unused credit carryback or carryover to the taxable year of the spouse that ends with or within the taxpayer's taxable year.

(Continued on page 3)

April 11

19 83

(4) If any part of the investment credit is not applied against the tax liability for the taxable year because of the limitations imposed under subsection (3), the unused portion shall be carried back and carried forward in accordance with the provisions of section 46(b) of the Internal Revenue Code of 1954, as amended, or as section 46(b) may be renumbered or amended.

(5) The investment credit allowed by this section is subject to recapture as provided for in section 47 of the Internal Revenue Code of 1954, as amended, or as section 47 may be renumbered or amended. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

- (a) it was placed in service in Montana; and
- (b) it was used for the production of Montana income.

Section 4. Section 15-31-123, MCA, is amended to read:

"15-31-123. Investment credit. (1) The purpose of this section is to allow small businesses to take an investment credit as provided for in subsection (3) and to stimulate capital investment by the small business sector.

(2) For the purposes of this section, "small business" means a business that ~~is eligible to elect to be taxed under the provisions of 15-31-202, whether or not such election is made~~ does not have:

- (a) more than 10 shareholders;
- (b) a person who is not an individual (other than an estate or other than a trust described in 15-31-207) as a shareholder;
- (c) a nonresident alien as a shareholder; and
- (d) more than one class of stock.

(3) There is allowed as a credit against the taxes imposed by 15-31-101, 15-31-121, and 15-31-122 a percentage of the credit allowed with respect to certain depreciable property under section 38 of the Internal Revenue Code of 1954, as amended, or as section 38 may be renumbered or amended. However, rehabilitation costs as set forth under section 46(a)(2)(F) of the Internal Revenue Code of 1954, or as section 46(a)(2)(F) may be renumbered or amended, are not to be included in the computation of the investment credit. The credit is allowed for the purchase and installation of certain qualified property defined by section 38 of the Internal Revenue Code of 1954, as amended, if the property meets all of the following qualifications:

(Continued on page 4)

PC

April 11

19 83

(a) it was placed in service in Montana; and

(b) it was used for the production of Montana income."

(4) The amount of the credit allowed for the taxable year is the sum of:

(a) 30% 20% of the amount of credit determined under section 46(a)(2) of the Internal Revenue Code of 1954, as amended, or as section 46(a)(2) may be renumbered or amended;

(b) the investment credit carryovers carried to the taxable year as provided in subsection (6); and

(c) the investment credit carrybacks carried to the taxable year as provided for in subsection (6).

(5) Notwithstanding the provisions of subsection (4), the investment credit allowed for the taxable year may not exceed the taxpayer's tax liability for the taxable year. In the event the taxpayer's tax liability for the taxable year exceeds \$5,000, the investment credit may not exceed \$5,000 plus 50% of the tax liability in excess of \$5,000.

(6) If any part of the investment credit is not applied against the tax liability for the taxable year because of the limitations imposed under subsection (5), the unused portion shall be carried back and carried forward in accordance with the provisions of section 46(b) of the Internal Revenue Code of 1954, as amended, or as section 46(b) may be renumbered or amended.

(7) The investment credit allowed by this section is subject to recapture as provided for in section 47 of the Internal Revenue Code of 1954, as amended, or as section 47 may be renumbered or amended."

Renumber: subsequent sections

8. Page 7, line 4.

Following: "Applicability."

Insert: "(1)"

9. Page 7, line 6.

Following: "1982"

Insert: "and before January 1, 1985. Sections 3 and 4 are applicable to taxable years beginning after December 31, 1984.

(2) The carryover of credits earned under 15-30-162 or 15-31-123 prior to January 1, 1983 are not affected by this act."

And, as so amended

BE CONCURRED IN

SENATE TAXATION COMMITTEE
EXHIBIT H
APRIL 11, 1983
ROLL CALL VOTE HB 739

SENATE COMMITTEE TAXATION

Date April 11, 1983 House Bill No. 739 Time 10:05

| NAME | YES | NO |
|---------------------------------|--------------|----|
| SENATOR GOODOVER, CHAIRMAN | | ✓ |
| SENATOR McCALLUM, VICE CHAIRMAN | | ✓ |
| SENATOR BROWN | | ✓ |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | | ✓ |
| SENATOR GAGE | | ✓ |
| SENATOR TURNAGE | ✓ | ✓ |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | | ✓ |
| SENATOR ECK | ✓ | |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | ✓ | |
| SENATOR NORMAN | ✓ | |
| SENATOR TOWE | | ✓ |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

*Halligan's substitute motion re
rehab provisions (to include
credit for rehabilitation)*

(include enough information on motion—put with yellow copy of committee report.)

SENATE TAXATION COMMITTEE
EXHIBIT J
APRIL 11, 1983
ROLL CALL VOTE HB ~~739~~ 739

SENATE COMMITTEE TAXATION

Date April 11, 1983 House Bill No. 739 Time 10:12

| NAME | YES | NO |
|---------------------------------|-----|----|
| SENATOR GOODOVER, CHAIRMAN | ✓ | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | |
| SENATOR BROWN | ✓ | |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | ✓ | |
| SENATOR GAGE | ✓ | |
| SENATOR TURNAGE | ✓ | |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | ✓ | |
| SENATOR ECK | ✓ | |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | ✓ | |
| SENATOR NORMAN | ✓ | |
| SENATOR TOWE | ✓ | |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

Elliott's motion to amend.

(include enough information on motion—put with yellow copy of committee report.)

SENATE LABORATION COMMITTEE
 SA. 1011 K
 APRIL 11, 1983
 ROLL CALL VOTE 739

SENATE COMMITTEE TAXATION

Date April 11, 1983 House _____ Bill No. 739 Time 10:21

| NAME | YES | NO |
|---------------------------------|-----|----|
| SENATOR GOODOVER, CHAIRMAN | ✓ | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | |
| SENATOR BROWN | ✓ | |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | ✓ | |
| SENATOR GAGE | ✓ | |
| SENATOR TURNAGE | ✓ | |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | ✓ | |
| SENATOR ECK | ✓ | |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | ✓ | |
| SENATOR NORMAN | ✓ | |
| SENATOR TOWE | ✓ | |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
 Motion: _____

Chairman: Pat M. Goodover

Elliott's motion that 739

Be Concurred & As Amended

(include enough information on motion—put with yellow copy of committee report.)

ROLL CALL VOTE HB 740

SENATE COMMITTEE TAXATION

Date Apr 11, 1983 House Bill No. 740 Time 10:25

| NAME | YES | NO |
|---------------------------------|----------------|----|
| SENATOR GOODOVER, CHAIRMAN | ✓ | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | |
| SENATOR BROWN | ✓ | |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | ✓ | |
| SENATOR GAGE | ✓ | |
| SENATOR TURNAGE <i>by proxy</i> | A ✓ | |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | ✓ | |
| SENATOR ECK | | ✓ |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | | ✓ |
| SENATOR NORMAN | | ✓ |
| SENATOR TOWE | | ✓ |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

Elliott's motion to table.

(include enough information on motion—put with yellow copy of committee report.)

SENATE COMMITTEE TAXATIONDate April 11, 1983 House Bill No. 841 Time 10:34

| NAME | YES | NO |
|---------------------------------|-----|----|
| SENATOR GOODOVER, CHAIRMAN | ✓ | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | |
| SENATOR BROWN | ✓ | |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | ✓ | |
| SENATOR GAGE | ✓ | |
| SENATOR TURNAGE | ✓ | |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | ✓ | |
| SENATOR ECK | | ✓ |
| SENATOR HALLIGAN | | ✓ |
| SENATOR LYNCH | | ✓ |
| SENATOR NORMAN | | ✓ |
| SENATOR TOWE | | ✓ |
| SENATOR MAZUREK | | ✓ |

Secretary: Barbara J. Effing
Motion:

Chairman: Pat M. Goodover

Elliott's motion to table

(include enough information on motion—put with yellow copy of committee report.)

STANDING COMMITTEE REPORT

April 11

19 83

MR. **PRESIDENT**

We, your committee on **taxation**

having had under consideration **House** Bill No. **511**

Bardanouve (Norman)

Respectfully report as follows: That **House** Bill No. **511**

BE CONCURRED IN

~~XXXXXX~~

J.C.

ROLL CALL VOTE

SENATE COMMITTEE TAXATION

Date Apr 11, 1983 House Bill No. 511 Time 10:36

| NAME | YES | NO |
|---------------------------------|-----|----|
| SENATOR GOODOVER, CHAIRMAN | | ✓ |
| SENATOR McCALLUM, VICE CHAIRMAN | | ✓ |
| SENATOR BROWN | | ✓ |
| SENATOR CRIPPEN | | ✓ |
| SENATOR ELLIOTT | | ✓ |
| SENATOR GAGE | | ✓ |
| SENATOR TURNAGE | | ✓ |
| SENATOR SEVERSON | | ✓ |
| SENATOR HAGER | | ✓ |
| SENATOR ECK | ✓ | |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | | ✓ |
| SENATOR NORMAN | | ✓ |
| SENATOR TOWE | ✓ | |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
 Motion:

Chairman: Pat M. Goodover

Eck's motion to reinsert

(include enough information on motion—put with yellow copy of committee report.)

ROLL CALL VOTE HB 511

SENATE COMMITTEE TAXATION

Date Apr 11, 1983 House Bill No. 511 Time 10:40

| NAME | YES | NO |
|---------------------------------|-----|----|
| SENATOR GOODOVER, CHAIRMAN | ✓ | |
| SENATOR McCALLUM, VICE CHAIRMAN | ✓ | |
| SENATOR BROWN | ✓ | |
| SENATOR CRIPPEN | ✓ | |
| SENATOR ELLIOTT | ✓ | |
| SENATOR GAGE | ✓ | |
| SENATOR TURNAGE | ✓ | |
| SENATOR SEVERSON | ✓ | |
| SENATOR HAGER | ✓ | |
| SENATOR ECK | ✓ | |
| SENATOR HALLIGAN | ✓ | |
| SENATOR LYNCH | ✓ | |
| SENATOR NORMAN | ✓ | |
| SENATOR TOWE | ✓ | |
| SENATOR MAZUREK | ✓ | |

Secretary: Barbara J. Effing
 Motion:

Chairman: Pat M. Goodover

Towe's motion that 511 Be Concurred In.

(include enough information on motion—put with yellow copy of committee report.)