

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

February 21, 1985

The meeting of the Local Government Committee was called to order by Chairman Paula Darko on February 21, 1985 at 5:20 p.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present. However, Rep. Kadas, Rep. Kitselman, Rep. Poff and Rep. Sands were late.

CONSIDERATION OF HOUSE BILL NO. 393: Rep. Steve Waldron of District 58, sponsor of the bill, presented it to the committee. He explained this bill provides for a local option tax on hotels and motels. Most experts say there has to be mixed revenue sources to fund governments in order not to over-burden some sources. The local governments rely mainly on property taxes to fund their operations so this will provide some means for tax relief, by either reducing property taxes or not raising property taxes as fast. He explained there is a technical defect in the bill, and it is a drafting problem, as it does not provide an interlocal agreement. There is also a provision that allows the governing body to take a portion of the tax for private promotion. The tax on hotels and motels is a less aggressive tax than oppressive tax. The people who tend to stay in hotels are not the poor people. Some communities have attempted to put on a certain amount of tax, and the most expensive accommodations can compete a little better than the lesser accommodations. Rep. Waldron urged the committee's adoption of the bill.

Chairman Darko stated to the people in the audience that if they wished to address both bills (HB 393 and HB 804), that would be fine.

PROPOSERS: Alec Hansen, League of Cities and Towns, stated they support this bill, and this is one of the major measures in this packet for this Legislature. The questions about the serious financial problems of the local governments in Montana are on everyone's minds. This bill gives steps to make alternatives in property taxes in Montana. Fifty percent of the revenue provided in this tax would come from non-residents. This bill provides a way of generating desperately needed money without hurting the people who are fighting in the cities and towns to maintain property taxes. This tax will be at the approval of

the voters. He stated there are people here from Billings and West Yellowstone, and he felt the committee should listen to the story of West Yellowstone. One of the important things to remember here is that the traveling dollar represents revenue for the state. He further stated he hoped the committee would take favorable action on this to take care of the problem.

Jim Van Arsdale, mayor of Billings and representing the city of Billings, appeared in support of HB 393. He presented written testimony (exhibit 1).

Kay Foster, a city council person from Billings, also appeared in support of HB 393, and explained how the money is intended to be used which was collected from the hotel-motel tax. She also presented written testimony, which is attached as exhibit 2. She urged the committee to consider passage of this bill.

Jim Wysocki, representing the city of Bozeman, said he had a letter from the city commissioners which says they support HB 393, taking into consideration the potential loss of revenue (exhibit 3). They urge a DO PASS of HB 393.

Mike Young, Finance Director from Missoula, stated that passing this legislation would allow them to submit to the voters of Missoula who will not be doing irreparable damage to you. A tax on rooms in the neighborhood of 5% will not have an impact on demand. A modest tax on rooms in this state will not put us at a disadvantage with other states. There are property taxes on restaurants, bars and meeting facilities that are located in hotels and motels. He also stated he wanted the committee to consider how this compares with the gas tax. When you fill your tank, you are paying \$2 in taxes. Traveling people do not make their travel plans based on this tax. The point he wants to get across is that a tax will not cause harm to this industry.

Greg Jackson, Urban Coalition, stated they wanted to go on record in support of HB 393.

Don Peoples, from Butte-Silver Bow, stated he doesn't think there is any question about what is happening in this country today. Things are very bleak in general revenue sharing. Local government is going to need every opportunity available to survive. All the other programs that we have depending on local government are having problems.

Mary Vant Hull, city commissioner from Bozeman, presented written testimony in favor of HB 393, which is attached as exhibit 4.

Al Johnson, city manager of Great Falls, stated he speaks in support of this bill. It allows local options to address this program, and he urged the committee to support the bill.

OPPONENTS: Phil Stroph, representing the Montana Innkeepers Association, stated he was appearing in opposition of both HB 393 and 804. He also said a lot of bills on local option taxes have been mentioned here, and he is disturbed with the speakers from the city this afternoon. They have changed their testimony from this morning. He said he did not think it was the lodging industry's fault that the taxes are declining in the cities. If there were 10,000 rooms in West Yellowstone for guests to stay in, you could put a tax on them. But there are not that many rooms. He said he is distressed about the Bozeman people testifying here. The city had an election, and they wanted to change from a limited type of government. They do not have the desire to create new taxes. One of the reasons they wanted to change is because of the lawsuit with Billings. Alec Hansen said 50% of the money is spent by out of state and 50% by instate tourists. Tourists spend 1/3 of their money on travel, 1/2 on food, 1/6 on sporting events, and 1/6 is spent on the lodging industry. Two out of three people who stay in motels are other Montanans. We have to travel long distances here in Montana. If you were to pass into law something of this nature, you are saying to local governments to pick out a target and tax it.

Lonnie Funk, of the Montana Innkeepers Association, and general manager of the Holiday Inn, Billings, stated they are opposed to this bill as they believe it would create an unfair competitive disadvantage from town to town. The power to tax should be made in the Legislature where it was started. The Canadian currency has hurt areas in Billings. A 10% increase will hurt his business.

Lorine Twedt, president of the Montana Innkeepers Association, stated that at their convention they unanimously voted to oppose any room tax at that time. She is also owner of the Mid Town Motel in Great Falls and has been in business for 15 years. In 1984, their business was down worse than she has ever seen. They depend a lot on school basketball teams for their business. If this tax is put on, it is the Montana taxpayers who will be taxed. Our economy is down and I

think we need to work on building tourism up instead of taxing our businesses. The poor people don't stay in hotels, but some have to because of medical reasons. She urged the committee to oppose this bill.

Janelle Fallan, Helena, representing the Montana Chamber of Commerce, stated they wanted to be on record as opposing this bill.

Walt Herman, from West Yellowstone, handed out written testimony in opposition to HB 393, which is attached as exhibit 5.

Herb Leuprecht, of the Copper King, Butte, stated the people of Butte did not vote for a room tax two years ago, for the reason they do not believe they should be taxed any more. They are in trouble and they need help. He asked the committee to please not support HB 393 nor HB 804, as he is opposed to both of these bills.

Alan Elliott, Thrifty Scot Motel, Billings, stated he had personally taken a survey of all the bills that deal with funding for many types of services in cities and towns. He mentioned HB 393, 804, SB 367, & SB 434. He has never been here before, and these are all that he could find, but they are all saying the same thing. He asked if there is any way these bills can be put together in some sort of subcommittee to come up with one bill to tell who is on first. He said he hoped something could be done to solve this.

Rep. Darko told him we do have to have formal meetings on each and every bill.

Roland Pratt, president of the Montana Restaurant Owners Association, stated they considered this as a piecemeal selective tax. They feel they are next on the hit list. He said he is sure cities and towns are having a very hard time, but to selectively pick out one segment because people are traveling through the state and nail them is not fair. We have a statewide travel promotion program and that is where the selection should be. He asked the committee to kill both HB 393 and 804.

Rep. Paul Pistoria of District 36 told Rep. Waldron he should be ashamed of himself. They say it is not a tax, but it is a tax. They hope to catch someone asleep who will vote for it. He is one of the people who has been against this every time it has come up. He stated he doesn't think the person who goes from town to town should be taxed.

John Emory of the Park Plaza, stated he wanted to oppose this bill solely on the basis of administrative costs. About 95% of their sales are credit card sales, and the cost of credit cards sales is larger than the taxes. It would not be cost efficient in the long run.

Hazel Flick, Copper King Inn, Butte, stated \$1 or \$2 is important to a room rate. She talks daily with people, and they have lost multiple conventions because their rates have been \$1 more than someone else's. All the properties in Montana are charging what they feel is the maximum their customers can bear. We are going to end up eating the tax. Most hotels and motels are going to have to bear that tax.

Jerry Fraser, president of the Hotel-Motel Association, from Great Falls, stated that in 1985 the average occupancy was 52% for out of state, and 67% are instate people. The breakeven point is 67%. They are already giving a 5% discount for credit cards. Tour buses are 67%, and they are also giving a 10% discount to senior citizens. They have lost the Canadian business and they will lose the tourist business. The Great Falls association opposes a local option tax.

Esther Nelson, Bozeman, presented written testimony in opposition to HB 393. This is attached as exhibit 6.

In closing, Rep. Waldron said that one of the things he neglected to mention in talking about mixed revenue, aside from over-burdening the public, you also assure stability in the revenue you receive. You insulate from losses in one type of revenue, and this bill provides for an additional type of revenue to the local government. In looking philosophically at the hotel-motel tax, the best tax is the one the other person pays. As far as a disadvantage between towns, this is something that should be looked at. The problem in Great Falls and other communities in the Highline with Canada has nothing to do with Montana, but it has to do with national policies. The Canadian dollar is worth much less now, but this has nothing to do with taxing in Montana.

DISCUSSION OF HOUSE BILL NO. 393: Rep. Brandewie asked Rep. Waldron how he can call 10% of the gross a small tax. Rep. Waldron replied that when he said a modest tax he was talking about a 5% tax. If they pose too high of a tax they will have to deal with the problem.

Rep. Fritz stated that both the city and county can put on a 10% tax if the voters want it, and Rep. Waldron said this was an error in the bill.

Rep. Fritz asked if the proceeds can be used for any purpose, why do you say it should be used for travel, and he was answered that it is an encouragement for local government to use it for tourism. The type of tourism he envisioned would not only include tourism inside Montana but also outside Montana. Rep. Fritz then asked what the rationale was for the referendum in the bill, didn't he trust the local governments, and Rep. Waldron answered that he does trust local governments. Rep. Fritz asked Lonnie Funk of Billings if a room tax were going to be imposed, would his industry prefer a local option or a statewide tax. Mr. Funk replied that a local option is one they don't feel they could live with.

Rep. Switzer asked Rep. Waldron why we would do this to a minority in a town or county rather than put it on the whole county. This is a painful process for the individual. Rep. Waldron said that any tax put on property causes pain for someone. This provides some flexibility for local governments to deal with the problem.

Rep. Switzer asked if the sponsor of the measure would have agreed to a wider sales tax. Rep. Waldron replied that this is a special tax that hits those who are most able to pay -- the people who stay in hotels and motels.

Rep. Waldron closed presentation on HB 393.

CONSIDERATION OF HOUSE BILL NO. 804: Rep. Kelly Addy of District 94, Billings, appeared before the committee as sponsor of this bill. He stated he is here with the boldest presentation of taxing for local control and local flexibility. Certain problems have been sent to the state and the state sends it to local levels. If 50% of the people of West Yellowstone want to oppose this tax, why should they have to ask people from Billings, Great Falls or Missoula? As the problems have come down, we need to send funding flexibility with them. He stated that legislators meet only every two years, and make their best guesses as to what will happen in the next two years. If the problems become more complex, what happens if we guess wrong and misjudge? He would suggest that local governments meet every week, every month and perhaps in some of the larger counties, every day. There seems to be an underlying current that local officials shouldn't be trusted with this power. By giving the city council and county commissioners more power, perhaps this will recruit the type of people who will seek this office and who want to take on this problem. He said he is a

little bit amused by the people who come in and say to keep the power to tax in Helena where it should be. Perhaps that is because they meet only every two years, and they say not to tax them any more. This bill is very simple, as if 51% of a locality wants to raise the tax, they may do so. If the revenues exceed the needs for resources, they could stop it. He also said he thinks the most constructive provision is the ability for local governments to provide a sales tax. He ended by saying maybe we shouldn't look at one bill at a time, maybe we will end up with the best of all bills.

PROPONENTS: Kerry Keyser, representative from District 74, said he represents a city that is unique in the state of Montana, and there isn't another town like West Yellowstone. They are the gateway from the south to Montana. West Yellowstone has some city fathers who are not sitting on their duffs waiting for handouts. They have tried every foreseeable means to generate revenue, but they need help from this Legislature to take care of their own problems.

Kay Foster, president of the League of Cities and Towns, and a council person from Billings, appeared before the committee to ask their support of HB 804. She presented written testimony (exhibit 1) which is attached.

Alec Hansen, representing the League of Cities and Towns, stated they have had a lot of local option taxes in the Legislature in the past years and the reason is they are necessary. If you ask people what they want from the Legislature, their answer is the opportunity to have a budget that will reduce property taxes. This bill would do one thing. It would offer the people in local governments across the state of Montana to go to the voters and give them the best method of taking care of their own communities. Unless there is a guarantee that the profits are going to be used to reduce property taxes, the people are not going to impose a tax unless it is going to reduce their property taxes. These people want to do the best job for the people they serve.

Calvin Dunbar, representing the town of West Yellowstone, passed out written testimony (exhibit 2) in favor of this bill. He said Rep. Addy's bill is just what they are looking for because it gives them the flexibility they need.

Verner Bertelsen stated he is here today because of the concern he feels for local governments. He served on the local government committee for five terms, and they

have a problem. Two years ago the block grant program was adopted, and they are \$4 million short of replacing motor vehicle funds. In 1983 he proposed HB 793 which presented a number of local option taxes. If we do not have the brains to take care of this we have serious problems.

Bob Jacklin, representing the city council of West Yellowstone, stated he was here in favor of HB 804 because of the financial situation in West Yellowstone. They have a real need, and this is the best method of helping this problem. He presented written testimony, which is attached as exhibit 3.

Kent Wilhelm of West Yellowstone, stated last year their expenditures were \$313,000, and their revenue was \$296,000, which left them \$17,000 behind. A federal tax alone will not generate these types of funds. He urged support of this bill. He also presented written testimony as exhibit 4.

Ardi Aiken, city commissioner from Great Falls, presented written testimony in support of HB 804, which is attached as exhibit 5. She said the fundamental problem with local government is the financing of the general fund.

Gary Schoer, stated he is speaking in his own behalf and is also representing the West Yellowstone Chamber of Commerce and the business community. West Yellowstone is a special case. Their tourists suffer from lack of revenues. West Yellowstone should be a show place for the state of Montana. Now they are attempting to serve more people than any other place in Montana, but without the ability to create money to make improvements, they cannot attract many. He urged a DO PASS from the committee.

Mike Young, finance director from the city of Missoula, stated the revenue laws are equitable - \$1.3 million to the city of Missoula. In the last session, they got back 1/2 of the money lost, but they are looking for the other half. The block grant program helped them get back that money. They can decrease services and they have done that; they can increase property taxes and raise fees, but the rest of the solution they need help from the Legislature. He stated they can't wait 2, 4 or 6 years for the general sales tax.

Carol Daly of the Governor's Council on Economic Development stated they would like to make an amendment.

Bill Howell of West Yellowstone, representing the Innkeepers and the people of Montana, stated their support of the bill.

Greg Jackson of the Urban Coalition said for the first time he has a handout to submit to the committee. This is attached as exhibit 6.

Mary Vant Hull, city commissioner of Bozeman, presented written testimony in support of HB 804, which is attached as exhibit 7.

Andie Withner, West Yellowstone, stated West Yellowstone supports this bill.

Jim Van Arsdale, mayor of the city of Billings, presented written testimony in support of HB 804, which is attached as exhibit 8.

OPPONENTS: Don Judge, appearing in behalf of the Montana State AFL-CIO, presented written testimony in opposition to this bill. This is attached as exhibit 9. He said he is appearing before the committee as someone who would offer a solution to the problem. He proposed revising a capital gains tax which would recapture \$46 million in lost revenue. He also suggested placing a cap on federal tax write-offs. If this revenue is raised it would create a meaningful program of providing tax relief funds for all people of Montana. For those crying the most for revenue, he suggested they contact the President in order to repeal revenue sharing. They are opposing sales taxes and opposing increases in property taxes.

Dennis Burr, representing the Montana Taxpayers Association, stated the problem with this bill is the license to discriminate against the smallest group, and that it is irresponsible for the Legislature to feel they are doing something for the local governments by passing this bill.

Phil Stroph, of the Montana Innkeepers Association, stated the bill is a blank check for local government to do anything they want. The tax is put on the least political clout. One of the reasons the Legislature has always turned this down is that it would give the most discriminatory government. He urged a DO NOT PASS from the committee.

Al Donahue, representing the Heritage Inn in Great Falls, stated he finds himself in agreement on both sides of this issue. He suggested that perhaps a special state should be created for West Yellowstone.

They do have a special case but they are in fact a part of the state. Montana places more importance on property taxes than any other state. We do not believe that selective taxes are the answer. Their industry said they would support a general sales tax for property tax relief. He said he has before him a bill that was passed in Oregon on general sales tax, and it is 63 pages and is as important as HB 804. This is the first sales tax introduced by the Oregon government. What it does is give rebates to low income people and has had tremendous scrutinizing. Oregon is the last remaining state next to Montana that didn't have a sales tax. One tax could solve most of the problems. Band-aids don't work, and he suggested some major surgery and get on with it.

Roland Pratt, president of the Montana Restaurant Owners Association, stated that if we are going to do a thing like this, we should take a good look at the problems. We sympathize with the problems, but don't think this type of legislation will solve it.

Rep. Paul Pistoria, District 36 from Great Falls, stated he has been on the committee for five terms so that we can help kill such legislation. He said he wanted to thank Al Donahue for opposing, but he didn't know he was going to propose a sales tax. That would be over his dead body. What he said on the bed tax, he also reserves for HB 804. As much as he likes Rep. Addy and Rep. Keyser, he doesn't want this bill passed. They would have to spend three years on the floor.

Julie Hacker appeared as a private citizen in opposition to this bill. It is important for private citizens to get information about their city governments. The city needs to look to themselves to see what their ailments are. Montana needs to overhaul its tax system and overhaul its economic policies. Cities should look into their structure to set their priorities. He finished by asking the committee to defeat this bill.

In closing, Rep. Addy said this bill does not authorize anything that anybody can think of, but it authorizes anything that 50% of the people living in the city want. It is insane to try to solve every problem in the state of Montana.

DISCUSSION OF HOUSE BILL NO. 804: Rep. Brown asked Rep. Addy if he visualizes that if this bill is passed, that things like the \$30 million of the block grant money and others, will return to the government for other uses. Rep. Addy responded and said he doesn't think the people are going to march out to the polls

and authorize a hotel/motel tax in the first election. That may take some time. Rep. Brown then asked Rep. Addy if in his discussions with local governments and counties in developing this legislation, did he pinpoint a percentage of the number of voters as to what kinds of tax relief they wanted at the local level. Rep. Addy said it would depend on the circumstances. Property tax relief would be a precedent over anything put on the ballot.

Rep. Hansen asked Mike Young of Missoula if he had thought about what kind of tax would be imposed on Missoula over this bill. He answered that they would look at the kind of taxes that have been discussed. However, he did not know as to what. Rep. Hansen then asked if this would affect a proposed tax relief, and Mr. Young answered that we need to reduce property taxes, and we need a property tax relief in the reference.

Rep. Sands then brought up the question of mandatory voter reviews at regular intervals.

Rep. Pistoria asked anyone of the proponents of either bill to answer. The school board association has been trying for 20 years to take off 40% on the bond issue. Would anyone here go for it if you had 40%? Rep. Addy replied that he would have still carried that bill. The people who don't go to the poll, don't vote.

Rep. Gilbert asked Rep. Addy if during his campaigning this fall he talked to many people, did he ask the average person on the street about this issue. Rep. Addy replied that he did not do a poll on this issue, as this isn't an issue that popped up. It came up the last time the Legislature met. Rep. Gilbert said he could see that Rep. Addy thinks this is a very serious problem, so why didn't he talk to the people. Rep. Addy answered because this problem didn't come up at that time. However, he does talk to a lot of people, and to solve this problem, the people think they have to go to the Legislature.

Rep. Kadas said he did take a poll between Christmas and January 1, and out of the 2,000 questioned, he got 300 back, with 60% saying "yes" on it.

CONSIDERATION OF HOUSE BILL NO. 841: Rep. Ralph Eudaily, sponsor of this bill, appeared before the committee to present it. He said this bill is at the request of the Wapikiya District, and it is a modest request for fairness for those who are about to be annexed. However, he had to apologize for some things

in the bill as there are some problems. The new language which is underlined in section 1, he would like to have stricken wherever it appears in the bill. It was not in the original request, and this was put in by the drafter. On page 2, line 25, they would like the published notice to include "the people living in the area would have the right to be annexed". Somewhere someone has to make that determination. On page 3, they would like to have 20 days for protest to be changed to 30 days. This would be consistent, and 20 days is not enough time. They also asked for the new language on page 8, section 12, lines 6 to 10 which deals with how the electors in the area to be annexed will be represented. He closed by saying they do not believe in annexation without representation.

PROPOSERS: Jeff Stevens, president of the Wapikiya Homeowners of Missoula, stated he would like to express their support of this bill. He explained some amendments which they had proposed.

Julie Hacker, representing the Missoula City Freeholders, stated their organization supports this bill.

Ellen Imboden of Missoula, stated her support of HB 841.

OPPOSERS: Jim Nugent, Missoula City Attorney, presented written testimony as exhibit 1 in opposition to this bill. They have problems determining the accurate number of resident freeholders in an area. No one keeps accurate records of this. The only way to be able to come up with accurate statistics is to go from door to door; however, people move more than every 5 years. Therefore, you can't keep up with that type of information in modern society. He urged the committee to kill HB 841 generally revising annexation laws.

Alec Hansen, representing the League of Cities and Towns, stated this committee has rejected several annexation bills. If this committee is going to continue to apply this logic, you will have to kill this bill. He said they have come asking the committee to oppose the bill, as it will take us backwards.

Al Sampson of Missoula, stated with the amendments Rep. Eudaily was speaking of, the bill should be handled like the rest of the annexation bills have been handled in the committee. He said he doesn't see where 30 days is needed, nor does he see why 10 acres are better than 5 or 2 acres. He urged the committee to kill the bill.

Vern Ericksen, representing the Montana State Fireman's Association, asked that the committee keep in consistency with the other annexation bills and kill this one also. He said to keep in mind that city elections are every year.

In closing, Rep. Eudaily said if the gentleman from Missoula would read the bill, he would see that it doesn't say you have to have an election every year. It doesn't change the statutes except for the 10 acre thing. He added he would like to say that current law does allow protest.

DISCUSSION OF HOUSE BILL NO. 841: There was no discussion by committee members.

CONSIDERATION OF HOUSE BILL NO. 900: Chairman Darko told the committee this is a committee bill. Rep. Marjorie Hart of District 23, sponsor of this bill, appeared before the committee to present it. She stated that in the last session a bill was passed that has since presented a few little problems, very minor. This bill called for certain law officers to attend the academy in Bozeman within a year after employment. This means sheriffs, deputy sheriffs, etc. However, if any officer has been away from his employment for more than 3 years, it is mandatory that in order for him to be employed again in that profession, he must go through the academy. This has imposed a burden on the employer, whether it is city, town, county, state or federal. She said she is suggesting that if they have an employee they would like to rehire or employ in another phase, that they be allowed to take the equivalency test of the academy instead of spending the money on the whole course. The basic course is 8 weeks (40 days). She is asking to have this changed so that if that person could pass the test, it would suffice. She said she is expecting a letter from Glendive to be included in the record.

PROPOSERS: Marie McAlear, Montana Association of Counties, stated they support this bill because of the fiscal savings.

Colonel Landon, Peace Officer's Standards and Training, stated their council is made up of a lot of different people of the state, and they determined in the past in the interest of the people, that the people involved should take a course in CPR, first aid, and firearms. This type of work is too important for them not to be up on these things. They ask to retain the existing law without changes.

In closing, Rep. Hart stated that there are 8 weeks of instruction in the basic course, which consist of 320 hours, and only 44 are firearm kind of times. She believes that once you have those basic courses, most police departments have firing ranges that they keep up on all the time they are there. This may work well for large cities where they are more active, but for rural counties and small towns it is a financial problem.

DISCUSSION OF HOUSE BILL NO. 900: Rep. Brown asked Colonel Landon if his council would vote on ths bill, and he answered the council would, and sponsored legislation on it. Rep. Brown then stated that was on the original bill in 1983 and asked what happened to the legislation allowing the individual to take the basic test - was that discussed? Colonel Landon answered "yes". Rep. Brown also said he was trying to remember what Sheriff O'Reilly said it cost to train these people, and \$7,000 sticks in his mind, and Col. Landon answered he did not know.

Rep. Wallin stated as he reads the bill, this is for a person who has worked for several years. What about the person who has worked only 6 months. Don't you agree they need more training. The answer he received is that the bill speaks to the new policemen.

CONSIDERATION OF HOUSE BILL NO. 865: Rep. Tom Hannah, sponsor of the bill, appeared before the committee to present it. The bill is to clarify that the right to protest the formation of a rural special improvement district or a special improvement district may not be waived. He handed out a General Waiver form, which is attached as exhibit 1. Rep. Hannah stated this is a bill that he has had before, and the attached waiver is one he had to sign, which he thinks is an unreasonable thing to have to do. The language is awfully broad. It is unreasonable for cities to take this position and this bill will prohibit it.

There were no proponents present.

OPPONENTS: Jim Wysocki, representing the city of Bozeman as city manager, stated that once a person enters into an agreement with a developer, they know that the developer intends to sell lots. Certain improvements would not have to go in initially. If that is the intent of this measure, he asked that the committee give consideration to killing the bill.

Al Johnson, representing the city of Great Falls, said he has concerns that in a community like Great Falls, a bill like this inhibits development. The Foxfarm Road

area was developed by a subdivision and it didn't happen overnight. By the time the public improvements are made, the developers are long gone. In the Foxfarm Road area, 80% of the property owners had waived protests. He said it is an impediment to developers if this bill is passed, and urged the committee to kill the bill.

Jim Nugent, Missoula city attorney, said their primary concern is that it is not clear on page 2 what the intent is.

Mary Vant Hull, city commissioner from Bozeman, left written testimony in opposition to HB 865, which is attached as exhibit 2.

In closing, Rep. Hannah said he thinks the language is fairly clear. If the developer is long gone and there are still improvements needed, the city screwed up. His intent is to say that the city cannot require as part of the building permit that they have to sign away all future rights to protest. This is not fair.

DISCUSSION OF HOUSE BILL NO. 865: Rep. Sales told Rep. Hannah that he is confused by what Rep. Hannah said about the requirement at the time a building permit is requested, that you have to sign a waiver, and Rep. Hannah answered that before you get a building permit, you have to sign a waiver. They are requiring that you sign away your right to protest if you want to build in that area.

Rep. Gilbert asked Rep. Hannah how long this has been in effect. If this has been going on for 20 years, and if there were a couple of houses already built and they didn't have to sign away their right to protest, but someone new would have to sign the waiver if they wanted to build a house. Rep. Hannah said he doesn't have any problem with the developer having to get permission from the city.

CONSIDERATION OF HOUSE BILL NO. 832: Rep. Wallin took over for Chairman Darko, as she had to leave the meeting for a few minutes. Rep. Kadas, sponsor of HB 832, presented it to the committee. He passed out his proposed amendments, and stated he is trying to set up a revolving fund so that if a person has a problem with his sewer and can't afford to get it fixed, he can get a loan from the revolving fund. He then went on to explain the amendments. He also stated that some places aren't licensed so two estimates are required.

PROPOSERS: Jim Nugent, Missoula county attorney, stated they are happy to see one amendment that eliminates taxation.

There were no opponents present.

DISCUSSION OF HOUSE BILL NO. 832: Rep. Gilbert asked Rep. Kadas if he was familiar with the duties of banks, savings and loans, etc., and Rep. Kadas answered "yes".

CONSIDERATION OF HOUSE BILL NO. 883: Rep. Kadas, District 55, presented this bill also to the committee, as sponsor of it. This bill is on loans and indebtedness a county can incur, and they are trying to raise the indebtedness to \$150,000. Now it is \$10,000. Counties need a little more flexibility. At \$150,000, it would need a vote of the people.

PROPOSERS: Marie McAlear, Montana Association of Counties, stated they support this bill, but want to call attention to a couple of things. They had hoped this bill could be worked in conjunction with SB 140 so that limits would be matched. There may be some confusion on page 9, section 1, authorizing to incur indebtedness, by the long term.

There were no opponents to HB 883.

DISCUSSION OF HOUSE BILL NO. 883: Rep. Sales asked Marie McAlear what the other bill does. She replied this bill address long term indebtedness.

CONSIDERATION OF HOUSE BILL NO. 894: Rep. Sands, sponsor of this bill, presented it to the committee. He said this is a committee bill, which was drafted by request of the Local Government Committee. It is an annexation bill because in order to annex property, you have to have the unanimous written consent of all affected property owners.

PROPOSERS: Rep. Kitselman stated he wanted to be listed as a proponent.

There were no opponents to HB 894, and no discussion by the committee.

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

DISPOSITION OF HOUSE BILL NO. 894: Rep. Kitselman moved to DO PASS HB 894, seconded by Rep. Sales.

Rep. Switzer asked Rep. Sands what he thinks this bill does. Rep. Sands answered by saying it is a means to extend water facilities to those who want water facilities similar to the sewers. This changes it to make sewer and water in unincorporated areas be required at the written consent of all the people in the area.

Rep. Poff asked what happened if one party decides they don't want to sign the consent, and the answer is that the water and sewer wouldn't be extended to that area if one person didn't want it extended to his house.

Rep. Gilbert stated that what is being saved now is the cost and expense of a public election.

Question being called for, Rep. Kitselman's motion PASSED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 900: Rep. Brown moved that this Committee Bill DO PASS, and this was seconded by Rep. Poff.

Rep. Brown stated that with due respect to Colonel Landon, he doesn't see any great lack of protection for the people in the bill, but he does see saving of money. Rep. Brown said he is in support of this bill.

Rep. Gilbert said he signed this bill because he thought we had another request to extend from 3 years to 5 years. If this is it, it has been altered. His problem with this is that we are leaving it open, and he thinks there should be a realistic cap. We can't leave it open. Police technology advance after 10 or 20 years. Rep. Pistoria said this is just for one alone. Rep. Gilbert then said in reading line 16, page 1, anyone of these would fall under this provision. It isn't restricted to one county or one city. We need to put some kind of cap on it.

Rep. Brown said that part of the reason the 5 years was left out initially is because of the Board of Crime Control's suggestion that they were not sure they could pass the test.

Rep. Brown then moved to amend page 4, line 4, following "more", insert "but less than 60", and this was seconded by Rep. Fritz.

Rep. Gilbert suggested scratching 36 or more and inserting 60. Lee Heiman said there would be a problem with that. Rep. Brown said that would give some relief. It got this way because of the drafting. Thirty-six

months was in the original bill by the Board of Crime Control.

Rep. Sales said he is wondering if there is any way we can make a local option of this by allowing the mayor or someone to decide whether this guy has to go out or not. Rep. Gilbert said he did not think we are destroying the system. All we are saying is that in the next two years they don't have to go back to school, but only pass the test.

Rep. Brown's amendments PASSED UNANIMOUSLY.

Rep. Brown then moved to DO PASS AS AMENDED HB 900, and this was seconded by Rep. Fritz. Question being called for, motion PASSED, with Rep. Pistoria voting "no".

DISPOSITION OF HOUSE BILL NO. 277: Rep. Gilbert presented the proposed amendment offered by the subcommittee.

Rep. Brown moved HB 277 DO PASS, and this was seconded by Rep. Sales. Rep. Kitselman moved the amendments, and this was seconded by Rep. Brown.

Rep. Gilbert stated that this bill in its original form met with strong opposition from the sheriffs. Therefore, Chairman Darko appointed a subcommittee, and they have met with the sheriffs. They are wanting to salvage the original concept. Rep. Gilbert then went over the amendments, and explained that #7, page 3, line 19 "hot pursuit" was Rep. Sands' idea.

Question being called, Rep. Kitselman's motion to DO PASS the subcommittee amendments PASSED UNANIMOUSLY.

Rep. Sands made the motion to DO PASS AS AMENDED HB 277, and this was seconded by Rep. Kitselman. Question being called for, motion PASSED, with Rep. Pistoria voting "no".

DISPOSITION OF HOUSE BILL NO. 841: Rep. Brown moved, seconded by Rep. Brandewie that HB 841 DO PASS. Rep. Gilbert stated he would like to talk about it. We listened to proponents and opponents, and this is reverse annexation. Missoula is crying about 5 revenue sources they lost.

Rep. Hansen told Rep. Gilbert there are things that the city has to offer. For instance the sewer system. The Wapikiya area has to have their sewer pumped. Rep. Gilbert said he agrees, but he has never heard the city

say they will help the people. All they say is they want their money.

Rep. Sands said he thinks there are some good things in this bill.

Rep. Fritz said we were given a handout from the city of Missoula which contains a lot of information. This is the kind of material we should have had in the beginning of the session before dealing with annexation.

Rep. Hansen stated that we have never said in all of these hearings about the city of Missoula, that the rural fire districts have become so large that they have the time and money to organize against annexing, to totally protect their turf.

Rep. Hansen then moved to TABLE HB 841, and this was seconded by Rep. Fritz. The non-debatable motion PASSED, with Rep. Brown voting "no".

DISPOSITION OF HOUSE BILL NO. 832: Rep. Kadas moved that HB 832 DO PASS, seconded by Rep. Fritz. Rep. Kadas said this bill is for those people who don't have the money to get their sewers fixed. Rep. Hansen said she agrees with what Rep. Kadas says. She lives in an urban city district, and there are a lot of people, senior citizens, young people and poor people, who can't afford to get a loan to get these problems taken care of. If this bill will help them, Rep. Hansen said she is all for it.

Rep. Poff then made a substitute motion of DO NOT PASS, which was seconded by Rep. Switzer. Rep. Kitselman made a substitute motion to all pending motions to TABLE HB 832. This was seconded by Rep. Wallin. Motion CARRIED, with Rep. Hansen, Rep. Fritz, Rep. Kadas, Rep. Brown, and Chairman Darko voting "no".

DISPOSITION OF HOUSE BILL NO. 883: Rep. Kadas moved, seconded by Rep. Fritz, that HB 883 DO PASS. Lee Heiman addressed the amendments, to strike "incur", it is in the catch line and it is not a law, so that can be changed.

Rep. Wallin stated there was concern that the \$150,000 be included with SB 140. Lee Heiman said there is a difference in numbers but it isn't a fatal difference.

Rep. Brandewie stated he could support Rep. Kadas' bill.

Chairman Darko said when that bill comes from the Senate, we can change it.

Rep. Switzer asked if there is anything to prevent a county from setting up an improvement district on anything they needed, and why is a law needed to do this. Lee Heiman answered that the way the county bonding laws are set up, it allows that they can borrow money.

Question being called for, Rep. Kadas' motion of DO PASS HB 883 PASSED, with Rep. Switzer voting "no".

DISPOSITION OF HOUSE BILL NO. 865: Rep. Brown made the motion to DO PASS HB 865, seconded by Rep. Brandewie.

Rep. Brandewie stated the only objections heard is to whether or not it applies to developers using large tracts. This seems reasonable in light of the number of vacant lots that are in existence.

Rep. Kitselman said that in his subdivision there are portions of lands where sidewalks are in existence. Would a sidewalk be blocked? Rep. Brandewie said if it was on an empty lot when the developments were made a long time ago, all rights were signed away by the developer.

Rep. Wallin stated he and his son just annexed some acres, and they had to sign off their line of protest forever. Rep. Sales said the way he reads this is the right to protest may not be waived by a predecessor. Who is the predecessor? Rep. Brown answered that if you bought from a developer he could sign the rights away. Rep. Sales asked if this doesn't allow a person the right to pass it on, and he said he was confused. Lee Heiman explained that the second section has nothing to do with right to protest. The waiver of the protest should follow to make it clear.

Rep. Gilbert said he thinks we have to be very careful of this thing. It is nice to protect individual rights but we also have to protect developers. We might be giving away a farm right now.

Rep. Sales said he did not like the bill, and Rep. Switzer said he is influenced with the waiver that says covenants that are put on property should be specified rather than talking about restrictions in general. Rep. Pistoria said he is learning more this year than before, and that we are acting on bills we don't know anything about.

Rep. Pistoria then made a non-debatable motion to TABLE HB 865, and this was seconded by Rep. Kadas. Motion CARRIED with Rep. Sands, Rep. Brown, Rep. Wallin and Rep. Brandewie opposed.

DISPOSITION OF HOUSE BILL NO. 616: Rep. Kitselman moved to reconsider action on HB 616, and take it OFF THE TABLE. This was seconded by Rep. Brown. Motion FAILED on a Roll Call Vote of 8 to 6.

Rep. Sales suggested to the members of the committee to take HB 885 out of the books and take it home to study, as it is 66 pages long and deals with special improvement districts and rural improvement districts.

Rep. Brown moved to reconsider action on HB 776, which the committee tabled on 2-16-85. There are three lawsuits going on in the state, one in Lake county. In 1983, the Legislature said total hours worked in a year should not exceed 2,080 hours, and that the county commissioners may establish compensation for overtime. The difficulty is that the commissioners decided they did not want any overtime and they didn't want to pay it. That is what brought on the court case. On page 1, lines 19 and 20, "may" was changed to "shall" and he said he would like to leave it at "shall". It is up to the commissioners to set the rate of overtime so that it is clear in the statutes that overtime shall be paid. It would avoid a lot of legal proceedings.

Rep. Switzer seconded Rep. Brown's motion.

Rep. Sands asked how that amendment is going to avoid lawsuits, and Rep. Brown replied now the argument of the statute is changing "may" to "shall". Leave it to the county commissioners to decide overtime, we are not demanding that they pay 1 1/2 times or whatever. Rep. Sands stated he thinks the statute now provides that overtime pay has to be 1 1/2 times the regular rate of pay. If you amend the statute, they have to give overtime. Rep. Brown said if this is true, this isn't the way he understood it.

Rep. Switzer asked if the commissioners assume that they always have to pay overtime? Rep. Brown said he is only raising a question. How do you get around it? Rep. Gilbert said he has four people working for him and he pays them very well. Rep. Bandewie stated sometimes employees get comp. time.

Rep. Sands said that HB 393 and HB 405 state that no worker shall work over 40 hours without receiving overtime pay at 1 1/2 times the regular rate of pay.

Local Government Committee
February 21, 1985
Page 22

This bill would eliminate this. Lee Heiman replied that he thinks HB 405 which says 1 1/2 times doesn't apply. Rep. Brown said that is how it was explained to him. Rep. Brown then said he would like to pinpoint more details on this.

Chairman Darko asked Rep. Brown to come prepared with amendments and the right motions on Saturday.

There being no further business before the committee, the meeting was adjourned at 9:30 p.m.


PAULA DARKO, Chairman

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

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 21, 1985

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

STANDING COMMITTEE REPORT

February 21, 19 35

MR. SPEAKER:

We, your committee on LOCAL GOVERNMENT

having had under consideration HOUSE Bill No. 894

FIRST reading copy (WHITE)
color

WATER DISTRICT EXPANSION BASED ON EXCESS WATER FACILITIES.

Respectfully report as follows: That HOUSE Bill No. 894

DO PASS

Ju 2/22

STANDING COMMITTEE REPORT

.....February 21..... 19 85.....

MR.**SPEAKER**.....

We, your committee on**LOCAL GOVERNMENT**.....

having had under consideration**HOUSE**..... Bill No. **900**.....

FIRST reading copy (**WHITE**)
color

**5 YEAR GAP IN EMPLOYMENT AS PEACE OFFICER BEFORE
RETAKEING BASIC TRAINING**

Respectfully report as follows: That.....**HOUSE**..... Bill No. **900**.....

BE AMENDED AS FOLLOWS:

1. Title, line 7.
Following: "3"
Insert: "BUT LESS THAN 5"

2. Page 4, line 4.
Following: "more"
Insert: "but less than 60"

**AND AS AMENDED,
DO PASS**

STANDING COMMITTEE REPORT

Page 1 of 2

.....February 21,..... 19 85.....

MR.**SPEAKER**:.....

We, your committee on**LOCAL GOVERNMENT**.....

having had under consideration**HOUSE**..... Bill No. **277**.....

FIRST reading copy (**WHITE**)
color

**ALLOW PRIVATE PARTIES TO RUN JAILS: EXEMPT JAILS
FROM FINANCING LIMITS**

Respectfully report as follows: That**HOUSE**..... Bill No. **277**.....

BE AMENDED AS FOLLOWS:

1. Title, lines 9 and 10.

Strike: "AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM
CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING"

2. Title, line 11.

Strike: "LIMITATIONS"

Strike: "7-7-2101, 7-7-2203,"

3. Title, line 12.

Strike: "7-7-2221,"

~~DO:FASSX~~

CONTINUED

.....February 21,..... 19.85.....

4. Page 1.

Following: line 16.

Insert: "NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 4] to allow regional or single-county jails to be built by private industry and leased back to the participating county or counties for operation by the county, collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."

Re-number: subsequent sections

5. Page 2, line 15.

Following: "section"

Strike: "1"

Insert: "2"

6. Page 3, lines 15 and 16.

Strike: "and his assistant jailers have the powers and duties of sheriffs"

Insert: "is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator and corrections personnel employed under his authority include control over prisoners"

7. Page 3, line 19.

Following: "the"

Insert: "hot"

8. Page 3, line 21 through line 5 of page 6.

Strike: sections 4 through 6 in their entirety

Re-number: subsequent sections

9. Page 9, line 23.

Following: "agreement"

Insert: ", with the concurrence of the sheriffs of all participating counties,"

AND AS AMENDED,
DO PASS

STANDING COMMITTEE REPORT

February 21, 1935

MR. **SPEAKER:**

LOCAL GOVERNMENT

We, your committee on

having had under consideration **HOUSE** Bill No. **883**

FIRST reading copy (**WHITE**)
color

**EXPANDING COUNTY AUTHORITY TO CONTRACT INDEBTEDNESS
FOR CERTAIN PURPOSES.**

Respectfully report as follows: That **HOUSE** Bill No. **883**

DO PASS--

see 2/22

Exhibit 1
HB 393
2-21-85
Rep. Waldron

TESTIMONY GIVEN IN SUPPORT OF HOUSE BILL 393
February 21, 1985

MY NAME IS JAMES VAN ARSDALE. I APPEAR BEFORE YOU TODAY ON BEHALF OF THE CITY OF BILLINGS TO SUPPORT HOUSE BILL 393 THAT WILL PROVIDE CITIES A LOCAL OPTION HOTEL-MOTEL TAX. THIS NEW SOURCE OF REVENUE CANNOT BE IMPLEMENTED WITHOUT A FAVORABLE VOTE OF THE ELECTORATE.

IN BILLINGS, THE VOTERS SUPPORTED A MOTEL-HOTEL FEE IN 1983 AND IT WAS USED IN OUR CITY FOR 8½ MONTHS IN 1984 UNTIL THE SUPREME COURT RULED IT TO BE ILLEGAL. THE RATE USED IN BILLINGS WAS \$1.00 PER NIGHT FOR OCCUPANTS 18 YEARS OF AGE AND OLDER. THIS TAX GENERATED ABOUT \$630,000 IN 8½ MONTHS WHICH IS EQUIVALENT TO 6½ MILLS IN BILLINGS. TODAY THIS TAX WOULD BE GENERATING OVER A MILLION DOLLARS A YEAR AND WOULD CERTAINLY HELP OUR CITY MEET ITS SERVICE RESPONSIBILITIES TO OUR CITIZENS.

HOTEL-MOTEL TAXES ARE USED THROUGHOUT THE COUNTRY AND IT IS MY OPINION THAT OUR VOTERS, AS WELL AS THOSE IN WEST YELLOWSTONE, SUPPORTED THIS TAX BECAUSE IT IS WIDELY AND EXTENSIVELY USED. OUR VOTERS PAY IT WHEREVER THEY GO. WHY SHOULDN'T VISITORS TO OUR CITY BE TREATED THE SAME!

THE HOTEL-MOTEL TAX CAN BE A SIGNIFICANT SOURCE OF REVENUE FOR MOST CITIES. YOUR COMMITTEE COULD WRITE A BOOK ABOUT THE FISCAL NEEDS OF CITIES AND COUNTIES IN PROVIDING BASIC SERVICES. I URGE YOU TO GIVE LOCAL OFFICIALS A CHANCE TO SOLVE OUR FISCAL PROBLEMS BY GIVING THIS BILL A DO PASS.

THANK YOU.

TESTIMONY GIVEN IN SUPPORT OF HOUSE BILL 393 BY KAY FOSTER
February 21, 1985

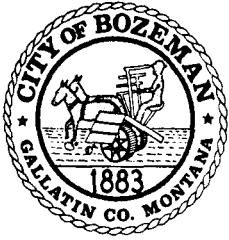
Exhibit 2
HB 393
2-21-85
Rep. Waldron

MY NAME IS KAY FOSTER. I AM A CITY COUNCIL PERSON FROM BILLINGS, MONTANA. I APPEAR BEFORE YOU TODAY TO SUPPORT HOUSE BILL 393 WHICH WOULD ALLOW CITIES TO IMPOSE A LOCAL OPTION HOTEL-MOTEL TAX. MAYOR VAN ARSDALE HAS ALREADY TALKED TO YOU ABOUT OUR EXPERIENCE WITH THE HOTEL-MOTEL TAX IN BILLINGS AND THE VOTERS RECEPTION TO THIS TAX. I WANT TO TELL YOU ABOUT HOW WE INTEND TO USE THE MONEY THAT WAS COLLECTED FROM THE HOTEL-MOTEL TAX THAT WAS LATER DECLARED ILLEGAL BY THE SUPREME COURT.

FIRST OF ALL, WE SPENT ABOUT \$20,000 IN PROVIDING REFUNDS TO PEOPLE AND ADVERTISING THAT THEY COULD MAKE APPLICATIONS FOR REFUNDS FOR A ONE YEAR PERIOD. WE NOW HAVE ABOUT \$650,000, INCLUDING INTEREST, THAT CAN BE APPROPRIATED. WHILE FINAL DECISIONS HAVE NOT BEEN MADE BY THE COUNCIL ON THIS ISSUE, WE ARE MOVING TOWARD THE USE OF \$300,000 FOR A STREET MAINTENANCE PROGRAM, \$130,000 TO BE USED FOR THE PROMOTION OF THE HOTEL-MOTEL CONVENTION & TOURISM BUSINESSES, AND THE REMAINING \$220,000 TO BE USED IN THE CITY'S POLICE AND FIRE DEPARTMENTS. IN THE ORDINANCE THAT WE ADOPTED ESTABLISHING THE HOTEL-MOTEL TAX, WE PROVIDED THAT UP TO 20% COULD BE SPENT FOR HOTEL-MOTEL CONVENTIONS AND THE BALANCE WOULD BE USED FOR BASIC CITY SERVICES, SPECIFICALLY, TRANSPORTATION AND PUBLIC SAFETY. TO BE SURE, THIS \$650,000 IS A SIGNIFICANT AMOUNT OF MONEY TO BE AVAILABLE FOR BASIC SERVICES AND THE APPROVAL OF THIS BILL WOULD GIVE THE CITY OF BILLINGS THE OPPORTUNITY TO CONTINUE TO USE THIS SOURCE OF REVENUE TO FUND BASIC MUNICIPAL SERVICES. I URGE YOU TO RECOMMEND PASSAGE OF HOUSE BILL 393.

THANK YOU.

Exhibit 3
Myer HB 393
2-21-85
Rep. Andy
Waldman



THE CITY OF BOZEMAN

411 E. MAIN ST. P.O. BOX 640 PHONE (406) 586-3321
BOZEMAN, MONTANA 59715-0640

February 21, 1985

Ms. Paula Darko, Chair
House Local Government Committee
Capitol Station
Helena, Montana 59620

We, the undersigned City Commissioners of the City of Bozeman, urge your support of HB393, local option hotel/motel tax. While we generally prefer the approach in SB367, the state-wide hotel/motel tax, we also believe that this bill merits your support as an alternative to the state-wide approach. In the lean budget years ahead that all communities are facing, particularly as a result of anticipated cutbacks in Federal Revenue Sharing, we view this local option approach as a viable and important alternative to maintain city services in a fashion that will sustain our communities and the tourist industry.

We urge a "Do Pass" recommendation from your committee.

Kenneth L. Weaver
KENNETH L. WEAVER, Mayor

Judith A. Mathre
JUDITH A. MATHRE, Commissioner

Dennis E. Jordan
DENNIS E. JORDAN, Commissioner

Anne Fowler Anderson
ANNE FOWLER ANDERSON, Commissioner

Mary Vant Hull
MARY VANT HULL, Commissioner

Exhibit 4
HB 393
2-21-85
Rep. Waldron

TESTIMONY IN SUPPORT OF H.B. 393 (Waldron) local option motel tax.

Please support this local option motel tax.

We have heard some motel operators say that this kind of tax would not help their industry, but I feel this is not true.

This bill WOULD help the motel and tourist industry AS WELL AS TO HELP LOCAL GOVERNMENTS. Here are some ways it would help the industry:

(1) It would help the industry because no doubt, a portion of the revenue raised would be earmarked for the promotion of the local tourist industry. We have seen sufficient evidence to convince us that up to now, not enough has been done, or is being done, to promote tourism in Montana. Not enough is being done on the state level. In our area, at least (I can't speak for other areas obviously) not enough is being done to promote tourism either!

With a local option motel tax, we would definitely expect to spend a reasonable amount of money to promote tourism to our area. This would definitely help our local area tourism, even though our motel people now do not seem to recognize it. In fact, AFTER the fact, I can imagine them saying, "I'm sorry; you were right; I was wrong; tourism really has improved here since we have been able to spend this ear-marked money here for local tourist promotion."

(2) Another way that local motels would be helped by an enacted local option bed tax lies in the fact that when our local governments are so hard-up, so hard-pressed for funds that they cannot provide adequate streets, cannot provide adequate maintenance of those streets, when they cannot provide adequate police protection to the visitor, when they cannot provide adequate fire protection to the visitor, when they cannot provide a good face to the visitor through clean and beautiful parks -- why, the tourist industry DOES suffer locally.

I heard the owner of a Butte motel say that his business has declined every year since 1979, ever since Butte's government has been so hard-pressed for funds. This is in part because Butte doesn't look good w/a poverty-stricken government

Ladies and Gentlemen, I urge you to consider that a healthy motel business does depend upon a healthy local government, and if the city does not look healthy -- as is shown by the services provided by that local government -- tourists will not want to come to that city; if they come at all, they will not want to stay or return.

Therefore, the motel industry should be working shoulder-to-shoulder with us, to give local governments the money they need to provide the services that tourists want to see, that tourists need to see, and that tourists will not be tourists in our areas without.

Thank you. Mary Vant Hull, City Commissioner, Bozeman MT. Feb. 21, 1984

Mary Vant Hull
Commissioner
Bozeman MT. 59715

Exhibit 5
#B 393
2-21-85
Rep. Waldron

Walt Herman 7 (Linnville)

My name is Walt Herman from West Yellowstone, Montana.

I am a campground owner and I am here to testify against House Bill 393, the state wide hotel/motel tax. First thing, we do not furnish beds in our campground. There are approximately 160 camp sites in the city limits of West Yellowstone which would have to collect a bed tax but within a six mile radius of West Yellowstone there are approximately 800 Forest Service camp sites. In addition, there are three privately owned campgrounds with about 700 camp sites.

Do you people think this is fair to make the 5 campgrounds in the city limits of West Yellowstone to collect a bed tax on their 160 sites and let the 1500 outside the city limits go without collecting the tax. How many of you have checked on how many overnite campgrounds there are in the city limits of a town? You will find very few overnite campgrounds within the city limits of most towns. My point is, that I believe businesses outside the city limits should come under the tax base also. I am for a local option taxes or a resort tax of 2 or 3 percent as long as it is fair to everyone in business. In closing, I would like to say if you help us at West Yellowstone, the State of Montana will be repayed many times by sending the tourist to see the rest of our wonderful state. Thank you.

Exhibit 6
HB 393
2-21-85
Rep. Waldron

WITNESS STATEMENT

NAME Esther Nelson BILL NO. HB 393
ADDRESS Bozeman DATE 2/21/85
WHOM DO YOU REPRESENT? self
SUPPORT _____ OPPOSE _____ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: Hotel-Motel facilities as defined by 50-51-102 Sec. 3 includes "Tourist Courts".

According to Board of Health regulations, the "Tourist Court" designation also includes Mobile Home Parks. I operate a 60-unit Mobile Home Park for mostly retired Bozeman residents, some of whom have been tenants for 25 years. I believe it unfair to permit local governments to impose a 10% tax on these permanent residents who are also local taxpayers.

For years I have urged the Dept of Health to change the above mentioned designations. I do not believe that I operate a "tourist compound" nor are my residents "tourists".

Please consider amending HB 393 to omit mobile Home Parks.

Thank you

B.C.



APT. 3-G

WITNESS STATEMENT

NAME Paulli Fallay BILL NO. 46393
ADDRESS Box 1730, Helena DATE 2/21/85
WHOM DO YOU REPRESENT? Montana Chamber
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY GIVEN IN SUPPORT OF HOUSE BILL 804
February 21, 1985

Exhibit 1
HB 804
2-21-85
Rep. Addy

MY NAME IS KAY FOSTER AND I APPEAR BEFORE YOU TODAY AS THE PRESIDENT OF THE LEAGUE OF CITIES AND TOWNS AND A COUNCIL PERSON FROM BILLINGS, MONTANA, TO ASK YOU TO SUPPORT HOUSE BILL 804 THAT WILL GIVE LOCAL GOVERNMENT OFFICIALS AN OPPORTUNITY TO SOLVE SOME OF OUR OWN FINANCIAL PROBLEMS.

THIS BILL RECOGNIZES THREE IMPORTANT ISSUES:

THE FIRST IS THAT MONTANA'S LOCAL GOVERNMENTS ARE EXTREMELY DIVERSE - AND THE SOLUTIONS TO OUR FINANCIAL PROBLEMS WILL ALSO ^{BE} DIVERSE. AN ACCEPTABLE TAX IN BILLINGS MIGHT BE QUITE UNACCEPTABLE IN LIBBY. HAMILTON TAX PROBLEMS CANNOT BE SOLVED IN THE SAME MANNER AS SIDNEY'S. STATE GOVERNMENT SOLUTIONS TO LOCAL FINANCE PROBLEMS HAVE TO TREAT THE CITIES FINANCIAL ILLS WITH THE SAME MEDICINE AND; THEREFORE, TREATMENT IS MOST OFTEN AVOIDED ALTOGETHER!

THE SECOND ISSUE, THE LEVEL OF GOVERNMENT CLOSEST TO THE PEOPLE, IS BEST ABLE TO PRESCRIBE THE MEDICINE THAT WILL LEAD TO THE IMPROVED HEALTH OF A COMMUNITY. IF LOCAL GOVERNMENT OFFICIALS CHOOSE A SOURCE OF REVENUE TO SUPPORT THEIR LOCAL SERVICE THAT DOES NOT MEET WITH VOTER APPROVAL, THEY HAVE IMMEDIATE ACCESS TO THEIR OFFICIALS WHO CAN ACT AT THEIR NEXT MEETING RATHER THAN WAIT TWO YEARS.

I HAVE NEVER BEEN ABLE TO UNDERSTAND WHY STATE OFFICIALS WANT TO HAVE THE RESPONSIBILITY FOR FINANCING LOCAL GOVERNMENT SERVICES WHEN THEY COULD SHIFT THE RESPONSIBILITY TO THE LOCAL LEVEL WITH ADEQUATE AUTHORITY TO DO THE JOB.

THE THIRD ISSUE IS ^{THAT} THE FISCAL NEEDS OF LOCAL GOVERNMENT HAVE TO BE RECOGNIZED BY STATE OFFICIALS WHO HAVE TO ACCEPT THE RESPONSIBILITY FOR PLACING A MAXIMUM ON THE QUALITY OF MUNICIPAL SERVICE THAT IS PRESENT IN OUR COMMUNITIES. IF STATE GOVERNMENT DENIES THE AUTHORITY TO FINANCE A LEVEL OF SERVICE THAT WE DEEM APPROPRIATE AND ALSO REFUSES TO PROVIDE STATE FUNDS TO MEET THEIR LEVEL, THEN STATE GOVERNMENT MUST ACCEPT THE RESPONSIBILITIES FOR "CAPPING" THE LEVEL OF SERVICE.

I URGE YOU TO LET LOCAL GOVERNMENT DECIDE HOW TO FINANCE THE LEVEL OF MUNICIPAL SERVICE IN THEIR COMMUNITIES BY APPROVING THIS BILL.

THANK YOU.

Exhibit 2
HB 804
2-21-85
Rep. Addy

TOWN OF WEST YELLOWSTONE

Box 579

WEST YELLOWSTONE, MONTANA 59758

Telephone 406 646-7795

December 12, 1984

Governor's Economic Development Summit
and Small Business Conference
Sheraton Hotel
Great Falls, Montana

"Tailor Made Local Option Taxation"

The 1985 Legislature needs to address directly our current need throughout the State for local option taxation, that is, local taxation by consent of the community through referendum.

This need for enabling legislation to permit local option taxation of any constitutional type at the discretion of the individual community is crucial. The forthcoming Legislature should address this need now. It is long overdue.

Admittedly, the anticipated bed tax bills from the Montana League of Cities and Towns for either statewide or local option taxation are long overdue and worthy of support.

However, West Yellowstone believes the true answer to the ever deepening fiscal problems of Montana's municipalities require broad local option taxation powers. Current tax formulas, do not suffice. Special interest taxation bills do not address the basic issues of taxation formulas.

We have addressed local option taxation issues with this Council last July, with the City Council of Billings in September, and our coverage in the media has show us there is real grass-roots interest among our municipalities.



Briefly, here is West Yellowstone's experience with current taxation formulas which just do not do the job for us:

West Yellowstone originated in 1907, incorporated in 1966 and chartered in 1980.
Year round population: 760 in Town, 1100 in Hebgen Lake Basin.
Seasonal population June - September: 1,300 with nightly tourist transients: 5,000 additional.
West Entrance to Yellowstone National Park: 800,000/yr plus "cross-back traffic"
Estimated commerce for West Yellowstone is \$14 Million dollars/year.

However, all is not well.

"Tourism West Yellowstone and Its Effect on Ability of the Town to Deliver Municipal Services" Harry W. Conard, Jr. December 1979. Funded by \$15,000.00 grant, Old West Regional Commission. Study shows:

West Yellowstone costs are 5X to 6X higher than other five Montana Towns of comparable size: Belt (683), Bridger (768), Manhattan (934), Twin Bridges (685), Valier (676).
West Yellowstone spent 105% more than locally generated funds in 1978.

Therefore, West Yellowstone chartered, to follow study recommendations. Wrote HB 109 "Resort Tax" bill. Denied by House Tax Committee, March 1981 by 18/1 vote.

West Yellowstone Council passed Occupancy Fee Ordinance #90, (Bed Tax #1) January 1982, @ 25¢ per head per night. Collected \$64,000.00 June 1982-February 1983. Montana Innkeepers suit. Tax is illegal because had no referendum. Referendum May 31, 1983-passed 155/56.

Ordinance #98 (Bed Tax #2) Occupancy Fee reinstated @25¢ per head in motels and 50¢ per vehicle in campgrounds. Collected \$33,000.00 June 1983-September 1983. State Supreme Court voided Billings bed tax, our collections ended.

Right now, West Yellowstone government services costs continue at 5 to 6 times greater than Towns of our permanent population in Montana.

1983-1984 Budget: Total \$313,524.00 (\$100,163.00 @75 mills 34%)
Police Dept @46% (\$145,695.00) Street Dept. @ 16% (\$51,622.00)
Total funds allocated per person per night: January (760) \$1.15
July (6,300) 14¢.

Not only does West Yellowstone suffer under current taxation formulas, but other cities as well. Examine study of Bozeman, Montana vs Laramie, Wyoming. Short Changed in Bozeman: A Look at Revenue, CE 454, Transportation Planning, MSU, Fall Quarter, April 1984. Laramie has total revenue 2.26 times greater than

Bozeman. Bozeman is forced to property taxes nearly four times greater than Laramie. The difference in the two municipal tax structures is the revenue from severance and sales tax sources. West Yellowstone case follows Bozeman's pattern. How about your Town?

Therefore, present Montana taxation formulas are not helping us. Formulas based on population or length of streets do not allow for our cost impaction by tourists or other factors. The formulas for beer tax, liquor tax, gasoline tax and even the State Block Grant program do not face up to the situation for us. In fact, we have to sell 300 gallons of gasoline to get back one dollar, while the average for the five towns in Conard's study is only 117 gallons. (We receive twice as much under the tax increase enacted after Conard's study, but the discrepancy remains the same). Federal Revenue Sharing was \$19,600.00 (7%). PILT funds for Gallatin County were \$449,832.00 with 0% to West Yellowstone.

West Yellowstone's experience with grants has been equally unrewarding.

Our previous grants have been denied. In March 1975, our HUD grant for water mains was denied with a 94 out of 96 rating, using the 1970 census poverty and substandard housing levels as criteria. We were advised not to resubmit our application.

In 1984, we have been denied first a \$20,000.00 planning grant for domestic water, street, and storm drain improvement. We have been denied also a Community Development Block Grant for \$454,000.00 for our water, street, storm drain overhaul. We had intended to use our \$64,000.00 from our Bed Tax #1 for matching funds. So, grants are not the answer either. Grants cannot be budgeted either as they are unpredictable. We have present urgent need for major street repairs and extensive storm drainage systems and down the road we can see central water and sewer facility expansions - all well beyond our ability to fund by present formulas.

Due to the high seasonality of our tourist industry here, with only 100 days of true economic activity, proposed SIDs against real property units become astronomical when evaluated into payout amortizations. Real property revenue generation, again, is already overburdened. A look at the pie charts in the appendix shows that West Yellowstone is not unique among its Montana sibling communities in this respect. We all must look elsewhere for revenue.

Therefore, West Yellowstone believes that the 1985 Legislature should grant enabling legislation for local option taxation to municipalities to permit "Tailor-made" local option taxation. The type of taxation to be determined at the local level by referendum with property tax relief and voter review built into the enabling legislation. What can be more democratic and basically American? The people vote to suit their local needs.

West Yellowstone supports the Montana League options, particularly the Local Option Hotel/Motel Tax, Resolution #1985-4. Resolution #1985-4 (local bed tax) would bring West Yellowstone \$250,000.00 per year versus \$156,628.00 under #1985-2 (see table).

Conard's study calculated \$140,000.00/year at 1% retail sales tax; so, 2% would generate \$280,000.00.

Obviously, local governments give up a lot on the proposed bed taxes against a local retail sales tax.

What do we want the 1985 Legislature to do?

1. We want comprehensive enabling legislation to permit local option taxation of a broad scope, with referendum and voter review.

2. We mean local option taxation could be on retail sales, on beds, on wheels, on income, on whatever the voters approve locally for their municipal needs. The burden the municipality is receiving by impact should have the corresponding relief by means of off setting local revenue generations. The Urban Coalition at their November meeting at Helena supported this position. There is grass roots support, regardless of the size of the municipality.

3. West Yellowstone would much prefer to see cooperation on a comprehensive local option taxation enabling act rather than to reactivate a defensive, parochial, restricted special interest "resort tax" again. Special interest legislation does not address the real issue here: Communities with problems should have the ability to deal with them effectively.

"Tailor-made Local Option Taxation is the answer for 1985."

Thank you.

CALCULATION TABLE

Conard's Retail Sales Tax: (pg. 12, Phase II of his study) :

West Yellowstone business volume: \$14 Million/year
 $\$14,000,000 \times 2\% = \$280,000.00/\text{year}$
 Each 1% = \$140,000.00/year in revenue
 5% = \$700,000.00/year

Montana League of Cities & Towns, Resolution #1985-4 : State-wide

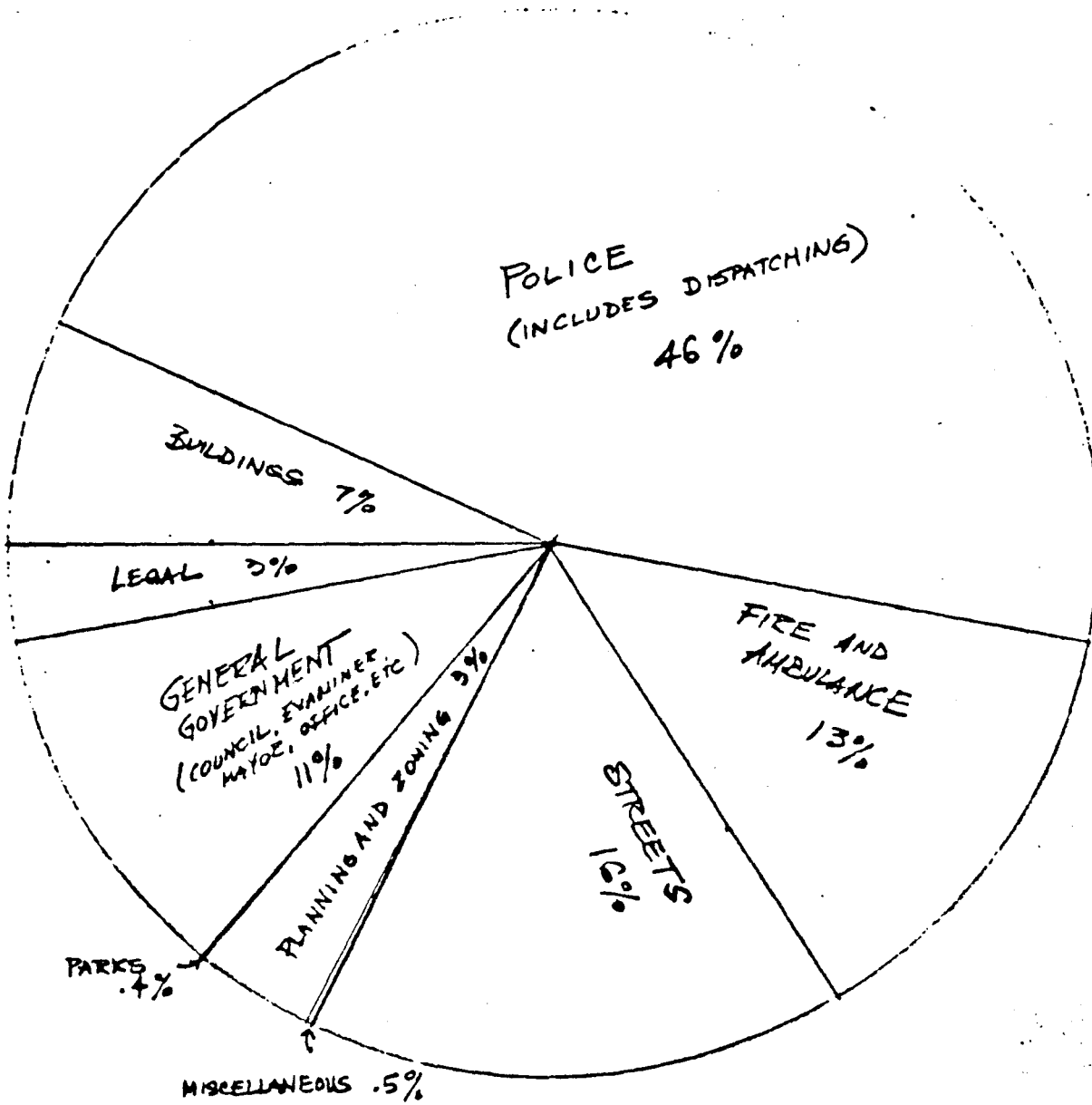
2,000 (rooms)	x 62 (days)	x .95 (occupancy rate)	=	117,800 (units)
2,000	x 60	x .50	=	60,000
2,000	x 243	x .05	=	24,300
				<u>202,100 (units)</u>
200 (hookups)	x 62	x .95	=	11,780
200	x 60	x .50	=	6,000
200	x 243	x .05	=	2,430
				<u>20,210 (units)</u>
(\$30.00/room)				
202,100	x \$3.00	(10%)	=	606,300.
(\$10.00/hookup)				
20,210	x \$1.00	(10%)	=	<u>20,210</u>
				626,510
626,510	x .5	(5%)	=	313,255
313,255	x .50	(local Town rate)	=	156,628
West Yellowstone share				156,628

Montana League of Cities & Towns Resolution #1985-2: Local Option

(5%)	\$313,255	less \$62,651 (20%)	=	250,604/year
(10%)	\$626,510	less \$125,302 (20%)	=	502,208/year

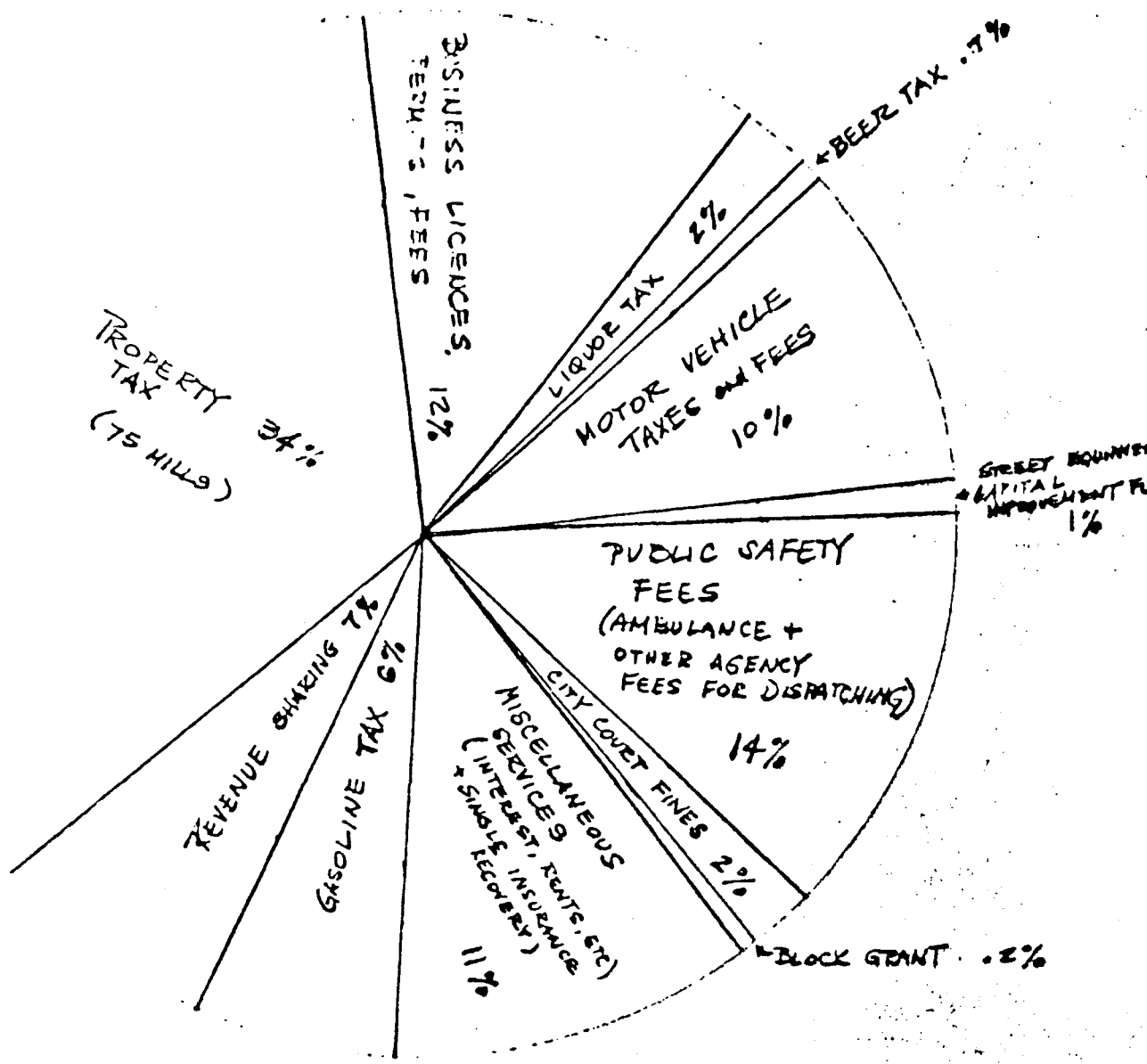
WEST YELLOWSTONE EXPENDITURES

1983-1984 FISCAL YEAR



EXPENDITURES

General Government	\$ 34,625.54
Town Council	
Elections	
State Examiner	
Mayor	
Court	
Town Offices	
Water	
Legal	8,597.15
Buildings	21,353.99
Police	145,695.25
Fire/Ambulance	39,338.62
Street	51,622.12
Parks	1,343.15
Planning & Zoning	8,770.43
Miscellaneous	1,667.74
	\$313,524.04



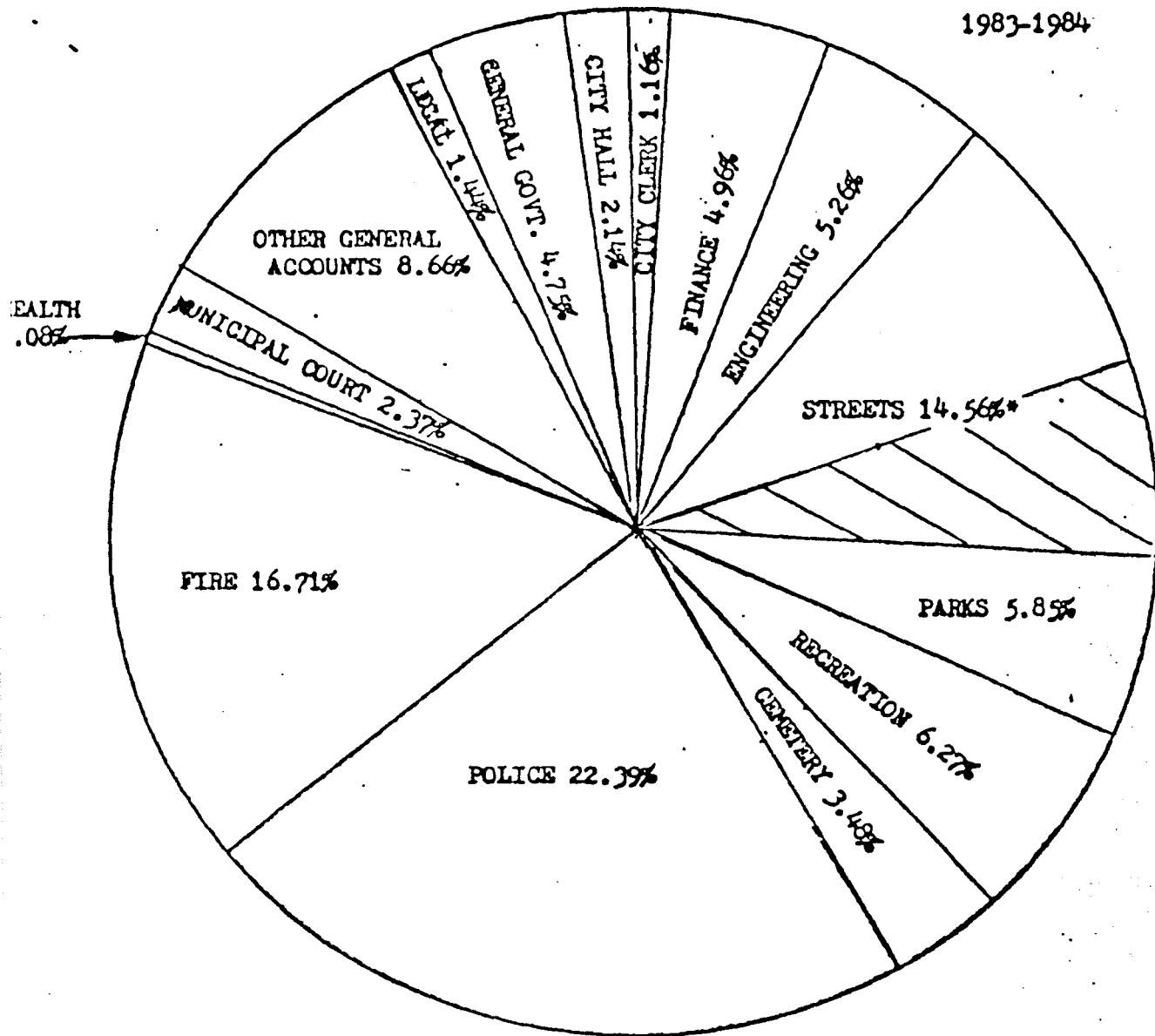
REVENUE

General Property Tax (75 mils) (Taxable 1,504,771)	\$100,162.71
Business Licenses, Permits, Fees	35,942.51
Liquor Tax	7,165.38
Beer Tax	2,023.54
Motor Vehicle Taxes & Fees	29,360.28
Public Safety Fees	42,436.80
Dispatch Fees	
Ambulance Fees	
Court Fines & Forfeits	4,325.00
Block Grant	658.79
Miscellaneous Services	31,035.58
Interest	
Rents	
Insurance Recoveries	
Gas Tax	18,223.00
Revenue Sharing	19,647.08
Capital Improvement (Street Equipment)	4,243.16

\$296,524.33

GENERAL FUND EXPENDITURES

1983-1984



* The cross-hatched area represents the \$ 200,000 gas tax allotment.

Figure 7. Bozeman.

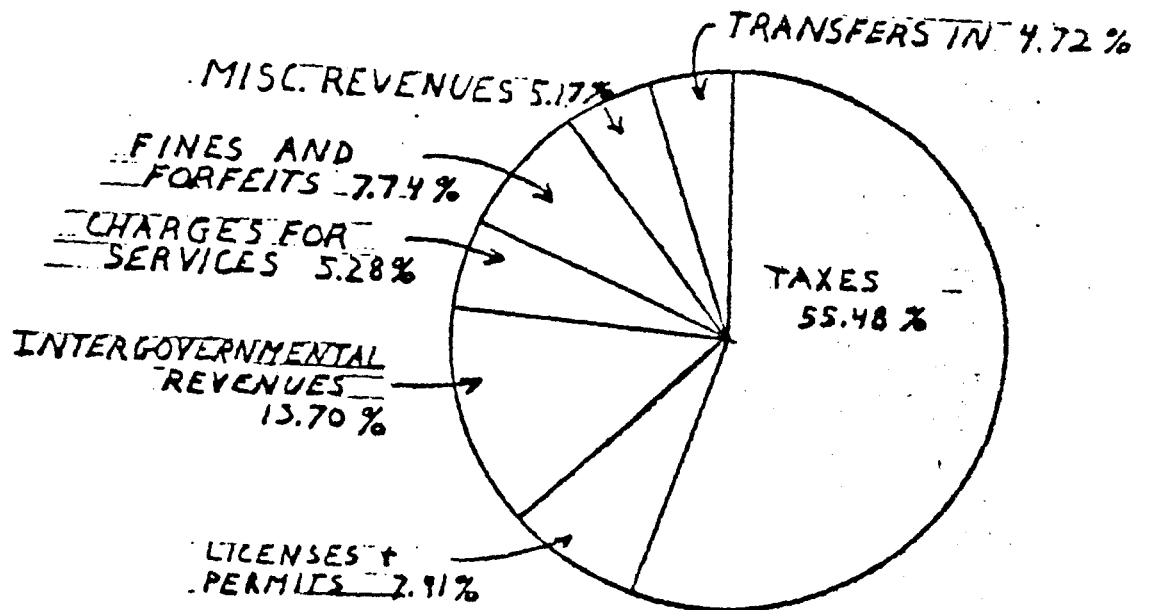
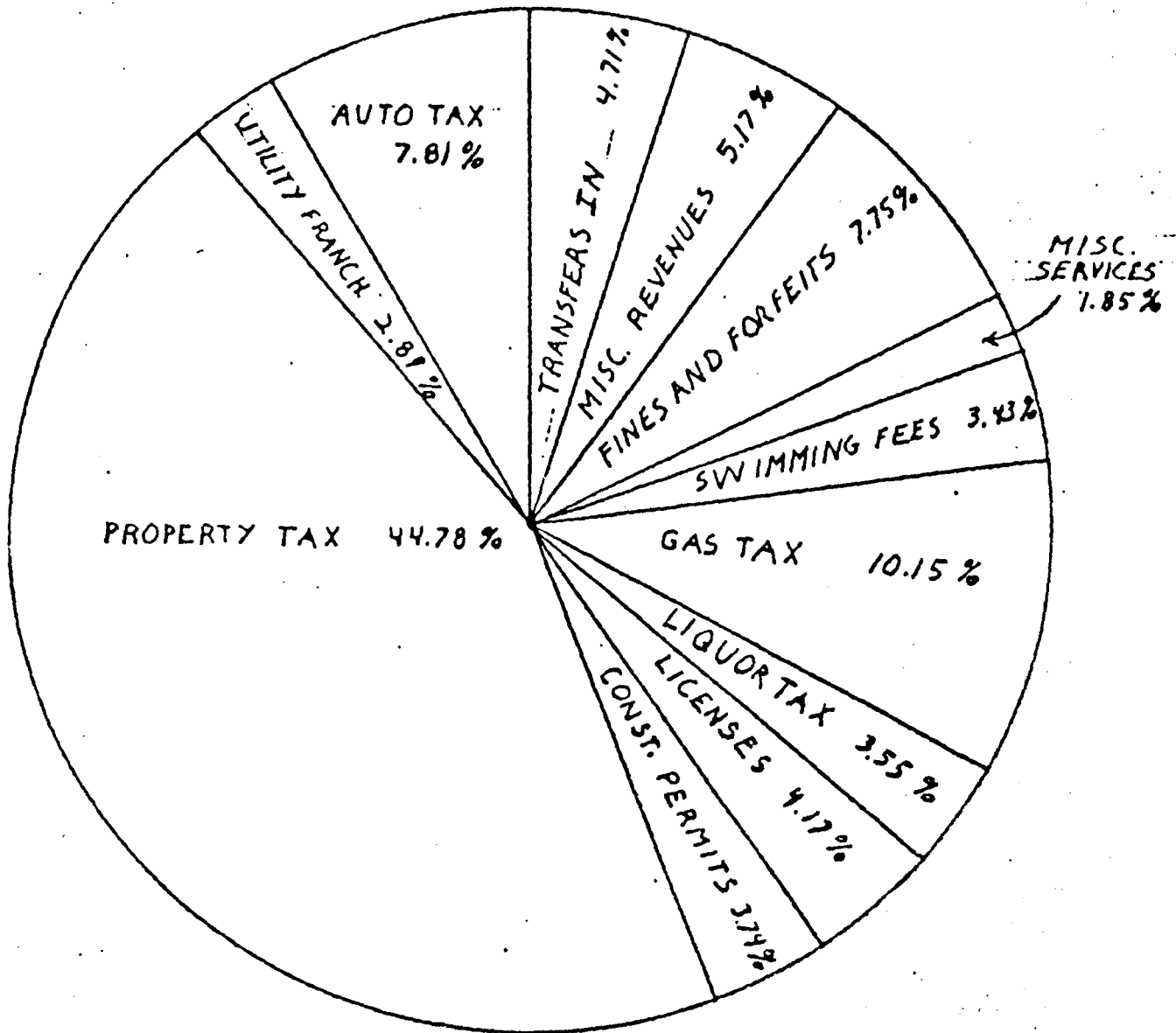
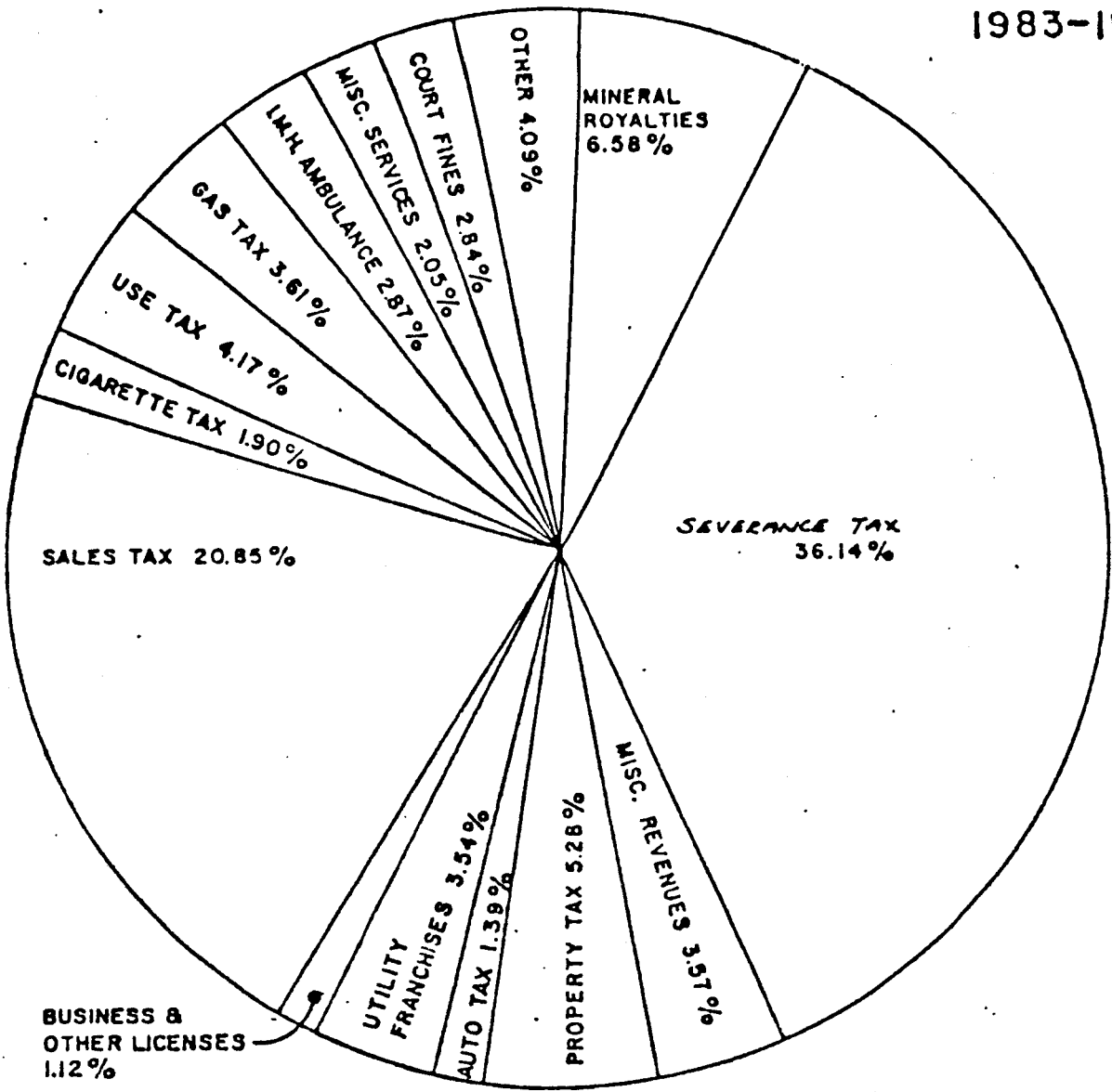


Figure 5.

1983-1984



OTHER

WEED & PEST	.13%
L.I.D. REVOLVING FUNDS INTEREST	.06%
WATER SERVICE CHARGE	.41%
PERPETUAL CARE & TRUST	.62%
CONSTRUCTION PERMITS	.97%
RURAL FIRE PROTECTION	.97%

CATEGORY

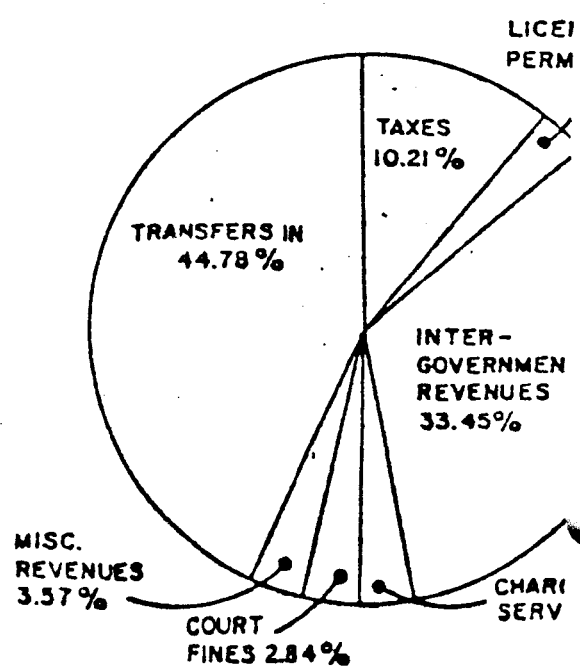
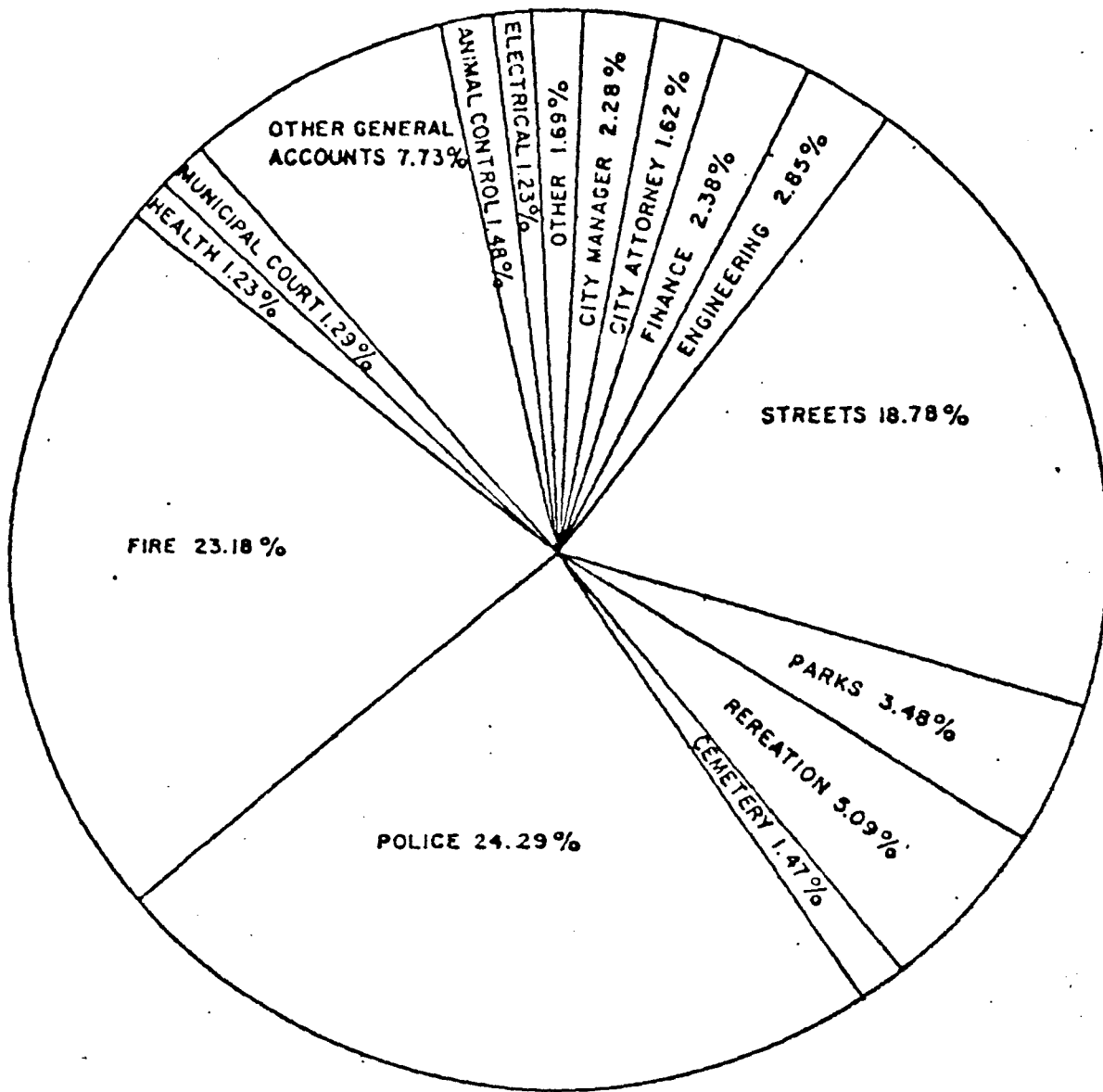


Figure 6 - Revenues - Laramie.

1983-1984



CATEGORY

OTHER

CITY HALL	.40%
MOSQUITO CONTROL	.44%
CITY CLERK	.85%

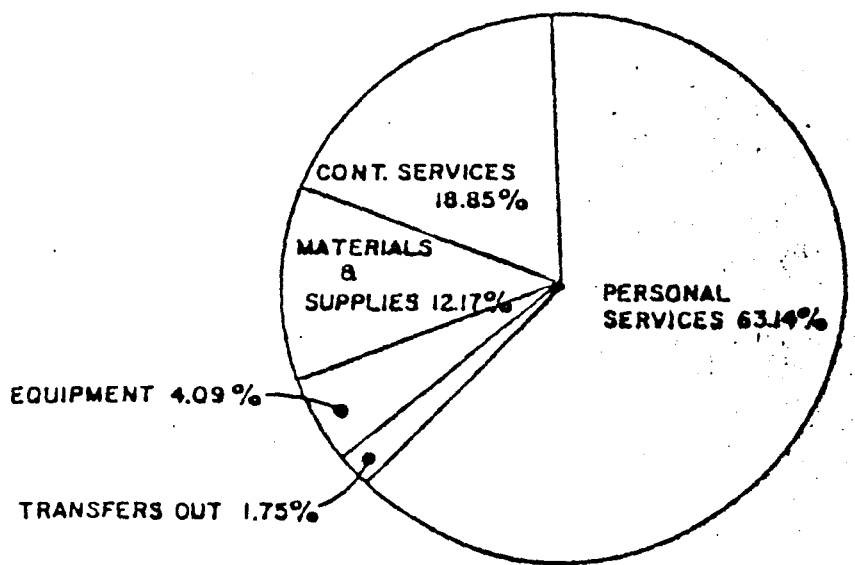


Figure 8. General Fund Expenditures of Laramie.

Exhibit 3
HB 804
2-21-85
Rep. Addy

TESTIMONY BEFORE THE HOUSE COMMITTEE

LOCAL OPTION TAX - HOUSE BILL 804

February 21, 1985 - Helena, Montana

by Bob Jacklin, West Yellowstone, Montana

1. THE FINANCIAL SITUATION OF WEST YELLOWSTONE
IS ONE OF REAL NEED

West Yellowstone is impacted by 2.5 million people each summer season (West entrance to Yellowstone National Park data). West Yellowstone provides needed services to these 2.5 million people plus helps to cover portions of the Yellowstone National Park and nearby Idaho with fire, ambulance, medical help and some police services when needed.

2. WEST YELLOWSTONE'S ABILITY TO PAY FOR THESE NEEDED SERVICES

There are 750 year round residents of West Yellowstone that are asked to pay the major portion of all the services provided by the town. The towns needs at this time are far too great and our ability to pay, as we have in the past, is no longer possible. West Yellowstone, and other small towns must be able to provide Montana's visitor with adequate services and safe streets on which to drive.

3. WEST YELLOWSTONE'S TOTAL REVENUE IS APPROXIMATELY \$300,000.00

The major portion of our city's income is from local sources.
34% is from local property taxes.
12% is from local business licenses
8% is from local liquor and gas taxes
10% is from local motor vehicle taxes and licenses

4. GAS TAX AND LIQUOR TAX

Some sources of revenue such as the gas tax and the liquor tax work against small towns like West Yellowstone. We collect the money. We have the impact and the problems. What we get back from the state and county is a very small portion of the revenue collected. State wide distribution programs are on a per capita basis and not on a percentage of collection.

5. WEST YELLOWSTONE'S EXPENDITURES

Because West Yellowstone suffers such a high impact by tourists and transient people, our city services are used to a much higher percentage than local taxes can accomodate.

46% for police services
13% for fire and ambulance
16% for street maintainence
11% for general government

6. WE ARE ASKING FOR YOUR HELP

What we need is for you, our representatives, to provide us with the vehicle of Local Option.

7. WEST YELLOWSTONE IS A TOWN IN MONTANA

West Yellowstone is not just my town, it is a town in Montana. West Yellowstone is the first impression of the state of Montana that millions of people see. Our streets are in a horrible state of disrepair, our ambulance services are not adequate for the amount of use required, we have no storm drainage system and our ability to pay for what we have now, is marginal. We must have additional revenue to provide the visiting public with adequate services and a good impression of Montana.

8. HOUSE BILL 804

House bill 804 will enable West Yellowstone and other towns to provide needed services, keep our cities in good repair and give a good lasting impression of Montana to all our visitors.

9. I ask your support of House Bill 804. I also support House Bill 826 and Senate Bill 434.

Thank you.



Exhibit 4
HB 804
2-21-85
Rep. Addy

TOWN OF WEST YELLOWSTONE

Box 579

WEST YELLOWSTONE, MONTANA 59758

Telephone 406 646-7795

West Yellowstone Expenditures

1983-1984 \$313,524.04

West Yellowstone Revenue

1983-1984 \$296,524.33

-(\$16,999.71)

Harry W. Conard, Jr. Study-
Tourism in West Yellowstone, Montana
and Its Effect on the Ability of the Town
to Deliver Municipal Services

Business Volume in West Yellowstone at 14 Million/year

Each 1% tax would therefore yield
\$140,000.00/year revenue

1%	\$140,000.00
2%	\$280,000.00
3%	\$420,000.00
4%	\$560,000.00
5%	\$700,000.00

Urgent Needs of West Yellowstone

1. Property tax Relief
2. Major Street Repa:
3. Extensive Storm drainage system.
4. Central water system.
5. Sewer Facility expansion.

Broad-base local option taxation is the only means in sight to alleviate these and other problems West Yellowstone maybe faced with in the future. A bed tax alone will not generate this amount of funds



TESTIMONY FOR HOUSE BILL 804

Exhibit 5
HB 804
2-21-85
Rep. Addy

Good Morning! I am City Commissioner Ardi Aiken here to speak in favor of House Bill 804. I come before you today with much of the same theme which I, and other local government officials, have expressed repeatedly throughout the chambers and halls of this building for the past several weeks. You have heard, and I repeat, that the fundamental problem of local government is our method of financing our general fund -- which is primarily through the use of property taxes. This is inequitable and unfair. The taxing system in Montana is out of balance and basic changes are necessary to provide a more equitable means of financing local governments. Montana has one of the highest property tax rates in the nation, yet our income per capita is one of the lowest. Only Wyoming and Alaska rank higher than Montana in property tax collections per \$1,000 of personal income. We can no longer afford to depend on such a narrow base for generating our revenue. To do so is impractical, shortsighted, regressive and a poor business practice.

Local government officials are well aware of the dangers of depending on a limited source of revenue, but the circumscription of State law does not allow us any other alternatives. Under State law, local governments are required to provide certain services and programs, yet we are not provided State funding for those programs -- nor are we provided the means to raise revenues locally in order to support them. State laws unnecessarily restrict local governments from managing their own affairs.

To give you a clearer perspective of where Montana ranks in relation to other states in the granting of local authority, I will cite some statistics garnered by the Urban Coalition from a 1981 national study:

- * Eleven states gave municipalities less financial and functional discretion than Montana.
- * Municipalities in all but five states have greater financial discretion than Montana.

- * Only six states have more mandates to local government than Montana.
- * Thirty-two states, not including Montana, authorize local option taxes to alleviate property taxes.
- * Issues handled by City ordinance in other states are addressed every two years by the State legislature in Montana.

Local governments need greater discretionary authority in order to diversify our taxing base. The enactment of House Bill 804 would provide local governments some discretion for broadening the base of local government finance.

Exhibit 6
HB 804
2-21-85
Rep. Addy

MEMORANDUM

TO: Senate Taxation Committee
House Taxation Committee
Senate Local Government Committee
House Local Government Committee

FROM: Urban Coalition

RE: The financial condition of local governments and associated legislation

During the course of the 1985 legislative session, local governments have introduced numerous bills that have proposed methods of raising revenues. The main bills include:

- HB 170- Block Grant funding with 5% of the income tax
- SB 25- State to fund specific District Court costs
- HB 767- Full funding of District Court costs by the state
- HB 804- Local option authority for local governments
- SB 367- Statewide hotel/motel tax @ 5%
- HB 392- Statewide hotel/motel tax @ 10%
- HB 393- Local option hotel/motel tax
- SB 293- Local option income tax
- SB 424- Local option authority for local governments in specific areas
- HB 870- Funding of block grant program and specific costs for District Courts by increasing motor vehicle fees
- SB 142- Funding mechanism for SB 25 by increasing motor vehicle fees

These bills have been introduced for 2 reasons:

1. to provide alternative revenue sources for basic local government services to reduce the increasing reliance on the property taxpayer; and
2. in response to suggestions by legislators, prior to the session, that local governments must provide alternative revenue sources for funding requests.

Subsequently, we have done that. The intent of this written testimony is to explain further the reasons or rationale for the proposed legislation.

THE PROBLEM

Financial Condition of Local Governments

In 1981 a report on the financial condition of local governments was completed by the Consulting Services Bureau of the Department of Administration as staff to the Temporary Committee on Local Government Financing. In summary the report concluded:

1. Many of Montana's local governments are facing an uncertain financial future with climbing expenditure pressures and declining revenues and
2. specifically, despite cost saving efforts, all groups of local governments (except impact counties) have had to increase taxes to maintain services at or near 1979 levels.

The report was updated by the Urban Coalition to include fiscal years 81-82 and 82-83. The purpose was to determine if there was any change in the financial condition of local governments over the past two fiscal years.

The update concluded the following as illustrated by figures 1,3 and 4.
Figure 1- the change in total operating revenue has continued to decline with the exception of cities in the last fiscal year due primarily to an increase in non-tax revenue, i.e., an increasing shift of funding general fund activities by special revenue sources, e.g., fees, charges and special assessment districts.

Figure 3- the change in total operating expenditures for most local governments has continued to decline over the past two fiscal years.

Figure 4- the change in taxable valuation has continued to decline with the exception of impact counties over the past two fiscal years.

In general, the financial condition of local governments has not improved over the past two fiscal years.

Impacts of Federal and State budget proposals.

The block grant program is currently underfunded by \$4 million, a reduction of 12% from the amount necessary for full funding. The fiscal impact of lost grant revenues on Coalition members is illustrated in Table I.

The Federal budget includes elimination of Federal revenue sharing for local governments. Table II illustrates the fiscal impact in lost revenues for Coalition members.

In either case, without alternative revenue sources, the lost funds will be made up by property tax increases.

Impacts of proposed tax exemption bills.

To date, approximately 20 bills have been introduced in the 1985 legislature that would directly affect or reduce the property tax base. The fiscal impact is unknown at this time. However, the bills further reduce the ability of local governments to rely on a constant and stable revenue source.

PROPOSED SOLUTIONS

The Urban Coalition proposes the following prioritized solutions:

1. Increase motor vehicle fees to provide sufficient revenues for full funding of the block grant program and state assistance for District Courts. (HB 870)
2. Establish a statewide hotel/motel tax to assist in funding local services. (SB 367 or HB392)
3. Provide local option authority for local governments. (HB 804 or SB 434)

In summary, the proposed solutions are a reasonable package in comparison to increasing property taxes to offset any revenue losses or to continue to fund basic local services and programs.

FIGURE 1
 CHANGE IN TOTAL OPERATING REVENUES
 1979-1983
 MONTANA LOCAL GOVERNMENTS
 ADJUSTED FOR INFLATION

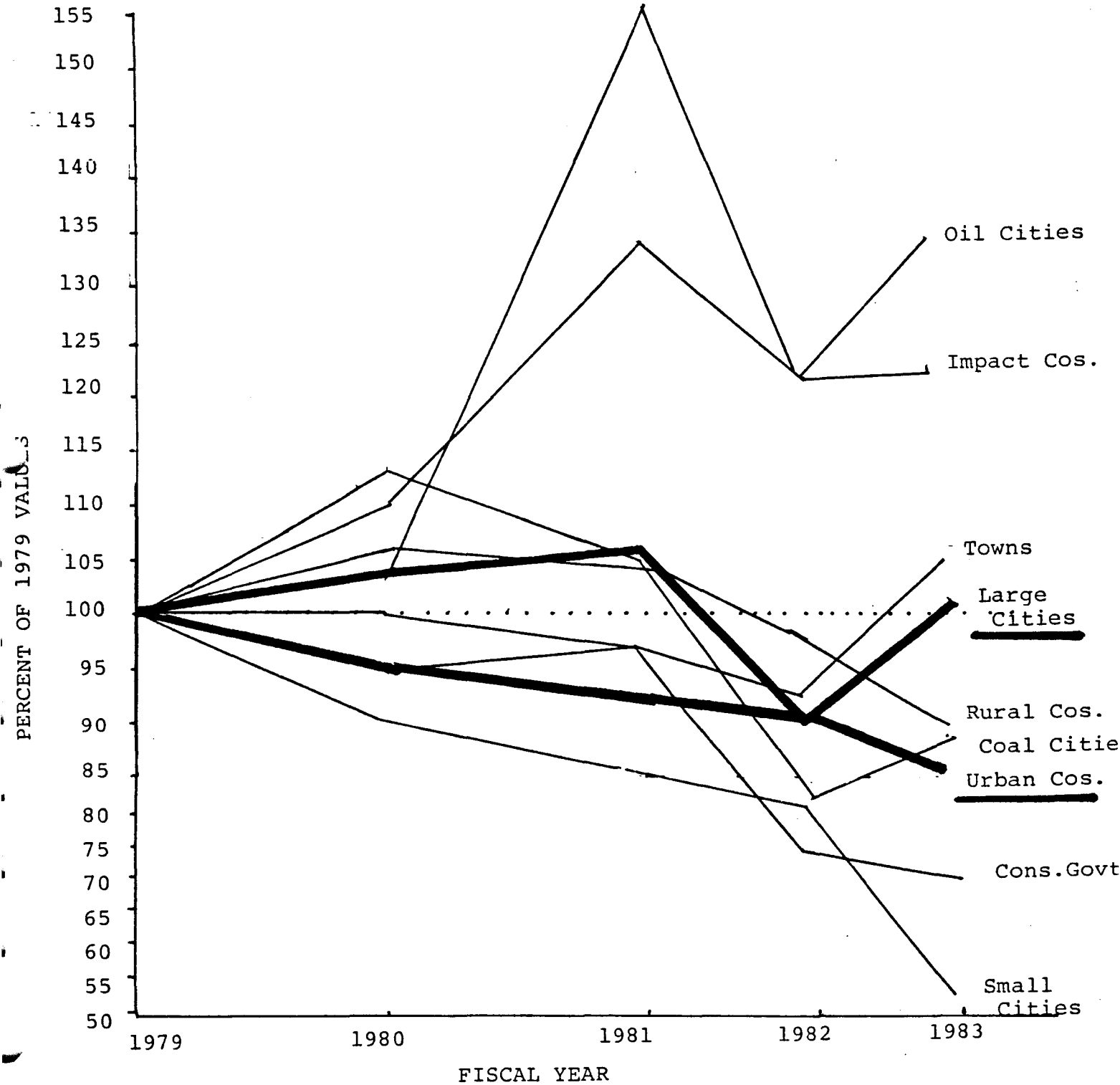


FIGURE 3

CHANGE IN TAXABLE VALUATION
1979 - 1983

MONTANA LOCAL GOVERNMENTS
ADJUSTED FOR INFLATION

(173)
Impact Cos.

(160)

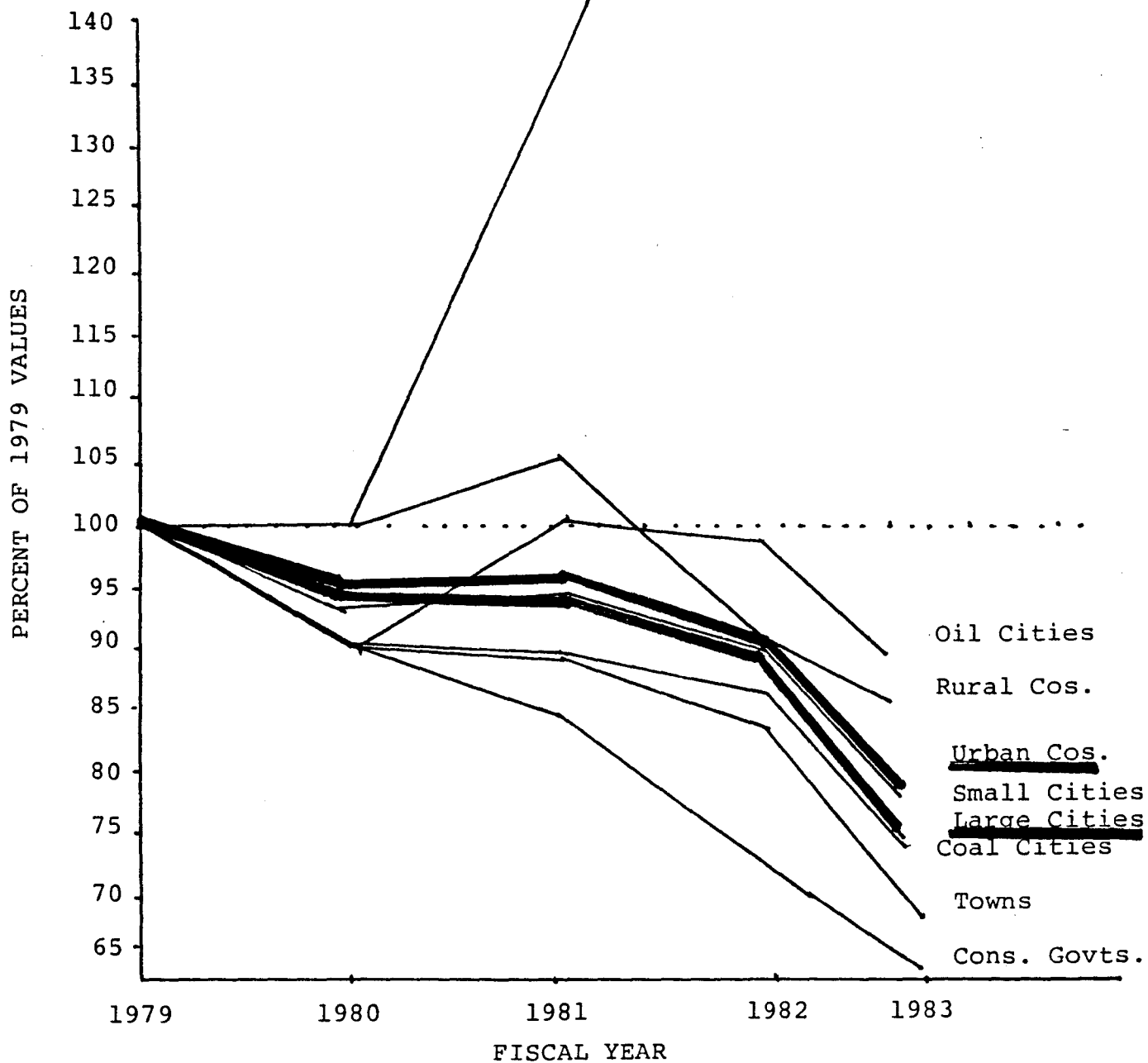


FIGURE 4

CHANGE IN TOTAL OPERATING EXPENDITURES
1979 - 1983
MONTANA LOCAL GOVERNMENTS
ADJUSTED FOR INFLATION

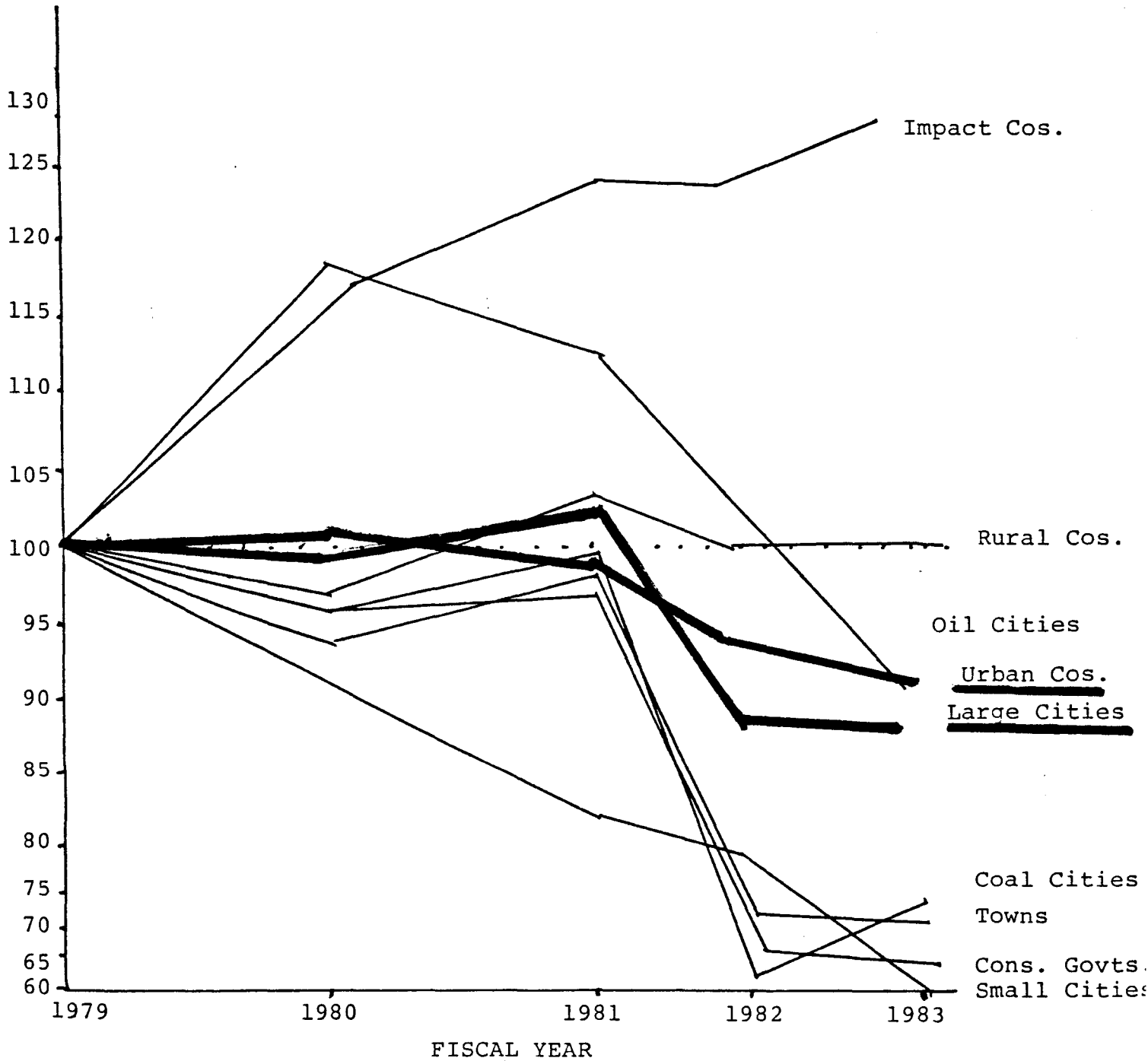


TABLE I

<u>COALITION MEMBER</u>	<u>IMPACT OF BLOCK GRANT SHORTFALL</u>	
	<u>1</u>	<u>2</u> EQUIVALENT NO. OF MILLS
	<u>MOTOR VEHICLE SHORTFALL</u>	
Bozeman	\$15,309	.72
Billings	\$63,238	.58
Great Falls	\$31,764	.54
Missoula	\$33,786	.73
Butte Silver Bow	\$52,586	1.12
Cascade Co.	\$39,939	.45
Gallatin Co.	\$32,166	.54
Lewis and Clark Co.	\$30,000	.50
Missoula Co.	\$12,837	.10
Yellowstone Co.	\$57,728	.29

1. Motor vehilce replacement
 2. Based on 1984-85 valuations

TABLE II

<u>COALITION MEMBER</u>	<u>IMPACT OF ELIMINATION OF FEDERAL REVENUE SHARING</u>		
	<u>REVENUE SHARING ALLOCATION (84-85)</u>	<u>1</u> PRIMARY USE	<u>2</u> EQUIVALENT NO. OF MILLS
Bozeman	\$304,000	Police & Fire salaries & Capital Outlay	14.4
Billings	\$1,200,000	Capital Outlay & improvements	11.0
Great Falls	\$684,000	Cap. Outlay & improvements	11.7
Missoula	\$650,000	Police salaries	14.0
Butte Silver Bow	NA	NA	NA
Cascade Co.	\$821,610	General Govt. & Road and Bridge & Public Safety	9.2
Gallatin Co.	\$270,236	Cap. Outlay & improvements	4.5
Lewis and Clark Co.	\$510,000	Cap. Outlay & improvements	8.5
Missoula Co.	\$1,388,387	Cap. Outlay & improvements-Road	11.3
Yellowstone Co.	\$791,500	Cap. Outlay & improvements	4.0

1. There are other uses of revenue sharing - primary use includes in excess of 90%
 2. Based on 1984-85 valuations

Exhibit 7
HB 804
2-21-85
Rep. Addy

TESTIMONY ON H.B. 804, (ADDY) ALL TYPES OF LOCAL OPTION TAXES

Given by Mary Vant Hull, City Commissioner, Bozeman, Mt.

IT MUST BE very difficult to be a state legislator and to have thousands of bills on hundreds of subjects, affecting people all over the state, in all different kinds of areas and situations, with all different kinds of problems and changing conditions.

Sometimes you must wish you have more time, fewer bills, a less complicated set of circumstances, and the time to receive more input from your constituents. Add to that, the fact that you have to dispense -- or withhold -- millions of dollars -- your problems are very great indeed.

Surely one of the best things you can do to see that more of these money decisions can be made at greater leisure, with greater study by all of the people involved in them, with as much research as is necessary before decisions must be made, and then -- finally -- with every single person who has a stake in the matter, having the chance to vote on that issue -- THERE LADIES AND GENTLEMEN -- YOU HAVE LOCAL GOVERNMENT.

Local options taxes SHOULD be an important part of the financing for local government because the people involved and directly affected will vote on the issues themselves. They will answer their questions before they vote. They can -- and will -- demand answers from their local representatives -- commissioners and council members -- who have suggested that perhaps a certain tax would be the answer to a current problem of the electorate in that particular community.

This is true Democracy. This is true local responsibility. This is truly the way government should be -- returning some power to the grassroots level. There can be no better way to do this than to support H.B. 804.

Thank you.

Mary Vant Hull

Mary Vant Hull, City Commissioner, Feb. 21, 1985
416 E. Story, Bozeman MT 59715

1/17/85 B.G.

Tax proposal hurts local governments

People willing to pay taxes

During his campaign, President Reagan promised not to raise taxes if he were re-elected. Last week the governors of both New York and Connecticut announced that they plan to actually cut taxes.

Politicians are obsessed with the idea that people want to pay less taxes but that isn't what people want most. Citizens don't mind paying taxes but they hate to see their government throwing the money away. People not only want public services but they want them increased and improved, not reduced.

Any announcement that we'll be paying an average of \$242 less taxes doesn't grab the individual taxpayer. It usually ends up each one of us only saves about \$1.49, anyway. What most of us want are more police, better roads, cleaner streets, better courts, more help to the poor and the sick and all the other good things civilization can buy for itself wholesale through its government.

The Reagan administration is trying to turn more control over to local governments. It would probably be better for all of us if local governments spent more of our tax money, too, because in their bumbling way, local governments are more careful with money than the federal government is.


No one but the federal government can do some jobs, though. No one else can administer the

or than the state!

Give local people local option taxes for more judicious choices of funding.

*May Vest Hull
Bogeman City Commissioner*

National Columnist



**Andy
Rooney**

cleanup of toxic waste dumps. No one but the federal government can mount a real war against Chicago's businessmen. They may also get some of drug traffic. No one but the federal government Chicago's headaches and the federal government can preserve our forests, clean our rivers and lakes might eventually find itself taking care of the police and provide for our defense. People are willing to people the states once did.

Complaining about taxes is as American as the federal government, comprising all of us, call the Super Bowl. We all feel obliged to make joking handle. People want evidence that the government references to the taxes we pay but if you asked is doing a good job on their behalf. I don't hear any each of us to vote tomorrow on whether we want to loud cry for lower taxes from the average taxpayer-continue to pay them, we'd sheepishly vote "yes." er.

Part of the new tax proposal seems to conflict with the administration's intentions of giving more seeing that big number that went for taxes before power to local governments. The new proposal ever got my hands on it but I'm not complaining. would eliminate the deduction for state and other Secretly, I'm proud. Most Americans are. All they local taxes. If you live in Illinois and pay \$500 in want is more for their money.

state taxes, you now can deduct that when you pay your federal taxes. The federal government plans to eliminate this deduction.

If this happens, the most responsible states that spend the most on social programs like education and welfare will be hurt worst. New York State's taxes are high because it spends a lot of money for good things. Businessmen stand for high taxes in progressive states because they save it when they pay their federal taxes. If the deduction is eliminated, a lot of businessmen will move out of New York State and go where taxes and services are less because those states do less for their citizens.

Cities like New York, Los Angeles and Chicago have attracted large numbers of people who are unable to take care of themselves because those cities try to treat these people like sick or unlucky human beings. If the states were no longer able to do that because they weren't collecting as much tax money, many of these needy people would move to states where life is warmer and easier and governments are less concerned with the welfare of their citizens.

Some of those states that look forward to the influx of businessmen fleeing Chicago under these conditions might find themselves with more than

Exhibit 8
HB 804
2-21-85
Rep. Hddy

TESTIMONY TO BE PRESENTED TO THE COMMITTEE ON LOCAL GOVERNMENT REGARDING HOUSE BILL 804.

February 21, 1985

MY NAME IS JIM VAN ARSDALE. I AM THE MAYOR OF THE CITY OF BILLINGS AND I AM HERE TO SUPPORT HOUSE BILL 804.

THIS BILL WOULD ALLOW CITIES TO IMPOSE REVENUE SOURCES THAT WOULD BE IN KEEPING WITH THE DESIRES OF THE VOTERS IN THEIR COMMUNITIES. I AM CONVINCED THAT THE VOTERS IN EACH OF OUR COMMUNITIES REALLY KNOW BEST WHAT SOURCES OF REVENUES WOULD BE MOST APPROPRIATE FOR EACH COMMUNITY. IT IS IMPOSSIBLE FOR THE STATE LEGISLATURE TO IDENTIFY A SOURCE THAT WOULD BE APPROPRIATE FOR ALL COMMUNITIES. THIS BILL WOULD TAKE THE "SHACKLES" OFF LOCAL GOVERNMENT AND PUT THE RESPONSIBILITIES SQUARELY ON LOCAL GOVERNMENT OFFICIALS TO FUND THEIR OWN PROGRAMS. THAT IS HOW IT SHOULD BE. WON'T YOU PLEASE GIVE LOCAL GOVERNMENT OFFICIALS AN OPPORTUNITY TO SOLVE THEIR OWN FINANCIAL PROBLEMS. I URGE YOU TO SUPPORT HOUSE BILL 804.

THANK YOU.



JAMES W. MURRY
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624
406/442-1708

Exhibit 9
HB 804
2-21-85
Rep. Addy

TESTIMONY OF DON JUDGE ON HOUSE BILL 804, BEFORE THE HOUSE LOCAL GOVERNMENT
COMMITTEE, FEBRUARY 21, 1985

Mr. Chairman and members of the Committee, for the record, I am Don Judge, appearing on behalf of the Montana State AFL-CIO regarding House Bill 804.

A great deal of publicity has been given to the need of financially strapped communities to raise additional revenue. We question whether the provisions contained in House Bill 804 will achieve that goal in an equitable manner.

We recognize that the state and local tax system must be capable of raising the level of revenue needed to fund the special services provided by our government. However, we believe our system of taxation must be based on the principle of ability to pay.

The Montana State AFL-CIO has a long-standing convention position in opposition to a sales tax because this form of taxation ultimately hits the average wage-earners, the poor and those on fixed incomes the hardest.

The last time the sales tax appeared as an initiative on our ballot was in 1971, when it went down to overwhelming defeat, failing to carry a majority of votes in a single Montana county.

The element of this bill requiring a vote of the electorate on any tax to be imposed at a local level is good. However, allowing amendments to the issue, such as increasing the tax rate, without a vote of the electorate unless the enabling authority forbids such a move gives too much authority to locally-elected officials. Electorate approval of the type, rate and duration of the tax should be firmly established.

We continue to support the income and corporate taxes as the fairest forms of taxation. Regressive measures such as the sales tax provision in House Bill 804 should not be authorized by this legislature.

We urge your defeat of the sales tax provision in House Bill 804.

THE EROSION OF THE MONTANA PROPERTY TAX BASE: LOST VALUATION - WHO BENEFITS

Commercial-Industrial Property

	<u>Lost Taxable Valuation</u>
reduction in inventory rate 1975-1976	\$ 27,228,146
exemption of inventory property 1981	38,753,870
manual disparity cases	<u>37,653,186</u>
because commercial-industrial and residential real property are in the same property class they are supposed to be assessed and taxed similarly; however, the Dept of Revenue utilized valuation manuals from different years for resid and comm-indust. Businesses sued the state and a settlement was reached in order to equalize valuation disparities.	\$ 103,635,186

Financial

exemption of bank stock 1979	\$ 14,340,846
exemption of bank surplus 1979	<u>7,467,607</u>
in 1979 the state legislature exempted bank shares from property taxation. in order to recover revenues for local governments (not directly for school districts and state mills) the legislature started to return 80% of the financial corporate franchise tax to local governments. According to a 1983 Dept of Revenue Memo the 80% of finan.corp taxes going to local govts has ranged between \$500,000 to \$1,600,900 below the revenues generated by the bank shares tax	\$ 21,808,453

Railroad

<u>Burlington Northern Settlement</u> <i>4-R's Act</i>	\$ 24,779,340
the federal Staggers Act requires states to tax railroad property no differently than commercial- industrial property. Montana statutes treated RR property differently than commercial property. BN sued. A settlement was reached. The figure to the right was constructed from information detailed in the EN-DoR Agreement for 1980-1983. It is the difference between the taxable value attributable to BN with and then without the agreement and an annual average taken.	

Agriculture

reduction in rate on livestock 1980	\$ 52,052,600
-------------------------------------	---------------

Oil

windfall profits tax deduction 1981	\$ 118,168,868
the 1981 Legislature allowed oil corporations and royalty owners to deduct the federal windfall profits tax from their gross proceeds in order to calculate their net proceeds for property tax purposes. In 1983 the allowable percentage was changed from 100% to 70% as proposed by the industry. The figure to the right is the average annual lost taxable value due to the 70% wpt deduction	

Residential

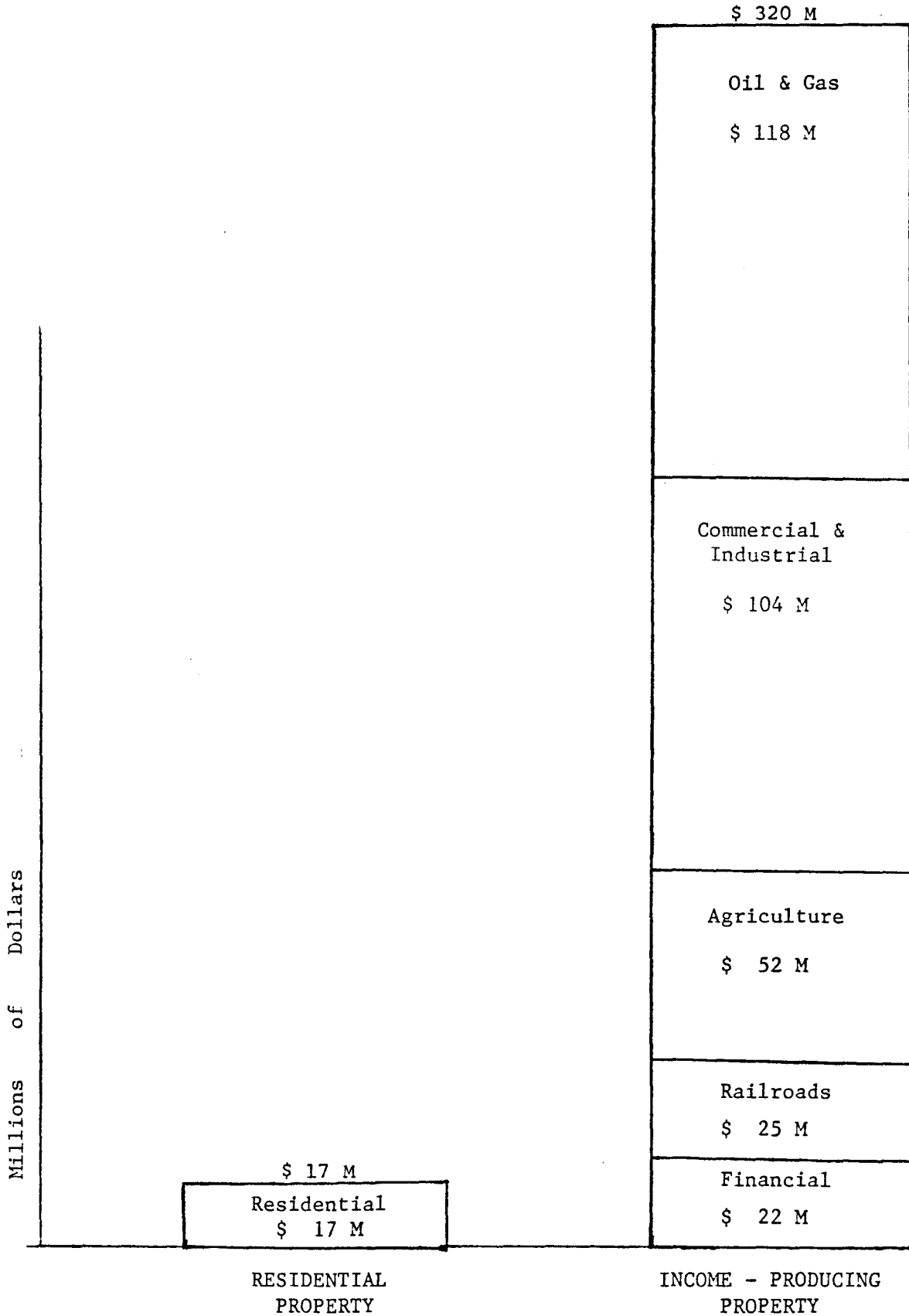
exemption of household goods	\$ 17,468,238
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TOTAL LOST PROPERTY TAX VALUATION 1973-1983	\$ 337,912,701
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Of the total tax base erosion only \$17,468,238 went to the residential owner. As the property tax base eroded, increased mill levies resulted to keep government services at the same level. The increased mill levies are very burdensome to those left in the tax base: those least organized and least able to hire lawyers and accountants - the residential owner. Further property tax erosion by special interests should be stopped and equity restored to the property tax base.

THE ERODING PROPERTY TAX BASE: WHO BENEFITS?

Annual Value of Major Property Tax Breaks Granted from 1973-1983



WITNESS STATEMENT

NAME Jim Mockler BILL NO. HB 804
ADDRESS 2301 Colonial Dr DATE _____
WHOM DO YOU REPRESENT? MT. Coal Council
SUPPORT _____ OPPOSE AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME Jawille Falla BILL NO. HB 804
ADDRESS Box 1730 Helena DATE 2/21/85
WHOM DO YOU REPRESENT? Montana Chamber
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



OFFICE OF THE CITY ATTORNEY

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

Exhibit 1
HB 841
2-21-85
Rep. Eudaily

February 21, 1985

85-87

House Local Government Members
Montana House of Representatives
Montana State Capitol
Capitol Station
Helena, Montana 59620

Re: Please kill House Bill 841 generally revising annexation laws

Dear House Local Government Members:

The purpose of this letter is to express to you the compelling and overwhelming opposition of the City of Missoula to Representative Ralph Eudaily's House Bill 841 "Generally Revising Montana's Annexation Laws." Please kill HB-841.

Since HB-841 inserts a reference to Section 7-2-4731, M.C.A. throughout the current statutory methods of annexation (except in the annexation of contiguous government land method), it also inserts a prohibition on the annexation of lands in a rural fire district into all those other statutory methods of annexation. Thus, it is important initially to discuss briefly the history of annexation laws in Montana in order for you to have an appreciation or understanding of how anti-city, how anti-sound urban planning, how anti-sound uniform urban development of essential governmental services HB-841 really is for cities and towns throughout Montana.

Twenty (20) years ago in the 1965 Montana Supreme Court case of Harrison v. City of Missoula, 146 M. 420, 407 P.2d 703 (1965), the Missoula Rural Fire District, through its officers, unsuccessfully attempted to contest a City of Missoula annexation by alleging that it was illegal to annex a part of the rural fire district into the City without first detracting the land from the rural fire district. However, their real concern was that the annexation would reduce the tax basis for the operation of the rural fire district and would destroy the financial structure of the rural fire district, supra at 705. The Montana Supreme Court in this 1965 case stated supra at pages 706 - 707 as follows:

"The appellants contend that the area or the boundaries of the district can only be changed or altered by compliance with the statutes. To so hold would in effect nullify the legislature's reason for annexation, for every municipality is surrounded by quasi-municipal corporations. The shift of population from rural to urban since 1940 is a matter of common knowledge. Montana within the past few years has become a state wherein more people live within incorporated cities and towns than reside in the country. The

House Local Government Members
February 21, 1985
Page Two

City of Missoula is one of the fastest growing cities in the state and one of its problems is the suburban areas. Most of the people who live in such areas earn their livelihood in the city. A large percentage of these people market and shop in the city, use the streets and facilities furnished by its public utilities and no one can question that the city is the hub of the commercial, civic and social life of these people. The very reason the legislature passed section 11-403, R.C.M. 1947, was to care for this situation. To hold otherwise would be to handcuff the orderly development of the city. (Emphasis supplied.)

However, the Missoula Rural Fire District was not to be denied in their efforts to "handcuff the orderly development of the city" of Missoula. They found a willing, and I would like to believe that it was an unwitting, ally in the 1974 Montana State Legislature who for all practical purposes eliminated the City of Missoula's ability to experience sound, well planned, orderly development of essential government services as well as eliminate the ability to experience sound, well planned, orderly development of its city limits when it enacted the grossly misnamed "Planned Community Development Act of 1973" (Title 7, Chapter 2, Part 47, M.C.A.), and included within that Act a provision prohibiting the annexation of an area of land that is within the boundary of any Rural Fire District organized for ten years under the provisions of Title 7, Chapter 33, Part 21 pertaining to Rural Fire Districts prior to the initiation of annexation.

Even though one of the Montana State Legislature's policy findings set forth in Section 7-2-4702, M.C.A. of the purported "Planned Community Development Act of 1973" found that ". . . in many cities there are those lying on the perimeter of the city not within the corporate boundaries of a city that are deriving many benefits from the city without paying their just and equal share for those services"; and further, even though the Montana State Legislature stated in Section 7-2-4703, M.C.A. that the purposes of the purported "Planned Community Development Act of 1973" included:

"7-2-4703. Purpose. It is the purpose of this part to develop a just and equitable system of adding to and increasing city boundaries for the state of Montana, which will develop the following firm policies:
(1) Sound urban development is essential to the continued economic development of this state, and any annexation prepared must be well planned in advance.

(2) Municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety, and welfare in areas being intensively used for residential, commercial, industrial, institutional, and governmental purposes, or in areas undergoing such development, and future annexations must consider these principles.

(3) Municipal boundaries should be extended in accordance with legislative standards applicable throughout the state to include such areas and to provide the high quality of governmental services needed for the public health, safety, and welfare.

(4) Areas annexed to municipalities in accordance with such uniform legislative standards should receive the services provided by the annexing municipality as soon as possible following annexation. (Emphasis supplied.)

The 1974 Montana State Legislature for all practical intents and purposes nullified the above-quoted purposes and legislative finding in the Act and thereby also eliminated any practical or feasible opportunity for the City of Missoula to experience sound, well planned, orderly development of its city limits or provision of its municipal services when it enacted as part of the purported Planned Community Development Act of 1973 the following provision which is set forth in Section 11-519(d), Revised Codes of Montana, 1947, now cited as 7-2-4734(4), M.C.A.

"(d) no part of the area (proposed for annexation) shall be included within the boundary, as existing at the inception of such attempted annexation, of any fire district organized under any of the provisions of chapter 20, Title 11, R.C.M. 1947, provided that such fire district was originally organized at least ten (10) years prior to the inception of such attempted annexation."

Ten years ago in Missoula Rural Fire District v. City of Missoula 540 P.2d 958, at 960 (1975) (a case involving the attempted annexation of densely developed urban residential neighborhoods contiguous to the city known as the Wapikiya-Bellvue area), the Montana Supreme Court interpreted the following section of the Planned Community Development Act as meaning that the Montana State Legislature intended that the express prohibition in the Act prohibiting a city from annexing any land in a rural fire district applied to all the types of annexation covered by the existing statutes.

"In so far as the provisions of this act are

inconsistent with the provisions of any other law, the provisions of this act shall be controlling. The method of annexation authorized by this act shall be construed as supplemental to and independent from other methods of annexation authorized by state law."

In response to the City of Missoula's contention in this Supreme Court case that it was being prevented from annexing lands within a rural fire district even when the property owners in that area desire such annexation, the Montana Supreme Court responded at page 961 by stating:

". . . This is true only as long as the land remains in the rural fire district. Section 11-2008, R.C.M. 1947 (now set forth in Sections 7-33-2122 and 7-33-2123, M.C.A. since recodification of Montana's laws in 1979), sets forth a procedure for withdrawing land from a rural fire district. Once the land is withdrawn annexation may proceed if the statutory annexation requirements are met. . . ." (Emphasis supplied.)

The Montana statutory procedures for detracting land from a rural fire district are set forth in Sections 7-33-2122 and 7-33-2123, M.C.A. as follows:

"7-33-2122. Petition for division --- hearing and notice. (1) When ever a petition in writing shall be made to the county commissioners, signed by the owners of 20% or more of the privately owned lands of an area proposed to be detracted from the original district who constitute 20% or more of the taxpayers who are freeholders within such proposed detracted area and whose names appear upon the last-completed assessment roll, the county commissioners shall, within 10 days from the receipt of such petition, give notice of the hearing of the petition by mailing a copy of the notice by first-class mail to each freeholder in the district at the address shown in the assessment roll and by causing a notice thereof to be posted, at least 10 days prior to the time appointed by them for the consideration of the petition, in at least three of the most public places within the proposed detracted area and also in at least three of the most public places within the remaining area.

(2) The petition for detracting shall describe the boundaries of the proposed detracted area and the boundaries of the remaining area.

(3) The county commissioners shall, on the day

fixed for hearing such petition (or on any legally postponed day), proceed to hear the petition.

"7-33-2123. Decision on petition for division --- protest. The petition shall be granted and the original districts shall thereupon be divided into separate districts unless at the time of the hearing on such petition protests shall be presented by the owners of 50% or more of the area of the privately owned lands included within the entire original district who constitute a majority of the taxpayers who are freeholders of the entire original district and whose names appear upon the last-completed assessment roll. If such required amount of protests are presented, the petition for division shall be disallowed." (Emphasis supplied.)

Pursuant to these sections of law, the county commissioners are expressly required to give mail notice of any proposal to detract land from the original fire district "to each freeholder in the district", and the county commissioners are further required to post a notice "in at least three of the most public places within the proposed detracted area and also in at least three of the most public places within the remaining area" of the original fire district. The Montana Supreme Court in the 1975 Rural Fire District case referred to above acknowledged, supra at 962 that the above-quoted statutory provisions required "the county commissioners, upon receipt of a petition for withdrawal from the requisite number of property owners, to give notice of the hearing on the petition by first class mail to each freeholder in the rural fire district."

The prohibition on the annexation of lands within a rural fire district is set forth in subsection 7-2-4734(4), M.C.A. The 1977 Montana State Legislature enacted the final sentence of this subsection which established a simple, direct procedure for a single-ownership piece of land to detract from a rural fire district without having to go through the statutory rural fire district detraction procedures set forth in sections 7-33-2122 and 7-33-2123, M.C.A. The final sentence of subsection 7-2-4734(4), M.C.A. which was enacted in 1977 states as follows: "However, a single ownership piece of land may be transferred from a fire district to a municipality by annexation as provided in 7-33-2127." Section 7-2-4734(4), M.C.A. currently provides in its entirety as follows:

"(4) No part of the area may be included within the boundary, as existing at the inception of such attempted annexation, of any fire district organized

under any of the provisions of part 21, chapter 33, if the fire district was originally organized at least 10 years prior to the inception of such attempted annexation. However, a single-ownership piece of land may be transferred from a fire district to a municipality by annexation as provided in 7-33-2127."

Pursuant to Section 7-33-2127, M.C.A., "whenever a person owns land adjacent to a city or town and wishes to have only that land annexed to the city or town, the land may be detracted" by 1) giving mail notice to the rural fire district of his intention to request annexation; 2) attaching a copy of the notice to the rural fire district to the request for annexation.

The Montana Supreme Court stated in the 1982 case of State ex rel. Hilands Golf Club v. Billings, 647 P.2d 345, 39 St.Rep. 1132 (1982) that ". . . the 1979 Montana Legislature recodified the confusing maze of eight statutory annexation procedures into six separate 'Parts' (Title 7, Ch. 2, Parts 42-47) and amended the Planned Community Development Act to provide that each of these eight methods of annexation is a separate and distinct procedure." Yet even though the 1979 Montana Legislature clarified that each of the eight methods of annexation is a separate and distinct procedure, the Montana State Legislative Council in a book prepared by it entitled, "Montana's Annexation Laws: An Evaluation, November 1980", concluded (based on a survey of 21 midwestern and western states in the United States to which 15 of those 21 states responded to the survey) that Montana's annexation procedures 1) stand on the more restrictive end of the scale, 2) are more complicated, 3) few states have protest provisions as favorable to affected property owners as does Montana, 4) "and significantly no other states had exclusions for industrial, manufacturing, smelting, etc. purposes, and 5) no other states protected special service districts, such as fire districts, as is done in Montana's statutes." This Montana State Legislative Council report states at pages 21-22 in the book "Montana's Annexation Laws: An Evaluation, November 1980" as follows:

"In reviewing the statutes and descriptions of annexation procedures submitted in response to the first question (Note: The first question was "What are your states's procedures for annexing property to municipalities?"), it appears that Montana stands somewhat on the more restrictive end of the scale. Montana's eight different statutes are also more complicated than other states' -- the notable exception being California with its 226-page procedures. Several states have different procedures for cities of various

sizes. Boundary review commissions of some kind are fairly common in the West.

"Few states have protest provisions as favorable to affected property owners as does Montana. And significantly, no other states had exclusions for industrial, manufacturing, smelting, etc. purposes. Agricultural exclusions were more common, however. No other states protected special service districts, such as fire districts, as is done in Montana statutes. Most states reported that protest provisions favoring property residents were viewed as a hindrance to needed annexation by cities, while in a few states, property owners felt they had little recourse in annexations affecting them." (Emphasis supplied.)

Montana's annexation laws are incredibly anti "sound urban development [which] is essential to the continued economic development of this state." This is one of the stated, purported purposes of the "Planned Community Development Act of 1973." See 7-2-4703(1), M.C.A. Further, another stated purpose of the "Planned Community Development Act of 1973" is that:

"Municipalities are created to provide the governmental services essential for sound urban development and for the protection of health, safety, and welfare in areas being intensively used for residential, commercial, industrial, institutional and governmental purposes or in areas undergoing such development, and future annexations must consider these principles."
(Emphasis supplied.) See 7-2-4703(2), M.C.A.

A city in Montana should be the hub or center of economic activity and development. However, Montana's annexation laws do not allow a city "to develop a just and equitable system of adding to and increasing city boundaries" in order to easily experience sound, well planned, orderly development of both its essential government services and its boundaries. Consequently, Montana's current annexation laws have several adverse impacts on economic growth. For example, if a business were interested in initiating a development and investment in a community and it needs and values essential government services for the reasonable development, growth and continuation of their business, they might be deterred from initiating that business venture if they learn that practically speaking annexation laws render the city incapable of sound, well planned, orderly development of either its essential services or its boundaries.

House Bill 841 is probably the most anti-city growth, anti-sound urban planning and anti-sound urban development of essential

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services that the Montana State Legislature has ever considered for the following reasons:

1. The insertion of the statutory cite, "7-2-4731(1), M.C.A. on line 17, page 1, as well as at several other locations in HB-841, reinserts the prohibition against the annexation of land within a rural fire district into every statutory method of annexation except Title 7, Chapter 2, Part 44 pertaining to the annexation of contiguous government land and Title 7, Chapter 2, Part 47 (The Planned Community Development Act of 1973), which already expressly has the provision in Section 7-2-4734(4), M.C.A. Section 7-2-4731(1)(b), M.C.A. expressly requires that the area being annexed meet the requirements of Section 7-2-4734, M.C.A. and subsection (4) of Section 7-2-4734 contains the prohibition on the annexation of lands that are in a rural fire district. Thus, pursuant to the insertion of the statutory cite "7-2-4731(1)" throughout HB-841, the prohibition on the annexation of lands within a rural fire district is reinserted in all but one method of annexation.

2. Pursuant to the insertion of the statutory cite "7-2-4731(1)" on line 23, page 6 of HB-841, not only is the prohibition on the annexation of lands within a rural fire district reinserted into the "Annexation by Petition" method pertaining to non-contiguous territories, but the insertion of the statutory reference to Section "7-2-4731" implicitly repeals and eliminates the "Annexation by Petition" annexation method for the reason that Section 7-2-4731(1)(b), M.C.A. expressly requires that the area being annexed meet the requirements of Section 7-2-4734, M.C.A. and subsection (1) of Section 7-2-4734, requires that the area to be "annexed must be contiguous to the municipality's boundaries at the time the annexation proceeding is begun;" which makes it impossible to annex non-contiguous territories that petition for annexation. An irreconcilable conflict in law is created.

3. Pursuant to the insertion of the statutory cite "7-2-4731(1)" throughout HB-841, a street will not be able to be used as a boundary for an annexation unless lands on both sides of the street are annexed, for the reason that Section 7-2-4731(1)(b), M.C.A. expressly requires that the area being annexed meet the requirements of Section 7-2-4735, M.C.A. and subsection (2) of Section 7-2-4735, M.C.A. expressly states that "In fixing new municipal boundaries a municipal governing body shall (2) if a street is used as a boundary, include within the municipality land on both sides of the street, with such boundary not extending more than 200 feet beyond the right-of-way of the street." (Note: It seems inaccurate for this subsection to initially state "if a street is used as a boundary" for the reason that technically, pursuant to the subsection a street

cannot be a boundary, for the reason the subsection requires that land on both sides of the street must be annexed. Thus, a street could not be a boundary.)

What is a city supposed to do if a) the land on the opposite side of the street from the land which the city intends to annex is land used for a purpose that is specially protected from annexation pursuant to Montana's annexation laws; b) the city is not yet prepared to extend some or all of its services to the lands on the opposite side of the street from the land it does intend to annex, i.e., a city sewer line is being extended down an alley rather than a street; c) the land on the opposite side of the street from the planned annexation is undeveloped, etc.?

4. The insertion in Section 7-2-4312, M.C.A. (see lines 24-25, page 1 and line 1 of page 2 of HB-841), pertaining to the method of annexation of contiguous lands of the sentence "The notice must contain accurate statistics on how many resident freeholders are in the area to be annexed" creates a statutory requirement that is both impractical and impossible to comply with when large densely developed residential neighborhoods contiguous to the city limits are being considered for annexation.

Initially, it should be noted that there is no organization or entity that keeps continuously accurate statistics as to whether each house in all residential areas in a community or neighborhood is occupied by a resident freeholder or a tenant. During previous annexation hearings before you this session there have been many references to the Wapikiya-Belvue area in Missoula, which is a densely developed residential area that contains approximately one thousand twenty-five plus (1,025 +) single family houses, many of which are rented to tenants rather than resided in by the freeholder owner.

Even if the city attempted to go door to door in the Wapikiya-Belvue area in an effort to determine the current accurate resident freeholder count pursuant to the proposed provision in HB-841, by the time the city finally made contact with every single household in the area (after probably having had to make several attempts at some households), the statistical survey would probably already be inaccurate, for the reason that at least one household previously contacted elsewhere within the area will have changed its status.

5. The new provision in Section 7-2-4732, M.C.A. on page 8, lines 6 through 10, requires that the annexation plan must have a statement detailing how the area to be annexed will be equitably represented in the municipal government by elections

that will occur within one year of the effective date of annexation. Since Section 7-2-4731, M.C.A. which is inserted throughout HB-841 pertains to the plan and report for extension of services that is required pursuant to Section 7-2-4732, M.C.A., this notice of a new election within one year provision in 7-2-4732, M.C.A. would become a part of all the statutory methods of annexation, except in the case where contiguous government land or a contiguous "single ownership" piece of land is annexed.

City and town elections are held every two (2) years. City elected officials generally serve four year terms with the terms of city council members within the same ward staggered. However, pursuant to this new proposed provision, every time a city or town annexed an area other than those noted above, the city would have to conduct a city election within one year after the annexation. Thus, pursuant to this proposal in HB-841, if a city or town annexed any residential dwelling unit in late November, 1985, or any other time shortly after this years statutorily regularly scheduled 1985 city elections in early November, the city would have to conduct another city election within one year of December 1985 in order to ensure equitable representation to the area annexed, even though the terms of elected city officials would not expire for several months or years.

Not only is this proposed provision in direct conflict with Montana's election laws applicable to cities and towns, but it is costly, inefficient, and absolutely absurd and nonsensical to be continually requiring a new city election within one year every time a new area is annexed to the city. Further, the proposed provision does not indicate whether it is limited to city council members, or if it also applies to the mayor, city treasurer, and city judge as well. Further, are all city council members throughout the city, no matter what the remaining length of their term, required to go through election again? The proposed provision doesn't specify an answer to this question either.

6. HB-841 on page 6, lines 7 through 9 and line 2 inserts a right of resident freeholder protest into the "Annexation of Wholly Surrounded Land" method of annexation whenever the land that is wholly surrounded by city limits is more than ten (10) acres in size. This proposed provision would clearly encourage and allow large islands of unannexed land to exist within a city. Further, it is interesting to note that the area that is larger than ten (10) acres and wholly surrounded by city limits might have a very small minority of resident freeholders even though several hundred people reside within the area if the area has a lot of apartments, four-plexes, duplexes, or even single family dwelling units that are rented instead of owner occupied residences. However, a majority of the resident

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freeholders, even though they are a small minority of the total number of residents, could kill an annexation proposal by protesting.

During this legislative session, annexation opponents have used two (2) superficial decoys to distract or decoy State Legislators from the real core issues concerning annexation. These two decoy issues are 1) protest, and 2) the city should make a sales pitch to unincorporated areas. While on their face these issues might appear to be of significant substantive merit, upon analysis it is evident that the protest issue is merely a convenient, superficial, somewhat misleading issue that can be focused on by annexation opponents to oppose annexation while distracting State Legislators from the real issues. Further, upon analysis it is evident that the ability of the City of Missoula to sell itself is unrealistic and impractical based on current state laws and based on the facts that the Missoula Rural Fire District opposes the City of Missoula annexing any contiguous lands except the Wheeler Village mobile home complex; and further, the Rural Fire District works diligently and strenuously to generate opposition to annexation in order to preserve their boundaries and their tax base at their status quo. They primarily do this by focusing on the significant property tax increase that would necessarily occur upon annexation to the city as a result of the state laws that cause double taxation to exist for city property owners.

The protest issue really primarily boils down to the opportunity to say "no" to the tax increase that necessarily accompanies annexation. If the right of protest is the concern of State Legislators, WELL WHAT ABOUT THE RIGHT OF CITY TAXPAYERS TO PROTEST THE ADDITIONAL TAX BURDENS CAUSED BY DENSELY POPULATED URBAN RESIDENTIAL NEIGHBORHOODS THAT ARE IMMEDIATELY ADJACENT OR CONTIGUOUS TO A CITY'S LIMITS?

Allowing resident freeholders and/or freeholders the opportunity to vote against annexation is the equivalent of allowing them to vote against the property tax increase that necessarily accompanies annexation. Allowing this vote is akin to the State Legislature allowing a) the coal industry the sole authority to determine by vote of their membership whether there should be a coal tax increase or whether there should even be a coal tax; b) the gas and oil industry the sole authority to determine by vote of their membership whether there should be a gas or motor fuel tax increase or whether there should even be a gas or motor fuel tax; c) liquor license holders to determine by vote of their membership whether there should be increases in alcohol taxes or even be alcohol taxes; d) cigarette sellers or manufacturers to determine whether there should be an increase in the cigarette tax or even be a cigarette tax. How often has the State Legislature allowed Montana's citizens and/or

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corporations to vote on whether there should be an income tax or approve the state budget?

THE PUBLIC INTEREST IN SOUND URBAN DEVELOPMENT, EFFICIENT AND ECONOMICAL ESSENTIAL GOVERNMENT SERVICES AND FAIRPLAY REQUIRES THAT THERE BE A POINT IN ANNEXATION LAW WHEN CONTIGUOUS, HIGHLY DEVELOPED AND POPULATED RESIDENTIAL NEIGHBORHOODS CAN BE ANNEXED TO A CITY WITHOUT A PROTEST IF CITY SERVICES ARE AVAILABLE TO THE AREA.

Motor vehicle traffic volume counts inside the City of Missoula are at levels twice what national statistics indicate they should be. Liquor license holders such as bars, night clubs and restaurants obviously exist and cater to a densely populated residential urban fringe adjacent to the city --- yet beer and wine tax monies intended for the regulation of liquor licenses and drunks are distributed based on city population. Past surveys have shown that nearly 50% of the usage of some city parks and of motorists involved in motor vehicle accidents within the city are non-city residents, etc.

Common sense makes it obvious that the aforementioned factors are going to create additional burdens on the city budget. For example, double the national average in motor vehicle traffic volumes means more traffic to monitor for traffic violations, more accident investigation and less time for investigating crime unless the police force is increased in size; further, there is double the use and wear on many main street arteries. Not only are these populations closely adjacent to the City limits not paying property taxes, but they also are depriving the City of Missoula of significant amounts of revenue from other revenue sources that are expressly intended to be used for addressing the burdens on services that are identified in the preceding paragraph. The following sources of revenue have as either a sole factor or a primary factor in their respective revenue distribution formula, the population inside a city's limits: 1) Gas and motor fuel tax funds pursuant to Section 15-70-101(1)(b), M.C.A. (note number of miles of streets and alleys within the local government jurisdiction is the other factor within this formula); 2) Block grant funds pursuant to Section 7-6-307, M.C.A.; 3) Beer tax proceeds pursuant to Section 16-1-410, M.C.A.; 4) Wine tax proceeds pursuant to Section 16-1-411, M.C.A.; and 5) Federal revenue sharing monies. Many of these earmarked funds are intended to assist in the provision of the types of governmental services (i.e., roads and alcohol regulation) for which the City of Missoula experiences extra burdens. However, because these revenue distribution formulas have population within the City as the sole or primary factor, the City of Missoula does not receive these monies in a volume

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commensurate with the population and use burdens placed on its City services and budget.

7. The decoy rhetoric of annexation opponents that the City of Missoula should make an effort to sell itself to the unincorporated, densely populated urban residential masses next to the City limits is likewise a convenient decoy for distracting State Legislators from the real core issues concerning annexation. The Missoula Rural Fire District is so vehemently and strongly opposed to City annexation of lands within their rural fire district that they are always working feverishly and diligently to both fuel and fan the flames of protest against city annexation. One common thread that has been predominant throughout the Missoula Rural Fire District's testimony at this year's State Legislative hearings on annexation has been, "don't do anything that might adversely impact the Missoula Rural Fire District's tax base, revenues or boundaries".

The Missoula Rural Fire District will always be able to generate opposition to annexation for several reasons; the primary reason being the fact that pursuant to the existing double taxation of city properties allowed by state law by taxing for county services that essentially are not provided to a city, there is always a property tax increase that accompanies annexation to the city. With property tax increases serving as a ready made focal point for rallying opposition, the Missoula Rural Fire District will always be able to easily generate a significant amount of protest to annexation. Additional reasons why the Missoula Rural Fire District generally opposes annexation include personal monetary concerns of the Missoula Rural Fire District such as: a) The loss of their current statutory exemption from the county road tax pursuant to Section 7-33-2314(1), M.C.A. pertaining to fire protection in unincorporated areas; b) The possible loss of opportunity to become vested or further vested in the Rural Fire Fighter Retirement Pay Program; c) Possible adverse impact on the Missoula Rural Fire District's tax base, revenues and boundaries.

The City of Missoula has attempted to previously sell itself to the Wapikiya-Belvue area residents. There are approximately 1,025 + single family residential homes in this area. Saturday, February 16, 1985, Dave Wilcox, Missoula Mayor John Toole's Administrative Assistant, while testifying on HB-642, informed you that approximately four (4) years ago there were neighborhood meetings with Wapikiya-Belvue area homeowners regarding their hooking on to the City sewer with the effective date of annexation delayed for five (5) years. (Note, the Wapikiya-Belvue area has a lot of clay soils which contribute to the failure of several individual septic systems each year.) Further, during the fall

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of 1984 the City made another effort and sent a three (3) page letter (see attached exhibit #1) to every property owner outlining the benefits or advantages of annexation to the City. Members of the Missoula Rural Fire District and the Wapikiya Homeowners Association immediately put together and circulated a four (4) page "Annexation Alert Letter" in opposition to the City of Missoula's proposed annexation of the Wapikiya-Belvue area (see attached exhibit #2). The City of Missoula then sent a second letter to each property owner in response to the "Annexation Alert Letter" (see attached exhibit #3). Attached as exhibit #4 please find a copy of a letter from a resident of the Wapikiya area who took the time to refute point by point the "Annexation Alert Letter" that was circulated in opposition to annexation.

Finally, attached as exhibit #5 is a copy of a page from the November 19, 1984 Missoula City Council minutes indicating the response that Mr. Jim Loftus, member of the Missoula Rural Fire District Board of Trustees, made when asked by Missoula City Council member Fred Rice if there was any area Mr. Loftus felt he would favor the City annexing. Mr. Loftus' reply was that "at times I'd be willing to give you the old Wheeler trailer park" which is a lower-middle income mobile home village containing several hundred mobile homes.

Clearly, it is impractical and unrealistic to believe that the City of Missoula will be able to sell itself to the densely populated residential urban fringe areas abutting the City of Missoula. However, it serves as an effective decoy for distracting State Legislators from the real core issues concerning annexation in Montana.

Thus, it is that the seventh point I would like to make in opposition to HB-841 is that I want you, as State Legislators, to recognize that the expansion of the twenty (20) day time period to thirty (30) days throughout HB-841 is calculated to give opponents to annexation, such as the Missoula Rural Fire District, more time to incite and arouse opposition to a proposed annexation primarily by focusing on and rallying around the property tax increase that inevitably accompanies annexation.

8. Alec Hansen, Executive Director of the Montana League of Cities and Towns, hit the nail solidly on the head Saturday, February 16, 1985, while testifying on HB-642 when he stated that the deck was stacked against cities. Previous Montana State Legislatures have greatly stacked the deck of Montana State law against cities through the enactment of laws that:

a. Cause double taxation of city property owners by taxing city properties for county services that they essentially do not receive;

b. Prohibit the annexation of lands within a rural fire district pursuant to 7-2-4734(4), M.C.A.;

c. Allow densely populated residential urban neighborhoods adjacent and contiguous to a city to protest annexation. For example, see Section 7-2-4314, M.C.A.;

d. Provide a tax exemption from the county road tax for some fire fighters providing fire protection in unincorporated areas;

e. In the words of the independent and neutral Montana State Legislative Council that 1) make Montana's annexation laws stand on the more restrictive end of the scale; 2) are more complicated; 3) result in few states having protest provisions as favorable to affected property owners as does Montana; 4) cause Montana to be the only state of those surveyed to provide exclusions for industrial, manufacturing, smelting, etc. purposes; and 5) cause Montana to be the only state of those surveyed in the midwestern and western states to protect special service districts such as rural fire districts. See pages 21-22 of "Montana's Annexation Laws: An Evaluation, November 1980."

f. Allow a quasi-municipal corporation providing a single public service to have the power, influence and ability to completely obstruct and prevent sound urban development by a municipality and to deprive literally thousands of people of essential and/or improved government services.

The Montana State Legislature authorized the creation of municipalities "to provide the governmental services essential for sound urban development and for the protection of health, safety, and welfare in areas being intensely used for residential, commercial, industrial, institutional, and governmental purposes, or in areas undergoing such development." (Emphasis supplied.) See Section 7-2-4703, M.C.A. Since a city is the hub or center of economic activity for a geographical region, it is imperative that a city be able to reasonably and easily experience sound, well planned, orderly development of both its essential government services and its boundaries.

There can be no doubt that the sound urban development of cities and towns is essential to, and contributes significantly to, the development of sound economic health for the State of Montana. Cities and towns were originally intended to be and should be partners with state government in the provision of governmental services essential for the sound economic development of the State of Montana. However, the State of Montana through its state legislature currently treats Montana's cities and towns as if they were enemies or unwanted children. For example, recall the conclusions of the Montana State Legislative Council in its 1980 annexation evaluation. If cities and towns are

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obstructed or prevented from experiencing sound urban development, the development of sound economic health for the State of Montana is significantly impaired.

IT IS TIME FOR THE MONTANA STATE LEGISLATURE TO RECOGNIZE THAT LAWS ENACTED BY PREVIOUS MONTANA LEGISLATURES ARE WHAT CAUSE THE CITY OF MISSOULA'S CURRENT ANNEXATION PROBLEMS TO EXIST.

The Montana State Legislature has provided rural fire districts with the mechanism, power and ability to jealously guard and protect their boundaries to the point of obstruction and prevention of sound urban municipal development of essential government services and boundaries. Sound urban development cannot occur as long as a provider of a single public service is able to jealously guard and protect its boundaries as if it were an empire, thereby obstructing and preventing sound urban development and growth.

Rural fire districts were not originally intended, nor are they now intended, to provide fire protection service to densely developed and populated residential neighborhoods immediately adjacent or contiguous to a first class city. The word "rural" is defined in Black's Law Dictionary, Fifth Edition, at page 1197 as meaning "CONCERNING THE COUNTRY, AS OPPOSED TO URBAN (CONCERNING THE CITY)".

At least 16 to 20 thousand people reside in residential neighborhoods adjacent to the City of Missoula that have a density of at least four dwellings per acre, including public streets, sidewalks and right-of-ways. The Missoula Rural Fire District has twenty-five (25) full time employees and eighty-nine (89) volunteers. The Missoula Rural Fire District has become solidly entrenched in intensely, highly developed urban areas adjacent and contiguous to the city, and has thereby become so dependent on those properties for property tax revenues that there can be no doubt that they will always oppose any significant-sized municipal annexation effort under consideration by the city.

IT IS TIME FOR THE MONTANA STATE LEGISLATURE TO CLEARLY DEFINE THEIR INTENT WITH RESPECT TO THE ROLE OF RURAL FIRE DISTRICTS IN THE AREAS ADJACENT AND CONTIGUOUS TO FIRST CLASS CITIES AS WELL AS OTHER CITIES AND COME TO THE AID OF SOUND URBAN AND ECONOMIC DEVELOPMENT THROUGHOUT THE STATE OF MONTANA.

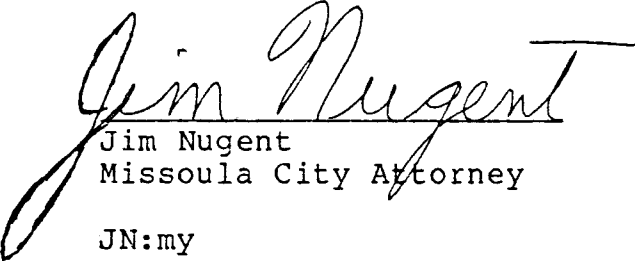
Not only is "The Planned Community Development Act of 1973" grossly misnamed primarily as a result of its provisions prohibiting annexation of rural fire district lands and its allowance of protests to withdrawal from the rural fire district as well as to annexation; and not only is the Missoula Rural Fire District misnamed since its boundaries include an extremely large and

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significant amount of highly developed urban residential neighborhoods that are adjacent and contiguous to the City of Missoula; but HB-841 is misnamed as well. The title to HB-841 should, in all seriousness, be "The Empire Strikes Back", since it is calculated to make annexation of other than a contiguous single ownership property by the City of Missoula literally impossible instead of practically impossible.

I urge you to kill HB-841. More importantly, I urge you to come to the community of Missoula this coming weekend and personally observe that the residential areas the City of Missoula rightfully believes should be annexed to the City of Missoula are as densely populated and developed as the residential neighborhoods that are adjacent and contiguous to the Montana State Capitol complex in Helena, Montana. Time is rapidly running out for this legislative session to move toward bringing Montana's annexation laws into step with the second half of the twentieth century.

Yours truly,



Jim Nugent
Missoula City Attorney

JN:my

Attachments

cc: John Toole, Missoula City Mayor
Missoula City Council
Alec Hansen, Executive Director, Montana League of Cities
and Towns



CITY COUNCIL

201 W. SPRUCE • MISSOULA, MT 59802 • 406/221-4700

November 5, 1984

Dear Wapikiya/Bellevue Area Freeholder:

At its November 5, 1984, meeting, the Missoula City Council passed and adopted a Resolution of Intention to annex the platted tracts or parcels of land contiguous to the City of Missoula limits commonly known as the Wapikiya/Bellevue area. Missoula County public records identify you as either an owner or purchaser under contract for deed of property in the Wapikiya/Bellevue area that is embraced within the territory to be annexed. This resolution of intention to annex was duly and regularly passed and adopted pursuant to Section 7-2-4312 M.C.A. which authorizes such action by the City Council when in the judgment of the City Council, it will be to the best interest of the City of Missoula and to the best interest of inhabitants of any contiguous platted tracts or parcels of land, such as the Wapikiya/Bellevue area, that the boundaries of the City of Missoula be extended to include this territory within the corporate limits of the City of Missoula.

In the judgment of the Missoula City Council this proposed annexation of your property will be in your best interests and to your benefit for the following reasons:

1. City of Missoula police officer emergency response time as well as response time to non-emergency citizen calls or reports should generally be quicker than response time now provided by the Missoula County Sheriff's Office deputies, who must also be available and able to respond to calls in a large geographical area in Missoula County outside of the Missoula City limits.
2. The City of Missoula has a City fire station at 1501 39th Street at the intersection of Russell and 39th Streets. Response time by the City Fire Department with full-time firefighters should generally be under three minutes to any part of the Wapikiya/Bellevue area. This should mean quicker response than the fire and emergency medical response service you presently receive.
3. Wapikiya/Bellevue area residents should receive greatly improved service for street cleaning and sanding as well as snow removal. City sanding occurs whenever weather conditions dictate its necessity. City street crews work three (3) shifts during winter months and are available to sand or plow twenty-four (24) hours a day. Missoula County crews have bridge and road maintenance responsibilities in an extremely large geographical area outside of the Missoula City limits as well as outside the Wapikiya/Bellevue area. County crews are not available twenty-four (24) hours a day.

EXHIBIT #1

4. Paxson and 39th Streets, as well as 23rd Avenue, would be placed on the City of Missoula's priority route system and would be among the first streets sanded and plowed by the City of Missoula.
5. Wapikiya/Bellevue area streets needing improvements would be incorporated into the City's street reconstruction capital improvement program.
6. Qualified resident electors of the Wapikiya/Bellevue area would be able to vote in the 1985 City primary and general elections held in September and November, 1985.
7. Qualified resident electors would be eligible to run for City offices, such as judge, treasurer, mayor and city council during the 1985 elections.
8. It is common knowledge that the Wapikiya/Bellevue area has experienced numerous septic system failures. Pursuant to annexation the City of Missoula waste water treatment plant will be available and able to serve your area.
9. Pursuant to annexation Wapikiya/Bellevue area property owners will be eligible to connect to the City sewer system and a special improvement district can be created for the extension of sewer lines to service any or all properties in the Wapikiya/Bellevue area.
10. After annexation, you will no longer be assessed County Road Tax and Rural Fire Tax, nor any other taxes levied by the County outside City limits. If you own a house in Wapikiya/Bellevue and pay a \$1,000 tax bill, you would receive the general service benefits shown as items 1 through 8 above, for approximately \$15.30 per month.
11. All existing City of Missoula property taxpayers will bear the burden of the entire amount of general property tax costs for providing general City services to the Wapikiya/Bellevue area until at least next fiscal year's (Fiscal Year 1986) taxes are collected in November 1985. There will be no retroactive application or collection of property taxes from Wapikiya/Bellevue area properties for the current fiscal year and therefore City of Missoula services would be provided to Wapikiya/Bellevue area properties free of general property tax costs for at least the remainder of this current fiscal year.

The published notice of this Resolution of Intention to Annex the Wapikiya/Bellevue area has been scheduled to appear in the Missoulian on November 7, 11, 14 and 18, 1984. Pursuant to Montana State law, the Missoula City Clerk will receive, for twenty (20) days after the first publication notice stated above, expressions, in writing, of approval or disapproval of this proposed extension of the boundaries of the City of Missoula from freeholders of

#1

Page Three
Wapikiya/Bellevue Area Freeholder
November 5, 1984

the territory proposed to be embraced within the Missoula City limits. If you wish to express either written approval or disapproval concerning this proposed annexation, please send your written expression of approval or disapproval to the Missoula City Clerk, Missoula City Hall, 201 West Spruce Street, Missoula, Montana 59802. Pursuant to Montana State law, all written protest must be received by the City Clerk within twenty (20) days after the first publication of notice identified herein. Therefore, all written disapprovals to this proposed annexation must be received by the Missoula City Clerk by 5:00 p.m., November 27, 1984. Your written statement should include the address of your legal residence and should identify the real property in the Wapikiya/Bellevue area that you have an ownership interest in. The City Clerk is required by State law to lay all written communications of approval or disapproval before the City Council at its next regular meeting after the November 27, 1984, deadline for receiving written approvals or disapprovals.

The Missoula City Council believes that this proposed annexation is of significant benefit to you and is in the best interests of the inhabitants of the Wapikiya/Bellevue area as well as the City of Missoula, The City of Missoula looks forward to serving you.

Sincerely,

Larry McLaughlin, Chairman
Plat, Annexation and Zoning Committee
City Council of Missoula

Mike Young
Finance Officer-City Clerk
City of Missoula

LM:MY:cw

#1

ANNEXATION ALERT

Dear Resident Property Owner:

As you are probably aware, the city of Missoula plans to annex the area in which you live within a few days. Annexation will result in a significant increase in taxes and will place an especially heavy burden on low income people, single parents and elderly persons on fixed incomes. It will also result in increased government regulations as city ordinances are applied to our area. Be sure to attend the public hearing on the Wapikiya/Bellevue annexation Monday, November 19, 1984 at 7:30 p.m. in City Hall.

If you are opposed to annexation, you can help to stop it with a little effort on your part. If we can get a majority of the resident property owners in the area to be annexed to sign a form protesting annexation, it will be stopped. You will find such a form attached. Please be sure that it is signed by all resident property owners at your address. It cannot be signed by renters or property owners not residing in the premises to be annexed.

There will be someone by your house on Sunday, November 11th between 10:00 a.m. and 10:00 p.m. Please have your protest signed and ready to go by then. If you cannot be at home, place it in your storm door and someone will pick it up. If you are a renter, leave a note on your door saying you are, so we will not have to stop at your house again. If you cannot get the protest filled out in time either mail it or take it in person to Sheila Palmer, 133 Saranac Drive. This will allow us to keep track of who has protested annexation. From there the protest will be turned into the city clerk.

We will also have petition carriers circulating in the area, getting signatures, but our numbers are very limited and we have over 1,000 households to cover in only 20 days. The deadline for submission of protests is 5 p.m. Tuesday, November 27. Please take the initiative and act now. We cannot succeed without your help. If you wish to carry a petition on your street or streets near you, please contact one of the following people: Lois Harris 251-2111, Jeff Stevens 251-3420, Janet Flanders 251-4133, Mary Gies 251-2009, Nancy Kumpf 251-3330, Sheila Palmer 251-2868, Christy Skold 251-4771, Sharon Price 543-4787.

PROTEST AGAINST ANNEXATION

I/We, being legal resident freeholders in the Wapikiya/Bellevue area, do officially disapprove city Resolution of Intent No. 4418, which has been published in the Missoulian and which calls for the annexation of said area into the City of Missoula.

PRINTED NAME

SIGNATURE

LEGAL OWNERSHIP AND
RESIDENCE ADDRESS IN
WAPIKIYA/BELLEVUE AREA

EXHIBIT #2

RECEIVED
11/9/84

RESPONSE TO CITY OF MISSOULA LETTER OF INTENT TO ANNEX - November 5, 1984

The "benefits" as enumerated by the City of Missoula in its letter dated November 5, 1984, are not quite as beneficial to homeowners within the area to be annexed, as a quick reading might indicate. The items are responded to in matching numerical sequence.

1. The response time of the Missoula County Sheriff's Office in emergency and non-emergency calls is as adequate as that which the City of Missoula Police Department can provide. Due to the continued and expanding cooperation of the police and sheriff's departments, we are likely to be served by either department at the present time, depending on their availability and proximity at the time a citizen's call for help is received. We applaud and encourage such cooperation in meeting the needs of the citizens of city and county.
2. The response time of the City Fire Department to the Wapikiya/ Bellevue area is "guesstimated" by the city to be under three minutes. The actual response time of the Rural Fire Department is presently under four minutes. A difference of one minute for most calls is negligible. But the big difference is in the response teams. The City Fire Department responds with from two to seven firefighters. The Rural Fire Department responds with from ten to twenty firefighters. Who is better able to protect your family and property? In addition, the Rural Fire Department has over fifty trained medical emergency personnel to serve its constituency. The city cannot begin to provide the services we now receive from the Rural Fire Department.
3. During the past three years snow removal and sanding services provided by Missoula County to the Wapikiya/Bellevue area have improved over services provided before that time.
4. Why would we give up sanding and plowing throughout our area so that three streets can be plowed? Most of us do not live on Paxson, 39th Street or 23rd Avenue. Therefore we would definitely not be better off to have these three streets plowed, then wait an indefinite period to have our other streets plowed. Let's continue to have all of our streets serviced as in the past.
5. If our Wapikiya/Bellevue streets are placed on the lengthy waiting list of the City of Missoula's street reconstruction capital improvement program, many of us will not live to see such improvements!

RECEIVED
11/9/84

- 6. If Wapikiya/BelleVue residents really cared to vote in city elections, they would purchase, rent or lease a city residence and move there in time to qualify to vote.
- 7. Those who wish to seek political office always place themselves in a position to do so. But, obviously, our residents are not rushing pell-mell into city residences in order to seek such dubious honors.
- 8. Wapikiya/BelleVue residents have experienced septic system failures. This is due to the fact that many developers of this area chose to save construction costs by installing the septic drain field above the underground clay deposits. Those who have replaced their systems by hiring knowledgeable persons who reconstruct their drain fields below the clay deposits, have had no repeat failures.
- 9. Beware of this apparent sewer system benefit, Wapikiya/BelleVue homeowners!
A little over two years ago, residents of the Wapikiya area explored the "per-household" costs of sewerage. Please take into account that the figures below are outdated and that present costs are appreciably higher with the exception of the City Sewer Fee:

Cost (per household) of the Special Improvement District (SID) required to begin construction of the main sewer lines down streets or alleys	\$ 2,900. However, over 15 years at 12% interest, the homeowner would actually pay \$ 5,600 in principal and interest.
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Cost (per household) for hook-ups from the main sewer line to the residence	\$ 2,700 to \$ 2,900 with each homeowner using his own funds or seeking personal loans to achieve such a hook-up.
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If a homeowner is financially unable to afford the hook-up to his residence, or he is unwilling to hook up, he will still pay his share of the SID regardless of the fact that his personal residence does not use the sewer facility. But should he decide to sell his residence, he would be required to hook up before his residence could be sold!

Sewer Service Fee	\$57 per year paid regardless of whether the residence is hooked into the sewer system or not!
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SEWERING IS NOT A FREE SERVICE OFFERED BY THE CITY. IT IS A VERY EXPENSIVE PROPOSITION FOR EVERY HOMEOWNER IN THE AREA.

Once within the Missoula City Limits, the city may withhold extending its sewer services for as long as it likes. But whenever it says that the area is to be sewerage (or needs street improvements or sidewalks) residents of the area have no right to refuse the extension or cost of the sewerage or other improvements.

RECEIVED
11/9/84

10. The City of Missoula declares that taxes for police, fire protection, street repair, sanding and snow removal would be \$ 15.30 per month or \$ 183.60 per year. But this is only if your present tax bill is \$ 1,000. And if that \$1,000 is based on an assessment made quite a number of years ago, and your house is reassessed, your taxes will increase dramatically!
11. Since most of us have already ^{made} our county tax payments for this year, the city could not legally tax us again for the same or similar services. But don't be fooled; they are not giving us anything for free.

As you can see, the City of Missoula has no benefits for us — only for itself; i.e. a greater tax base. Our losses would be many:

- 1.) The greatest would be a loss of our right to determine how and when we spend our money for improvements to our neighborhoods.
- 2.) The loss of retired residents or single-parent families or residents on otherwise low or fixed incomes is assured. Most of these residents will be forced to move because they do not have any means by which to increase their incomes. Many persons bought in the Wapikiya/Bellevue area over twenty-five years ago planning to retire here. They are now retired and on fixed incomes. How can we sit quietly by while the hopes and dreams some of our neighbors have had for over twenty-five years are dashed? Where would these people go? How do they turn their backs on a quarter of a century and start over elsewhere, especially if they are in poor health?
- 3.) The other great loss would be financial for those of us who are able to remain.

OPPOSE ANEXATION !

For further information, please call one of the following people: Lois Harris, 251-2111; Jeff Stevens, 251-3420; Janet Flanders, 251-4133; Mary Gies, 251-2009; Nancy Kumpf, 251-3330; Sheila Palmer, 251-2868; Christy Skold, 251-4771; or Sharon Price, 543-4787.

#2

Dear Wapikiya/Bellevue Area Freeholder:

You have received information from the City and from residents of your area opposed to annexation. The information contained in this letter attempts to clarify some of the issues regarding annexation into the City.

First, it must be said that the City's decision to annex the Wapikiya/Bellevue area was made out of concern for public health, safety and welfare.

ANNEXATION WILL NOT FATTEN THE CITY'S COFFERS.

Second, the City can provide for the health, safety and welfare of our citizens by providing better services than those provided by the County. This is so because the City provides services to a small geographic area when compared to the large area outside the City to which the County must provide services. The cost per person (or household) is far less for more comprehensive service because as many people live in the smaller City area as live throughout the County outside the City.

That is why sewer service is feasible and available: imagine the cost of sewer service to developments of one acre lots. People living closer together throughout the City make it possible for the City to provide: quicker response by the police; faster fire and emergency aid response; more thorough street services including cleaning, snow removal, repair, and replacement.

Here are the facts presented in the same numerical sequence as the information you have already received from the City and from Lois Harris, et. al:

1. Response by the City Police Department will be quicker because we have patrol cars zoned north and south of the area; the area is virtually surrounded by the City proper. At the same time, the Sheriff must cover a vast area leading its patrols to areas far removed from Wapikiya/Bellevue, such as Lolo, Clinton, Frenchtown, etc.
2. A City fire station is located adjacent to the area proposed for annexation. Because of this, the Fire Department can serve the Wapikiya/Bellevue area better than the Rural Fire Department by cutting response time to fires and emergencies to under three minutes, and in much of the area to seconds. Contrast this with a four-minute response time by the Rural Fire Department.

The additional time seems minimal until you are faced with a raging fire consuming your belongings or a medical emergency for which time is a matter of life or death.

EXHIBIT #3

The question of better fire and emergency response is a matter of time and skill, not manpower. Would you prefer two to five emergency response professionals arriving within seconds or twenty volunteers arriving after four minutes?

Medical emergencies are better served by a small professional contingency and most residential fire responses (at least in the City) require only two to five firefighters, never ten to twenty.

3. Our congratulations to the County for improving snow removal and sanding services during the past three years. If you value the improvement, we believe you'll enjoy these services as they are supplied by the City.

The City also provides routine street cleaning services during the spring, summer and fall. This service affects the health of our children and elderly, and those with respiratory ailments by reducing particulates in the air we breathe. Extending this City service to your area will make your air cleaner, as well as the air breathed by all of our citizens.

4. All streets will be plowed of snow. Major routes -- 23rd Avenue, Paxson Street, and 39th Street, City and School bus routes, will be sanded and plowed first. This is done on a 24-hour basis so that all major routes are sanded and/or plowed before morning rush hour traffic. Following that, residential streets are plowed as time permits until completed or the next snowfall diverts the equipment back to the priority routes. Thus, your streets will be cleared of snow when you need them and there will be less chance of the snow turning to ice ruts which cannot be cleared. The County does not work 24-hour shifts and does not start sanding or plowing until 7:00 in the morning.
5. The City's residential street reconstruction program utilizes a 5-year plan. Priorities are based on condition of the pavement. Thirty-five to forty-five blocks are paved annually under this program. As a result, most of the streets under City jurisdiction are in good condition with those in poor condition slated for repavement in the next several years. Streets in the area to be annexed will be inspected and given a rating based on pavement condition. Poor streets will be plugged into the overall reconstruction schedule and repaved accordingly.
6. Missoula residents, whether living inside or outside City boundaries, are affected by City services and decisions. It is merely an assumption on our part that you would prefer to exercise a voice in those decisions.

#3

7. The most effective way to participate in your government's decision making is to seek office. It seems to us a major benefit of City residency is the ability to seek office or vote for the candidates who best represent your point of view.
- 8.9 The estimated cost of extending sewer mains and installing service laterals is \$3,000 for an average lot size of 10,000 square feet. The estimated cost for connecting the house to the service lateral is \$500 to \$1,500 depending on whether the septic system is in front or in back of the house. The cost of the mains and laterals to the property line can be financed with a Special Improvement District. The rest of the service lateral hookup to the house must be paid directly by the property owner.

The cost of a septic tank installation is now about \$2,000 with the cost of a replacement system at about \$1,200 to \$1,400. The investment in a sewer is a permanent investment in a facility that has an expected life of over 50 years. A septic system may need replacement at least every 20 years and in some cases much more frequently, not to mention extensive damage to the yard each time.

A homeowner is not required by the City to hook to the sewer before he can sell his home. If a sewer is available, the Veteran's Administration may not grant a loan until the septic system is abandoned and the house is connected to the sewer.

The current sewer service fee is \$65 per year. All residences within 200 feet of an available sewer main pay this annual fee whether or not they are actually connected. This fee pays for the maintenance and replacement of sewer mains and plant and for operation of the sewer plant. It also retires bonds which financed the construction of some trunk sewer mains and excess capacity in the sewer plant constructed to meet future demands. This way when a septic system fails and the property is connected to the sewer, the new user has paid part of his share toward existing facilities.

Extension of sewers or construction of other improvements are usually done with SIDs. Just as in the County, these procedures have protest provisions for the property owners. Improvement projects are not normally considered unless interest is shown by a majority of the property owners. The only improvements which may be ordered in by the City Council, regardless of protest, are curbs, gutters and sidewalks.

#3

10. It is true, City taxes will go up to pay for City services by \$15.30 on a bill that is presently \$1,000. However, if your house is reappraised, it will be because all houses are reappraised: taxes will not increase accordingly. Besides, if it were true that reappraisal would increase your taxes, it would be just as true if you lived in the County.
11. As the recent handout from Lois Harris, et.al. stated, in the long run the City will not be giving you something for nothing. That would not be fair to other City residents and we're sure you don't expect it.

However, because of a quirk in the law, you will not pay City taxes for more than a year and a half after annexation. YOU WILL BE WILLINGLY SERVED BY THE CITY NEVERTHELESS.

Hopefully, with this and other information, you can see the benefits of being a City resident:

BETTER POLICE PROTECTION FOR A SAFER NEIGHBORHOOD; BETTER FIRE PROTECTION SHOULD YOU NEED IT, AND BETTER EMERGENCY RESPONSE IF YOU ARE SICK OR INJURED; SEWER SERVICE WHICH WILL COST YOU LESS IN THE LONG RUN AND INCREASE THE VALUE OF YOUR HOME; STREET CLEANING FOR HEALTHIER AIR TO BREATHE; BETTER STREET MAINTENANCE AND TIMELY RECONSTRUCTION FOR SAFER STREETS, CAUSING LESS WEAR ON YOUR AUTOMOBILES: PARTICIPATION IN CITY GOVERNMENT BY VOTING AND THROUGH REPRESENTATION, GIVING YOU A VOICE IN THE COMMUNITY IN WHICH YOU LIVE, WORK, TRAVEL, AND PLAY.

As for benefits to the City: while it is true that the City's tax base will increase, it is also true that City tax receipts will merely cover current and increased costs of providing services to the area.

The City benefits in other ways. Our concern is for the health, safety, and welfare of our citizens. The septic sewage problem in the Waiikiya/Bellevue area is a major public health concern which will not go away with time. It will become a more critical problem; we should address the problem now while the cost is manageable.

Air pollution is a major community problem. By cleaning streets in your area we can reduce air-borne dust in the whole community with the greatest impact in your area.

Our ability to provide emergency service to your area cannot be matched by the County. Our Fire Department can shave one to several minutes off the Rural Fire District's response to your fires, injuries and illnesses. Our Police

#3

Department, with patrols in your area, will be seconds from your doorstep when you call for help. You may only need some of those services once, but one emergency not answered quickly enough would convince you of our worth.


If you have already signed a petition opposing annexation, YOU MAY WITHDRAW YOUR NAME BY SIGNING THE ENCLOSED AFFIDAVIT and submitting it to the City Clerk by mail or in person. Please try to have your signature notarized.

Remember, we are here to serve you. We are confident that we can serve you well. If you have questions, please don't hesitate to call us.

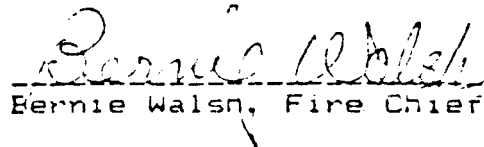
Sincerely,



Joe Alcegarie, Public Works Director



Doug Chase, Police Chief



Bernie Walsh, Fire Chief

(#3)

AFFIDAVIT WITHDRAWING SIGNATURE FROM PETITION

STATE OF MONTANA)
) ss.
County of Missoula)

I, _____, of _____
_____, being first duly sworn, do hereby affirm
that I am in fact the party herein identified, and state that
I did or may have signed a petition or other paper protesting
or disapproving the pending city annexation of the Wapikiva/
Bellevue area; and that I would like to withdraw my signature
of protest or disapproval from any petition or other paper
that I did or may have signed.

DATED this ____ day of _____, 1984.

(Signature)

SUBSCRIBED AND SWORN to before me this ____ day of _____, 1984.

(NOTARIAL SEAL)

Notary Public for the State of
Montana, Residing at Missoula
My Commission Expires _____

TO: Mayor John Toole
Missoula City Council

FROM: Bill Foust
#98 Arrowhead Drive
Missoula, Montana

RE: Proposed City Annexation
of Wapikiya/Bellevue Area

Dear Mayor Toole:

As a resident/homeowner in the Wapikiya area I wish to express my opinion as to the proposed annexation of the area.

First off, as a homeowner in the area involved, I wish to state that I am in favor of the proposed annexation. It is my belief that to fight the annexation is merely a way to prolong it, as in reality it is inevitable, and from a tax payers standpoint, the SID costs would, in all probability, increase that much more as more time passes before this area is ultimately annexed anyway.

The two major problems of concern in this area are, of course, the sewer problem and the condition of the streets in the area. However, one has to realize that the two are directly related and are also accompanied by problems with deteriorating water lines through electrolosys in the area. As a result, in order to repair and replace these deteriorating systems, the streets have been torn up, which has, over the years resulted in the current poor condition of the streets.

Many households in this area are on their second or third sewage system at the present time and have no place to expand to put in a new system. Therefore, the sewer is most certainly needed in the area. Once the sewer is in and hook-ups are made and the streets repaired from the construction, it would also at that time alleviate the problem of the poor streets.

It is too bad that the current printed information from persons in the affected areas are so misleading. With regards to the circulated material from the organized faction against annexation, at this time, I would like to respond to the propaganda provided by number;

1 - The response time of the Sherriff's Office in emergency and non-emergency calls is most certainly not as adequate as that which the City of Missoula Police Department can provide, as the Sheriff's Department does, geographically speaking, have a much larger are to service and they are unable to field as many personnel on the street, especially during the critical hours to enable them to respond as quickly as the City Police Department does.

EXHIBIT #4

The printed material also states that people of these areas are likely to be served by either Department at the present time depending on their availability and proximity, at the time a citizen call for help is received. This may be encouraged, but it is most indeed a fallacy as the Missoula City Police Department does not and has not in the past done this as a practice unless there were extreme exigent circumstances with regards to a specific matter at that time.

2 - The response time of the Missoula City Fire Department is "guessimated" at under three minutes, while the Rural Department is presently under four minutes. They further state that this possible difference of one minute is negligible.

This is most certainly a fallacy. As one minute under the right conditions is most certainly not negligible and in the winter time the driving conditions alone most certainly expand the Rural Fire Departments response well above their less than four minutes response time. Also, this propaganda sheet does not explain to the homeowners of the proposed annexation areas, that the Rural Fire Department has an automatic aid response agreement with other Rural Fire Districts and the possibility most certainly exists that they could be called upon and not have the equipment readily available to respond with as it would be moved to a different rural station, under the automatic aid response system.

As far as how many fire fighters actually respond, the propaganda sheet states the City send from two to seven and the Rural sends from ten to twenty. This also is most certainly a fallacy, as the Rural does not keep from ten to twenty fire fighters on shift at each fire station. Further, I would much rather have the City Fire Department respond with from two to seven men and equipment than risk the possibility of the Rural having men to send but not having the equipment as it may not be immediately available under their automatic aid program. As far as the actual number of trained medical personnel provided to serve the people, the actual number of the Rural trained personnel versus the actual number of trained City personnel doesn't mean anything. As far as providing an immediate service, I would much rather have two trained men with equipment respond from the City than have twenty men from the Rural Department respond to tell me their equipment is in Lolo because of the automatic aid program they have instituted.

3 - The snow removal and sanding service provided have not improved. During the past three years as is stated in the letter, there were none three years ago and there are still none. I have yet to see a County snow plow in the Wapikiya area.

4 - There is nothing to give up as we do not have anything now. If the streets were sanded you could at least get up off of Arrowhead and onto 39th Street without having to back up and get a run at it or sit there spinning tires to get onto 39th. Futher more, if the streets were sanded, the residents in the area would not have the vehicle traffic through their front yards that they now experience.

#4

5 - As far as any waiting lists to be put on for improvements, the list is only as long as the residents want it. As all it takes is a 25% signature on petitions for the SID served on the City and at that time the City has no choice but to come in and do the improvements.

6 - As far as where residents care to vote, I don't see where that is even an issue in this matter.

7 - As far as persons wishing to seek out political offices is concerned, this has nothing to do with the actual issue at hand, as that is a personal thing as far as what any individual wants to do politically.

8 - As far as the failures of septic systems in the area, it is strictly a geographical problem and moving the sewage drain problems below the clay barrier in the area is only going to create more problems in the future as it will eventually contaminate the water supply, then the area will probably be condemned by the Health Department and the property values will definitely decrease if that occurs. In all reality, the best way and the only way to solve the sewage problem is for the entire area to be hooked up to a central sewer system as the City can provide.

9 - The costs of the sewer system as stated are most certainly outdated as stated in the letter. However, they are not appreciably higher since the costs were explored which this shows to be misleading. Also, in the two year interim since this was explored, the actual percentage rates for the costs of bonds has decreased making the costs appreciably lower, instead, the information states the cost per household for the sewer SID would be \$2,900 over 15 yrs at 12%. This is indeed not true as the present cost would be \$1,00 over 12 years at 10% interest, which most certainly makes the total in principle and interest appreciably lower.

The cost per household for hook-ups also is gravely over stated. The letter states it would be between \$2,700 and \$2,900 for persons using their own funds. It is too bad that we have been deceived once again as the actual cost is around \$1,500.

As to whether or not an individual hooks-up to the sewer when it is put in is ones own prerogative and as to whether or not they hook-up when they sell their property, being on the sewer is an asset for the sale and nothing monetary is lost as that is taken up in the price of the property at the time of the sale.

The initial cost of the sewer is expensive, however, the City cannot withhold extending the service as is stated in the letter from the opposition. The City will have no choice but to put in the SID once a petition with 25% of the property owners signatures has been submitted, they must put it in.

10 - As far as the tax increase goes for Police, Fire, street repair, sanding and snow removal, it would in all probability go down some what as you would drop the large payment to the Rural Fire Department.



11 - This item is not really worth discussing. As the City knows they cannot legally tax us again for the same services. Further more, the City so stated this in their item eleven in their original letter.

In closing, I can only state that it is too bad that the party's opposed to annexation had to put out such incorrect and misleading information to the property owners of the affected areas. It is obvious that they merely reacted to the City's proposed annexation rather than really looking at the total picture and addressing their fight against annexation based on facts that can be substantiated. It is too bad that the opponents to annexation who put out the letter had to deceive the people involved and in all reality there is nothing to loose by annexation and like it or not, annexation of the proposed areas is inevitable, anyway, it is just a matter of time.

Respectfully submitted,

Bill Foust 11/16/89
Bill Foust



11-19-84
November 19, 1984 Missoula City Council
Minutes concerning public hearing on the
proposed Wapikiyah/Bellevue Annexation!!

to swim and they pay a charge for swimming in that pool. That charge is made for either City or County. Just us few, as you might say, or the people who live in the County who use the City streets, we spend our money in Missoula just the same as people from Thompson Falls, Polson or any other city use the City streets and their children use the parks, I do believe. Those are two or three reasons why I'm against the annexation of my property into the City of Missoula.

Jim Loftus, I'm on the Board of Trustees of the Missoula Rural Fire District. I have a short statement I'd like to read and I'll pass out letters. "The Missoula Rural Fire District would like to go on record as opposing annexation of Wapikiyah/Bellevue into the City of Missoula. Thank you for your input. Sincerely, Board of Trustees, Missoula Rural Fire District".

Alderman Sampson said, Jim, could you define rural for me?

Mr. Loftus said, that's a tough question. Rural can mean many things. Alderman Sampson said, do you feel that the area in question is rural? Mr. Loftus said, yes, it is. It's a form of the rural fire district. Areas are growing up around it since the district was formed. Other areas have come into it. Alderman Sampson said, other areas have come into it. That was the nucleus of the rural fire district, not the area around the Jefferson School? How much tax base do you have in the Wapikiyah/Bellevue area? Mr. Loftus said, approximately \$100,000. Alderman Sampson said, what is your total tax income? Mr. Loftus said, as I recall, it's approximately one-tenth of our budget. Alderman Sampson said, how big a percentage of the area does that represent? Mr. Loftus said, I don't know that. I've never figured that out. We have approximately 84 square miles. Percentage-wise it's probably small. Alderman Sampson said, this would probably be 3%. 5%? In effect though, the Wapikiyah/Bellevue area is subsidizing the rest of your rural fire district? Mr. Loftus said, no, not necessarily. Alderman Sampson said, you're getting one-tenth of your income from an area that is probably 3% to 5% of the total area. Mr. Loftus said, if you go that way, we have one taxpayer within the rural fire district who is probably paying a good 5%, just one corporation. Alderman Sampson said, that's Champion International out at Bonner.

Alderman Rice said, following up on Al's question, Jim, is there any area that is in Missoula County that you would favor the City annexing? Is there any part of the area that's either immediately in the vicinity of Missoula that you think the City should annex, either because it has inadequate fire protection or because it's clearly an area that has a sizable population that really isn't a rural area? Can you think of any area like that?

Mr. Loftus said, at times I'd be willing to give you the old wheeler trailer park.

Alderman Sampson said, can we take it then that if we annex that, you will not object to that?

Alderman McLaughlin said, Jim, did you read the Missoulian on Sunday from the lady on 43rd that had the comment about the fire across the street from her house?

Mr. Loftus said, I believe it said she was in our area. I checked into that response time. The Missoulian said 17 minutes. If the call is correct which we think it is, because she never gave an address, the time was less than 7 minutes. There was a delay because the call came in, if this is the one I'm thinking about, as 43rd. There's a 43rd Avenue and a 43rd Street. The people responding checked to see which was the right address because one is way out on South Avenue and the other is 43rd Street which is off of 39th Street. If they had gone to 43rd Avenue, it would have been a lot longer response time. I'm sure the City Fire Department and every fire department in the

Exhibit #5

Exhibit 1
HB 865
2-21-8
Rep. Hanna

50-60-106

GENERAL WAIVER

For valuable consideration, the undersigned being all of the owners of the hereinafter described property, do hereby waive the right to protest the formation of one or more special improvement district or districts for the construction of streets, curbs and gutters, sidewalks, driveways, street name signs, streetlights, waterlines, sanitary sewer lines, storm sewer lines either within or without the area to provide drainage for runoff water for the property hereinafter described and other improvement which are required by the city of Billings.

This waiver is in agreement, is independent of all other agreements and is supported by sufficient independent consideration to which the undersigned are parties and shall run with the land and shall be binding upon the undersigned, their successor and assigns, and the same shall be recorded in the office of the county clerk and recorder of Yellowstone, Montana.

The property hereinabove mentioned is more particularly described as follows, to-wit:

(Legal description)

Dated this _____ of January, 1985.

Signees:

(NOTARY)

Exhibit 2
HB 865
2-21-85
Rep. Hannah

WITNESS STATEMENT

NAME Mary Vant Hull BILL NO. HB 865
ADDRESS 416 E. Story, Bozeman DATE 2/21/85
WHOM DO YOU REPRESENT? City Commission, Bozeman
SUPPORT _____ OPPOSE X AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

This bill would tend to stop development entirely. Surely no developers really want this, but that is its effect because it would make us lose a long-term funding mechanism (SID) that we cannot allow development without having.

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 393

DATE Feb. 21, 1985

SPONSOR Rep. Waldron

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Tom Wysocki	City of Bozeman	X	
Jim VanArsdale	City of Billings	X	
Mary Van Hull	City Commission, Bozeman	X	
Ray Foster	City of Billings	X	
Al Johnson	City of Great Falls	X	
Paul Cahoon	Moala Co. Truck driver		X
Franklin	Great Falls	X	
Greg Jackson	Urban Coalition	X	
Lonnie Funk	MIKA		X
James Brown	Clawson		X
Jerry Jones	Great Falls Hotel/Motel		✓
Robert Dwyer	Great Falls		✓
Loyne Tweed	Gr. Falls		✓
Jim Tweed	Gr. Falls		✓
Al Simpson	City of Moala	X	
Janelle Fallon	Helena		X
Robert Williams	Butte		X
Agne Phi	Butte		✓
Dorothy Dugdale	Butte		X

IF YOU CARE TO WRITE COMMENTS ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED

STATEMENT WITH SECRETARY.

Make Young
South Western

Missouri
Great Falls

JOHN GAZZANO

Imperial 400 HOTEL

X

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 804

DATE Feb. 21, 1985

SPONSOR Rep. Addy

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Barner Bertelsen	Overland, MT	✓	
Jim Wysocki	City of Bozeman	X	
Cal Dunbar	Town of West Yellowstone	X	
Russ A. Holman	" " "	X	
Bob JACKLIN	WEST YELLOWSTONE MT	X	
Walter Herman	WY MT.	X	
Beil Howe	West Yellowstone mt	X	
Kurt Wilhelm	West Yellowstone MT	X	
Robert Wren	" "	X	
Andie Withner	West Yellowstone	X	
Gary Schoer	West Yellowstone	X	
Jim Van Arsdale	City of Billings	X	
Mary Vant Hull	City Commission, Bozeman	X	
Ray Foster	City of Billings	X	
AD Jones	City of Great Falls	X	
Paul Fiken	" " "	X	
Over Jackson	Urban Commission	X	
Leard Caley	Bigfork	X	
Dennis Burn	Clanay		X
Loonie Funk	MTIA		X
Joune Tweed	St. Falls		X
Jerry Thomas	Yellowstone County	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Don Judge

MT STATE APH-CED

OVER
 AMEND

Jim Tuedt

Gr Falls

X

Janelle Fallon

Helena

X

Jim Mockler

"

X

Al Donohue

Gr Falls

X

Robert Campbell

Butte

+

Guy Gler

Butte

✓

Natty Dugdale

Butte

X

John Hosh

Helena

X

John Emery

Helena

X

Alan Elliott

Bigs

X

Gary Langly

Helena

X

Pat Underwood

Bozeman

Rolando Pratt

Helena

Mike Young

Missoula

X

John Casanova

Imperial 400 Hotel

X

X

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 841

DATE Feb. 21, 1985

SPONSOR Rep. Eudaily

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Julie Locker	Bonner & Mola	✓	
Ellen Imboden	Missoula mt	✓	
James G. Toffin	MISSOULA RURAL	✓	
Berne Imboden	Missoula	✓	
Kay Foster	Billings		✓
Jeff Stevens	Missoula	✓	
Don VanArsdale	Billings		✓
Kera Cahoon	Mola Co. Truholders	✓	
JIM Nugent	MISSOULA		✓
Al Sampson	miss		✓
V. Hicks	Mt State Firemen's Assoc		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 832

DATE Feb. 21, 1985

SPONSOR Rep. Kados

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Amendments to HB 832 (Kadas)

1. Title, line 7.

Following: "REPLACING"

Insert: "INDIVIDUAL"

2. Page 1, line 13.

Following: "1."

Insert: "Money in the revolving fund may not be derived from property taxes levied on property that is located within the corporate limits of any city or town."

3. Page 2, line 16.

Following: "system"

Insert: "located outside of the limits of a municipality"

4. Page 1, lines 21 through 24.

Following: "repairs"

Strike: the remainder of subsection (3) in its entirety

Insert: "."

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 883

DATE Feb. 21, 1985

SPONSOR Rep. Kadas

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. HB 894

DATE Feb. 21, 1985

SPONSOR Rep. Sands

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR
PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

CUT & PASTE WITH SUBCOMMITTEE
AMENDMENTS

1 HOUSE BILL NO. 277

2 INTRODUCED BY _____

3 BY REQUEST OF THE BOARD OF CRIME CONTROL

4

5 A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING COUNTIES TO
6 ESTABLISH AND FILL THE POSITION OF JAIL ADMINISTRATOR OR TO
7 ENTER INTO AGREEMENTS UNDER WHICH PRIVATE PARTIES WILL
8 BUILD, MAINTAIN, OR OPERATE JAILS; PROVIDING FOR FINANCING
9 OF JAILS ~~AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS~~
10 ~~FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING~~
11 ~~LIMITATIONS~~; AND AMENDING SECTIONS ~~7-7-2101, 7-7-2203,~~
12 ~~7-7-2221,~~ 7-32-2121, 7-32-2123, 7-32-2132, 7-32-2201,
13 7-32-2202, 7-32-2204 THROUGH 7-32-2207, 7-32-2209,
14 7-32-2212, 7-32-2221, AND 7-32-2222, MCA."

15

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

"NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 3] to allow regional or single county jails to be built by private industry and leased back to the participating county or counties for operation by the county or collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."

17 NEW SECTION. Section 2. County jails -- contracts
18 with private parties. (1) The term of an agreement under
19 7-32-2201 with a private party may not exceed 3 years.

20 (2) The agreement must include:

21 (a) detailed standards for the operation of the jail
22 and the incarceration of prisoners;

23 (b) a performance bond from the private party
24 acceptable to the county;

25 (c) a promise from the private party to indemnify the

1 county for any damages for which the county is found liable
2 as a result of the operation of the jail;

3 (d) a provision that the private party must purchase
4 liability insurance in an amount acceptable to the county;

5 (e) minimum standards for the training of jailers and
6 a provision that the private party will ensure such
7 training; and

8 (f) a provision that the county may immediately
9 terminate the contract for good cause.

10 (3) The provisions of Title 7 relating to bids for
11 county contracts and purchases do not apply to a contract
12 entered into under 7-32-2201 and this section.

13 NEW SECTION. Section ~~2~~³. Requests for contract
14 proposals. (1) A county seeking to enter into a contract
15 under 7-32-2201 and [section ~~2~~²] may publish a request for
16 proposals. The request for proposals must be published in a
17 newspaper of general circulation in the county once a week
18 for 3 successive weeks and must include information
19 concerning the type of jail services required.

20 (2) Requests for proposals must be sent to persons who
21 have previously requested that their names be placed on a
22 list of persons providing jail services. The Montana board
23 of crime control shall maintain a list of persons providing
24 jail services and furnish the list to a county upon request.

25 (3) In selecting a proposal and awarding a contract, a

1 county need not accept the proposal with the lowest cost.

2 (4) The county must base its selection on demonstrated
3 competence, knowledge and qualifications, the reasonableness
4 of the services proposed, and the reasonableness of the
5 proposed contract price for the jail services.

6 (5) A copy of all proposals must be kept available for
7 public inspection in the office of the county clerk and
8 recorder.

9 (6) The county must give specific reasons for its
10 selection of a proposal. The reasons must be recorded in the
11 minutes of the governing body of the county.

12 NEW SECTION. Section ~~3.~~⁴ Powers of jail administrators
13 and private party jailers. A jail administrator or a private
14 party acting as a jailer under an agreement, as provided for
15 in 7-32-2201(2), ~~and his assistant jailers have the powers~~
16 ~~and duties of sheriffs.~~

is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator, and corrections personnel employed under his authority, include control over prisoners:

17 (1) within the confines and grounds of the jail; and

18 (2) outside the jail confines and grounds while
19 transporting any prisoner or in the ^{hot} pursuit or apprehension
20 of any escapee.

~~21 Section 4. Section 7-7-2101, MCA, is amended to read:~~

22 "7-7-2101. Limitation on amount of county
23 indebtedness. (1) No county may become indebted in any
24 manner or for any purpose to an amount, including existing
25 indebtedness, in the aggregate exceeding 23% of the taxable

1 value of the property therein subject to taxation as
2 ascertained by the last assessment for state and county
3 taxes previous to the incurring of such indebtedness, except
4 that an additional indebtedness of up to 12.5% of the
5 taxable value of the property in the county subject to
6 taxation may be incurred for the construction or improvement
7 of a jail.

8 (2) No county may incur indebtedness or liability for
9 any single purpose, except for the construction or
10 improvement of a jail, to an amount exceeding \$150,000
11 without the approval of a majority of the electors thereof
12 voting at an election to be provided by law, except as
13 provided in 7-21-3413 and 7-21-3414."

14 Section 5. Section 7-7-2203, MCA, is amended to read:
15 "7-7-2203. Limitation on amount of bonded
16 indebtedness. (1) Except as provided in subsections (2) and
17 ~~(3)~~ through (4), no county may issue general obligation
18 bonds for any purpose which, with all outstanding bonds and
19 warrants except county high school bonds and emergency
20 bonds, will exceed 11.25% of the taxable value of the
21 property therein, to be ascertained by the last assessment
22 for state and county taxes prior to the proposed issuance of
23 bonds.

24 (2) A In addition to the bonds allowed by subsection
25 (1), a county may issue bonds which, with all outstanding

~~1 bonds-and-warrants,--will-exceed-11.25%-but will not exceed
2 37% 25.75% of the taxable value of ~~such--property~~ the
3 property in the county subject to taxation, when necessary
4 to do so, for the purpose of acquiring land for a site for
5 county high school buildings and for erecting or acquiring
6 buildings thereon and furnishing and equipping the same for
7 county high school purposes.~~

~~8 (3) In addition to the bonds allowed by subsections
9 (1) and (2), a county may issue bonds for the construction
10 or improvement of a jail, which will not exceed 12.5% of the
11 taxable value of the property in the county subject to
12 taxation.~~

~~13 ~~(3)~~(4) The foregoing limitation in subsection (1)
14 shall not apply to refunding bonds issued for the purpose of
15 paying or retiring county bonds lawfully issued prior to
16 January 1, 1932."~~

17 Section 6. Section 7-7-2221, MCA, is amended to read:

18 "7-7-2221. Issuance of certain general obligation
19 bonds without election. Bonds may be issued without
20 submitting the same to an election if the bonds are issued
21 for the purpose of:

22 (1) enabling a county to liquidate its indebtedness to
23 another county incident to the creation of a new county or
24 the changing of a county boundary line, as set forth in
25 7-7-2201(5); and

~~1 (2) funding, paying in full, or compromising,
2 settling, and satisfying any judgment which may have been
3 rendered against the county in a court of competent
4 jurisdiction, as set forth in 7-7-2202; and~~

~~5 (3) construction or improvement of a jail."~~

6 Section ~~7.5~~ Section 7-32-2121, MCA, is amended to read:

7 "7-32-2121. Duties of sheriff. The sheriff must:

8 (1) preserve the peace;

9 (2) arrest and take before the nearest magistrate for
10 examination all persons who attempt to commit or have
11 committed a public offense;

12 (3) prevent and suppress all affrays, breaches of the
13 peace, riots, and insurrections which may come to his
14 knowledge;

15 (4) perform the duties of a humane officer within the
16 county with reference to the protection of dumb animals;

17 (5) attend all courts, except municipal, justices',
18 and city courts, at their respective terms or sessions held
19 within the county and obey their lawful orders and
20 directions;

21 (6) command the aid of as many inhabitants of the
22 county as are necessary in the execution of the sheriff's
23 duties;

24 (7) take charge of and keep the county jail and the
25 prisoners therein, unless the jail is operated by a private

1 party under an agreement entered into under 7-32-2201 or by
2 a jail administrator;

3 (8) endorse upon all notices and process the year,
4 month, day, hour, and minute of reception and issue therefor
5 to the person delivering them, on payment of fees, a
6 certificate showing the names of the parties, the title of
7 the paper, and the time of reception;

8 (9) serve all process or notices in the manner
9 prescribed by law;

10 (10) certify in writing upon the process or notices the
11 manner and time of service or, if he fails to make service,
12 the reasons of this failure, and return the papers without
13 delay;

14 (11) take charge of and supervise search and rescue
15 units and their officers whenever search and rescue units
16 are called into service; and

17 (12) perform such other duties as are required by law."

18 Section 8. Section 7-32-2123, MCA, is amended to read:

19 "7-32-2123. Appointment of deputy sheriff to act as
20 jailer. The A sheriff who operates a county jail may appoint
21 two deputies in counties of the first, second, or third
22 class and one deputy in counties of the fourth, fifth,
23 sixth, or seventh class who shall act as jailer and receive
24 the same salary as other deputy sheriffs."

25 Section 9. Section 7-32-2132, MCA, is amended to read:

1 "7-32-2132. Liability for escape in civil actions. (1)
2 A sheriff, jail administrator, or private party jailer who
3 fails to prevent the escape or rescue of a person in his
4 custody arrested in a civil action without the consent or
5 connivance of the party in whose behalf the arrest or
6 imprisonment was made is liable as follows:

7 (a) When the arrest is upon an order to hold for bail
8 or upon a surrender in exoneration of bail before judgment,
9 the sheriff, jail administrator, or private party jailer is
10 liable to the plaintiff for the bail.

11 (b) When the arrest is on an execution or commitment
12 to enforce the payment of money, the sheriff, jail
13 administrator, or private party jailer is liable for the
14 amount expressed in the execution or commitment.

15 (c) When the arrest is on an execution or commitment
16 other than to enforce the payment of money, the sheriff,
17 jail administrator, or private party jailer is liable for
18 the actual damages sustained.

19 (2) Upon being sued for damages for an escape or
20 rescue of a person in his custody, the sheriff, jail
21 administrator, or private party jailer may introduce
22 evidence in mitigation or exculpation.

23 (3) An action may not be maintained against a sheriff,
24 jail administrator, or private party jailer for a rescue or
25 for an escape of a person arrested upon an execution or

1 commitment if, after his rescue or escape and before the
 2 commencement of the action, the prisoner returns to the jail
 3 or is retaken by the sheriff, jail administrator, or private
 4 party jailer."

5 Section 10. Section 7-32-2201, MCA, is amended to
 6 read:

7 "7-32-2201. County jail required. (1) A jail shall be
 8 built or provided and kept in good repair at the expense of
 9 the county in each county, except that whenever in the
 10 discretion of the commissioners of two or more counties it
 11 is necessary or desirable to build, provide, or utilize a
 12 common jail, they may do so in any city or town located
 13 within one of the counties so concerned. Such common jail
 14 shall be built or provided and kept in good repair at the
 15 expense of the counties concerned on a basis as the
 16 commissioners of the counties shall agree.

17 (2) A county, or two or more counties acting together,
 18 may provide for the jail required by subsection (1) by:

19 (a) establishing in the county government the position
 20 of jail administrator and, with the sheriff's concurrence,
 21 hiring a person, who is answerable to the governing body of
 22 the county, to fill the position; or ✓, with the concurrence of the
 Sheriffs of all participating
 counties,

23 (b) entering into an agreement ✓ with a private party
 24 under which the private party will provide, maintain, or
 25 operate the jail.

Remainder of bill is unchanged.

Amend HB 277 (Subcommittee amendments)

1. Title, lines 9 and 10.

Strike: "AND EXEMPTING CONSTRUCTION OR IMPROVEMENT OF JAILS FROM CERTAIN REQUIREMENTS ON BONDING AND OTHER SPENDING"

2. Title, line 11.

Strike: "LIMITATIONS"

Strike: "7-7-2101, 7-7-2203"

3. Title, line 12.

Strike: "7-7-2221"

4. Page 1.

Following: line 16.

Insert: "NEW SECTION. Section 1. Purpose. It is the purpose of [sections 1 through 3] to allow regional or single county jails to be built by private industry and leased back to the participating county or counties for operation by the county or collectively by participating counties, or by a private entity with the concurrence of the sheriff or sheriffs involved."

Renumber: subsequent sections

5. Page 2, line 15.

Following: "section"

Strike: "1"

Insert: "2"

6. Page 3, lines 15 and 16.

Strike: "and his assistant jailers have the powers and duties of sheriffs"

Insert: "is responsible for the immediate management and control of the jail subject to general policies and programs established pursuant to the agreement provided for in 7-32-2201(2) and any applicable interlocal agreement. The powers of such an administrator, and corrections personnel employed under his authority, include control over prisoners:"

7. Page 3, line 19.

Following: "the"

Insert: "hot"

8. Page 3, line 21 through line 5 of page 6.

Strike: sections 4 through 6 in their entirety

Renumber: subsequent sections

9. Page 9, line 23.

Following: "agreement"

Insert: ", with the concurrence of the sheriffs of all participating counties,"

Proposed Amendments to House Bill 616

1. Page 2, line 15.
Following: "municipality"
Insert: ", the board of county commissioners in the case of a county"
2. Page 2, line 21.
Following: "municipality"
Insert: ", a county"
3. Page 5, lines 7 and 8.
Following: "of" on line 7
Strike: "the property owners' business and"
4. Page 6, Line 23 through line 15 on page 7.
Following: "Section 11" on line 23 on page 6
Strike: the remainder of lines 23 on page 6 through line 15 on page 7
Insert: "The governing body shall assess the entire cost of the district against the entire district, each lot or parcel of land and improvements within the district to be assessed for that part of the whole cost which its assessed value bears to the assessed value of the entire district, exclusive of streets, alleys, and public places."
5. Page 6, lines 19 through line 3 on page 8.
Strike: Section 13 in its entirety
6. Page 8, line 11.
Following: line 11
Insert: "Section 14. The governing body may not approve the annual budget or work plan submitted to it by the board unless the annual budget and the work plan provide for liability insurance coverage insuring the district, the board, and the local government against legal liability for personal injury and property damage in an amount determined sufficient for that purpose by the governing body."