

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 5, 1985

The meeting of the Local Government Committee was called to order by Chairperson Darko on February 5, 1985 at 3:30 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present, however, Rep. Brown was late in arriving.

CONSIDERATION OF HOUSE BILL NO. 299: Rep. Eudaily, sponsor of the bill, stated that this bill was at the request of Missoula County Commissioners. House Bill 299 will solve the problem that they have.

PROPOSERS: Mike Stagstead, Missoula County Deputy Attorney, said that the pricing catalog is full of prices which are subject to change. He would like to control the printer which would alleviate the present law. This bill makes a change only to specific counties.

Wendy Ross Cromwell, representing the Missoula County Clerk and Recorder, stated that a 5% handicap for in-county printing establishments seems a fair advantage. Passage of this bill will help prevent local printers from forcing counties to pay ransom for ballots and other printed materials essential to the operation of government. She presented written testimony as Exhibit 1.

Don Breiby, Department of Administration, spoke in support of the bill. The State of Montana used to buy all their equipment from the Franklin Catalog. They now bid their job individually. He recommended that section 3 be amended.

OPPOSERS: Mike Meloy, from the Montana Press Association, stated this would change the method of printing. He commented on the reason for the increase which was the county printing board had a requirement to change printing rates. Secondly, he would like to see business kept in the county. He hopes that the effect of this bill will keep the business in town. He then handed in testimony from Verl Rademaker from White Sulphur Springs. It is attached as Exhibit 2.

There being no further proponents and no opponents present, Rep. Eudaily closed saying he does not think House Bill 299 is trying to take any business from the counties.

DISCUSSION OF HOUSE BILL NO. 299: Rep. Sands asked Rep. Eudaily what was the reason for the language on page 3, lines 23-24.

Rep. Eudaily referred the question to Mike Stagstead who said it was simply to make sure you cannot go outside the county.

Rep. Pistoria asked Mike Stagstead if he received any calls regarding other counties. He replied he did not.

CONSIDERATION OF HOUSE BILL NO. 279: Rep. Kitselman, sponsor of the bill, stated this bill basically provides that money not needed to pay rural special improvement bonds or warrants and is not needed to repay any loans to the district revolving fund, goes to the district maintenance fund. He then went through the bill and explained where the money comes from.

PROPOSERS: Mike Stephens, representing the Clerks and Recorders Association, testified that when a sinking fund winds down, the money now becomes an excess. He feels that this may revert to the maintenance fund.

Fern Hart stated she supports this bill. She presented written testimony, Exhibit 1.

Terry Carmody, Montana Realtors Association, stated they support the bill.

There were no further proposers and no opponents present.

Rep. Kitselman closed.

CONSIDERATION OF HOUSE BILL NO. 382: Rep. Harp, sponsor of the bill, said this bill changes the way the gas tax money is used which pertains to cities and counties. He stated he was disappointed about some of the misleading information on the purpose of the bill. The purpose is to make sure the money is put to use by the present statute.

PROPOSERS: Carl Siefert, representing himself and other citizens, stated the reason the bill was drafted was because it helps get the gas tax passed. This bill is not doing anything that was not in HB 16 in the 1983 session.

Bill Olson, representing the Montana Contractors' Association, presented written testimony in the form of a Memorandum dated May 9, 1984, from the Montana Contractors' Association (Exhibit 1). He said that on page 3, line 16 of the bill, it states that all funds allocated to counties, cities and towns shall be disbursed only by contract and when the contract exceeds \$4,000 the contract may be let only to the lowest bidder. The content of the bill itself addresses construction. It is their intent that from the time construction begins, that is when contracts should be initiated. The competitive bidding process is the best for the taxpayer. On behalf of the Association he represents, he sincerely urged the committee

to support House Bill 382.

Chad Smith, representing the Montana Land Improvement Contractors, stated that we are talking about state funds. These are not county or local government funds and do not in any way tell how to spend their monies. The contractors are in need of the work and they are paying taxes. They are providing the equipment that is not necessary for the counties, cities and local governments to provide. They asked support in passing House Bill 382.

Stan Dugdale, on behalf of the Montana Contractors' Association and Dugdale Construction, requested support of House Bill 382. He presented written testimony as Exhibit 2 in support of the bill.

David Orbe, representing United Industries of Missoula, presented written testimony in support of House Bill 382 (Exhibit 3). He wanted to point out that it should be the function of local government to serve the public, not compete with it.

Kenneth Kramer, member of the Land Improvement Contractors of Montana, stated he is in agreement with all the testimony presented and issued support of House Bill 382.

Jim Blankenship of Butte, stated he is trying to be in the construction business, and he would like the committee to vote for this bill. He would like to be able to bid for work that is available.

John L. Hansen, COP Construction Company of Billings, stated he would like the record to show that they are in favor of the bill and would request the committee to support and pass House Bill 382.

OPPONENTS: Jim Nugent, City Attorney from Missoula, presented written testimony asking that House Bill 382 be killed, (Exhibit 4). He said if this bill passes, they will have to lay off many full-time employees working on the street crews. Also attached is a letter dated January 31, 1985, from Mr. Nugent urging that House Bill 382 be killed (Exhibit 5).

Don Peoples of Butte-Silver Bow, stated that it was mentioned that Butte-Silver Bow had done only one SID in the last four years and that was made by contractors. They do not purchase capital equipment with the gas tax funds. He stated he thinks the record is clearly on their side when talking about maintenance. In the last five years they have contracted over \$9 million, and they think that the decision to either go to contractors or maintain is a local decision. It is not efficient nor is it effective. Their opposition is one of protecting some jobs for some people. To indicate their level of support they have several people present who are on vacation

in order to come here and testify. They urged opposition to this bill.

Mel Johnson of Great Falls stated that there are limitations on the way gas tax funds should be used. He believes in free enterprise and free bidding. In Great Falls they bid out new street construction and they expanded bidding to others. They use competitive bidding in the best interests of the taxpayer but to assume this is the only way to use gas tax money is preposterous. He stated he thinks this is a bad piece of legislation and urged the committee to reject House Bill 382.

Henry Grossman, representing Chouteau County, stated this bill would put an additional burden on gas tax funds. He suggested Section 5 should be changed to read: "All funds hereby allocated to counties, cities and towns shall be used for construction and repair of roads, streets and alleys, and in cases where the construction or repair is done by other than the local street or road departments, the bidding procedure as set forth will be followed for all contracts let in excess of \$25,000." He presented written testimony in opposition to House Bill 382. This is attached as Exhibit 6.

Alec Hansen, representing the Montana League of Cities and Towns, presented a letter from the Mayor of Plentywood, Bob Marlence, which is attached as Exhibit 7. Mr. Hansen said this bill will have particularly damaging effects on many of the small cities and towns. The practices contradicts free enterprise that we have in this country. House Bill 382 should be rejected. This bill has been on the books for 10 years. In 1975 the legislature saw fit to give it more flexibility and allow local government more flexibility to use gas tax funds. If this bill is passed we will go back to more restrictions than we had 10 years ago.

Ken Haag, Director of Public Works from the city of Billings, presented written testimony, Exhibit 8, and stated he was here to testify against House Bill 382. Billings is the only city in the state that allows this to work and it uses the gas tax money in several ways. Even though it is a state fund, it is the motorist who has to use the state highways. He hoped the committee would defeat the bill.

Gordon Morris of the Montana Association of Counties, stated there is nothing he could add to the testimony at this time. He said he could fill the room with county commissioners who are opposed to this bill as it is written.

Mike Keating, International Union of Operating Engineers #400 (IUOE #400), Great Falls, stated they are opposed to this bill as it would add an extra burden to taxpayers. The work done by public employees is done the most effective way. They have the equipment that is needed and the decision as to how the

job is to be done is made by experienced public employees.

Mary Vant Hull, Bozeman City Commissioner, speaking for the entire Bozeman City Commission, presented written testimony against House Bill 382. This is attached as Exhibit 9.

Doug Daniels of Belgrade, represented the cities of Belgrade, Three Forks and Manhattan. They asked him to testify for them in opposition to House Bill 382. He presented written testimony, Exhibit 10.

Mike Sehestadt, Missoula County Attorney's office, stated that Missoula County is opposed to the bill in its present form.

Chuck Davies, IUOE #375 of Butte, said he had come to state his opposition to this bill.

Ernest Davis, representing the city of Laurel, presented written testimony in opposition to House Bill 382. This is attached as Exhibit 11.

Gary Taylor of Butte stated he stands in opposition to this bill.

John Carlin, Butte, stated he opposes House Bill 385, also.

Bill Verwolf, representing the City of Helena, presented written testimony, Exhibit 12, in opposition to this bill. In his testimony he proposed amendments to the bill. He also presented a memorandum from Richard Nisbet, Director of Public Works from the City of Helena, which has Exhibit A, B, C and D attached to it. This is marked Exhibit 13.

Ed Kelly, a heavy equipment operator from Butte-Silver Bow, appeared in opposition to the bill.

Also appearing in opposition to House Bill 382 were Bill Hemmings of Hardin; Don Seville, Councilman from Boulder; Jim Williams of Butte-Silver Bow; Joe Aldergarie, City of Missoula; John Shontz, Richland County; Wayne McCracken of Butte-Silver Bow; Greg Jackson, Urban Coalition of Helena; Charles McKinney, Sr., Bozeman Director of Finance; Burton Kinyon, Butte-Silver Bow; Henry Hathaway, Belgrade; Jim Johnston, Butte-Silver Bow; Paul Stanech, Butte-Silver Bow; Jack Lunt, Belgrade Mayor and Ray Blehm, Billings.

Frank Jones from Hinsdale appeared on his own behalf as a proponent of House Bill 382.

There is also a letter attached, Exhibit 14, from E.J. Nicholson, President of Nicholson Paving Co., Missoula, expressing his support of House Bill 382.

In closing, Rep. Harp said he thinks this bill has had a good hearing and has shown some of the problems we are having as to how the gas tax is used. It is important that the committee look at the bill and also look at the next bill as to how the tax is being used. It is used for streets and not for capital outlay. To the people of Butte, he said it was not his intention to put them out of work.

DISCUSSION OF HOUSE BILL NO. 382: Rep. Brown stated to Rep. Harp that there is opposition to the bill in Butte and that he indicated he is concerned whether the gas tax is being used legally. Rep. Brown wanted to know how the bill corrects this. Rep. Harp replied that if it is going to be going strictly on contracts you would be concerned about capital outlay and we would be concerned where the money is coming from.

Rep. Brown asked Mr. Peoples how accurately the money is kept track of. Mr. Peoples replied they are very careful not to use it for equipment purchases and they do keep a very close record of where the money goes.

Rep. Hansen asked how accurately all the counties keep these funds separated and the answer was that all these funds are being checked by auditors so they are kept very closely separated.

CONSIDERATION OF HOUSE BILL NO. 470: Rep. Spaeth of District #84 appeared before the committee as sponsor of this bill and stated he was in support of the bill. He said that a lot has been heard about the gas tax and how it should or should not be spent and this applies to the small towns and cities of less than 1000. He asked the committee to act favorably to include third class cities so that it would cover all towns of less than 5000 population. Small towns and cities are not getting as much for construction and he feels they should get some benefits for maintenance of their cities and towns. Passage of this bill would help them get some repairs for the streets. Some problems with the contracts is that it wasn't meant for construction or reconstruction but only for repairs. He would like to suggest a couple of amendments which is to eliminate construction or reconstruction and have the money be used for maintenance and repairs of town streets and alleys. This bill is not designed to interfere with private enterprise. He asked the committee to act favorably because it is fundamentally fair to the small towns because of the gas tax.

PROPOSERS: Alec Hansen, representing the Montana League of Cities and Towns, stated this bill was intended to help small cities and towns. The small towns and cities don't get much of the gas tax legislation. By using 25% of the gas tax money, it would help maintain the small towns. He urged the committee to give this bill a Do Pass recommendation as it would help the small towns without touching the general fund.

Don Saville, councilman from Boulder, stated he wanted to go on record in favor of House Bill 470. He said Boulder is a small community and they have a road patrol that is 50 years old which they can't get parts for. This bill would give them the money needed to make the needed repairs.

OPPONENTS: Bill Olson, Secretary/Manager of Montana Contractors Association, said their concern is not necessarily against the cities and towns involved in this legislation, but what happens in the future. In two or four years the big cities are going to be back in again for more funds and this is the way they will get it. Therefore, they are against the bill because of what will happen in the future.

Chad Smith, of the Montana Land Improvement Contractors, appeared before the committee in opposition to House Bill 470. On page 4, lines 15 and 16 it deals with the subject of capital equipment. It states in the existing language of the laws that none of the funds will be used for capital equipment (heavy equipment which the independent contractors already have on hand and are willing and ready to use if they are given the chance). He stated they strongly urge the committee not to let them do that. The independent contractors are going to make the best use of the heavy equipment. For them it is an operation that must pay and the government is not put to that same task. This was not the intent of the bill, therefore, they request a Do Not Pass.

Kenneth Kramer, member of the Land Improvement Contractors of Montana, said they were opposed to this because they are afraid it will open the backdoor to give other contractors the opportunity to compete with them.

DISCUSSION OF HOUSE BILL NO. 470: Rep. Spaeth said that the major concern with the bill is that it will open the doors, but if we don't open the doors for the small towns, they will not have enough money. All they will be able to get is \$7-8,000 and the bill is asking only 25% of that. The small towns and cities may have to wait 20 years for construction in their cities. If the money available for small towns is only \$3,000, 25% of that won't buy much capital equipment or reconstruction in the bill, and asked the committee to act favorably on this bill because it provides fundamental fairness to the people of the small towns.

Rep. Sales questioned Alec Hansen if we do open the doors a little wider for third class cities, what numbers do we have? Alec Hansen responded by saying of the 69 towns he represents, the amount is \$800,000 per year - \$2.8 million of the \$7.6 million goes to third class cities and towns.

Rep. Pistoria commented that if \$2.8 million would go to small cities and towns, 1/4 of that is for capital purchases and repairs.

There being no further discussion on House Bill 470, it was closed.

CONSIDERATION OF HOUSE BILL NO. 582: Rep. Wallin of District #78, appeared before the committee as sponsor of the bill. He said the bill was brought to him because of the situation in Gallatin County where they do not have a surveyor. Two persons were present from his county to testify.

PROPOSERS: Earl Best, past county surveyor of Gallatin County, said he had been retired twice. He appeared on behalf of Gallatin County and stated they are in favor of the bill. He presented written testimony, Exhibit 1. He stated the purpose of the bill is to allow the county to fill the position of county surveyor and that the surveyor should be a professional engineer. He also presented written qualifications of county surveyors, Exhibit 2.

Mike Foley, representing Montana Association of Registered Land Surveyors, stated the job of county surveyor should be filled by someone who is both an engineer and a surveyor but there are few people with both of these qualifications who are willing to fill the job for the money they get paid. He presented written testimony in support of House Bill 582 which is attached as Exhibit 3.

There were no further proponents present. Also, no opponents appeared before the committee; however, written testimony was received in opposition to House Bill 582 from Richard H. Colvill, County Surveyor from Missoula County, Exhibit 4, and also a letter from the Missoula Board of County Commissioners which is attached as Exhibit 5.

DISCUSSION OF HOUSE BILL NO. 582: Rep. Brown asked Rep. Wallin why civil is included in the bill instead of professional engineer and why is it proposed to change from professional engineers to professional civil engineer. Rep. Wallin replied that it could be kept as it is but only a civil engineer has the expertise in surveying. However, most civil engineers are getting more money than this job pays but if there is one who is willing to work for less money, they could do the job.

Rep. Pistoria stated that he is for the bill; however, on line 12 where it states "civil" he asked if anyone would care if civil engineer was left out entirely. Mr. Best answered by saying they would like to leave civil engineering in the bill because they were more trained for the work in the county. People who graduate from engineering schools come out as all kinds of engineers, but the civil engineers are trained in the kind of work that the county needs, such as inspection of bridges, etc. Rep. Pistoria also noted that on page 22 it says not less than 22 years old and he suggested 26 years.

Rep. Wallin closed his presentation of the bill.

CONSIDERATION OF HOUSE BILL NO. 347: Rep. Pistoria, sponsor of the bill, appeared before the committee to present the bill. This bill requires that municipalities with the commission-manager form of government have their commission be elected by single member district apportioned by population from candidates residing in the district. Rep. Pistoria stated there are only 4 or 5 cities in the state of Montana that have city commission form of government and he feels you get better representation for the people in those communities. In 1976, the Study Commission came up with several types of governments and the people in the state of Montana did vote for them. He said he reserved the right to make a few remarks on closing.

There were no proponents present for House Bill 347.

OPPONENTS: Jerri Green, representing the Great Falls Area Chamber of Commerce, stated this bill drastically changes the objectives of the commission-manager form of government. She presented written testimony from Roger W. Young, President of the Great Falls Area Chamber of Commerce in opposition to this bill, which is attached as Exhibit 1.

Also attached is written testimony in opposition to House Bill 347, from Mary Vant Hull, Bozeman City Commissioner (Exhibit 2), Mike Ward of Bozeman, who is an elected local government study commission member (Exhibit 3), Beverly Knapp, Chairman of the Bozeman Local Government Review Board (Exhibit 4), Owen Robinson, Chairman of the City Government Study Commission of Great Falls (Exhibit 5) and Stanley F. Meyer, a citizen of Great Falls (Exhibit 6).

In closing, Rep. Pistoria said he does not want the Chamber of Commerce running the city of Great Falls or any other cities of Montana. Proper representation is by people living in a district. He is here to have it changed to help the study groups in the state of Montana. He told the committee not to listen to the Chamber of Commerce, that he represents the people and that is who should be listened to.

The committee then went into executive session for action on the bills.

DISPOSITION OF HOUSE BILL NO. 279: Rep. Kitselman moved that House Bill 279 DO PASS, seconded by Rep. Fritz. Question being called for, Rep. Kitselman's motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 582: Rep. Fritz moved that House Bill 582 DO PASS, seconded by Rep. Pistoria. Rep. Brown then moved to amend line 12 and line 20 by striking "civil". This was seconded by Rep. Brandewie. Rep. Brown stated the reason he wanted to remove it is because a professional engineer of the county could be an electrical or chemical engineer and

he would like to leave flexibility. Rep. Wallin said he would be agreeable to deleting "civil". The motion CARRIED with Reps. Sales and Kitselman voting "no".

Rep. Pistoria made the motion to amend line 12, changing age 22 to 26. The motion to amend died because of lack of a second. Rep. Brown then moved that HB 582 DO PASS AS AMENDED, seconded by Rep. Sales. The motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 232: Rep. Sales moved to reconsider action on House Bill 232, as the bill is contingent upon Senate Bill 169. Rep. Brown seconded the motion which PASSED UNANIMOUSLY.

Rep. Brown then moved that House Bill 232 DO PASS, seconded by Rep. Fritz. Lee Heiman then explained the amendments. School elections are held every year. Questions were called on Jean Johnson of the Secretary of State's office, who explained that Senate Bill 169 authorized the conduct of mail ballot only. Rep. Pistoria stated the school board members are elected for a 2-year term but in his area it is 3 years. Lee Heiman said the Water and Sewer Districts are elected for two terms. The motion to amend PASSED UNANIMOUSLY.

Rep. Brown moved HB 232 DO PASS AS AMENDED, seconded by Rep. Fritz. Question being called for, the motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 347: Rep. Sales moved that House Bill 347 DO NOT PASS, seconded by Rep. Wallin. Rep. Pistoria then made a substitute motion of DO PASS, seconded by Rep. Brown.

Rep. Hansen stated that when a commission form of government is formed, they have the option of electing from their districts. It has to be voted on by petition and it has to have so many signatures of those who voted in the general city election. Rep. Kadas asked if this was 25% or 15% of the petition. Lee Heiman explained there are both percentages. Rep. Sales stated that because of the fact they have a city commission it would be very presumptuous for this committee to pass a law.

Question was called for on the substitute motion. The motion FAILED with Reps. Pistoria, Poff and Brown voting "yes". Therefore, the original motion of Do Not Pass CARRIED.

DISPOSITION OF HOUSE BILL NO. 118: Rep. Kitselman moved that House Bill 118 BE TABLED, seconded by Rep. Fritz. The motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 160: Rep. Brandewie reported that there were no amendments ready so they would report on House Bill 160 at the next meeting.

Also, the subcommittee was still working on amendments for

Local Government Committee
February 5, 1985
Page 11

House Bill 239.

DISPOSITION OF HOUSE BILL NO. 382: Rep. Brandewie moved that House Bill 382 BE TABLED, seconded by Rep. Fritz. Motion PASSED UNANIMOUSLY.

There being no further business before the committee, the meeting was adjourned at 6:20 p.m.



PAULA DARKO, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALLLOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2-5-85

NAME	PRESENT	ABSENT	EXCUSED
<u>Paula Darko, Chairman</u>	+		
<u>Norm Wallin, Vice Chairman</u>	X		
<u>Ray Brandewie</u>	+		
<u>Dave Brown</u>	X		
<u>Harry Fritz</u>	+		
<u>Stella Jean Hansen</u>	+		
<u>Bob Gilbert</u>	+		
<u>Mike Kadas</u>	+		
<u>Les Kitselman</u>	X		
<u>Paul Pistoria</u>	+		
<u>Bing Poff</u>	+		
<u>Walter Sales</u>	+		
<u>Jack Sands</u>	+		
<u>Dean Switzer</u>	+		

STANDING COMMITTEE REPORT

February 5, 1985

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 347

FIRST reading copy (WHITE color)

SINGLE MEMBER DISTRICTS FOR COMMISSION-MANAGER MUNICIPALITIES

Respectfully report as follows: That HOUSE Bill No. 347

DO NOT PASS

DO PASS

SL 2/6 10:00 AM

STANDING COMMITTEE REPORT

February 5, 1935

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 522

FIRST reading copy (WHITE)
color

CHANGE QUALIFICATIONS OF OFFICE OF COUNTY SURVEYOR

Respectfully report as follows: That HOUSE Bill No. 522

BE AMENDED AS FOLLOWS:

1. Page 1, line 12.
Strike: "civil"
2. Page 1, line 20.
Strike: "civil"

AND AS AMENDED,
DO PASS.

STANDING COMMITTEE REPORT

February 5, 1935

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 232

FIRST reading copy (WHITE color)

WATER AND/OR SEWER DISTRICT COMMISSIONER ELECTION

Respectfully report as follows: That HOUSE Bill No. 232
BE AMENDED AS FOLLOWS:

1. Page 2, lines 13 and 14.

Strike: "on the first Tuesday of the first April"

Insert: "on the next regular school election day held
in accordance with 20-3-304"

2. Page 2, line 20.

Strike: "on the first Tuesday of April."

Insert: "each odd numbered year at the regular school
day held in accordance with 20-3-304"

3. Page 7.

Following: line 20.

Insert: "NEW SECTION. Coordination. If Senate Bill
No. 169, is passed and approved, this act is void."

AND AS AMENDED,

DO PASS.

STANDING COMMITTEE REPORT

February 5, 19 85

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 279

FIRST reading copy (WHITE)
color

**RURAL IMPROVEMENT DISTRICTS - TRANSFER OF MONEY
TO MAINTENANCE FUND**

Respectfully report as follows: That HOUSE Bill No. 279

DO PASS

STANDING COMMITTEE REPORT

February 5, 1935

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 299

FIRST reading copy (WHITE color)

COUNTY PRINTING - BIDS BY NONRESIDENTS -
RESIDENT 5% PREFERENCE

Respectfully report as follows: That HOUSE Bill No. 299

DO PASS

Notes in favor

Exhibit 1
HB 582
2-5-85
Rep. Wallin

Professional Engineer, Cannot Sign Plats
to be filed - State Sub. div.
regulations provide that Counties
may or may not require Plats to
be checked and signed by a
registered Land Surveyor.

Checking plats for errors and
omissions is a public service, which
eliminates the possibility of litigation
due to errors in descriptions, Townships
Ranges, distances, drafting. This will also
eliminate the high cost of liability
insurance. Which could cause a massive
increase of surveying costs. Also the
district court has ruled that Counties
can not charge to check their ^{Subdivision} Certificates
of Surveys - Therefore the person signing
the plats must be employed by the
County or Counties in which he has been
elected to be covered by liability
insurance.

of the 14 Counties ^{pol. ed.} having subdivision
regulations 9 Counties require Plats
and COS. to be checked and signed
by a registered land Surveyor

~~Article~~ Mr. Bond

and Committee Member

Name & Address - Representing Gallatin County

IN FAVOR

(1) State Subdivision Regulations adapted by Counties. Provide that Counties may or may not require Plats to be checked for errors and omissions in calculations and drafting

(2) In Counties that have adopted ^{the} statute these subdivision regulations, 7-4-2801 is in conflict with these qualifications - that A County Surveyor shall be a Professional Engineer - in accordance with Rules and Regulations set up by the State Board Registration, a Professional Engineer cannot sign or check Plats which the law requires to be done by a registered Land Surveyor.

(3) If a County elects a Civil Engineer to fill the County Surveyor office. It may contract the checking of plats before they are filed, or if the County elects a registered Land Surveyor, they may contract the work requiring the knowledge and training of a Registered Civil Engineer.

— to design, construct, maintain,
Bridges, other duties required of a Civil
Engineer.

Therefore Counties may have the
option to elect a Registered Professional
Civil Engineer and/or Registered Land
Surveyor, or a Registered Professional
Civil Engineer, or a Registered Land
Surveyor.

4) ~~1. Supervision~~
The purpose of this change is to
Allow Counties to fill the Office
of County Surveyor with capable
people, and to have a choice of
those who can best fill the need
of the particular County.

(5) Gallatin County Board of Commissioners
are in favor of this change in Code
Article

Lewis and Clark Yes County

Missoula County Yes 2

Lake County - Yes 3

Gallatin County yes 4

Cascade County yes 6

YELLOWSTONE COUNTY - YES 6

Big Horn - NO 1

Rosebud - NO 2

Fergus - NO 3

Stillwater - NO 4

Flathead County - Yes 7

LINCOLN - YES 3

SANDERS - NO 5

MADISON - YES 4

WITNESS STATEMENT

Name Earl R. Best Committee On Local Gov.
Address 306 Lindley Place Bozeman Date 2-6-85
Representing Gallatin County Support ✓
County Surveyors Office
Bill No. 582 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1.

2.

3.

4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Part 28

Present Law

OFFICE OF COUNTY SURVEYOR

7-4-2801. Qualifications for county surveyor and deputies.

(1) A county surveyor shall be a professional engineer, not less than 22 years of age, who shall have been in active practice of his profession for at least 3 years and who shall have had responsible charge of work as principal or assistant for at least 1 year. Graduation from a school of engineering shall be considered as equivalent to 2 years of active practice.

(2) All deputies must also have a practical knowledge of engineering history: En. Sec. 1, ch 50, L. 1919, re-en Sec. 4835, R.C.M. 1921; re-en Sec. 4835, R.C.M. 1935; R.C.M. 1947, 16-3301.

Cross-References

Licensing of land surveyors, Title 37, ch. 67.

original 3.
Proposed change of present Law. (1st Class Counties)

(2) Qualifications: in order to properly fullfill the duties as prescribed by law for the office of county engineer and/or surveyor, the engineer and/or surveyor shall have been registered in the State of Montana by the Board of Professional Engineers and Land Surveyors. The County Engineer shall be a registered professional Engineer. The Professional Engineer shall have a background in construction civil engineering and be a graduate in a civil engineering curriculum of 4 or more years and duly approved and registered in accordance with the laws of Montana and by the Montana Board of Professional Engineers and Professional Land Surveyors. He shall not be less than 25 years of age, who shall have been in active practice of his profession for at least 4 years and who shall have had responsible charge of work as principle for at least 2 years.

(3) The Professional Land Surveyor shall be duly approved and registered in accordance with the law by the Montana Board of Professional Land Surveyors, who shall have been in active practice of his profession for at least 4 years, he shall not be less than 25 years of age, and who shall have had responsible charge of work as principal for at least 2 years or graduate from a school of engineering technology. Approved by the Montana Board of Professional Engineers and Land Surveyors.

(4) Counties other than 1st class counties may elect to consolidate 2 or more counties in order to secure qualified personnel to fill the elected office of the County Engineer and/or County Surveyor.

Exhibit 3
HB 582
2-5-85
Rep. Walline

WITNESS STATEMENT

Name MICHAEL FOLEY Committee On LOCAL GOVT
Address 32406 FRONTAGE RD BOZEMAN Date 2-5-85
Representing MONT. ASSN. OF REG. LAND SURVEYORS Support X
Bill No. HB 582 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. PRESENTLY LESS THAN 30% OF THE COUNTY SURVEYORS ARE ENGINEERS OR ENGINEER/SURVEYORS. OF THE 14 COUNTY SURVEYORS, 6 ARE LAND SURVEYORS AND 9 ARE LAND SURVEYORS OR L.S./ENGINEERS. THE FINAL 3 HAVE NO CREDENTIALS.
2. THE SCOPE OF THE OFFICE OF COUNTY SURVEYORS IS ^{TENDING} PRIMARILY TO THE FIELD OF SURVEYING AND SUBDIVISION, esp. WHEN CO SURVEYOR IS ACTING AS EXAMINING LAND SURVEYOR (MUST BE L.S. BY STATUTE) AND WHEN SITTING ON ZONING & PLANNING BOARDS.
3. WHILE JOB REALLY REQUIRES A PERSON TO BE BOTH AN ENGINEER AND LAND SURVEYOR, THE REALITIES OF THE JOB MARKET MAKE THIS UNFEASIBLE FOR MANY COUNTIES. AND, SINCE MOST COUNTIES USE SURVEYORS MORE THAN ENGINEERS, THIS BILL WILL ALLOW THE COUNTIES MORE FLEXIBILITY.
4. THIS BILL WILL ESSENTIALLY CLARIFY THE EXISTING LAW SINCE MANY (70%) OF THE PRESENT COUNTY SURVEYORS DO NOT MEET THE PRESENT STATUTORY REQUIREMENTS. PASSAGE OF HB 582 WILL CLARIFY THE EXISTING SITUATION AND POSSIBLY ALLOW MANY MORE COUNTIES TO UTILIZE THE SERVICES OF A COUNTY SURVEYOR.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

OVER

[Signature]
2-5-85

- WE RECOGNIZE THE CONCERN SOME PEOPLE MAY HAVE THAT

A LAND SURVEYOR MAY TRY TO ACT AS AN ENGINEER.

WE PROPOSE THAT THE ~~JES~~ COUNTY SURVEYORS POSITION

COMPRISES ASPECTS OF BOTH SURVEYING & ENGINEERING.

PROFESSIONAL ETHICS, AS WELL AS THE STATUTES GOVERNING BOTH PROFESSIONS PROHIBIT EACH FROM DOING THE WORK OF THE OTHER. WHEN A CONFLICT ARISES, THIS WORK MUST BE CONTRACTED OUT.

AS I STATED PREVIOUSLY, THE WORK OF THE COUNTY SURVEYOR IS INCREASINGLY TENDING TOWARDS THE SURVEYING ASPECTS

— FOR EXAMPLE, MISSOURI COUNTY HAS 2 FULL TIME SURVEYORS ON STAFF, PLUS A SURVEY CREW WORKING ON LAND SURVEY PROJECTS.



MISSOULA COUNTY

MISSOULA COUNTY SURVEYOR

Missoula County Courthouse
Missoula, Montana 59802
Telephone (406) 721-5700

Exhibit 4
HB 582
2-5-85
Rep. Wallin

February 5, 1985
S85-054

Rep. Paula Darko
Chairman House Local Government Committee
Capital Station
Helena, Montana 59620

Dear Chairman Darko:

This letter is in opposition to House Bill No. 582 changing the qualifications for County Surveyor from "Professional Engineer" to "Professional Engineer or Registered Land Surveyor." I write with some knowledge on this matter because I am the Elected County Surveyor for Missoula County and have completed ten years in that office. I am also a graduate Civil Engineer and both a Montana Registered Professional Engineer and Montana Registered Land Surveyor.

This Bill makes good sense for smaller Counties, under 2,000 registered voters, but it will cause serious competency and legal problems for larger Counties. Some of these problems are:

- (1) MCA 7-4-2812 covers the duties of the County Surveyor in the larger Counties as they relate to roads and bridges. Some of these duties, such as preparing plans, specifications and estimates are clearly within the scope of "Practice of Engineering" as defined by MCA 36-67-101 and can't legally be performed by a "Registered Land Surveyor." The term "Professional Civil Engineer" is also without meaning in the code as all engineers, civil, mechanical, electrical, etc., are lumped together under the term "Professional Engineer."
- (2) Practically a Land Surveyor doesn't have the training or experience to manage a Road Department in a large County. In Missoula County I manage a 58 person department: 5 people in the Survey section, 7 people in the Engineering section, 5 people in the Administration section, 3 people in the Traffic section and 38 people in the Road and Bridge crews. Only nine percent of the people are engaged in land surveying. My time follows the same ratio - 90% of my time is involved in matters other than land surveying. Engineering is the best formal training to manage Engineering, Traffic, and Road/Bridge crews. These duties occupy 83% of my time and most count Surveyors time in a large County.



MISSOULA COUNTY

MISSOULA COUNTY SURVEYOR

Missoula County Courthouse
Missoula, Montana 59802
Telephone (406) 721-5700

February 5, 1985

Page 2


Chairman Darko

- (3) Counties could overcome some of these problems by hiring Engineers to do the engineering work and Land Surveyors to do the land surveying work but it doesn't seem practical to have a Land Surveyor in Office and then hire Engineers to do over half his work.

I recognize that the Elected County Surveyor position causes problems in many Counties. Qualified people won't run for office, even in larger Counties, because the job doesn't pay enough for the qualifications. I can hold the Office because I have a substantial retirement income to supplement my County salary, but even I won't run again because the potential personal liability for a traffic accident is now too high to justify the salary. I recommend you solve the problem by abolishing the County Surveyor as an elected official after the present terms expire in January 1987. This will leave the County Commissioners free to set the qualifications and salary needed to meet these qualifications. The only detriment to abolishing the Office would be the loss of a check and balance to considerable power wielded by a small board of full time County Commissioners in larger Counties. Since the County Surveyor Office is the weakest of the Elected Offices in independent power its loss wouldn't contribute much to the power of the County Commissioners.

I'm sorry I can't attend the hearing on this Bill (February 4, 1985) but we didn't get a copy of the Bill until February 3, 1985 and I have a conflicting meeting to give a legal deposition concerning a traffic accident suit initiated against the County. Please have this letter entered into the record of the House Local Government hearing on the Bill.

Sincerely,



Richard H. Colvill
County Surveyor

RHC/jk

Exhibit 5
HB 582
2-5-85
Rep. Wallin

MISSOULA COUNTY

BOARD OF COUNTY COMMISSIONERS

- Missoula County Courthouse • Missoula, Montana 59802
(406) 721-5700

BCC-85-072
February 5, 1985

The Honorable Paula Darko, Chair
House Local Government Committee
House of Representatives
Capitol Station
Helena, MT 59624

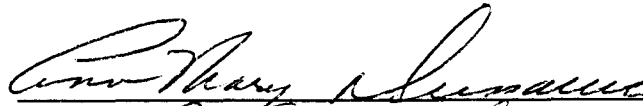
Dear Representative Darko:

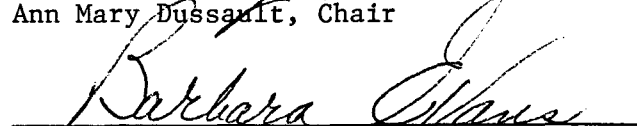
We concur with the sentiments expressed in the attached letter from Missoula County Surveyor Dick Colvill. We too oppose House Bill 582. Please note our opposition for the record.

Thank you.

Sincerely,

MISSOULA BOARD OF COUNTY COMMISSIONERS


Ann Mary Dussault, Chair


Barbara Evans, Commissioner

NOT AVAILABLE FOR SIGNATURE
Bob Palmer, Commissioner

BCC/HS/lis

Attachment

HB 347
Oppose
Exhibit 1
HB 347
2-5-85
Rep. Pistoria



P.O. BOX 2127
926 CENTRAL AVENUE
GREAT FALLS, MONTANA 59403
(406) 761-4434

February 4, 1985

To: House Local Government Committee
Montana State Legislature

From: Roger W. Young, President

SUBJECT: **COMMISSION-MANAGER GOVERNMENT** **HB 347 (PISTORIA)**

It is the posture of the Great Falls Area Chamber of Commerce to oppose the passage of HB 347. We believe this bill circumvents and drastically changes the objectives of the traditional commission-manager form of government.

Electing commissioners from districts, and only by voters residing in that district, is a clear return to ward politics. This bill is simply an attempt by Rep. Pistoria to restore a discredited aldermanic form of government to Great Falls. We believe the commission-manager form of government should be distinctly different from the aldermanic form.

Although the Great Falls Area Chamber of Commerce has in the past considered supporting the possibility of a district residency requirement for commissioners, we believe such commissioners should nevertheless be elected on an at-large-basis city wide. In that manner, commissioners are able to remain more independent and less beholden to parochial neighborhood interests. We believe the commission-manager form works best when it behaves like a board of directors of a large business - - - local government is after all the largest business in most communities. It should be run in a business-like manner.

Another reason for our lack of support for HB 347 is that it ignores the fact that local communities are already guaranteed the right, by the Montana Constitution, to periodically review their forms of government and to change if the people want it. Last election, Cascade County and Great Falls voters, by large majorities, voted in favor of forming local government review commissions. Leave it to them to decide if our commission manager form of government should be changed.

Please say no to HB 347; it is unnecessary legislation.

cc: Cascade County Delegation

Exhibit 2
HB 347
2-5-85
Rep. Pistoria

WITNESS STATEMENT

Name Mary Vart Hall Committee On Local govt.
Address City Hall Date 2/5/85
Representing Bozeman, City of Support _____
Bill No. HB 347 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. These decisions should be made at home, not Helena.
2. The Constitution & state law already give this right to citizens, if they wish to have it.
3. Right now, we have local govt. study commissions studying this & other questions.
4. Please Kill this bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

OPPOSING H.B. 347, REQUIRING CITY MANAGER FORMS OF GOVERNMENT TO HAVE SINGLE-MEMBER COMMISSIONER DISTRICTS, Feb 5, 1985, by Mary Vant Hull, Bozeman City Commissioner for the Bozeman City Commission

H.B. 347 is a sad example of an area where the state legislature, which as a body from all over the state, cannot dictate to the people in any and every small area how they should be represented in their local democracy.

We should be making more steps towards local responsibility and responsiveness. We should be returning as much decision-making to the grass-roots level as possible.

It is unthinkable that anyone would want to remove local decision-making.

Furthermore, both the Constitution and the present state law amply provide for any community to have single-member city commissioners if that is what the people in that city wish to have. The Legislature has too many truly important matters to cope with to interfere with the people's running their local governments as they locally determine is best.

Sincerely,

Mary Vant Hull, Bozeman City Commissioner
Speaking for the entire Bozeman City Commission

Exhibit 3
HB 347
2-5-85
Rep. Pistoria

STATEMENT ON HB-347 -- Submitted by Mike Ward, Bozeman

Madam Chairman - I'm Mike Ward from Bozeman, an elected local government study commission member.

For the past four years, I have attended all City and County Commission meetings, participated in several local government study groups, and have been active in governmental and political affairs there to an extent unmatched by very few people in Gallatin County. In brief, I believe I know where I'm coming from, as concerns Bozeman and Gallatin County.

One of the things I've learned is that virtually everyone knowledgeable about local government there resents the often paternalistic and stifling intrusion of the Legislature, in telling us how to manage our affairs. If that sounds harsh, I make no apologies.

This bill would be yet another unwanted intrusion.

The option is available to us (MCA 7-3-313) as a Commission-Manager city with general government powers. The Study Commission will look at this option and may recommend exactly what this bill would mandate -- and it may not. If our Study Commission should do so, the voters of Bozeman would decide. Or, if the electors of Bozeman should want this sub-option, there are procedures to place it upon the ballot for decision.

I consider these to be the appropriate ways to allow us to manage our governmental affairs in Bozeman. I would add that in these past four years, the subject has never come up to my knowledge and reasonable certainty.

I therefore recommend that this bill be given a strong "DO NOT PASS."

Thank you for listening.

Mike Ward

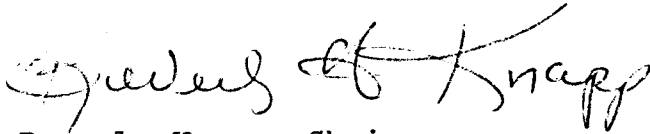
Exhibit 4
HB 347
2-5-85
Rep. Pistoria

TESTIMONY ON HOUSE BILL 347

It has been brought to my attention that House Bill 347 will have ramifications for the City of Bozeman.

Since Bozeman is under study by a local government review commission, changes mandated by legislative action bypass the review process.

Please consider this when voting on House Bill 347.



Beverly Knapp, Chairman
Bozeman Local Government Review Commission
February 5, 1985

1317 South Black
Bozeman, MT 59715

406-587-1554

Exhibit 5

HB 347
HB 347
2-5-85
oppose Rep. Pistoria

CITY GOVERNMENT STUDY COMMISSION

City of **GREAT FALLS** *Montana*

59403-5021



P.O. BOX 5021

TELEPHONE 406-727-5881

January 31, 1985

Paula Darko, Chairman
Local Government Committee
Capitol Station
Helena, Mt. 59602

Dear Chairman Darko,

The City Government Study Commission of Great Falls voted last night to go on record opposing HB 347.

The reason for this action is that the commission feels strongly that the form and structure of local government should be determined at the local, not State, level. Each community should have the option to decide whether their governing body is elected at large or in single member districts according to the wishes of the voters in that community.

We hope you will thoughtfully consider the action of the Great Falls Study Commission when HB 347 comes up for discussion.

Yours truly,

Owen Robinson, Chairman

Commission Members: James Durkin, Turner Graybill, Paul Johnson, Jerry McGivern, Patti Smith, and Delmont Thurber

OR/ps

Exhibit 6
HB 347
2-5-85
OPPOSE Rep. Pistoria

3417 14th Avenue South
Great Falls, MT 59405

February 4, 1985

Representative Paula Darko, Chairman
House Local Government Committee
Montana Legislature
Capitol Station
Helena, MT 59601

RE: OPPOSITION TO HB 347 (Pistoria) - set for hearing February 5.

Dear Rep. Darko:

It is impossible for me to be in Helena to testify at the hearing on Rep. Pistoria's HB 347 which, as I understand it, would require that City Commissioners under the Commission-Manager form of government be elected from wards...i.e. returning us to the old ward-healing system of some years ago.

Like Mr. Pistoria, I have been involved in local politics in Great Falls for many years. Unlike him, I did not think the old ward-healing system worked very well as shown by the bitter battles between West Great Falls and the Councilmen from other parts of the city.

With all due respect to the Legislature, I question whether you should let yourselves become embroiled in a local Great Falls issue. And that's exactly what HB 347 is all about. If we citizens of Great Falls wanted to specify boundaries for each of our elected Commissioners, we would do it. If the Commission form of government were not working - we would change to a different form (and Mr. Pistoria would be vindicated as he is one of the few who opposes it).

Interesting to this citizen of Great Falls is the fact that under the old Council/Ward system, the lower south side had elected representation from its area. Nonetheless, that specific part of town deteriorated drastically, terribly. During the last 15 years or so, under the Commission form, there has not been one elected Commissioner from that specific blighted area -- yet millions and millions of dollars and untold hours of volunteer work have been invested in the lower South Side...and the results are most remarkable. More than any other example one could find, this proves that citizens of our town -- and other towns -- do care about the entity as a whole and not just about the parks in their particular bailiwick of the town.

I appreciate that Rep. Pistoria is sincere in submitting HB 347 but urge an unfavorable report from your committee.

Sincerely,


Stanley F. Meyer

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL 17B-470

DATE Feb. 5, 1985

SPONSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Exhibit 1
HB 279
2-5-85
Rep. Kitzelman

I am Fern Hart, Clerk & Recorder of Missoula County, and I am here to testify in support of HB 279.

We recognize the need for this legislation although it will create more record keeping for our office. It will be a benefit to the districts in the long run. We now have 64 maintenance districts. Our biggest problem is with sewer and water districts under the direction of homeowners' associations. The county learns of severe problems as a last resort. We need a mechanism to keep the districts in working order.

I urge a "do pass" for HB 279.

2-5-85
FH: sm

Exhibit 4
HB 299
2-5-85
Rep. Eudale

TESTIMONY - HB299 - HOUSE LOCAL GOVERNMENT COMMITTEE

February 5, 1985

Wendy Ross Cromwell, Missoula County Recording/Elections Manager

Existing Section 7-5-2411 M.C.A. requires county commissioners to contract with in-county printing establishments for all county printing jobs. In theory, this requirement should allow for competitive bidding between local businesses, and the costs to the county to be kept to a minimum. In practice, however, some printing jobs are so complex that there are no competitive bids, and one print shop in a county develops a monopoly by default. That still is not necessarily a problem to a county budget, until the printer who holds the monopoly decides to begin raising prices.

At that point, the state-appointed County Printing Board statutorily-adopted maximum prices for particular printing jobs should place a ceiling on costs to the county. Still no problem, unless the County Printing Board adopts, as a guide to pricing, a printer's pricing manual called the Franklin Offset Catalog. The Montana Board of County Printing did just that in 1983, with an effective date of July 1, 1984. It contains, in very fine print, hundreds of different schedules for pricing various types of jobs. There may be a dozen schedules, or methods of application of those schedules, applicable to a particular job. The reason for choosing one schedule over another might be very clear to a printer, but not to a layman trying to stay within a budget.

After the 1984 Presidential Primary Election, Missoula County was very surprised to receive a bill in the amount of \$38,330 for ballot printing from Missoula Artcraft, the only bidder on ballots for fiscal year 1984. This was an enormous increase over the \$8,900 paid for the 1980 Presidential Primary, and \$14,600 for the 1982 Primary. Missoula County's budget was based on an estimate of \$16,000, to allow for inflation. The Missoula County commissioners authorized payment for only a portion of the total, the amount calculated by the methods used for billing previous elections. Artcraft then refused to accept Missoula County's order for ballots for the 1984 General Election.

Two printers, Gateway in Missoula and the Mineral Independent in Superior, out of Missoula County, offered assistance in printing ballots so that Missoula County's voters could participate in the election. Even though their equipment was not the most efficient available for the special needs of ballot printing, the total cost to Missoula County was only \$8,600, 34% less than what Artcraft estimated for the cost of the 1984 General. (Artcraft's estimate was made at the request of the county commissioners during negotiations on possible payment of the Primary costs.)

Missoula County's commissioners believe in doing business locally whenever possible, but they also have an obligation to spend the taxpayers' dollars wisely. HB299 will allow first class counties, whose annual printing costs can add up to tens of thousands of dollars, to split printing contracts and obtain competitive bids for specialized work both in and out of the county. A 5% "handicap" for in-county printing establishments seems a fair advantage. Passage of this bill will help prevent local printers from forcing counties to pay ransom for ballots and other printed materials essential to the operation of government.

HOUSE BILL 299

Exhibit 2
HB 299
2-5-85
Rep. Eudaly

My name is Verle Rademacher, editor and publisher of the Meagher County News in White Sulphur Springs. I wish to oppose this bill.

I feel that the present law is sufficient to safeguard the counties in regard to printing of forms, materials and supplies. The county is safeguarded by the county printing board which is composed of representatives appointed by the governor of county commissioners, newspaper representatives and a representative of the public at large.

The awarding of printing contracts outside of the county is poor practice and is detrimental to the county. I feel that it is a poor business practice of the county commissioners and is not in the interest of the taxpayers of that county.

Exhibit 1
HB 382
2-5-85
Rep. Harp

M E M O R A N D U M

To: To Whom It May Concern

From: Montana Contractors' Association

Re: Practice of City and County Governments to
Increase the Amount of Work Done by Their
Own Maintenance Departments and Reduce Work
Submitted to Private Bidders

Date: May 9, 1984

The Montana Contractors' Association has spent the last two or three years trying to work with local government units with respect to the expenditure of gas tax revenues disbursed under the provisions of Section 15-70-101, MCA. These efforts have been largely rejected. The Association believes the intent of the legislature was to expend gas tax revenues by disbursement to the lowest responsible bidder. It further believes that the intent of the legislature is clearly expressed for both counties and municipalities; that construction, maintenance, and repair work above certain dollar limits, or done under other than emergency circumstances, will be submitted for public bidding.

The local governments began to express the contrary position in 1981, and this practice has now become widespread and, if left unchallenged, will become a matter of general practice. The local government units are asserting the unimpeded right to "choose" if, when, and where they will enter into contracts for public construction and repair, thereby circumventing the repeated intention of the legislature expressed over almost 80 years of history.

SPECIFICS

The following specific instances are cited as examples:

1. The report of the Department of Community Affairs in 1981 showed that in Anaconda-Deer Lodge County all gasoline tax allocations were being placed in the general fund so that the auditor could not determine if the city-county was in compliance with the provisions of Section 15-70-101, MCA.

2. On May 6, 1981, Mr. David Gliko, City Attorney of Great Falls, wrote to Mr. Dan Huestis, of Falls Construction in Great Falls, stating that statutory limitations only apply when the city "contracted" for any material or construction. Mr. Gliko said: "The statute does not prohibit the city from doing the work on its own if the city has the means and so chooses."

3. On July 14, 1981, Kevin Campana, Director of Services of the Montana Contractors' Association, wrote to Morris Brusett, Administrator of the Department of Administration, requesting the field audit bureau continue to audit local governments for compliance with Section 15-70-101, MCA, to report violations of the statute.

4. On July 24, 1981, Morris L. Brusett, Director of the Department of Administration, wrote to Kevin Campana and assured him that compliance with the provisions of Section 15-70-101, MCA, continues to be a part of each applicable audit conducted by the Department.

5. On July 24, 1981, Gary J. Wicks, Director of Highways, wrote to Kevin Campana and stated that although the Department was concerned about the use of funds distributed by Section 15-70-101, MCA, the statute does not authorize the Department to control their use, but only to receive information and coordinate the expenditure of public funds for road improvements.

6. On November 13, 1981, Mike Greely wrote to Representative W. J. Fabrega suggesting that the plain meaning of Section 15-70-101, MCA, requires competitive bidding in the amount of the expenditure of gas tax revenue for construction and reconstruction maintenance or repairs in excess of \$4,000. (This was not an official attorney general's opinion.)

7. On March 22, 1983, David Orbe, General Manager of Western Materials, Inc., reported that the Missoula Park Department, after advertising for bids to complete earth work on proposed soccer fields on March 11, 1983, refused to award the bid and instead "made arrangements" with the City of Missoula to do this work. (Contracting?) The excuse given that sufficient funds were not available? to do the work under the low bid.

8. Mr. Paul M. Foster, of United Materials of Great Falls, reports that the City of Great Falls has purchased

Memorandum
May 9, 1984
Page 3

a chip spreader, an asphalt paving machiner, rollers, and trucks and is in effect building a "construction company."

9. Mr. David Orbe, of Western Materials, Inc., reported (April 19, 1984) that the City of Missoula has negotiated an agreement with Mountain Water Company, a private corporation, to replace the asphalt removed for three blocks of water construction on South Avenue. This is a case of the City contracting to do part of the work required by a private company.

10. Western Materials, Inc., of Missoula, also reports that public forces constructed earth work, gravel, and paving improvements on 10 or 11 blocks of Whitaker Drive in Missoula in 1982 instead of using a special improvement district.

11. Paul J. Cordoza, of Missoula Construction Supply and Service, reported (April 20, 1984), that the Montana Department of Highways was considering taking highway crack sealing from the private sector and putting it under a State maintenance program.

12. Mr. Stanford O. Dugdale, of Dugdale Construction Co., Inc., has reported that Butte-Silver Bow has changed from purchasing plant mix asphalt to manufacturing its own and in 1983 manufactured 30,000 tons of asphalt. He also reported that Lewis and Clark County and the City of Helena purchased less than 2,000 tons of asphalt during the same period.

13. Dugdale Construction also reports that State Highway trust funds from the Woodville Hill Abandonment Trust were used to purchase a hot-plant for Butte-Silver Bow. The terms of this trust stipulated the plant was to be used for maintenance purposes only.

14. Butte-Silver Bow paved the parking lot at the Butte-Silver Bow Airport for an estimated cost of \$150,000, or 37.5 times the amount permitted by the legislature in Section 15-70-101, MCA (\$4,000).

15. Butte-Silver Bow is also reported to have engaged in complete reconstruction of Montana Street from Broadway to Granite, including intersections, for \$39,000 in cost or nine times the amount set forth in Section 15-70-101, MCA.

16. Butte-Silver Bow is also reported to have 1984 projects planned for Main Street from Park Street to Second Street (approximately .8 of a mile) which had a unit price of \$17.90 per ton given by the Butte-Silver Bow Public Works Director and would cost \$50,120 for overlay of asphalt. This figure does not include the reconstruction costs.

17. Binkerd Construction Company of Hamilton reports to the Association (although he is not a member) that the County Road Superintendent is given "carte blanche" for the purchase of construction equipment and that his yearly project goals are left to his own discretion by the County Commissioners. He has purchased a 50-60 ton crane with pile hammer and leads and is completing equipment necessary for bridge construction. Ravalli County road crews are now constructing a major bridge near Victor Crossing in Ravalli according to Darrel M. Binkerd of Binkerd Construction.

18. In 1981, Binkerd Construction Company had a contract with Hilde to widen five bridges on a project known as Victor South. During the construction, major structural defects were found which were pointed out to the Highway Department. Instead of asking the contractor already on the job to perform the repairs, the Highway Department did the work itself. In one specific example, the major State crew spent three or four weeks putting in new guardrail on a bridge near Stevensville, when a private contractor estimated the same work would have taken three to four days.

19. The County Road Department designed and built the main street of Corvallis with an approximate value of \$200,000. The construction was poor and rapidly disintegrated.

20. Pulpmill Phase I - Missoula County reconstructed approximately 1,500 feet of secondary highway, including resurfacing. Phase II of this same project was let for bids and is currently under construction.

21. Fort Missoula Soccer Field - The Missoula Parks and Recreation Department let his project for bid during the spring of 1983. Three competitive bids were received; however, no contract was awarded. The Parks Department negotiated with the City Street Department to do this work. The project has since been completed.

22. Whitaker Drive - The City of Missoula Street Department did a major reconstruction project during the summer of 1983. This job included new curb and gutter, asphalt paving, concrete sidewalks, and extensive grading. There was also a storm sewer installed on this same stretch of street which was let for competitive bids and done by a private contractor.

23. Ravenwood Storm Drain - The City of Missoula Street Department installed approximately 700 L.F. of storm sewer in Ravenwood Subdivision. This project was let for competitive bid and a bid was received which was below the engineer's estimate.

24. South Avenue Water Line - A three block section of water line has been let and awarded to a private contractor. The water line is owned by Mountain Water Company, a private utility company. Mountain Water has negotiated with the City of Missoula to replace the asphalt surfacing after the line is replaced.

25. Crushing - The City of Missoula has negotiated with L. S. Jensen & Sons to crush gravel in the city gravel pit along Razor Drive. No bids were called for this work.

SUMMARY

Further investigation will no doubt reveal further abuses of the public contracting requirements of the law. Allocation of State gas tax revenues to the cities and counties of Montana has thus far resulted in an increase in the bureaucracy, an increase in capital expenditure for machinery and equipment, deposits of these moneys into the general fund where they cannot be accounted for, and flagrant disregard of any obligation to submit work to the public bidding process.

1692W

TESTIMONY HOUSE BILL 382

Exhibit 2
HB 382
2-5-85
Rep. Harp

My name is Stan Dugdale. On behalf of Dugdale Construction Co. and the Montana Contractors' Association I am requesting you to support House Bill 382.

If House Bill 382 does not pass the construction industry will be forced to compete with government. An existing example of this is the Butte Silver Bow Construction Co. which is solely operated by the Butte Silver Bow Government. Butte Silver Bow has a very broad definition of maintenance. This government does all the road and street work in the county. In the past few years there has been only one Special Improvement District put out for Contract.

In addition to this Butte Silver Bow is equipped with a crusher, hot plant, pavers, rollers, chip spreaders, trucks, motorpatrols, bulldozers, loaders and other miscellaneous equipment a normal construction company in the business of building roads and streets would need to complete a project.

PAGE TWO

One of the biggest problems that is created as a result of this type of government activity is the lack of taxation on this agency. Without taxes there would be no revenues for the cities and counties to operate. On the other hand, if the contractors were to do the project, the cities, counties and state would all share the revenues that result from the many different areas of taxation. For example, when a contractor purchases equipment, he is taxed; if he buys tires, he is taxed; when he purchases fuel, he is taxed. Without the tax dollars from the construction industries and various businesses they support the local government would be in a lot more trouble than they are today. The construction industry is not in a position to endure the competition from a city owned construction company partially paid for and supported by private contractors tax dollars.

When the cities, towns and counties are allowed to spend the gas tax revenues for projects other than a maximum of \$4,000 for maintenance and these projects are not put up to bid it creates unfair competition and it also encourages more cities and counties to enter the construction field.

PAGE THREE

The cities and counties may do the work but they are not working under the same controls as the construction industry. A contractor on a project is required by contract to work under strict supervision of an engineering firm. The engineering firm oversees the construction of the entire project and is constantly conducting random test on both compaction and materials. However, the cities and counties do not operate under the guidance of an engineer and when their compaction and material is tested it is on a given day at a given time. When the test are regulated in this way, anyone could pass them.

Some local officials contend that the local government can do the projects cheaper than private industry. This is not true. A contractor can do the job for the same amount of money, if not less.

If local governments are permitted to create their competition empires, there is going to be a lot more retired government employees collecting retirement that is government subsidized. Where are the tax dollars going to come from if private industry keeps declining.

PAGE FOUR

When government was originally formed it was set up to provide services that people or business would not or could not perform. This is not the situation with construction industry. There are all kinds of contractors in this state ready, willing and able to do any construction job within any city, town or county. Therefore, there is no reason to have local government agencies in the construction business always stretching the limits of maintenance.

cities & Gentlemen, please do not allow the cities, towns and counties to use more than \$4,000 of the gas tax revenue for maintenance. Don't throw the taxes paid by contractors away. Remember that for every employee hired by the government there is going to be retirement to consider. The government agencies were set up to be maintenance oriented not construction oriented.

WITNESS STATEMENT

Name DAVID ORBE Committee On _____
Address 400 River Drive, Lolo, MT 59847 Date 2-5-1985
Representing _____ Support X
Bill No. HB 382 Oppose _____
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. Existing statutes require construction by contract. Many street improvement programs have not contracted construction services as required.
2. ~~by~~ by existing gas tax statutes. Cities and towns have done this work with their own ~~own~~ forces with doubtful or marginal success in many cases.
3. When municipalities compete with the private sector for construction other than maintenance related items, there is no assurance to the taxpaying public that
4. the work is completed to the quality standards as required and demanded from the independent contractor.

I would like to point out that it should be the function of local government to serve the public not compete with it.

I am sure that the gas tax funds were not levied against the taxpayers to build even larger local government bureaucracies.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

Exhibit 4
HB 382
2-5-85
Rep. Harp

February 5, 1985

85-63

House Local Government Members
Montana State Legislature
Capitol Station
Helena, Montana 59620

Re: Please kill HB-382, "An act requiring local governments to disburse gasoline and vehicle fuels tax funds only by contract"

Dear House Local Government Members:

The purpose of this letter is to express the strong and total opposition of City of Missoula officials to HB-382 entitled "An Act Requiring Local Governments to Disburse Gasoline and Vehicle Tax Funds Only by Contract." City of Missoula officials urge that you kill HB-382. HB-382 attempts to amend Section 15-70-101(4), M.C.A. to require that all gasoline and motor vehicle taxes allocated to counties, cities and towns shall be disbursed only by contracting to have street and road construction, reconstruction, maintenance and repair work performed by an entity other than a local government unit's own in-house street and road crews. The City of Missoula has performed this type of highway, street and alley work with its own in-house street crews for decades. The City of Missoula has a very professional, competent, efficient and economical street department work force. If HB-382 were enacted, many full time employees working on this street crew would have to be terminated or laid off from employment with the City.

Further, not only does HB-382 create statutory inconsistencies within Section 15-70-101, M.C.A. that cause impractical and impossible results pertaining to the expenditures of gas and fuel tax monies; but HB-382 will be quite costly to local governments by increasing local government costs by making efficient local government street and road department programs inefficient, and in many local government communities throughout the state it will result in unregulated monopolistic private businesses dictating road and street construction, reconstruction, maintenance and repair service prices to local governments.

Pursuant to Section 15-70-101(2) and (4), M.C.A., all gasoline and fuel tax monies allocated to counties, cities and towns pursuant to Section 15-70-101, M.C.A., "shall be used exclusively for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys," (Emphasis supplied) or for "the share which a local government might otherwise expend for proportionate matching of federal funds

House Local Government Members
February 5, 1985
Page Two

allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system or urban extensions thereto."

Montana Attorney General Mike Greely indicated in 40 A.G.Op. 19 (1983), page 2, that for purposes of Section 15-70-101, M.C.A., "The Montana Highway Code, Title 60, Chapter 1, M.C.A. contains definitions pertinent to construction and repair of city streets." Sections 60-1-103(5) and (21), M.C.A. of the Montana State Highway Code defines the terms "construction" and "maintenance" as follows:

(5) "Construction" means supervising, inspecting, actual building, and all expenses incidental to the construction or reconstruction of a highway, including locating, surveying, mapping and costs of right-of-way or other interests in land and elimination of hazards at railway grade crossings.

(Note: The above definition of the word "construction" should have applicability to the term "reconstruction" in Section 15-70-101 (2) and (4), M.C.A.)

(21) "Maintenance" means the preservation of the entire highway, including surface, shoulders, roadsides, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.

Section 60-1-103(19), M.C.A. indicates that the term "highway" is synonymous with "road" and "street", and the terms denote "a public way for purposes of vehicular travel and include the entire area within the right-of-way."

Pursuant to the above-quoted Montana Highway Code definition of the term "construction", monies allocated to counties, cities and towns pursuant to Section 15-70-101, M.C.A. may be used for the "costs of right-of-way or other interests in land" that is included in a road construction project. Common sense makes it obvious that right-of-way and other interests in land necessary for a construction project cannot be obtained by disbursing gasoline and motor vehicle fuel tax monies to the lowest responsible bidder. Further, Section 15-70-101(2), M.C.A. expressly authorizes a county, city or town to expend gasoline and motor vehicle tax monies "for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system or extension thereto." Obviously, the act of committing proportionate matching

House Local Government Members
February 5, 1985
Page Three

funds to a project cannot be achieved by disbursing monies to a lowest responsible bidder. These are two examples of how HB-382 creates statutory inconsistencies within Section 15-70-101, M.C.A. and causes impossible results.

State Legislators should also be aware that pursuant to Section 60-2-112(3), M.C.A., the Montana State Highway Commission

. . . may enter into contracts with units of local government for the construction of projects without competitive bidding if it finds that the work can be accomplished at lower total costs, including total cost of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project. (Emphasis supplied.)

Further, pursuant to Section 60-2-204, M.C.A., the Montana State Highway Department may enter into an agreement with a local governing body to have the local governing body perform maintenance, operation and construction work for the Montana State Highway Department. Further, pursuant to Section 7-14-4108, M.C.A.,

"any city or town may contract jointly or independently with the department of highways, United States Federal Highway Administration, or other federal agency for the construction or reconstruction of highways, roads, and streets, to acquire rights-of-way, and to do any other thing essential and practical in securing the highway, road, and street construction or reconstruction or rights-of-way . . ."

Ironically, if HB-382 were enacted, the State of Montana, using state allocated gas tax, motor vehicle fuel tax, federal monies, etc., could contract with local government units to have local government units perform road construction and maintenance projects at lower total costs than competitive bidding; while that same local government unit could not expend its own gas and motor vehicle fuel tax monies to have its own in-house street and road crews perform construction, reconstruction, maintenance and repair projects at lower total costs than competitive bidding. The result is absolutely illogical. State law allows a local government to employ its own personnel for road, street and alley construction and maintenance work. No sensible or logical reason exists for penalizing local government units or their

House Local Government Members
February 5, 1985
Page Four

respective property tax payers by prohibiting them from using their own gas and motor vehicle fuel tax monies to pay their own in-house street and road crews for local government road and street construction, reconstruction, maintenance or repair projects.

Pursuant to the definition of the term "construction" quoted earlier herein, gas tax and motor vehicle fuel tax monies allocated to counties, cities and towns pursuant to Section 15-70-101, M.C.A. may be used for all expenses incidental to highway construction or reconstruction, "including locating, surveying, mapping" costs. Obviously, from local government economy, efficiency and effectiveness perspectives, it is essential for the development of a coherent, cohesive, comprehensive local government road, street and alley construction and maintenance program that a local government engineering staff exist for the preparation and implementation of that construction and maintenance program for the purpose of performing the necessary prerequisite planning functions of locating, surveying and mapping prior to the commencement of a road, street or alley construction, reconstruction, repair or maintenance project. It would be impractical, unnecessarily costly and totally inefficient to be continually contracting out major portions of the planning and development of a local government's own construction and maintenance program for road, street and alley construction and maintenance.

Practically speaking, if HB-382 were enacted, there will not be a true bona fide competitive bidding situation available to local governments in Montana in most street construction, reconstruction, repair and maintenance projects. The vast majority of cities and towns and many counties are not populous enough to have more than one private entity available to perform many aspects of such work, whether it be supply of materials or actual performance of street construction, reconstruction, maintenance or repair work. Further, even in some populous areas of Montana where there may be the appearance of competition, there in reality is not competition as a result of interlocking agreements, partnerships, or corporate interests between so-called competitors. The result of the enactment of HB-382 will be a business environment in which a private business will in essence be dictating non-competitive prices to a local government with respect to a very basic public service need in a monopolistic environment that is not subject to price regulation by any state regulatory agency, such as the Montana Public Service Commission.

Further, State Legislators should keep in mind that street or

House Local Government Members
February 5, 1985
Page Five

road maintenance includes such things as graveling, oiling, chip sealing, seal coating, overlaying, treating, general cleaning, snow removal, etc. If HB-382 was enacted, local government would be prohibited from using gas and motor vehicle fuel tax monies to pay their own in-house street and road crews to perform these maintenance functions.

If enacted, HB-382 would create an abundance of additional work and additional costs for local government units and their respective property taxpayers. For example: 1) Lengthy bid specification documents would have to be drafted and prepared; 2) Public advertising for notice of solicitation and acceptance of bids would have to be purchased; 3) Copies of bid specification documents would have to be printed and provided to all interested bidders; 4) Bid opening procedures and administration would consume both local government staff time and money; 5) Contracts for each project would have to be prepared and printed; 6) Review of bidder bonds and insurance would consume staff time; 7) Further, local government staff time would necessarily have to be devoted to ongoing contract supervision and administration during the life of the contract. This would include but not be limited to a) disputes between competing bidders as to the bids submitted, b) contract work supervision and inspection of work performed, c) contract interpretation disputes between the contractor and the owner of the project (for example, whether certain work constitutes "rework" of poorly performed work or additional work), d) review and monitor contractor attempts to increase their contract compensation, substitute different materials after a bid is awarded, etc., e) resolve whether owner comments or instructions constitute change orders as a contractor might attempt to allege, f) inspection of actual work for compliance with bid specifications, plans, contracts, etc.

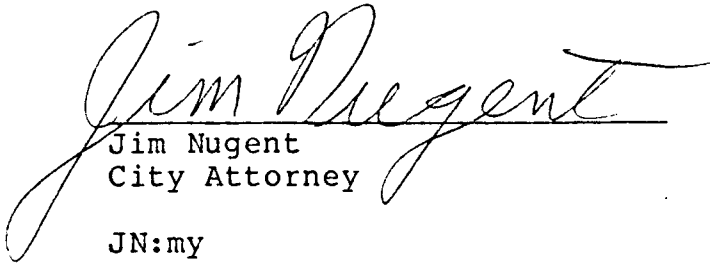
Pursuant to the Drake Amendment, Section 1-2-112, M.C.A., originally enacted in 1974, the Montana State Legislature is required by state law to provide a specific means to finance an activity other than the existing local government authorized mill levies or the all-purpose mill levy whenever a new law requires a local government unit to perform an activity which will require the direct expenditure of additional funds.

If HB-382 were enacted, it would mean that the Legislature should also provide a specific means to finance all the additional work and cost local governments would incur in passing all the gas and motor fuel tax monies on to the lowest responsible bidder.

House Local Government Members
February 5, 1985
Page Six

For these reasons, City of Missoula officials strongly urge that HB-382 be killed in the interests of economy and efficiency for local government units and local government property taxpayers.

Yours truly,



Jim Nugent
City Attorney

JN:my

cc: Missoula Mayor John Toole
Missoula Public Works Director Joe Aldegarie
Alec Hansen, Executive Director Montana League of Cities
and Towns



DEPARTMENT OF PUBLIC WORKS

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700 X-220

JOSEPH L. ALDEGARIE
Director

E-85-0151

Engineering
Traffic
Streets
Sewers
Vehicle Maintenance

February 6, 1985

House Local Government Committee Members
Montana State Legislature
Capitol Station
Helena, MT 59620

Re: HB-382, "An act requiring local governments to disburse gasoline and vehicle fuels tax funds only by contract."

One of the greatest challenges facing government on all levels is the financing of the maintenance and rebuilding of our infrastructure. Stretching every tax dollar until it almost breaks has become a way of life for local government.

The issue before the committee in the hearing on February 5, 1985 was what is the best way to spend city and county gas tax revenues to ensure that these monies are used to their fullest extent. The contractors claim that contracting out all work to private industry is the best. Local government disagrees and claims that work by city forces is cheaper and better. In Missoula we have found that a combination of these two methods are best.

Testimony given by a contractor at the hearing in regard to the expenditure of gas tax funds by Missoula was in error. Missoula does get \$560,000 annually in gas tax revenues. However, a higher proportion is spent by contract than was claimed by the contractor at the meeting. In the calendar year of 1984 Missoula's gas tax revenue was used as follows:

- \$220,000 Purchase of asphalt materials by competitive bid and contract.
- \$340,000 Wages for Street Division for rebuilding and overlaying of existing streets.
- \$50,000 Private contractor-street reconstruction project.

Additionally, all concrete work-curb/gutter and sidewalk-is done by contract with the adjoining property being assessed for the work. All newly created streets are done by contract through the use of SID's. City forces financed by gas tax funds are only used for rebuilding, overlaying or patching deteriorated city streets.

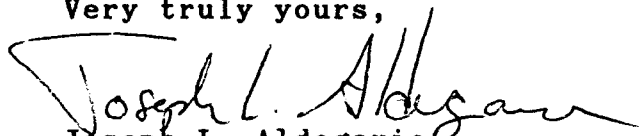
Prior to the gas tax increase in 1983, the City of Missoula was rebuilding 25 blocks of its 1600 blocks of city streets which resulted in a 60+ year cycle between replacement. After the gas tax increase, this was increased to 42 blocks, or a more reasonable cycle of less than 40 years. This increase

was accomplished without the addition of any more staff, but through maximizing the scheduling and efficiency of the Street Division. Based on figures from last summer's construction season, if we resorted to private contract for all the work, we would be back to the previous 25 blocks per year.

The point is, there are instances where work by City forces is the best way and there instances where contracting out the work is the better way. This will vary from city to city, county to county, and project to project. But the decision as to what is the most fiscally prudent use of the local share of gas tax revenue is best determined at the local level, where the detailed information to make such a decision is available. This bill, which would mandate the use of private contractors would remove that local decision making analysis and remove that flexibility which maximizes the use of our local gas tax funds.

For these reasons, I urge very strongly that House Bill 382 remain tabled and not be discussed any further.

Very truly yours,


Joseph L. Aldegarie
Public Works Director

cc: Mayor Toole
Jim Nugent, City Attorney
Alec Hansen, Executive Director, Montana League of Cities
and Towns



OFFICE OF THE CITY ATTORNEY

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

January 31, 1985

85-54

HB 382 oppose
Exhibit 5
HB 382
2-5-85
Rep. Harp

Honorable Paula Darko
Montana State Representative
House Local Government Chairman
Capitol Station
Helena, Montana 59620

Honorable Stella Jean Hansen
Montana State Representative
House Local Government Member
Capitol Station
Helena, Montana 59620

Honorable Harry Fritz
Montana State Representative
House Local Government Member
Capitol Station
Helena, Montana 59620

Honorable Mike Kadas
Montana State Representative
House Local Government Member
Capitol Station
Helena, Montana 59620

Re: Please kill HB-382, "An act requiring local governments to disburse gasoline and vehicle fuels tax funds only by contract"

Dear State Representatives:

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Not only does HB-382 create statutory inconsistencies within Section 15-70-101, M.C.A. that cause impractical and impossible results pertaining to the expenditures of gas and fuel tax monies; but HB-382 will be quite costly to local governments by increasing local government costs by making efficient local government street and road department programs inefficient, and in many local government communities throughout the state it will result in unregulated monopolistic private businesses dictating road and street construction, reconstruction, maintenance and repair service prices to local governments.

Pursuant to Section 15-70-101(2) and (4), M.C.A., all gasoline and fuel tax monies allocated to counties, cities and towns pursuant to Section 15-70-101, M.C.A., shall be used exclusively for the construction, reconstruction, maintenance, and repair of rural roads, city or town streets and alleys, (Emphasis supplied) or for "the share which a local government might otherwise expend for proportionate matching of federal funds

Honorable Paula Darko
Honorable Stella Jean Hansen
Honorable Harry Fritz
Honorable Mike Kadas
January 31, 1985
Page Two

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Montana Attorney General Mike Greely indicated in 40 A.G.Op. 19 (1983), page 2, that for purposes of Section 15-70-101, M.C.A., "The Montana Highway Code, Title 60, Chapter 1, M.C.A. contains definitions pertinent to construction and repair of city streets." Sections 60-1-103(5) and (21), M.C.A. of the Montana State Highway Code defines the terms "construction" and "maintenance" as follows:

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Pursuant to the above-quoted definition of the term "construction" from the Montana Highway Code, monies allocated to counties, cities and towns pursuant to Section 15-70-101, M.C.A. may be used for the "costs of right-of-way or other interests in land" that is included in a road construction project. Common sense makes it obvious that right-of-way and other interests in land necessary for a construction project cannot be obtained by disbursing gasoline and motor vehicle fuel tax monies to the lowest responsible bidder. Further, Section 15-70-101(2), M.C.A. expressly authorizes a county, city or town to expend gasoline and motor vehicle tax monies "for proportionate matching of federal funds allocated for the construction of roads or streets which are part of the federal-aid primary or secondary highway system or extension thereto." Obviously, the act of committing proportionate matching

Honorable Paula Darko
Honorable Stella Jean Hansen
Honorable Harry Fritz
Honorable Mike Kadas
January 31, 1985
Page Three

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State Legislators should also be aware that pursuant to Section 60-2-112(3), M.C.A., the Montana State Highway Commission

. . . may enter into contracts with units of local government for the construction of projects without competitive bidding if it finds that the work can be accomplished at lower total costs, including total cost of labor, materials, supplies, equipment usage, engineering, supervision, clerical and accounting services, administrative costs, and reasonable estimates of other costs attributable to the project. (Emphasis supplied.)

Further, pursuant to Section 60-2-204, M.C.A., the Montana State Highway Department may enter into an agreement with a local governing body to have the local governing body perform maintenance, operation and construction work for the Montana State Highway Department. Further, pursuant to Section 7-14-4108, M.C.A.,

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Ironically, if HB-382 were enacted, the State of Montana, using state allocated gas tax, motor vehicle fuel tax, federal monies, etc., could contract with local government units to have local government units perform road construction and maintenance projects at lower total costs than competitive bidding; while that same local government unit could not expend its own gas and motor vehicle fuel tax monies to have its own in-house street and road crews perform construction, reconstruction, maintenance and repair projects at lower total costs than competitive bidding. The result is absolutely illogical. State law allows a local government to employ its own personnel for road, street and alley construction and maintenance work. No sensible or logical reason exists for penalizing local government units or their

Honorable Paula Darko
Honorable Stella Jean Hansen
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January 31, 1985
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Practically speaking, if HB-382 were enacted, there will not be a true bona fide competitive bidding situation available to local governments in Montana in most street construction, reconstruction, repair and maintenance projects. The vast majority of cities and towns and many counties are not populous enough to have more than one private entity available to perform many aspects of such work, whether it be supply of materials or actual performance of street construction, reconstruction, maintenance or repair work. Further, even in some populous areas of Montana where there may be the appearance of competition, there in reality is not competition as a result of interlocking agreements, partnerships, or corporate interests between so-called competitors. The result of the enactment of HB-382 will be a business environment in which a private business will in essence be dictating non-competitive prices to a local government with respect to a very basic public service need in a monopolistic environment that is not subject to price regulation by any state regulatory agency, such as the Montana Public Service Commission.

Further, State Legislators should keep in mind that street or

Honorable Paula Darko
Honorable Stella Jean Hansen
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Honorable Mike Kadas
January 31, 1985
Page Five

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If enacted, HB-382 would create an abundance of additional work and additional costs for local government units and their respective property taxpayers. For example: 1) Lengthy bid specification documents would have to be drafted and prepared; 2) Public advertising for notice of solicitation and acceptance of bids would have to be purchased; 3) Copies of bid specification documents would have to be printed and provided to all interested bidders; 4) Bid opening procedures and administration would consume both local government staff time and money; 5) Contracts for each project would have to be prepared and printed; 6) Review of bidder bonds and insurance would consume staff time; 7) Further, local government staff time would necessarily have to be devoted to ongoing contract supervision and administration during the life of the contract. This would include but not be limited to a) disputes between competing bidders as to the bids submitted, b) contract work supervision and inspection of work performed, c) contract interpretation disputes between the contractor and the owner of the project (for example, whether certain work constitutes "rework" of poorly performed work or additional work), d) review and monitor contractor attempts to increase their contract compensation, substitute different materials after a bid is awarded, etc., e) resolve whether owner comments or instructions constitute change orders as a contractor might attempt to allege, f) inspection of actual work for compliance with bid specifications, plans, contracts, etc.

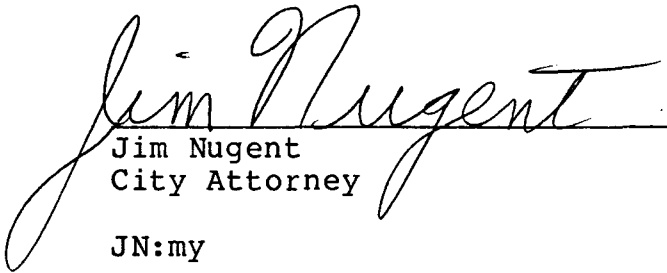
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If HB-382 were enacted, it would mean that the Legislature should also provide a specific means to finance all the additional work and cost local governments would incur in passing all the gas and motor fuel tax monies on to the lowest responsible bidder.

Honorable Paula Darko
Honorable Stella Jean Hansen
Honorable Harry Fritz
Honorable Mike Kadas
January 31, 1985
Page Six

For these reasons, City of Missoula officials strongly urge that HB-382 be killed in the interests of economy and efficiency for local government units and local government property taxpayers.

Yours truly,



Jim Nugent
City Attorney

JN:my

cc: Missoula County State Representatives Ralph Eudaily, R. Budd Gould, Joe Hammond, Earl Lory, Janet Moore, Bob Ream, Steve Waldron

Missoula Mayor John Toole
Missoula Public Works Director Joe Aldegarie
Alec Hansen, Executive Director Montana League of Cities
and Towns

Exhibit 6
HB 382
2-5-85
Rep. Harp

WITNESS STATEMENT

Name Henry Grossman Date 2/5/85
Address Shanklin MT 59476 Support ?
Representing Chautauque County, Oppose ? ✓
Which Bill ? HB 382 Amend ?

Comments:

Do not support the \$4,000 figure
should be \$25,000. for calling for bids
if bids are called for.

It should be up to Counties to decide how
the Gas tax money should be used and
the same bid procedure used for Gas
tax as for other County Funds (Road, bridge & etc.)

Please leave prepared statement with the committee secretary.

Madam
MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

I am Henry Grossman a County Commissioner from Chouteau County. I am here to speak in opposition to HB 382 as it is written in its present form.

This bill if passed would put an additional burden on our road budgets that are already under a great strain, and would be a blow to our system of trying to maintain and build roads within our County in a cost efficient manner.

The Counties and Cities of Montana are required by law at the present time to solicit for bids or quotes if expenditures of \$10,000 to \$25,000 are made. Anything over \$25,000 would require a call for bids with the bid going to the lowest responsible bidder. The way Gas Tax money is spent should be no different.

I would suggest that HB 382 Section 4, should be changed to read "All funds hereby allocated to Counties, Cities and Towns shall be used for the construction and repair of roads streets and alleys, and in cases where the construction or repair is done by other than the local street or road departments, the bidding procedure as set forth in MCA 7-5-2302 will be followed for all contracts, let in excess of \$25,000." By doing this the procedure for spending gas tax money would conform to the way that Counties and Cities spend the Revenue Sharing, PLIT, Road and Street funds or any other funds that they have under their control.

It doesn't seem that it would be an efficient way to get the most mileage out of our Gas Tax funds, if the local governments would have to leave their equipment and manpower that they already have sitting in the equipment yards and let contracts out to some one that could very well be 100 or 200 miles away to come in and build, gravel, maintain or plow snow, in order to legally use our gas tax funds, that HB 382 would require them to do, as the bill is now written.

In Chouteau County and I am sure there are alot of other Counties in the State that are in the same situation. We have no local Contractors that would be able to come in and maintain, build or repair our 2800 miles of County roads.

In our County we do use a large percent of our Gas Tax funds to hire local contractors to do things that we don't have the equipment to do ~~the~~ ~~jobs~~ ourselves, for instance, last year we spent \$95,000 to have gravel crushed and a section of pavement chip sealed. Another \$66,000 went for gravel royalties, fuel and road repair and maintenance. As far as I am concerned we are using the gas tax funds correctly and in a way that they were intended to be used. We budget the Gas Tax as a seperate item and every dollar is accounted for.

I hope this committee will see fit to make the slight change in the wording that I mentioned previously and most important to strike out the \$4,000 and change it to \$25,000. This would conform to the bidding process that we are required to follow in the expenditures of all other funds that the local governments have under their control.

Thank you for allowing me to speak in opposition to HB 382 as it is now written.


Henry I. Grossman

Mayor-Bob Marlenee
City Clerk-Elsie Olson
City Treasurer-J. Wiedebush

CITY OF PLENTYWOOD

205 1st AVENUE WEST
PLENTYWOOD, MONTANA 59254
406-765-1700

Exhibit 7
HB 382
2-5-85
Rep. Hays
COUNCILMEN
Charles Devaney
Terry Gilbertson
Jon Mehl
Duane Trewyn

Mayor Bob Marlenee
205 West First Avenue
Plentywood, Montana 59254
January 30, 1985

House Local Government Committee
Room 312
State Capitol Building
Helena, Montana 59601

Dear Committee Members,

My name is Bob Marlenee, Mayor of the City of Plentywood, located in northeastern Montana with a population of 3,000. I am writing this letter in opposition of House Bill 382.

The passage of this bill would add more problems for small cities and towns across Montana. We do not need increased costs of operation, especially when we are continually cutting back in all phases of City government! Due to state government and legislative actions resulting in reduced or declining revenues to cities and towns, we have been cutting all departments to the bare bones. Many jobs have been lost across Montana because budgets will not permit adequate staffing.

Most cities and towns are going backwards instead of progressing in a positive direction. Public services such as fire and police protection, parks and recreation, street maintenance and repair, are at the point of being accomplished only when absolutely necessary!

Now the Montana Contractors Association wishes to lower the limit on expenditures of gasoline tax revenue to \$4,000.00. This would virtually make it impossible for small cities and towns to obtain qualified outside help to come into our communities and bid a fair price.

Passage of this bill would also require many jobs done by ourselves to be bid by others at increased prices over what we could do it for.

Unless cities and towns can begin to receive increased revenues from State Government instead of increased local property taxes, you are going

CITY OF PLENTYWOOD

205 1st AVENUE WEST
PLENTYWOOD, MONTANA 59254
406-765-1700

COUNCILMEN
Charles Devaney
Terry Gilbertson
Jon Mehl
Duane Trewyn

Page 2

to see Montana become much more sparsely populated than it already is. Disincorporation coupled with a flat refusal to pay increased property taxes will be the first two steps.

Again, I say that we do not need increased costs of operation, and that is exactly what the passage of this bill would do.

I urge you to oppose the passage of House Bill 382.

Respectfully,



Bob Marlenee
Mayor of Plentywood

BTM/emo



CITY OF BILLINGS
PUBLIC WORKS DEPARTMENT

510 N. BROADWAY - 4TH FLOOR

BILLINGS, MT 59101

PHONE (406) 657-8230

Exhibit 8
HB 382
2-5-85
Rep. Harp.

February 5, 1985

House Local Government Committee

RE: House Bill #382

My name is Ken Haag. I presently serve as Director of Public Works for the City of Billings, and I am here to testify against House Bill 382.

The Bill as initially introduced would cause great harm to the Streets Program in the City of Billings. Over the past 2 or 3 years, the City has used Gas Tax Funds in an attempt to obtain the greatest amount of construction possible. Thus, we have used the funds to perform the engineering work, utility relocation work and right-of-way acquisition work that is necessary to get certain projects under contract through the Montana Department of Highways. In addition, we have used these funds to satisfy court judgements concerning inverse condemnation and to match local people's special improvement districts for the reconstruction of some very important streets in the City.

The Bill as initially drafted would place all of these activities into question since none of them concern the award to a low bidder. It is my understanding that amendments are going to be proposed to handle this particular problem.

I would also like to take this opportunity to oppose the Bill in general. The assumptions on this Bill that the local officials cannot make an intelligent decision as to the expenditure of these funds, and that construction work by private contractor is always cheaper are erroneous.

As stated above, I feel that the City of Billings has taken major steps forward in the area of public-private partnership and City-State partnership in trying to handle our transportation needs through this and other programs. To tie our hands would mean that many of the policies that we have adopted, and that are being successful, would be much more difficult to implement.

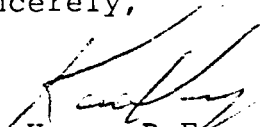
Many other people that are testifying will have much better ideas concerning the cost of doing the work by in-house versus private contractors, but I would point out that at least one instance where it is much cheaper for the City of Billings to handle work in-house. This instance is the sweeping or clean up after a

chipsealing operation. The City of Billings does contract out chipsealing because we feel that we can accomplish more with a combination of City forces and contract forces. We let the contractors furnish and supply the shipseals, but we do the sweeping and clean up with City Forces. The City can do this clean up cheaper because we do have the full sweeping equipment that is necessary for accomplishing this work.

I would like to also add that I feel that the Gas Tax is one of the few "user fee" system that we do have in place and that is working equitably. To pass this kind of restriction on this Gas Tax would again place the cost of doing street work back onto a property tax rather than continue the more equitable "user fee" concept.

Thank you for the opportunity to testify. I would be happy to answer any questions that you may have.

Sincerely,



Ken Haag, P.E.
Director of Public Works

KH/skl

Exhibit 9
HB 382
2-5-85
Rep. Hart

WITNESS STATEMENT

Name Mary Vant Hull Committee On Local govt
Address City Hall Date 2/5/85
Representing Bozeman City Commission Support _____
Bill No. 382 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. When the Legislature passes bills restricting local governments, our ability to cope w/ local problems is decreased.
2. This bill tends to tie our hands,
3. It would decrease our ability to cope w/ local problems. We need flexibility. Local decisions are most accountable.
4. Its main "good" would be to give aid (questionable) to contractors.
5. Please Kill this bill.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

AGAINST H.B. 382, REQUIRING BIDS ON ALL GAS TAX MONEY ^{expended by} BY MUNICIPALITIES,
Feb. 5, 1985, by Mary Vant Hull, Bozeman City Commissioner, speaking for
the entire Bozeman City Commission

Two years ago Rep. Harp introduced and was essential to the passage of a
bill which gave two extra cents per gallon of gas tax to local government.
With sources of revenue available still falling in some important areas,
this gas tax money has been essential for our cities' welfare.

Two years ago, I gave Rep. Harp a copy of Bozeman's master traffic plan
which details more than \$14 million worth of street needs in Bozeman.
Thanks to your action two years ago, we have at least begun to accomplish
something with streets.

But we can't catch up yet, and the situation keeps changing with more needs
appearing constantly. For example, last year, the Bozeman hospital decided
to abandon its downtown location. This necessitates a new street which we
couldn't anticipate until well into the 21st century. However, we pres-
ently have the flexibility to cope with some of these problems, and we ask
you to add to our flexibility, not to tie our hands further, as this
H.B. 382 would do.

At our city commission meetings -- every week -- and available to respond-
ing to community needs every day -- close to the people and the com-
munity in a way which the State legislature can never be, -- we are able
to accomplish the city's business most efficiently, practically, and eco-
nomically as it is possible to be done.

At the local level, we cannot afford to be crooked or extravagant; we sim-
ply wouldn't last.

Please say no to this bad bill -- which would hinder local government from
doing its best job. This bill would hurt local government. It WOULD help
the contractors. Let's not have a contractors' relief bill in the guise of
a help to local government.

Thank you.

Mary VantHull

Mary Vant Hull
Bozeman Commissioner

Exhibit 10
HB 382
2-5-85
Rep. Harp

WITNESS STATEMENT

Name DOUGLAS E. DANIELS Committee On _____
Address BELGRADE, MONTANA Date 2/5/85
Representing CITY OF BELGRADE, CITY OF
THREE FORKS, TOWN OF MANHATTAN Support _____
Bill No. 382 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. — CITIES AND TOWNS ARE UNABLE TO OBTAIN COMPETITIVE BIDS ON SMALL PROJECTS. CONTRACTORS ARE NOT GENERALLY INTERESTED IN PROJECTS EVEN AS SMALL AS \$10,000⁰⁰
2. — ADMINISTRATIVE COSTS IN PREPARING BID PACKAGES, ADVERTISEMENT, BID OPENING, & PROCESSING CONTRACT DOCUMENTS TAKE A SUBSTANTIAL PORTION OF THE FUNDS THAT COULD OTHERWISE BE USED FOR CONSTRUCTION.
3. — THE LEGAL REQUIREMENTS FOR ADVERTISING AND THE TIME REQUIRED TO SOLICIT BIDS AND AWARD CONTRACTS RESTRICTS CITIES AND TOWNS FROM COMPLETING REQUIRED WORK ON SCHEDULE DURING A RELATIVELY SHORT CONSTRUCTION SEASON.
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Exhibit 11
HB 382
2-5-85
Rep. Harp

WITNESS STATEMENT

Name ERNEST DAVIS Committee On Local Government
HB 382
Address 306 3rd Ave Laurel, Md Date 2/5/85
Representing CITY OF LAUREL Support _____
Bill No. 382 Oppose X
Amend _____

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. MY PREVIOUS EXPERIENCE WORKING FOR PRIVATE CONTRACTOR DOING MUNICIPAL WORK WAS NOT AS QUALITY OF WORK AS WHAT CITY PERFORMED WORK IS
2. THE HIGHER COST OF VEHICLES, EQUIPMENT, & PETROLEUM PRODUCTS FOR CONTRACTORS. CITIES DO GET SIZEABLE DISCOUNT SAVINGS.
3. HIGHER COST OF WAGES FOR CONTRACTOR EMPLOYEES OVER WHAT MOST CITIES PAY.
4. BETTER QUALITY OF WORK PERFORMED BY MEN WHO LIVE WITHIN THE CITIES RATHER THAN BY NON-RESIDENT CONTRACTOR EMPLOYEES.

WE ALSO FEEL THE FIGURE OF \$4,000.00 SHOULD BE A MINIMUM OF AT LEAST \$20,000.00

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.

Exhibit 12
HB 382
2-5-85
Rep. Harp

WITNESS STATEMENT

Name Bill Verwolf Date Feb. 5, 1985
Address Helena Support ?
Representing City of Helena Oppose ? X
Which Bill ? HB 382 Amend ?

Comments:

Please consider the attached memorandum, from Richard A. Nisbet, City of Helena Public Works Director, to myself, as testimony of the City of Helena opposed to the passage of HB 382.

I would propose that an amendment to this bill which would make the following changes is appropriate.

1. On page 3 line 16 and 17 - Remove the proposed additional language "only by contract, and when the contract exceeds \$4,000 the contract may be let only"

2. On page 3 line 19, 20 and 21 - Following procedures on line 19. add "when a contract for construction, reconstruction, maintenance or repair is utilized, and when the contract exceeds \$10,000.

The gas tax money should be used to provide the most benefit for the dollar and the local government should make that determination.

This bill would not allow gas tax funds to pay for engineering or inspection even on contracted projects. The term contracts does not specify whether it includes materials purchases.
Please leave prepared statement with the committee secretary.

MEMORANDUM

TO: Bill Verwolf, Director, Administrative Services

FROM: Richard A. Nisbet, Director of Public Works

DATE: February 4, 1985

SUBJECT: Use of Gas Tax Funds by City of Helena

I have done a review of the past six years' use of gas tax funds within the City of Helena. I am attaching copies of pie graphs that show the actual types of gas tax expenditures, the amount used for purchases and the amount contracted out for each year from 1979 through the current budget year. This is shown in attached Exhibit A.

Exhibit B identifies the total gas tax expenditures for the past six-year period. During this period, 35 percent of our monies have been used for street construction and reconstruction, 35 percent for street maintenance, 13 percent for chip seal projects and the remaining 17 percent for purchase of signing materials, storm drain repair and construction, street restoration in conjunction with our watermain replacement program and traffic signal improvements and repair to railroad crossing crossarms damaged due to accidents. All of the above expenditures were for some type of street maintenance, construction or repair throughout the City of Helena. None of the gas tax revenue has been used for the purchase of capital improvement items.

Exhibit B also shows the amount of gas tax dollars (1980-1985) used to make direct purchases for street maintenance and the amount used for new construction which is contracted out to contractors. The City of Helena has contracted out 58 percent of our total gas tax expenditures during the past six years and has used 42 percent for direct purchase of materials for our street maintenance program. Typical items purchased for street maintenance are asphalt mix for patching street cuts, sand and emulsion oil for slurry sealing our streets (part of our regular preventive maintenance program), traffic signs for updating and replacing traffic signs on streets throughout town, repairs to traffic signals that require updating or replacement due to accidents and/or obsolescence, repairs to our storm drain system (i.e., inlets, storm drain retention ponds damaged in flood and the like) and repair to damaged railroad crossarms.

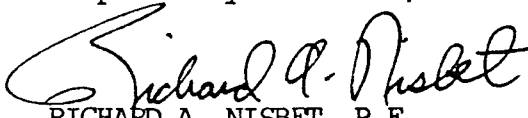
Exhibit C is a bar graph which shows the total gas tax purchases and contracts from FY 1980 through FY 1985. You can see a definite increase in the amount of our gas tax money that has been used for contract purposes since 1983 when the City received about double the amount of

Bill Vervolf
February 4, 1985
Page 2

revenue for street purposes. The City of Helena adopted a long-range program of arterial/collector street reconstruction and actually accumulated the first year's revenue so adequate funds were available to complete our first major replacement project; specifically, Benton Avenue which was completed this last summer. Our long-range program identifies numerous arterial-type streets that need to be replaced due to their current condition, and we plan to continue utilizing our gas tax money for this purpose. You will recall during the last legislative session, the legislature authorized the use of sprinkling district funds for all street maintenance and reconstruction purposes. The City of Helena also uses this method to fund a portion of our Street Department costs. As you can see from Exhibit D, in FY 1983 we used about 34 percent of sprinkling district funds for our total street operation and in FY 1984, 56 percent of our total street operation came from street maintenance districts. In both years approximately 20 percent of the total street budget was used to purchase materials for street maintenance activities as described above.

The legislation currently proposed in House Bill 382 would require that all gas tax monies be expended by contract awarded to the lowest responsible bidder. If this legislation were approved, it would not be possible for the City of Helena to continue maintaining our streets or continue with our slurry seal operation using our own forces without increasing either the property taxes or the street maintenance district assessments. Approximately 20 percent of our current street budget which is spent for purchase of maintenance materials from gas tax funds would have to be replaced. During this period when taxes are increasing and, particularly, in Helena where we have so many non-taxable properties, I believe this legislation would be counterproductive. It would definitely result in raising the taxes of the residents of the City of Helena if we are to continue providing the high-quality street maintenance we have provided in the past. I strongly recommend we oppose this legislation and propose an amendment to the current legislation which would authorize cities to use gas tax funds in any manner they deem necessary for street purposes (i.e., construction/reconstruction and repair) that are in the best interest of city.

Respectfully submitted,


RICHARD A. NISBET, P.E.
Director of Public Works

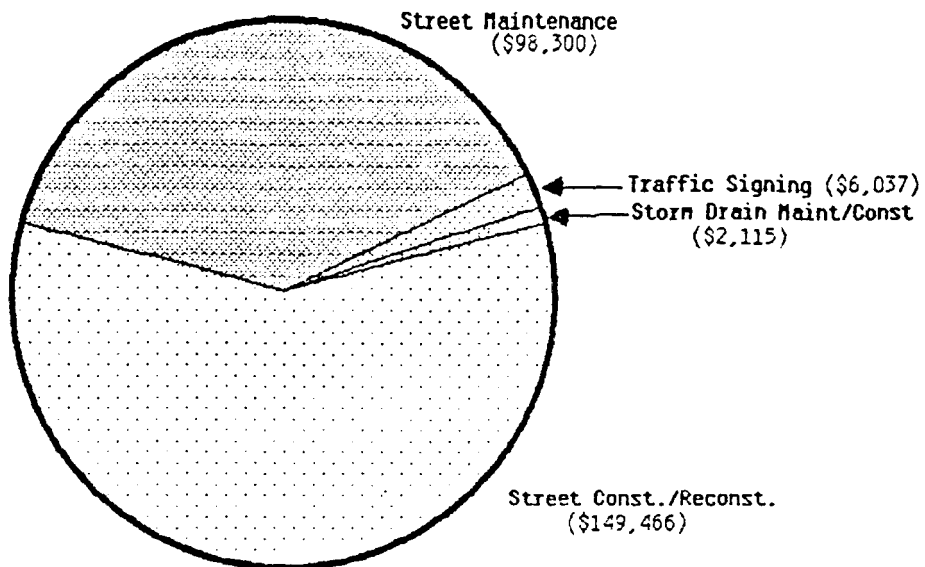
RAN/nn

Attachments

cc: Robert A. Erickson, City Manager
Janet Jessup, Budget Supervisor
Michael T. Keiser, Assistant Public Works Director

CITY OF HELENA GAS TAX EXPENDITURES

1979 - 1980 (\$255,918)

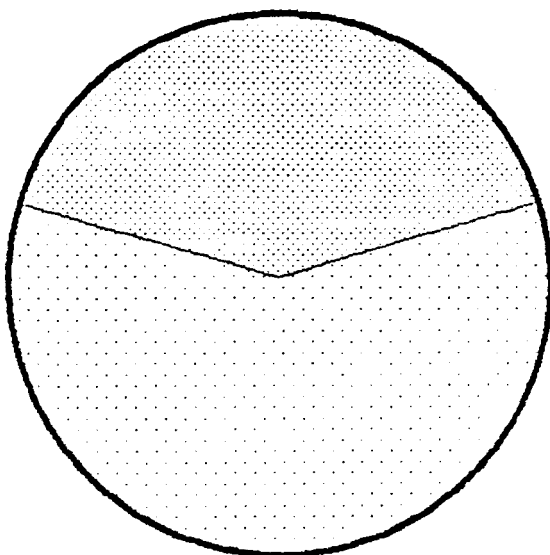


Total Revenue (\$230,394)

FY 80 GAS TAX PURCHASES AND CONTRACTED ITEMS

PURCHASED ITEMS

(\$104,337)

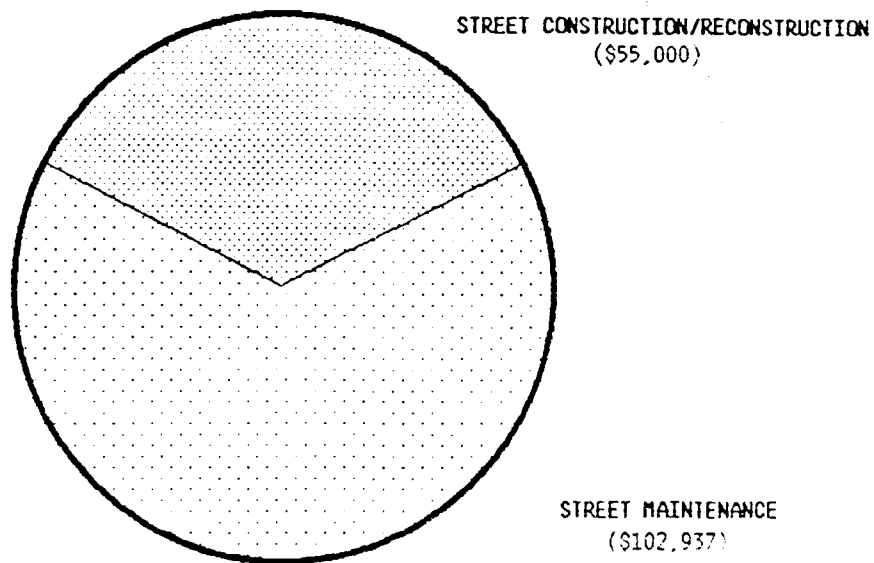


CONTRACTED ITEMS

(\$151,581)

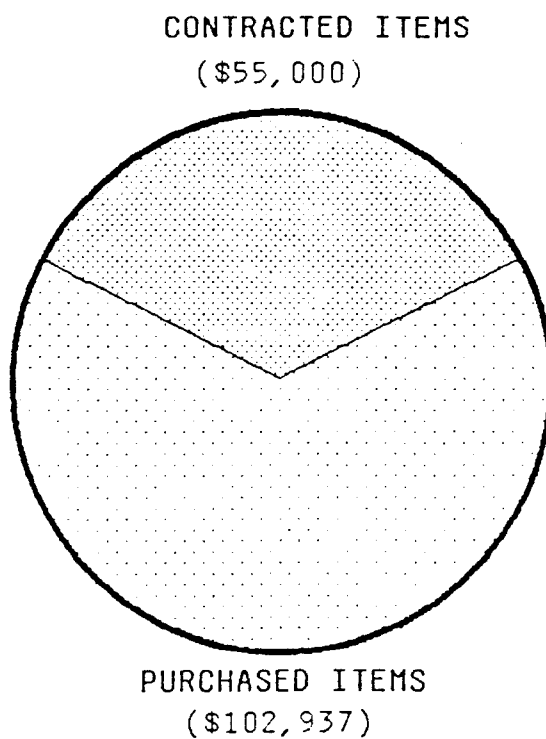
CITY OF HELENA GAS TAX EXPENDITURES

1980 - 1981 (\$157,937)



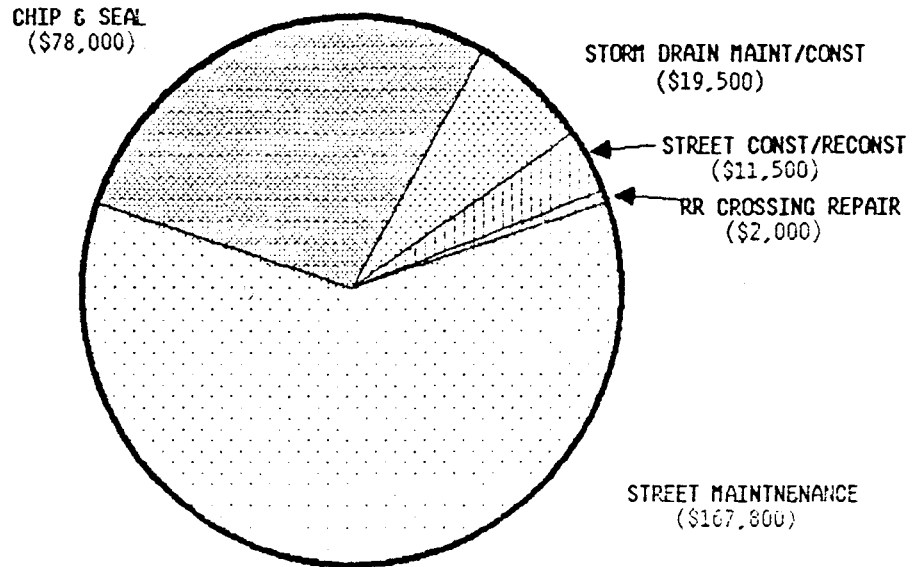
(TOTAL REVENUE - \$235,996)

FY 81 GAS TAX PURCHASES AND CONTRACTED ITEMS



CITY OF HELENA GAS TAX EXPENDITURES

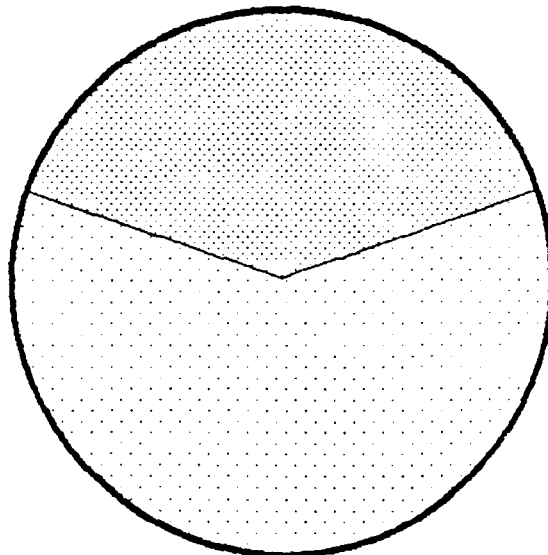
1981 - 1982 (\$278,800)



TOTAL REVENUE (\$257,282)

FY 82 GAS TAX PURCHASES AND CONTRACTED ITEMS

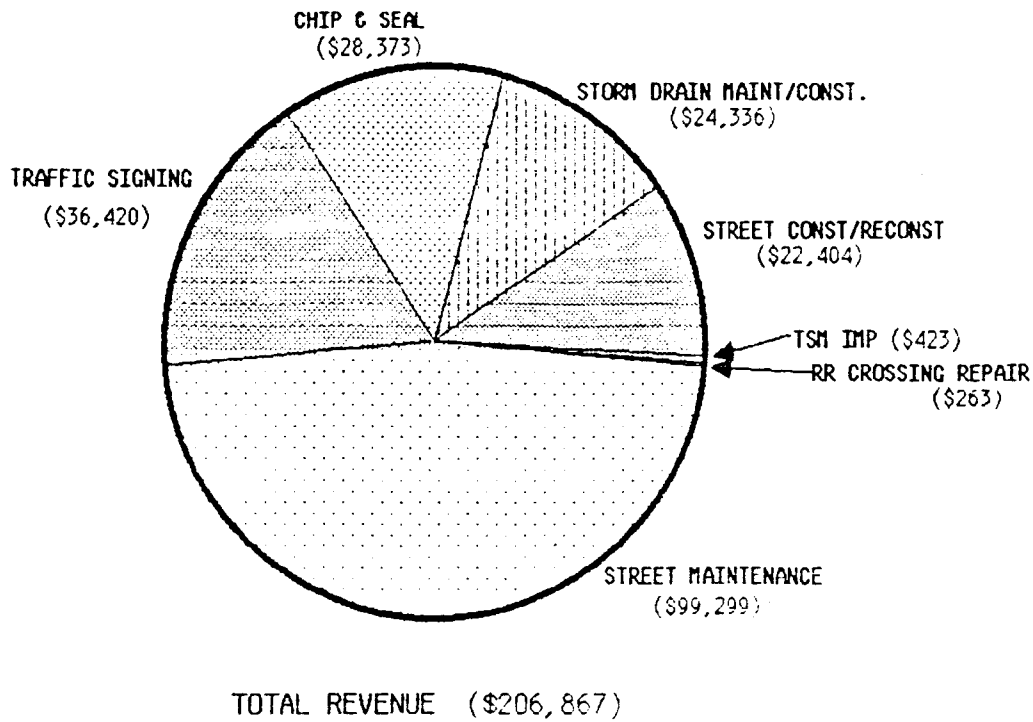
CONTRACTED ITEMS
(\$109,000)



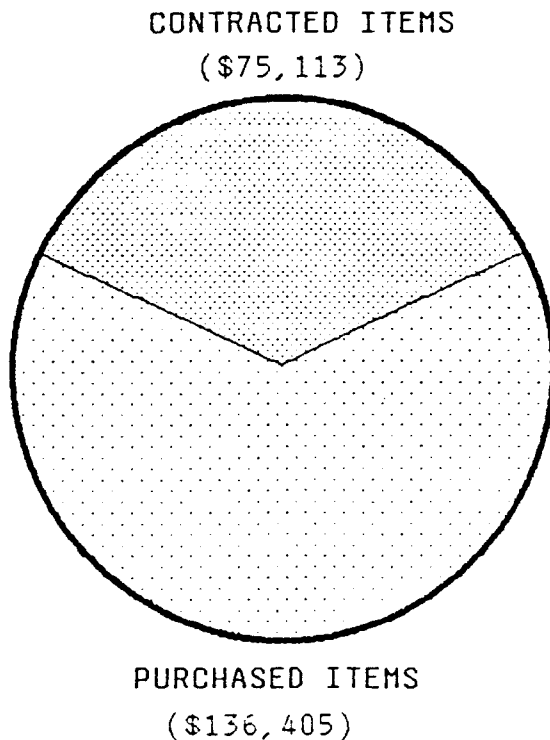
PURCHASED ITEMS
(\$169,800)

CITY OF HELENA GAS TAX EXPENDITURES

1982 - 1983 (\$211,518)

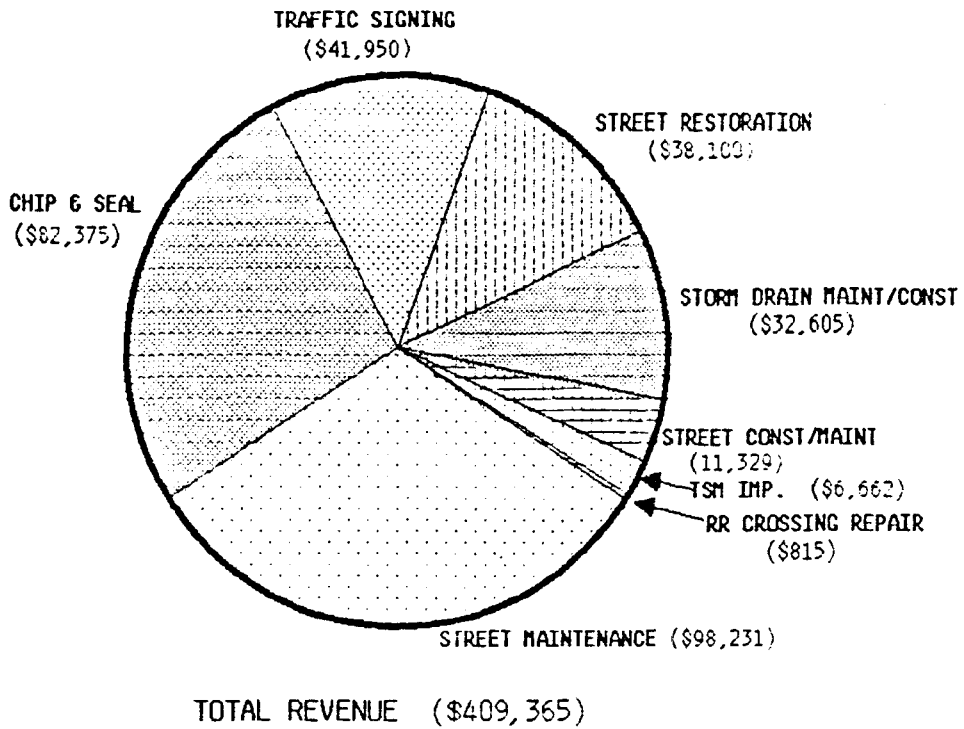


FY 83 GAS TAX PURCHASES AND CONTRACTED ITEMS

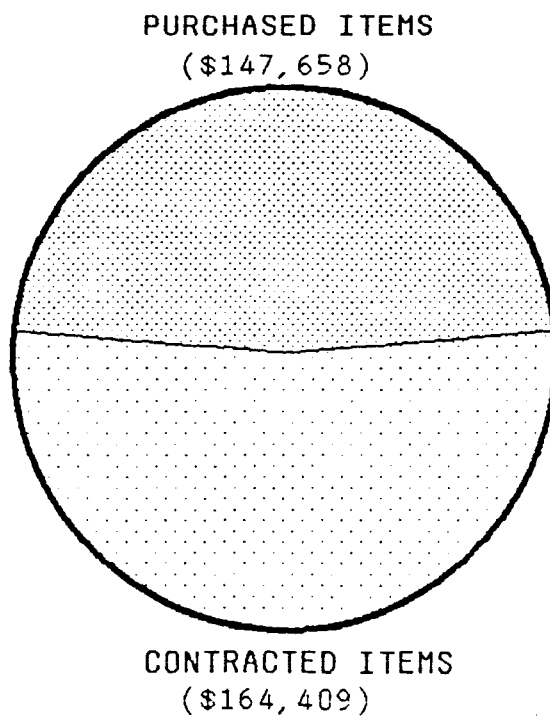


CITY OF HELENA GAS TAX EXPENDITURES

1983 - 1984 (\$312,067)

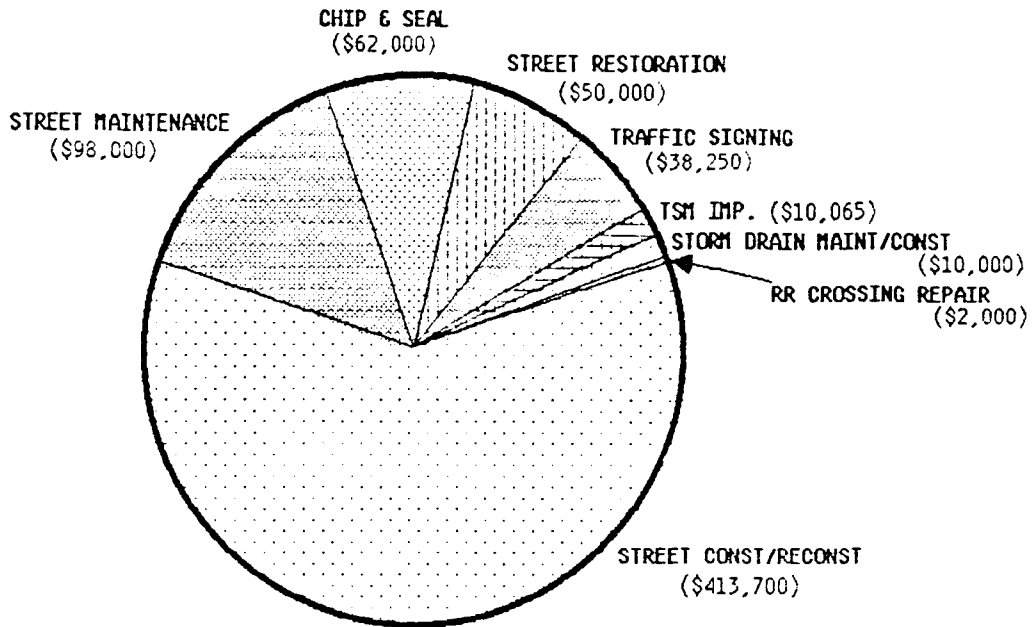


FY 84 GAS TAX PURCHASES AND CONTRACTED ITEMS



CITY OF HELENA PROJECTED GAS TAX EXPENDITURES

1984 - 1985 (\$684,015)

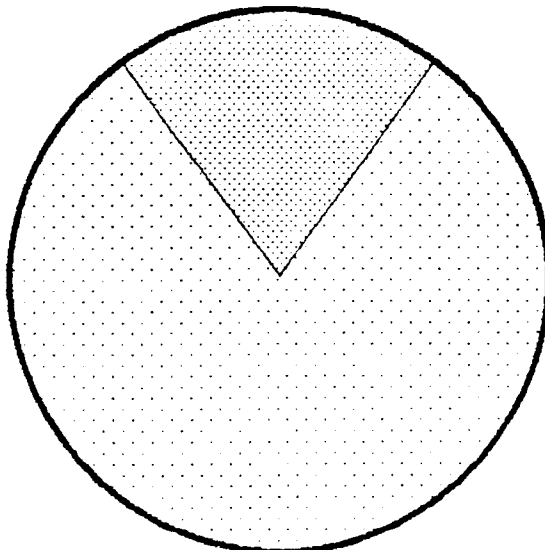


TOTAL PROJECTED REVENUE (\$446,046)

FY 85 GAS TAX PURCHASES AND CONTRACTED ITEMS

PURCHASED ITEMS

(\$138,250)

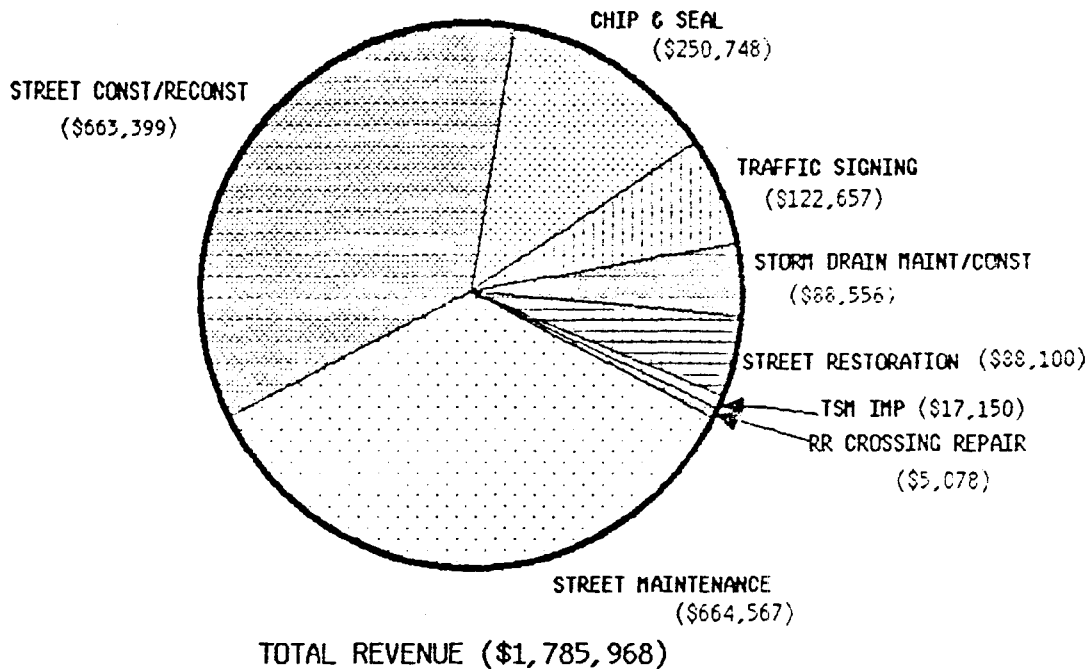


CONTRACTED ITEMS

(\$545,765)

TOTAL GAS TAX EXPENDITURES (\$1,900,255)

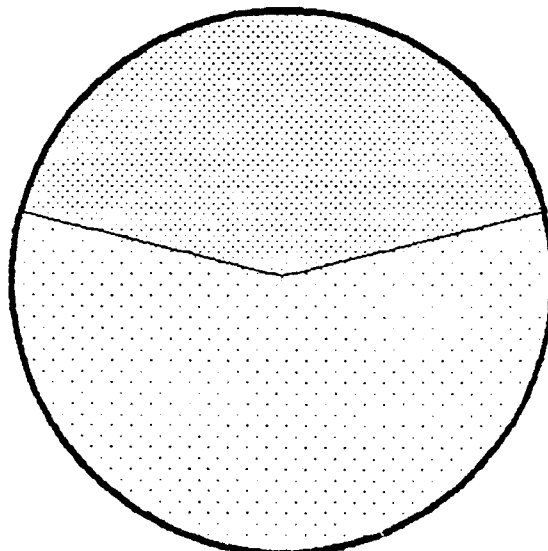
FY 1980 THROUGH FY 1985



TOTAL GAS TAX PURCHASES AND CONTRACTED ITEMS

FY 1980 THROUGH FY 1985

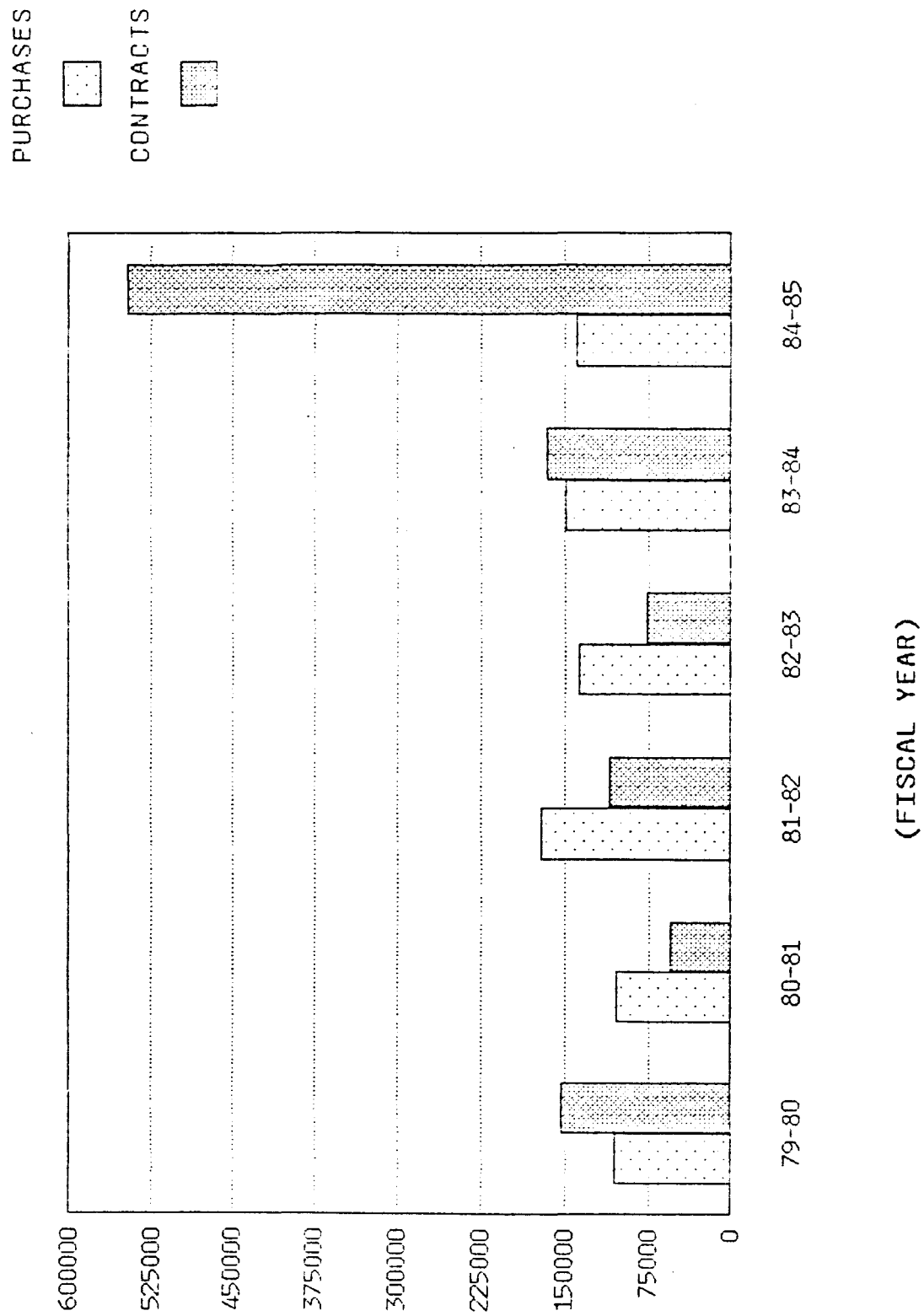
PURCHASED ITEMS (\$799,387)



CONTRACTED ITEMS (\$1,100,868)

TOTAL GAS TAX PURCHASES AND CONTRACTS

FY 80 THROUGH FY 85



STREET DEPARTMENT FUNDING SUMMARY

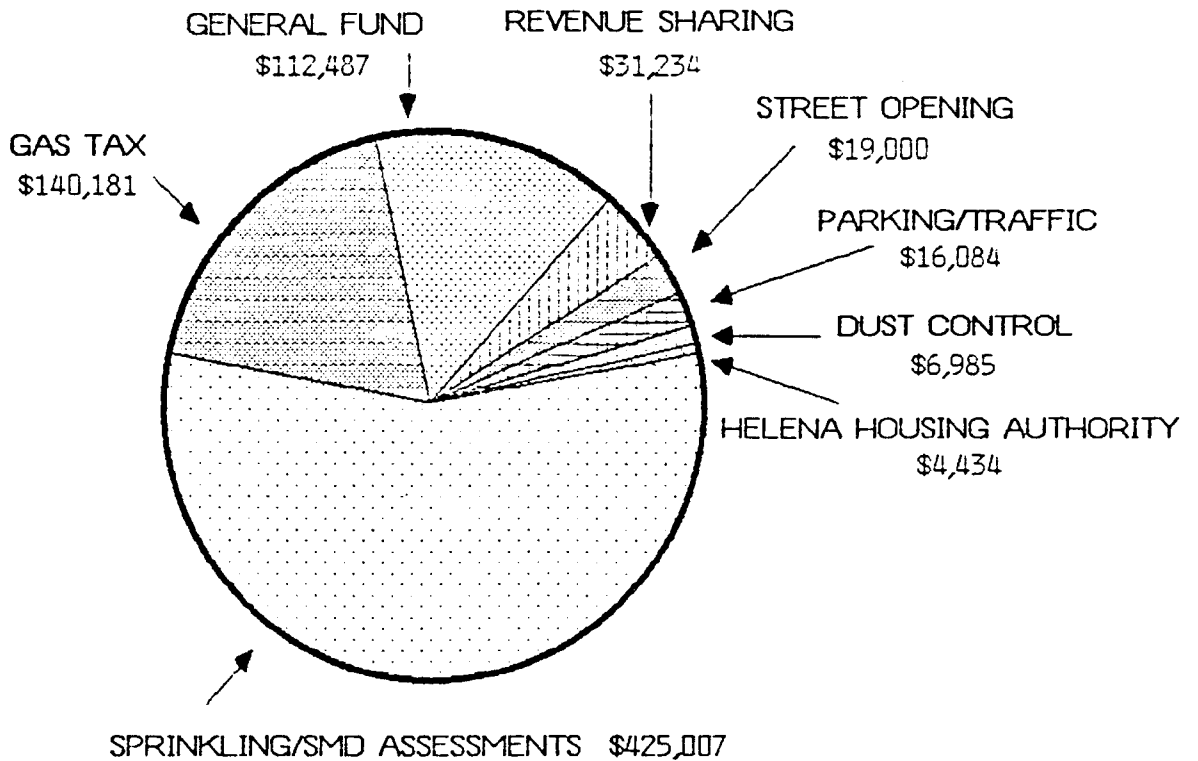
<u>SOURCE</u>	<u>1983</u>	<u>1984</u>
GAS TAX	\$135,719	\$140,181
REVENUE SHARING	51,775	31,234
PARKING/TRAFFIC	54,450	16,084
GENERAL FUND	198,459	112,487
SPRINKLING/SMD ASSESSMENTS	234,914	425,007
STREET OPENING ^(a)	17,281 ^(b)	19,000
DUST CONTROL	-0-	6,985
HELENA HOUSING AUTHORITY	-0-	4,434
TOTAL BUDGET	\$692,598	\$755,412

(a) Revenue to General Fund

(b) Includes Dust Control Revenue

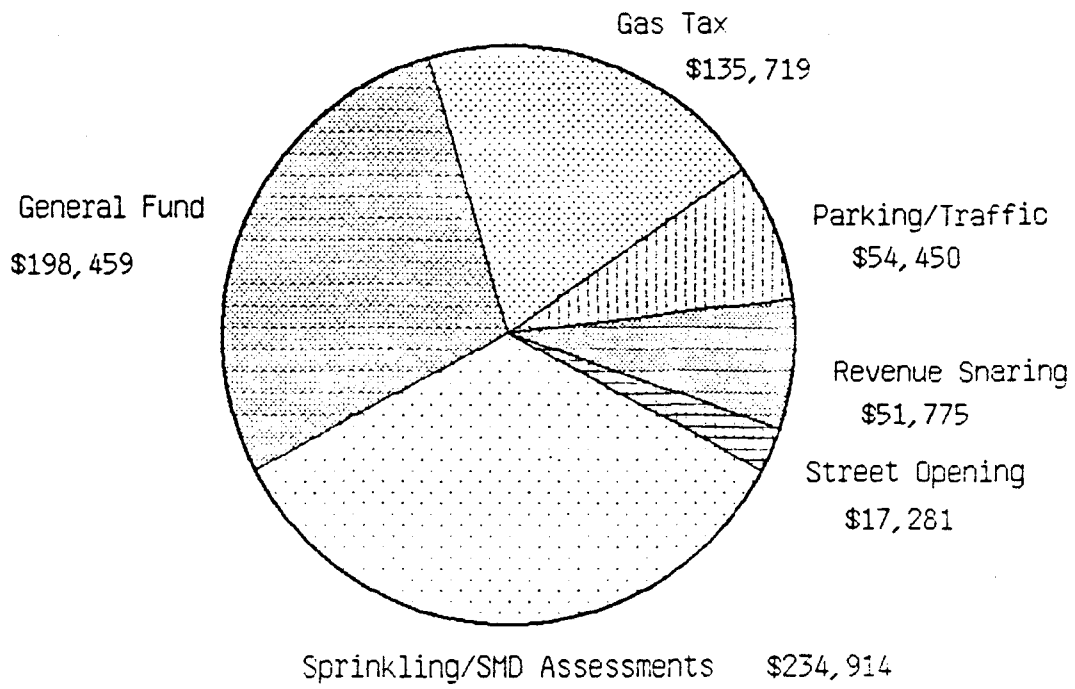
STREET DEPARTMENT FUNDING SUMMARY - 1984

TOTAL BUDGET: \$755,412



STREET DEPARTMENT FUNDING SUMMARY - 1983

TOTAL BUDGET: \$692,598



Nicholson

PAVING CO.

Exhibit 14
HB 382
255-85
Rep. Harp
PHONE 728-0760
GRANT CREEK RD.
BOX 7585
MISSOULA, MONTANA 59807

January 31, 1985

Local Government Committee
House of Representatives
Capitol Building
Helena, Montana 59601

Re: House Bill 382

Gentlemen:

I am writing to express my support of H.B. 382 which I believe is an attempt to clarify the intent of legislation with regard to the expenditure of gas tax monies by local government.

Montana is a major national supplier of natural resources. Adequate surface transportation of these resources is a must for Montana to compete in the resource market.

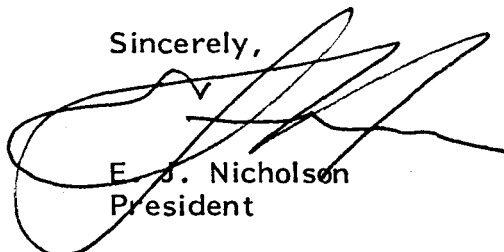
No use, other than enhancement of surface transportation, was intended when gas tax revenue legislation was enacted. This revenue was intended to promote cheaper transportation costs and to stimulate more gas tax revenue from users of the system. Local governments do not pay fuel taxes, that is why the funds were directed toward the tax paying sector while utilizing the protective process of competitive bidding.

The original intent was for local government to receive funds in proportion to the taxes generated in their individual areas and to have local control of expenditure of these funds through competitive bidding in the open market. The only control intended was that the funds be spent on the transportation system, utilizing the protective measure of strict accountability by competitive bidding.

Some local governments presently are utilizing these funds to compete against private enterprise with no accountability and without competitive bidding. Competitive bidding must be utilized in spending gas tax revenue.

The Department of Commerce is specifically responsible to see that local government is strictly accountable for spending these funds on the transportation system through competitive bidding in the open market. I believe the Department of Commerce is in violation of its statutory duties and that local government is currently spending funds in an illegal manner.

Sincerely,



E. J. Nicholson
President

VISITOR'S REGISTER

HOUSE _____ LOCAL GOVERNMENT _____ COMMITTEE _____

BILL HOUSE BILL ~~382~~ 382

DATE Feb. 5, 1985

SPONSOR Rep. ~~Spencer~~ HARP

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Jim Nugent	3208 Hollis Missoula	League of Cities/Towns Legislation & Resolutions Comm.	X	
Charles C. McNamee	306 3rd Ave	Laurel	✓	✓
Ernest Davis	306 3rd Ave	Laurel	✓	
Phil Cunn	Laurel	Laurel	L	
David Orbe	400 River Dr. Lolo	Missoula		✓
Chris Rasmussen	2835 North Ave	Missoula		✓
Wayne McArthur	2820 Hill	Butte		✓
Jim William	8515 Washou	Butte Silver Bow		✓
Jim McCarthy	1943 Roberts	Butte-Silver Bow		✓
Mike Shea	1001 W. Woolman	Butte-Silver Bow		✓
Sam Taylor	1216 Sahley	Butte		✓
Burton Bryner	2111 Mass. Butte	Butte Silver Bow		✓
EDWARD McLEBAR	BOX 515	PORT DENVER, AK		
Ken Kramer	Shepherd	Shepherd	✓	
Frank Jones	Hinsdale	Hinsdale	L	
Bill Hemmings	417 Montrose Billings	ITHEON, MT		✓
Stan Dugdale	4 mile	Butte mt	L	✓
Peg Silver	Buxton Pt.	Butte mt	✓	✓
Jan Blackwelder	East Ridge	Butte mt	L	✓
Al Johnson	Great Falls	City of Great Falls		L

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE

LOCAL GOVERNMENT

COMMITTEE

BILL HB 382

DATE Feb. 5, 1985

SPONSOR Rep. Harp

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
James J. S.	Shanklin, MT.			
Jim Nugent	3208 Hollis Missoula	League of Cities & Towns City of Missoula		X
Joe Alderice	3100 Rattlesnake, MT	CITY OF MISSOULA		X
Ken Haag	2634 Lemish Blgs	City of Billings		X
Harlan Lund	Billings	Yellowstone County		X
Henry J. Mosman	Shanklin	Chouteau Co		X
Charles McKeen		Bozeman		✓
John Carlin	5245 North Drive	Butte		✓
Ernest Davis	306 3rd Ave Laurel	LAUREL		✓
Shelly? Amey	LAUREL	LAUREL		✓
David Orbe	400 River Rd, Lolo 59847	MISSOULA	✓	
Chris Rasmussen	3835 North Ave Mda	Missoula	✓	
Mike Keating	2911 SW Grand Falls	FUDC #400		✓
Greg Jackson	Helewa	Urbanization		✓
Jim Hartzler	Boulder	Town of Boulder		✓
Don Smith	Boulder, MT	Louisa, Boulder		✓
George Christensen	Boulder, MT	Mayor Boulder, MT		✓
Charles Davis	Butte, Mont	IHOE #375		✓
Tim Johnston	" "	Butte Silver Bow		✓
Ed Kelly	Butte, Mont	Butte Silver Bow		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT

COMMITTEE

BILL HOUSE BILL 382

DATE Feb. 5, 1985

SPONSOR Rep. ~~Wallin~~ Heup

NAME	RESIDENCE	REPRESENTING	SUP- PORT	OP- POSE
Mike Foley	BOZEMAN	MONT. ASSO. of REGISTERED LAND SURVEYORS	✓	
Earl R. Best	Bozeman	MONT. ASSO. of REGISTERED LAND SURV.	✓	
Ken Hansen				
Doug Daniels	Belgrade	CITY of Belgrade THREE FORKS MANHATTAN		X
Henry Hathaway	Belgrade	CITY OF Belgrade		X
Jack K. Hunt	Belgrade	CITY of Belgrade		
Bill Olson	Helena	Mt. Contractors	✓	
Jim Gilman	Butte	Helman Const	✓	
Michael W. Sehestedt	Missoula	Missoula County		X
Mary VantHull	Bozeman	City		X
John Hansen	Billings	COP Construction	✓	
G. MORRIS		MACO		X
Al Sampson	Missoula	City of Missoula		X
Paul Stanich	Butte Side Box	Butte		X
William C. Calk	Butte	Butte		X
Carl A. Seifert	Polson	Self	✓	
Bill Verwill	Helena	City of Helena		✓
Royal Jones	Ainsdale	Self	✓	
Frank Sonoski	Ainsdale	Self	✓	
Chad Smith	Helena	Mt. Land Imp. Contractors	✓	

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COMMITTEE

DATE February 5, 1985

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VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HB 299

DATE Feb. 5, 1985

SPONSOR Rep. Eudaily

[illegible]

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VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HB 279

DATE Feb. 5, 1985

SPONSOR Rep. Kitselman

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VISITOR'S REGISTER

HOUSE LOCAL GOVERNMENT COMMITTEE

BILL HB 347

DATE Feb. 5, 1985

SPONSOR Rep. Pistoria

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VISITOR'S REGISTER

HOUSE LOCAL GOVT

COMMITTEE

BILL

582

DATE 2-5-85

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