

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON TAXATION**

**Call to Order:** By DAN HARRINGTON, CHAIR, on March 13, 1991, at 9:00 a.m.

#### **ROLL CALL**

##### **Members Present:**

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

**Staff Present:** Lee Heiman, Legislative Council  
Lois O'Connor, Committee Secretary

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

#### **HEARING ON SB 69**

##### **Presentation and Opening Statement by Sponsor:**

**SEN. ECK, Senate District 40, Bozeman,** stated SB 69 was requested by the DOR. The bill speaks to subdivided parcels of land larger than 20 acres; and clarifies that if they are not used for agriculture, they are prohibited from being classified as agricultural land. It states that if you have land that is burdened by easements or divisions, and agriculture is prohibited on the land even though it is larger than 20 acres, it can not be classified as agricultural.



This does not mean a change in the taxable value because there is some land that is unusable, and it is assumed that the DOR will classify these land on their market value.

**Proponents' Testimony:**

Denis Adams, DOR, said current statute prohibits land, that has been subdivided into parcel smaller than 20 acres, that has restrictions that prohibits its uses as agricultural land from being pasture agricultural land.

There was a tract of land where the parcels were larger than 20 acres. DOR went in and said that it had to be assessed upon its use which was residential. The property owner took them to court and the DOR lost on a technicality. The judge said that a subdivision tract has to be 20 acres or less in size. SB 69 states that a person can have a tract larger than 20 acres, but if its use is prohibited by deed restrictions for use as agriculture land, then it can not get the low agricultural tax break.

**Opponents' Testimony:**

Tom Hopgood, Montana Association of Realtors, stated that they agree that real property should be taxed as to how it is being used and at the fair market value. SB 69 does more than close the loophole stated by Denis Adams, and he asked the committee to proceed with caution when examining the bill.

The situation that they are concerned with is where the land is undeveloped. It appears that there is the possibility that the undeveloped land would be classed as commercial or residential property prior to it actual use.

**Questions From Committee Members:** None

**Closing by Sponsor:**

SEN. ECK stated that a number of years ago when they dealt with the issue of classification of agricultural land, it was the farm groups that wanted them to carefully distinguish between what is truly agricultural and what wasn't. Some of these classifications need further definitions.

REP. COHEN told the committee and the interested parties in SB 69 that this very issue had been discussed in the property tax subcommittee. That is why the committee didn't have more questions. He assured them that there are new faces that are being well informed on this problem.



HEARING ON HB 781Presentation and Opening Statement by Sponsor:

REP. KIMBERLEY, House District 90, Billings, stated HB 781 has been introduced at the request of the DHES. This bill is designed to accomplish two goals: (1) to provide a statutory authority for the DHES to develop an operating system and maintaining primacy for issuing air quality permits to regulating industries in Montana. In order to receive delegation for federal permitting regulations, the DHES has to develop an operating permit program and submit it to the EPA prior to 1993. (2) to provide financial resources through a statement of permit fees. This would allow the state air program to grow and meet the requirements of the Federal Clean Air Act. The fees from regulated industries will support both the maintenance and the expansion of the state's air quality permitting program.

Meeting these two goal through the passage of HB 781 is crucial to maintaining a viable state air quality program. This would allow the state to offer a one time state air permit to those industries that would have to obtain both a state and federal permit.

REP. KIMBERLEY submitted two amendments. EXHIBIT 1,2  
He stated the first amendment would set minimum fee levels from departmental activities and to carry out the rule making process. The second amendment is necessary to authorize DHES to implement the special studies.

Proponents' Testimony:

Jeff Chaffee, DHES, gave a background on the need for HB 781. He said that the passage of the Federal Clean Air Acts Amendments usher in a new era in the field of air pollution regulations. One of the major titles in the federal acts is Title 5 which requires all states to develop a program of operating permits for all major air pollution sources. HB 781 gives the statutory authority to the DHES to meet that federal mandate. It also provides financial resources for the air quality program, and permit fees to be levied against the sources permitted in the state to support the development of the operating permit program and the maintenance of the permitting program in the state. He provided written testimony. EXHIBIT 3,4,

Kay Blehm, Yellowstone Valley Citizens' Council, provided written testimony. EXHIBIT 5

Kris Knutson, Environmental Protection Agency, provided written testimony. EXHIBIT 6



Jim Jensen, Montana Environmental Information Center, stated that they believe that polluters should pay for the pollution that they generate. The Clean Air Act Amendments of 1990 move clearly in that direction. HB 781 introduces inappropriately low fees, but with the amendments, the bill is acceptable. There is one thing that the committee can become easily confused about in this debate. That is that the fees authorized under federal law are per pollutant not per source. He urged the committee's support with the sponsor amendments.

Mary Westwood, Montana Sulphur and Chemical Company, provided written testimony. EXHIBIT 7

Dexter Busby, Montana Refinery Company, provided written testimony. EXHIBIT 8

Opponents' Testimony:

John Alke, Montana & Dakota Utilities, said that his opposition to HB 781 is technical. They supported all the concepts of HB 781 except one which is the mechanics that the DHES has chosen for implementation. They believe that this bill goes far beyond the described need to strive for primacy.

Our state Clean Air Act is much broader than the federal act. He used MDU as an example. Mr. Alke stated that MDU has a generating station in Sidney that is a coal-fired generating station. It is clearly within the boundaries of the Clean Air Act. They have a state permit for the station and will have to obtain a new permit under the 1990 Clean Air Act Amendments.

There is also a mine associated with the station which they also have a permit for. The mine is not and may never be a federally regulated source. This question remains to be determined by the EPA. If you consider HB 781, there are many sources that the state regulates which are not within the preview of the federal act. There is, therefore, a critical policy decision which the state faces. That is should the very stringent mandate of the federal act be applied to the non-federal sources which the state of Montana regulates.

The federal act mandate states that for a federally regulated source, the state must issue a permit which can not be longer than five years in duration. Every major source will have to be re-permitted every five years. Montana permits are on a one-time basis. Montana will have to permit no less frequently than five years to obtain primacy under the federal act. This is not the case with non-federal sources.

Mr. Alke went on to say that HB 781 vests in the Board of Health and Environmental Sciences a fundamental decision as to whether federal mandate should be applied to a non-federal source. If the Legislature passes this bill into law, it will not be the



Legislature that makes this policy, it will be the administrative board. This is their objection to HB 781. It sets up a procedure whereby the board makes the fundamental policy consideration. They believe that the Legislature should make that consideration.

They have no problem supporting a fee mechanism whereby the departments entire costs of preparing the state permitting program be born by the permit fee. He prepared a substitute bill that does this. **EXHIBIT 9**

HB 781 empowers the board and the department to levy an annual fee that will support the costs of preparing a state implementation plan. The bill does not, however, address the fundamental policy consideration that the state will eventually have to make: will the federal mandate be applied to the non-federal sources? He feels that the Legislature should set up the funding they need to have primacies pay the entire cost of putting the program together, but reserve until 1993 the critical consideration of whether you are going to apply the federal mandates to the non-federal sources. He urged the committee to support his substitute bill instead of the DHES's bill.

**John Fitzpatrick, Pegasus Gold Corporation**, opposed HB 781 and asked the committee to look very seriously at the substitute bill introduced by **John Alke**.

HB 781 is not a simple bill from the state to implement a federal law. It goes beyond the Federal Clean Air Act. The issue that **Mr. Alke** raised with respect to state permits and federal sources is very valid. Most of the mining operation in the state are not likely to be considered federal sources. Yet, we are going to be asked to pay fees to implement a bill that is directed at federal sources. We will have our permits process jeopardized by this legislation.

**Mr. Fitzpatrick's** second objection to HB 781 is that it earmarks the revenues. The problem with earmarked revenues is that you get into a situation where the expenditures side of the business drives the equation rather than the revenue side. You end up with a situation where the agency is not asking "what can we afford" but rather "what do we want".

We went out and asked the people of Lewis and Clark County "what they thought was the major source of air pollution?" Eighty seven percent answered wood smoke. Industrial pollution came in at less than 10%. Yet, when asked what measures should be taken to correct the problem, 50% of the people responded to shut down Asarco. This is very typical of American society. The problem is always us but the solution is always them. HB 871 perpetuates that hypocrisy.

He believes that the things causing pollution should pay for the pollution, but something should be passed that includes all



polluters. You never see these types of bills because it means that everyone will have to ante-up. You never see the environmental community, who rants and raves about pollution and want industry to put its money on the table, introduce a bill that will tax the agricultural community or the wood smoke. HB 781 should be enlarged to include these people.

**Mr. Fitzpatrick** stated that his major objection to the bill is that the DHES is proposing to cancel air quality permits. We believe these permits should stay in force unless there is a demonstrable problem that requires the DHES to modify the permits. He stated that Pegasus Gold has a \$100 million investment in Jefferson County, a \$40 million investment in Silver-Bow County, and a \$50 million investment in Phillips County. All of these investments are placed in jeopardy because the DHES is saying the air quality permit can be canceled. Prudent people do not make multimillion dollar investments in an unstable business environment. That is what this particular clause does. It says your permit is canceled and you can reapply. Reapplying for a permit is an expensive and a time consuming process and it is subject to delay. It is not a simple process to go through. You are jeopardizing people's jobs and business by subjecting them to unneeded permit requirements.

**Jim Mockler, Montana Coal Council**, stated that he endorsed **Mr. Alke's** bill. He stated that they are not subject under the Title 5 of the Clean Air Act. We are willing to come under this and pay our permit fee and alleviate the problems of the DHES.

They are not willing, however, to yield that our permits should become up for renewal at expirations, and he questions why they should want all stationary source permits to come up for renewal in this very short time period.

**Ken Williams, Entech**, endorsed the substitute bill. He pointed out that they have both federal and non-federal sources and they extension of the permitting authority to run federal sources concerns them greatly. He supports the state's desire to get primacy and they have no problems with the funding mechanisms proposed on the permitting fees. He asked that the committee consider that the permit requirements, that are ultimately established and left up to be decided by the Board of Health, have earlier time frames that are contemplated in the federal act do not come into this.

**Jan Cool, Exxon Company, USA**, supports the DHES's objectives to obtain primacy. We do share the concerns regarding the timing and scope of the air quality permit program. She asked the committee to consider the substitute bill.

**Rex Manual, Cenex Petroleum Division**, went on record in support of the substitute bill by **Mr. Alke**.



**Jim Aarons, Montana Hospital Association,** stated his concern. The hospitals of the state are in the business of making people healthy. A bill has been adopted that no longer allows infectious waste to go into land fills. In 1993, hospital infectious waste can be destroyed only by incineration or sterilization. What is the financial impact going to be on our industry? They have no problem paying a reasonable fee. If it becomes very large, they will have a problem.

**Don Allen, Montana Wood Products Association,** stated that they have had discussions with the DHES about their concerns. The emissions problem from the mills are already regulated sources and will continue to be. The problem is in the intention that the DHES has expressed to bring into the fee system that which is a voluntary program under the Montana State Airshed Group Smoke Management Program. The industry, along with the Forest Service, BIA, BLM, and State Lands, all participate in a controlled burn situation. We have asked the air quality people and State Lands to submit some ideas as to how we can reduce this overall situation because it varies from state to state. We think the whole situation needs to be reviewed. One of the concerns we have, in going so far at this time, is that it will preclude some of the things we would like to do. The association stood in support of the substitute bill.

**Steve Brown, NORANDA,** stated that if HB 781 were to pass as it is presently written, the five year automatic renewal of permits would apply to hospitals. This is a fundamental policy question that needs to be considered in that this bill would apply to all non-federal sources as well as federal sources. The question becomes what will happen in the renewal process. Do you want to revoke the hospital permit because its incinerator may be inadequate? He wanted to make sure the committee is aware that HB 781 is not talking about just state polluters.

We have no objection to the key portion of HB 781. They understand the intention of the Federal Clean Air Act and the desire to have major polluters pay a large share in the costs of these programs. The Legislature should not, however, lose sight of the fact that there is a philosophical issue for them to debate among themselves. If all present drove a car to the Capitol, we are all polluters. The original intent of funding these programs from the general fund was that all society would pay its share in funding these necessary programs to keep the air clean.

**Mr. Brown** stated further that he has a problem with immediate effective dates to collect the fees because how are you going to set the fees. There must be rules in place to define what the fees will be based on. The DHES gives some idea in the fiscal note as to how it intends to collect those fees. The point is that these are not rules and they may not be final because the Board of Health will make the final decision. By eliminating the immediate effective date, you will not be creating any problems



and it will give the Health Department time to recommend it fee schedule to the Board of Health.

Questions From Committee Members:

**CHAIR HARRINGTON** stated that he would request that the DHES prepare a graybill, and it will be put into a subcommittee.

**REP. RANEY** asked **Jeff Chaffee** how he saw canceling all the permits and issuing renewals in the next two years time. **Mr. Chaffee** said that it is a very valid concern and the DHES has looked into the issue. He said that if the renewals all came in at once the Department would be overwhelmed. They have worked with the amendments to clarify the intent which is to work at staggering schedules over time to bring the regulated sources into the operating program. Our intent is to begin collecting fees in the next fiscal year after July 1 and not revoke all the permits until Title 5 of the Federal Act takes affect. **REP. RANEY** asked what is their rational in trying to take in the state sources not included in federal primacy before the next session of the Legislature. **Mr. Chaffee** responded that we believe that the regulated community should pay for the program. **REP. RANEY** said he understands that they don't intend to cancel permits that are in existence but asked if they were going to begin assessing them fees after they have established the rules or before. **Mr. Chaffee** said that they would plan to establish rules almost immediately and begin collecting fees in the next fiscal year.

**REP. ELLIOTT** said that he understand the fee would be levied only against people who have discharge permits currently. There are two lumber mills in Thompson Falls but the major source of air pollution is road dust in the winter by using unwashed gravel. He asked **Mr. Chaffee** if the DHES could charge a fee for this. **Mr. Chaffee** stated that the Department has some authority under the language of HB 781 to eventually bring in to various sources. At this point, it is not clear whether we would be able to charge a fee for road dust sources. **REP. ELLIOTT** asked if his opinion would extend sod farmers who burn off their fields every fall and the Forest Service who burns slash. **Mr. Chaffee** said that at this point the cut-off of their regulations basically requires the largest burners to get permits. Those are generally forestry slash burners in the state. They would be brought into the system at an appropriate time.

**REP. ELLIOTT** said that in the last session the Legislature dealt with concerns of underground storage tanks in order to head off an EPA regulation. We are also on the local level dealing with solid and hazardous waste in the landfills. Today, we are hearing about a program that will enable Montana to have primacy in clean air and if we don't then the EPA will come in and run it for us. He asked **Chris Knutson** if we are going to get federal money to pay for programs that come down from the federal government. **Ms. Knutson** said that she sympathized with his frustration and in terms of funding, they have a grant process.



She is not sure of what the provisions are. The Clean Air Act amendments envisioned that the fees would come from the Title 5 programs. EPA is not going to be providing additional funding for running the program. REP. ELLIOTT said that Montana industry is going to pay for it. Ms. Knutson said yes through the permit program in Montana.

REP. WANZENRIED asked Jeff Chaffee how many different types of pollutants are emitted from ARSCO and the volume in tonnage on an annual basis. Mr. Chaffee said the ASARCO smelter is the second largest source of sulphur oxide in the state. They emit between 25,000 and 30,000 tons per year or more. On a quantity basis, wood stoves in comparison are quite small. REP. WANZENRIED asked REP. KIMBERLEY to respond to the statement that as Chairman of the Appropriations Subcommittee on Natural Resource Agencies that earmarked revenue in the special revenue accounts tend to promote inefficiencies in terms of operating and budgeting. REP. KIMBERLEY said that it is an awfully difficult question. It is a gray area. You are able to accomplish certain things with earmarked revenues and denies flexibility in the other.

Closing by Sponsor:

REP. KIMBERLEY said that there are many reasons for passing HB 781 at this particular time. The statutory authority is in place that will allow us to meet the November 1993 deadline for submitting an operating permit procedures program. The key to the bill is continuing state primacy. The loss of the primacy will require that the EPA implement the program. He does not feel that the state wants to do that.

HEARING ON HB 793

Presentation and Opening Statement by Sponsor:

REP. M. HANSON, House District 100, Ashland, stated HB 793 as introduced would let the county commissioners have more flexibility in the way they distribute oil, gas, and coal gross proceeds taxes. She submitted amendments for the committee's consideration. EXHIBIT 10

Proponents' Testimony:

Mike Stephen, Montana Oil, Gas, and Coal Counties, stated HB 793 follows up on the distribution of local government severance taxes which are collected from oil, gas, and coal gross proceeds. Currently, the taxes are distributed to the counties based on a set mill levy for a particular year. When the money does come back to the counties, sometimes the distribution is made by the DOR and is not usable as far as the counties go. There are several funds that need the money and some that do not. HB 793 would allow the county commissioners to move the money from fund to fund as needed. He passed out testimony that showed the distribution to local governments and schools. EXHIBIT 11



Bernt Ward, Sheridan County Commissioner, stood in support HB 793.

William Duffield, Lobbyist, Fallan County, stated that it is not the intent of HB 793 to change the base year of the coal production. It is currently fiscal year 1989. HB 793 changes it to fiscal year 1990. There are other bills which are trying to solve the problem of distributing the taxes. These bills create more problems than they solve. HB 793 is simple in that it gives the county commissioner the authority to distribute the money from one account to another.

Don Reiger, Jallon County Commissioner, went on record in support of HB 793.

Opponents' Testimony: None

Questions From Committee Members:

REP. O'KEEFE said that HB 793 was the third bill that was heard which dealt with the redistribution of coal money. He asked REP. HANSON if she had talked to SEN. GAGE and REP. STEPLER about their bills and what they think might be the best compromise among the three. REP. HANSON said that she had not. HB 793 is allowing the county commissioners to have some flexibility to distribute the funds. She is not sure what the other bill do.

Closing by Sponsor:

REP. M. HANSON said that the amendments she proposed would take care of Mr. Duffield's concerns.

#### HEARING ON HB 877

Presentation and Opening Statement by Sponsor:

REP. REAM, House District 54, Missoula, stated that the last Legislature passed a bill creating a one mill economic development levy that was subject to the vote of the citizens in the local governments. That bill was vetoed during the regular session and came up again in the special session and was passed with a sunset date. HB 877 removes the sunset date.

REP. REAM said that Missoula County has had an active and good economic development corporation. They have been successful in bringing several small business to the Missoula area. A year ago the economic development levy did appear on the election ballot and was defeated. In spite of that, he thinks this is a good measure.



**Proponents' Testimony:**

**Ron Klaphake, Missoula Economic Development Corporation,** supported HB 877 and submitted a letter from Yellowstone County which supported this legislation. **EXHIBIT 12**

He stated that the cities involved in the economic development corporation support HB 877 because many small communities couldn't bring it to a vote in the time frame that they were permitted. Their are communities that might wish to pursue this and he think they should be given the option one more time if they wish to have it.

**Kay Foster, Billings Chamber of Commerce,** stated that this is one of the issues they would like to see continue.

**Gordon Morris, Montana Association of Counties,** stood in support of HB 877.

**Laurie Shadoan, Bozeman Chamber of Commerce,** stated that she was on the Gallatin Valley Corporation the year that the one mill levy was put to a vote. It was defeated 52% or 48%. They would like the opportunity to try it again.

**Opponents' Testimony:** None

**Questions From Committee Members:** None

**Closing by Sponsor:**

**REP. REAM** clarified that this does not eliminate the voter authorization of this levy. The language struck says that voter authorization had to occur prior to December 31, 1990. He feels it is good that the local voters have the ability to invoke this kind of levy.

**HEARING ON HB 878**

**Presentation and Opening Statement by Sponsor:**

**REP. O'KEEFE, House District 45, Helena,** stated HB 878 was not a very good idea. What it came from was the concern that the Department of State Lands was issuing leases to what he called tax thieves--people who refused to pay their state taxes in one form or another. He was informed by the Department and have been promised that he can get a letter that states the Department does indeed have the authority to collect the money in a number of different ways. He asked the committee to table HB 878

**Proponents' Testimony:** None

**Opponents' Testimony:** None



Questions From Committee Members: None

Closing by Sponsor: REP. O'KEEFE made no closing statement.

EXECUTIVE ACTION ON HB 877

Motion/Vote: REP. O'KEEFE MOVED HB 877 BE TABLED. Motion carried unanimously.

HEARING ON HB 883

Presentation and Opening Statement by Sponsor:

REP. DeBRUYCKER, House District 13, Floweree, stated there were a number of farm foreclosures in his area which is the main reason HB 883 is introduced. This bill revises the provisions relating to the prior tax lien on real property for taxes owed on personal property. Currently, if a property is foreclosed on and the taxes haven't been paid on the real property, the county can only come in \$1,000 worth of taxable value. HB 883 would raise that figure to \$10,000. It would help the counties and local school districts recover some of their money.

Proponents' Testimony:

Cort Harrington, Montana County Treasurers Association, stated HB 883 does three things: (1) it makes the sections readable; (2) it says if there is real property owned by the same taxpayer, that personal property tax is also a lien on the real property; (3) it requires a lien holder to file an annual notice. He urged the committee's support.

Susan Spurgeon, Fergus County Treasurer, stated HB 883 would address some problems that she has had to deal with in that lien holders who are foreclosing or who have received a tax deed notice will pay only the taxes due on real property. This problem arises when personal property taxes are attached to the state tax bill and how do we deal with the partial payments.

Montana law (15-16-102) state that the county treasurer will only except a tax payment equal to the delinquent taxes including penalty and interest for one taxable year. 15-16-402 addressed in HB 883 would allows the lien holder to pay only \$1,000 of taxable value of personal property on the real estate tax bill. The proposed change to allow \$10,000 of taxable value would eliminate the partial payment problem of most cases.

The annual notice addressed on Page 3, Line 7, would aid both the lien holders and counties to defray the possible delinquent tax problem. When the treasurer receives the annual notice, they could check the status of the taxes due. If their is a delinquent status this would eliminate a surprise for the lien holder when the tax lien process begins after the three years of



delinquent status. With personal property taxes billed separately, the delinquent collection process can begin 30 days after it is delinquent. When it is attached to real estate tax bill, you must wait 36 months. She urged the committee's support of HB 883.

John Witt, Chouteau County Commissioners, submitted a letter from the Lake County Treasurer and a table showing what would happen in Chouteau County if HB 883 were to pass. EXHIBIT 13,14

Opponents' Testimony: None

Questions From Committee Members:

REP. COHEN asked Denis Adams, DOR, to comment on HB 883. Mr. Adams said that there were no technical problems with the bill. He stated that he was surprised that there were no financial institutions to speak in opposition to the bill. REP. COHEN asked why a financial institution find this objectionable. Mr. Adams said that the financial institutions do not want the personal property attached to the real property.

REP. REAM asked Mr. Adams if HB 883 had a fiscal impact. Mr. Adams said it has no fiscal impact on the state. It would probably help the counties.

Closing by Sponsor:

REP. DeBRUYCKER said that the \$1,000 was put on the codes in 1974. With inflation and the length of time passed, \$10,000 is very reasonable.

#### EXECUTIVE ACTION

Motion: REP. ELLIOTT MADE THE MOTION TO HAVE A COMMITTEE BILL DRAFTED.

Discussion:

REP. ELLIOTT stated that this idea has gone through the Income/Severance Tax Subcommittee and they have approved the concept of the bill. The subject of taxation of cigarettes on Indian Reservations has been that the Supreme Court issued a ruling that said states could tax cigarettes sold to non-tribal members on the reservation. He introduced a bill to do this and not thinking that the court decision would be timely enough, he had the bill draft canceled. He is asking the committee to resurrect the bill draft.

Washington state ascertains the number of tribal members living on a reservation. They then allot a given number to the number of people who they feel smoke. They then allow a wholesaler to ship that many cartons of cigarettes to the reservation untaxed. If any more cartons are shipped to the reservation, they must



have the stamp and they must be taxed.

REP. ELLISON said that he had talked to the DOR. they had stated they were going to tax all the cigarettes going into the reservation. There would then be negotiations with the tribal as to the tax collections. REP. ELLIOTT said he had also talked to the tribes and they were unaware of this. He thinks they will be cooperative with this plan. The tribal representatives that he has talked to informed him that they would not support suing local store owners to recover the taxes.

Vote: Motion on the committee bill carried unanimously.


EXECUTIVE ACTION ON HB 883

Motion/Vote: REP. COHEN MOVED HB 883 DO PASS. Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:00 a.m.

  
DAN HARRINGTON, Chair

  
LOIS O'CONNOR, Secretary

DH/lo



HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL

DATE 3/13/91

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



HOUSE STANDING COMMITTEE REPORT

March 13, 1991

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Mr. Speaker: We, the committee on Taxation report that House  
Bill 883 (first reading copy -- white) do pass.

Signed: \_\_\_\_\_  
Dan Harrington, Chairman



NEW SUBSECTION 6:

✓ (6) In addition to the fee required under subsection (5), above, the Board may order the assessment of additional fees required to fund specific activities of the Department which are directed at a particular geographic area, including emissions or ambient monitoring, modeling analysis or demonstrations, or emissions inventories or tracking. Any such additional assessments shall be levied only upon those sources which are within or are believed by the department to be impacting the geographic area, and whose emissions are of the type within the focus of the activities to be funded. Before the Board may require any such assessments, it shall first determine, after opportunity for hearing, that the activities to be funded are necessary for the administration or implementation of this chapter, and that the assessments apportion the funding required in an equitable manner.

CHANGES REQUIRED IF THE ABOVE SECTION IS ADDED:

1. A new paragraph should be added to the Statement of Intent:

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

2. The following amendment to current Subsection (6) [new Subsection (7)] would be appropriate:

..., the department may require the permit holder to pay an annual fee which is sufficient to cover the costs identified in subsections (5) and (6) of this section.

3. Internal references would need to be corrected in Subsections (11), (12)(a)(i) and (b).

4. A new provision to the title is probably appropriate --  
ALLOWING FEE ASSESSMENTS FOR SPECIFIC DEPARTMENT ACTIVITIES;



EXHIBIT 2  
DATE 3-13-91  
HB 781

PROPOSED AMENDMENT FOR HB 781

Subsection (5) shall be amended as follows:

(5) by rule adopt a schedule of fees not less than \$9.00 per ton of sulfur dioxide (SO<sub>2</sub>, particulates and lead and not less than \$3.00 for nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) for permits and permit applications, consistent under this chapter. Nothing in this law precludes the Department from adopting fees for other pollutants.



TESTIMONY ON  
HOUSE BILL 781

BEFORE THE TAXATION	:	BY JEFFREY CHAFFEE, P.E.,
COMMITTEE OF THE MONTANA	:	CHIEF OF THE AIR QUALITY BUREAU
HOUSE OF REPRESENTATIVES	:	MONTANA DEPARTMENT OF HEALTH
	:	AND ENVIRONMENTAL SCIENCES

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

Introduction

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

Purpose of the Bill

H.B. 781 accomplishes two major objectives:



- \* It provides statutory authority for the department to develop operating permit regulations and thereby maintain primacy for issuing air quality permits in Montana.
- \* It provides financial resources through a system of permit fees to support the development, maintenance and growth of the state's air quality permitting program.

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

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

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



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

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

- \* EPA must apply sanctions, including withholding highway funding, emission offsets for new industry, and withholding the state air program grant.
- \* Primacy will be lost, EPA will implement the permitting program and collect the permit fees from industry. EPA is authorized to collect a minimum of \$25 per ton of emissions to cover their costs of the program.

#### Amendments

The department has prepared several amendments to H.B. 781, primarily to ensure that we have statutory authority that is consistent with the CAAA. The amendments attached to this testimony update the statement of intent, address the timing for renewal of operating permits, and provide additional language from the CAAA governing the coverage of permit fees. This language is needed to ensure that we can obtain primacy for the permitting program. Additional language clarifies that existing grandfathered (non-permitted) sources must pay fees and provides an appeal procedure for disputes over fee amounts.

The department has also drafted amendments that we offer as a compromise to address industrial concerns about the present version of the bill. These language changes would offer the department discretion in setting permit expiration dates and they would clarify that the department would not begin



the formal rulemaking to address the expiration of permits until sometime after November 1, 1992.

Summary

H.B. 781 is a critical bill for the future of the state air program. Its passage will provide the authority and resources for the department to meet federal requirements. More importantly, it will ensure that Montanans continue to control economic development in our state, and it ensures a local voice in our efforts to provide clean air to our citizens.

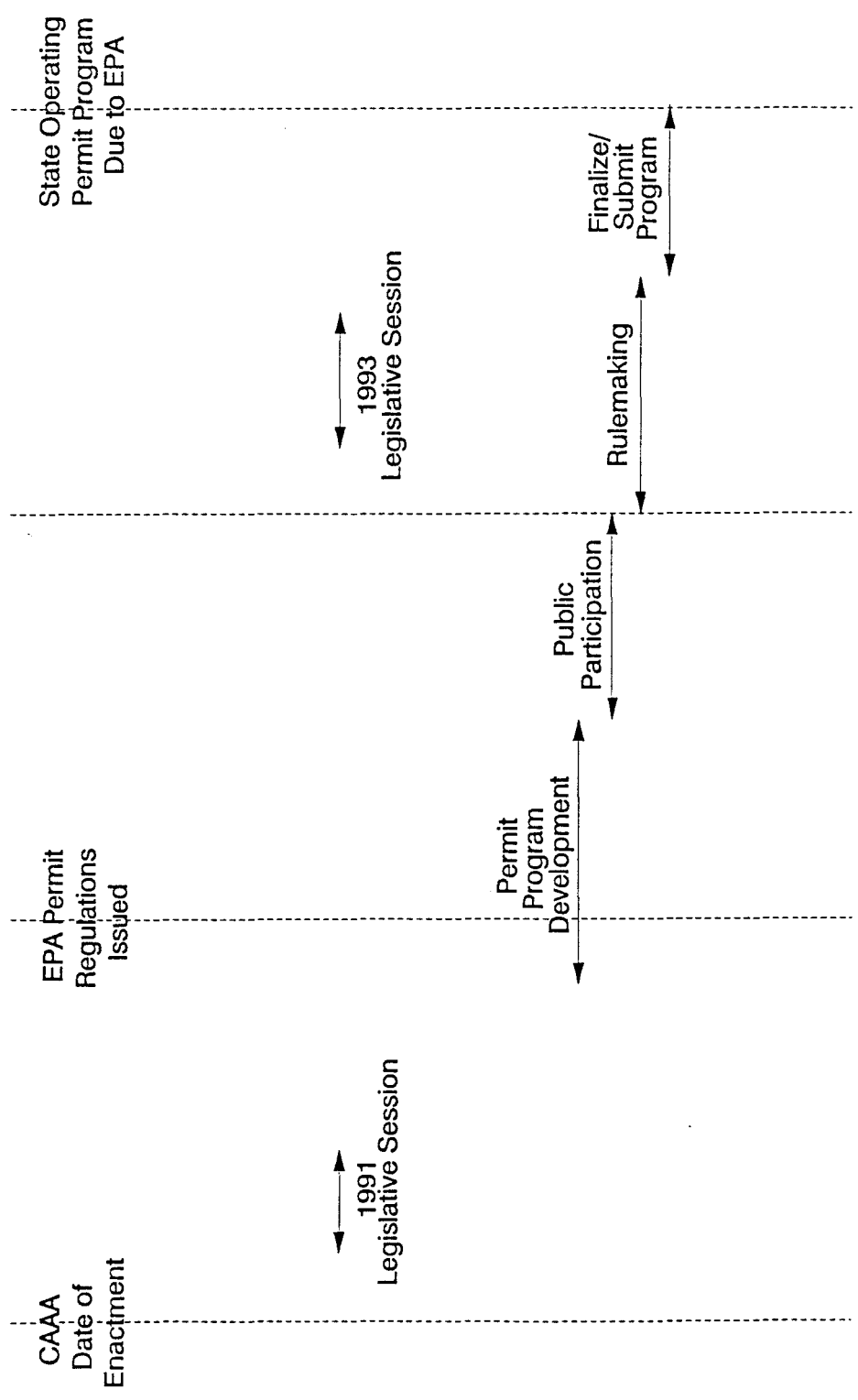


# Air Quality Operating Permit Program Development Timeline

Failure to Submit:

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

November 1990      November 1991      November 1992      November 1993





Proposed Amendments to House Bill 781  
Montana Department of Health and Environmental Sciences

Presented to  
House Taxation Committee  
March 13, 1991

1. Statement of Intent, page 1, line 22  
Following: "the"  
Insert: "development and"
2. Statement of Intent, page 1, line 23  
Following: "of"  
Strike: "all"  
Insert: "an"  
Following: "quality"  
Strike: "permits"  
Insert: "permitting program"
3. Statement of Intent, page 2, line 3  
Following: "permits"  
Insert: "and permitting activities"
4. Statement of Intent, page 2, line 5  
Following: "applicability"  
Strike: "to"  
Insert: ". This may result in fees for"  
Following: "sources"  
Insert: "according to the type or amount of emissions, or the type of source"
5. Statement of Intent, page 2, line 6  
Following: "with"  
Strike: "permit implementation and enforcement"  
Insert: "the development and administration of a permitting program"
6. Statement of Intent, page 2, line 15  
Following: "state"  
Strike: "and not otherwise exempted"  
Following: "permit"  
Strike: "."  
Insert: ", including those sources which are "grandfathered" under current air quality regulations. Reasonable exemptions from this requirement may be implemented based upon the size or nature of the source or its emissions."
7. Page 4, line 9  
Following: "construction"  
Strike: "begins, and 120 days before"  
Insert: ", "
8. Page 4, line 10



Following: "installation"  
Insert: ", "

9. Page 5, line 3  
Following: "than"  
Strike: "90"  
Insert: "120"
10. Page 5, line 11  
Following: "cover"  
Insert: "the reasonable costs (both direct and indirect) of developing and administering the permitting requirements in this chapter, including the reasonable costs of"
11. Page 5, line 12  
Following: "(a)"  
Strike: "the reasonable costs of"
12. Page 5, line 13  
Following: "application;"  
Strike: "and"
13. Page 5, line 14  
Following: "(b)"  
Strike: "the reasonable costs of"
14. Page 5, line 19  
Following: "applicant"  
Strike: "."  
Insert: ";
15. Page 5, line 20  
Following: page 5, line 19  
Insert: "(c) emissions and ambient monitoring;  
(d) preparing generally applicable regulations, or guidance;  
(e) modeling, analysis, and demonstrations; and  
(f) preparing inventories and tracking emissions."
16. Page 5, line 24  
Following: "subsection (5)"  
Strike: "(b)"
17. Page 5, line 25  
Insert: a new subsection (7), as follows:  
"For any existing source of air contaminants which is subject to Title V of the federal Clean Air Act, 42 U.S.C. 7401, et seq., as amended, and which is not required to hold an air quality permit from the department as of the effective date of this subsection, the department may by rule require, as a condition of continued operation of that source, the owner or operator of the source to pay the annual fee provided for in subsection (5). Nothing in this subsection may be construed as allowing the department to



charge any source of air contaminants more than one annual fee which is designed to cover the costs identified in subsection (5).

Renumber: subsequent subsections

18. Page 6, line 4

Insert: a new subsection (8), as follows:

"The department must notify the owner or operator of the air contaminant source in writing of the amount of the fee to be assessed and the basis for the department's fee assessment under this section. The owner or operator may appeal the department's fee assessment to the board within twenty (20) days after receiving written notice of the department's fee determination. The appeal to the board must include a written statement detailing why the department's fee assessment is erroneous or excessive. Nothing in this subsection shall be construed as prohibiting the owner or operator from paying any portion of the fee assessment that is not in dispute to the department in order that the department may begin performing its duties under this chapter. Any proceedings conducted by the board pursuant to this subsection shall be governed by the contested case provisions of the Montana Administrative Procedure Act.

Renumber: subsequent subsections

19. Page 6, line 16

Following: "and"

Strike: "(10)"

Insert: "(12)"

20. Page 7, line 4

Following: "subsection ~~(6)~~"

Strike: "(11)"

Insert: "(13)"

21. Page 7, line 15

Following: "subsection ~~(6)~~"

Strike: "(11)"

Insert: "(13)"

22. Page 8, line 14

Following: "["

Strike: "Subsection"

Insert: "Subsections"

Following: "(3)"

Insert: "and (7)"

Following: "]"

Strike: "applies"

Insert: "apply"

23. Page 8, line 16

Strike: "that section"

Insert: "those subsections"



Proposed Additional Amendments to House Bill 781  
Montana Department of Health and Environmental Sciences

Presented to  
House Taxation Committee  
March 13, 1991

1. Page 4, line 4, 5 and 6  
Strike: first sentence of subsection (2) in its entirety  
Insert: "The department may provide for the expiration of permits issued pursuant to this part, and for the renewal of permits which have expired."
2. Page 4, line 8  
Following: "to"  
Strike: "October 1, 1991"  
Insert: "[the effective date of this subsection]"
3. Page 8, line 9  
Following: "["  
Strike: "Subsections (2) and"  
Insert: "Subsection"  
Following: "]"  
Strike: "apply"  
Insert: "applies"
4. Page 8, line 13  
Strike: "this act"  
Insert: "that subsection"
5. Page 8, line 19  
Insert: a new subsection (3) of section 3, as follows:  
"(3) [Subsection (2) of section 2] applies retroactively, within the meaning of 1-2-109, to all permits issued by the department of health and environmental sciences pursuant to Title 75, chapter 2, and prior to [the effective date of that subsection]."
6. Page 8, lines 19 and 20  
Strike: the text of section 4, in its entirety  
Insert: "[Section 1, subsections (1), (3), and (5) through (14) of section 2, section 3, and this section] are effective upon passage and approval. [Subsections (2) and (4) of section 2] are effective on November 1, 1992]."



YELLOWSTONE VALLEY CITIZENS' COUNCIL

TESTIMONY

BEFORE THE

MONTANA HOUSE TAXATION COMMITTEE

ON

HOUSE BILL 781

March 13, 1991

For the record my name is Kathleen K. Blehm. I reside at 623 Avenue B, Billings, Montana. I am Chair of Yellowstone Valley Citizens' Council (YVCC), an affiliate of the Northern Plains Resource Council (NPRC) and am testifying on behalf of both organizations. YVCC's membership is citizens from Yellowstone County, who are interested in Montana air, water, other environmental and agricultural issues.

We are here today to urge your support of HB 781 and amendments presented by Montana's Air Quality Bureau (AQB) and Rep. Berv Kimberly because it would help with economic development, as well as, clean-up Montana's air.

This bill will provide funding through fees placed on emissions on a per ton per pollutant per source basis and allow the operating permit program to be put in place for new and existing sources.

In 1993, this program will have to be approved by the Environmental Protection Agency (EPA) as outlined in the Clean Air Act Amendments of 1990 (CAAA '90). If it should be deemed inadequate by EPA, they will either require the state to re-write their program or adhere to the federal one. Federal laws allows them to charge up to \$25 per ton per pollutant per source.

An adequate and timely fee schedule needs to be implemented in order to accommodate the following federal and state program requirements and enhancements:

- \* The extensive rule making that will be required under the CAAA '90.
- \* The possible absorption of cost for the Billings/Laurel Air Quality Technical Committee's (BLAQTC's) monitors in Yellowstone County.
- \* Matching funds for federal monies.



\* Relief for the general fund.

\* Special studies.

We would like to briefly explain why the fee schedule should cover each these potential costs:

1. Rule making: The AQB will be faced with writing rules for the state's compliance to the CAAA '90. The magnitude of which the Bureau has not faced in years.

2. The CAAA '90 have changed the requirement for the AQB to match 40% of the funding they receive from EPA. Before 1990, it was at 25%. This cost is one that would be better met through fees rather than general fund monies.

3. Presently, BLAQTC funds 3 monitors and the AQB 2 in Yellowstone County. In order to continue with this level of monitoring, money may be needed by the state should BLAQTC decide to discontinue this project. No promise has been made by them to continue. Also, 2 monitors in Yellowstone County with its topographical uniqueness, population density and five polluting industries who make up 43% of the state's SO2 pollution will not be sufficient for the community. We believe 5 is questionable, 2 would be ludicrous.

4. To generate enough fee revenues to fund the AQB's budget needs would provide relief on the general fund appropriations.

5. Special studies would help in the re-designation of non-attainment areas, economic development and defining the airshed so a more equitable operating permit with appropriate fees could be generated. In some cases, this process should commence immediately to ensure well thought out decisions.

We believe that the sooner the authority is given the AQB to start this process, the better. November, 1993 is the cut-off date for program approval by EPA. If we wait until after the 1993 legislative session, 7 months would be left to write proposed rules, comply with a comment period, hold public meetings, attain board approval, receive the governor's executive order and attain EPA approval on them. The safety and economic viability of Montana's citizens and businesses should not be placed in jeopardy by doing this in an hasty and reactive manner.

An unacceptable state program submitted to EPA could lose Montana's federal highway funds and any new source applying from a permit in a non-attainment area would need to double the



EX. 5  
3-13-91  
HB 781

YVCC Testimony - HB781  
March 13, 1991  
Page 3

offsets required for compliance.

Thank you.



EXHIBIT 10  
DATE 3-13-91  
HB 781UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION VIII999 18th STREET - SUITE 500  
DENVER, COLORADO 80202-2405

MAR 12 1991

Ref: 8AT-AP

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

Dear Jeff:

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

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

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

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

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

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



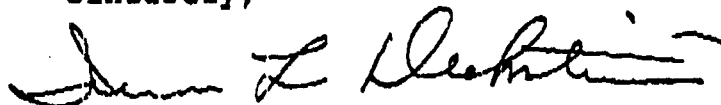
(ii) if the owner or operator receives a permit for such source, the reasonable costs of implementing and enforcing the terms and conditions of any such permit (not including any court costs or other costs associated with any enforcement action), until such fee requirement is superseded with respect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

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

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

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

Sincerely,



Irwin L. Dickstein, Director  
Air and Toxics Division



EXHIBIT 7  
DATE 3-13-91  
HB 781

MONTANA SULPHUR & CHEMICAL COMPANY

EAST OF BILLINGS ADJACENT TO EXXON REFINERY  
P.O. BOX 31118

*Billings, Montana 59107*

TELEPHONE  
Plant: 406-252-7101

TELEPHONE  
Office: 406-252-9324  
Telex: 319-486  
FAX 406-252-8250

TESTIMONY ON HOUSE BILL 781

Montana Sulphur and Chemical Company wishes to express its support of House Bill 781, as amended to include language assessing fees based on the actual amounts of pollutants emitted.

Under recent amendments to the Clean Air Act, Congress has seen fit to modify the permit system applicable to the regulation of certain pollutants. Among the concepts put forward in this important federal legislation is the idea of an operating permit for sources emitting pollutants, with the understanding that each said source would pay a fee to assist in covering parts of the cost associated with regulation. All of us - regulators, lawyers and citizens - are still struggling to understand the implications and permutations of this new law. At Montana Sulphur, we believe that this change in the environmental rules offers us a unique opportunity to apply some Montana common sense to national environmental policy.

If all parties - concerned citizens, state regulators and industry - work together to explore and implement the new federal law, the full benefits of this federal legislation can be experienced by all citizens of Montana, be they individuals or corporate entities. House Bill 781 is the first step in the process. Montana Sulphur strongly supports the following concepts embodied in this legislation:



Ex. 7  
3-13-91  
HB 781

1. Sources emitting pollution would be required to pay an annual fee to help support the operating permit and permit compliance functions of the state agency charged with establishing and enforcing environmental regulations relating to air quality.

2. The State of Montana would maintain its prime role as the regulator of air quality in the state. This is the most desirable scenario because:

A. State regulators are in a better position to understand and appreciate the unique relationship all Montana citizens have to their environment, and to serve the needs and aspirations of the citizens in that regard.

B. State regulators have the most experience in dealing with Montana businesses and understand their unique needs and can assure the maximum flexibility possible to provide for responsible economic growth and development.

3. Basing operational permit fees on actual emissions encourages industries to make voluntary emission reductions by providing a financial incentive. In areas where levels of certain pollutants are at maximum levels, any incentive for reduction could ultimately provide "air space" for new economic development.

4. Because Montana is one of the first states to look at this type of legislation under the new Clean Air Act Amendments, we could set a responsible precedent that would be a model for other states implementing this federal legislation. We may also have some influence on the Environmental Protection Agency rulemaking process.

We urge you to support HB 781, as amended.

Mary Westwood  
General Counsel



To: Montana House Taxation Committee

From: Dexter Busby, Environmental Coordinator  
Montana Refining Company

Subject: HB781 Air Quality Permit Fees

1. We at Montana Refining Company agree that a bill of this nature is required to set up a mechanism by which the Air Quality Bureau can assess and collect fees as required by the Clean Air Act Amendments of 1990.
2. We also strongly agree with the premise that Montana must maintain an effective air quality management program which we have now, and that it is very much not in the best interest of anyone in the state for this program to be taken over and managed by the EPA.
3. We would like to stress that fairness is of major importance in the final version of this bill. If financial or total tonnage taxed caps are in this bill you are creating a competitive disadvantage for smaller or environmental efficient members of industry. If you set the tax rate per ton of emissions too high you will put all of Montana industries at a competitive disadvantage with out of state competition and our particular concern -- the Canadians, who don't have any taxes like this nor do they presently have any in the mill.
4. The fourth point I would like to make is Montana does have an EPA approved air quality program and that this program has submitted budget estimates for the next two years as the cost to operate and maintain this program. And since all the revenues generated by this new tax are to be used to operate and maintain an air quality program, this budgeted amount should be used by the legislature as the criteria for setting the total revenues to be collected. This amount should be annually adjusted for inflation. If, for some reason, additional funding is required because of changes in federal requirements they can come to this body and request additional increases.
5. The last point I would like to make is that the final version of this bill will be one more piece of data in how businesses views the business climate in Montana. We sincerely hope it will help improve that view.



HOUSE BILL 781  
(Substitute Bill)

Strike everything after enacting clause and insert:

**NEW SECTION. Section 1. Funding of State Compliance With Public Law 101-549.** There is an account in the state special revenue fund to which all fees collected under this part shall be deposited, and from which appropriations shall be made to the department for the development and administration of a permit program pursuant to Public Law 101-549. In the event the fees collected by the department under this part in any fiscal year exceed the department's actual expenditures in developing and administering the program in that fiscal year, the excess shall be used to reduce the aggregate amount of fees to be collected in the next fiscal year.

**NEW SECTION. Section 2. Determination of Compliance Costs.** The department shall identify, as a separate program, its development and administration of a state permit program pursuant to the provisions of Public Law 101-549. The agency budget for the department shall separately identify and state the costs, both direct and indirect, of developing and administering the program, including the reasonable costs of:

1. reviewing and acting upon any application for a permit pursuant to Chapter 2, Title 75 of this code;
2. implementing and enforcing the terms and conditions of any permit issued pursuant to Chapter 2, Title 75 (not including any court costs or other costs associated with any enforcement action);
3. emissions and ambient monitoring;
4. preparing generally applicable regulations or guidance;



5. modeling, analyses, and demonstrations; and
6. preparing inventories and tracking emissions.

**NEW SECTION. Section 3. Annual Permit Fees.** Starting with the fiscal year beginning July 1, 1991, every holder of a permit issued under Chapter 2 of Title 75 of this code shall pay to the department an annual fee for purposes of funding the department's compliance with Public Law 101-549. The Board shall, by rule, establish a procedure by which the department shall determine each year, for each permit holder, a fee to be paid pursuant to this section. The fees charged by the department shall collect, in the aggregate, the department's reasonable costs of complying with Public Law 101-549, as appropriated by the Legislature.

**NEW SECTION. Section 4. Limitation on Annual Permit Fee.** Regardless of the procedure established by the board to determine the annual permit fee required by [Section 3] the fee shall not exceed \$100,000 for any single source.

**NEW SECTION. Section 5. Appeal.**

1. The department must notify the owner or operator holding a permit issued pursuant to this chapter in writing of the amount of the fee to be assessed and the basis for the departments's fee assessment under this part.
2. The owner or operating holding a permit issued pursuant to this chapter may appeal the department's fee assessment to the board within (20) twenty days after receiving written notice of



the department's fee determination under subsection 4. The appeal to the board must include a written statement detailing why the department's fee assessment is erroneous or excessive. Nothing in this subsection shall be construed as prohibiting the owner or operator holding a permit issued pursuant to this chapter from paying any portion of the fee assessment that is not in dispute to the department in order that the department may begin performing its duties under this chapter.

Section 5. Section 75-2-111, MCA, is amended to read:

"75-2-111. Powers of the board. The board shall:

- (1) adopt, amend, and repeal rules for the administration, implementation and enforcement of this chapter, for issuing orders under and in accordance with 42 U.S.C. 7419, and for fulfilling the requirements of 42 U.S.C. 7420 and regulations adopted pursuant thereto;
- (2) hold hearings relating to any aspect of or matter in the administration of this chapter at a place designated by the board. The board may compel the attendance of witnesses and the production of evidence at hearings. The board shall designate an attorney to assist in conducting hearings and shall appoint a reporter who shall be present at all hearings and take full stenographic notes of all proceedings thereat, transcripts of which will be available to the public at cost.
- (3) issue orders necessary to effectuate the purposes of this chapter;



- (4) by rule require access to records relating to emissions;
- (5) by rule adopt a schedule of fees required for permits under this chapter, and annual permit fees to comply with Public Law 101-549;
- (6) have the power to issue under and in accordance with 42 U.S.C. 7419."

**NEW SECTION. Section 6. Retroactive Applicability.** The provision of this bill apply retroactively, within the meaning of 1-2-109, to all permits issued by the department pursuant to Chapter 2 of Title 75, regardless of date of issuance.

**NEW SECTION. Section 7. Effective Date.** [This act] is effective on passage approval.

-end-



HB 781

(Substitute Bill)

Recommended changes to title and statement of intent.

Title, line 6-14; Following: "A BILL FOR ENACTING TITLE"

Strike: remainder of lines 6-14 in their entirety

Insert: "AN ACT ESTABLISHING ANNUAL PERMIT FEES FOR AIR QUALITY PERMITS PURSUANT TO PUBLIC LAW 101-549; ESTABLISHING A FUNDING MECHANISM TO ENSURE COMPLIANCE WITH PUBLIC LAW 101-549; AUTHORIZING THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ENACT NECESSARY ADMINISTRATIVE RULE; AMENDING SECTION 75-12-111, MCA, AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION.

Page 1, line 17:

Strike: statement of intent in its entirety

Insert: "A STATEMENT OF INTENT IS REQUIRED FOR THIS BILL BECAUSE [SECTION 3] AUTHORIZES THE BOARD OF HEALTH AND ENVIRONMENTAL SCIENCES TO ADOPT BY RULE A PROCEDURE IN WHICH THE DEPARTMENT SHALL DETERMINE EACH YEAR, FOR EACH OWNER OR OPERATOR HOLDING A PERMIT ISSUED PURSUANT TO CHAPTER 2 OF TITLE 75 OF THIS CODE AN ANNUAL FEE. THE RULES ADOPTED BY THE BOARD SHALL GENERATE FEES WHICH WHEN CHARGED SHALL COLLECT, IN



EXHIBIT 9  
DATE 3-13-91  
HB 781

THE AGGREGATE, THE DEPARTMENT'S REASONABLE COSTS OF  
COMPLYING WITH PUBLIC LAW 101-549 AS APPROPRIATED BY  
THE LEGISLATURE.



Amendments to House Bill No. 793  
First Reading Copy

Requested by Rep. Hanson  
For the Committee on Taxation

Prepared by Lee Heiman  
March 12, 1991

1. Page 2, line 14.  
Strike: "1990"  
Insert: "1989"

2. Page 2, line 17.  
Strike: "1990"  
Insert: "1989"

3. Page 2, line 20.  
Strike: "1990"  
Insert: "1989"

4. Page 2, line 25.  
Strike: "1990"  
Insert: "1989"

5. Page 3, line 9.  
Strike: "1990"  
Insert: "1989"

~~6. Page 7, line 5.  
Strike: "1990"  
Insert: "1989"~~



EXHIBIT 11  
DATE 3-13-91  
HB 793

SAMPLE COUNTY  
DISTRIBUTION OF THE LOCAL GOVERNMENT SEVERANCE TAX  
SAMPLE DISTRIBUTION TO FISCAL YEAR 1990 TAXING UNITS

ATTACHMENT I

S.D. #14  
LEGAL ENTITY - 1026  
1989-90 TOTAL MILL LEVY - 166.79

## COUNTY LEVIES

General	19.50	11.691%	\$17,277.57
Road	15.00	8.993%	\$13,290.44
Bridge	5.63	3.376%	\$4,988.35
Poor	0.53	0.318%	\$469.60
Fair	0.82	0.492%	\$726.54
Library	1.95	1.169%	\$1,727.76
Airport	1.42	0.851%	\$1,258.16
Extension	1.05	0.630%	\$930.33
Insurance	4.00	2.398%	\$3,544.12
Weed	1.56	0.935%	\$1,382.21
Museum	0.45	0.270%	\$398.71
District Court	1.26	0.755%	\$1,116.40
Mental Health	0.45	0.270%	\$398.71
Bond Skg Fund	0.25	0.150%	\$221.51

## SCHOOL LEVIES

Elementary			
General	28.00	16.788%	\$24,808.82
Retirement	14.00	8.394%	\$12,404.41
High School			
General	17.00	10.192%	\$15,062.50
Transportation	2.38	1.427%	\$2,108.75
Retirement	7.55	4.527%	\$6,689.52
Chinnook H.S.			
General	19.29	11.565%	\$17,091.51
Insurance	1.09	0.654%	\$965.77
Adult Education	0.15	0.090%	\$132.90
Transportation	0.85	0.510%	\$753.12
Bond Sinking Fund	1.00	0.600%	\$886.03
Cleveland Elementary			
General	2.83	1.697%	\$2,507.46
Dist. Transportation	3.31	1.985%	\$2,932.76
Insurance	0.05	0.030%	\$44.30
H.S. Special	15.42	9.245%	\$13,662.57
	-----	-----	-----
	166.79	100%	\$147,780.83

## NOTE:

THE LOCAL GOVERNMENT SEVERANCE TAX DISTRIBUTED TO EACH FUND MUST BE TREATED AS ANTICIPATED REVENUE. THIS INCLUDES GENERAL FUND NET LEVY, ELEMENTARY DISTRICT FOUNDATION PROGRAM, HIGH SCHOOL DISTRICT FOUNDATION PROGRAM, PERMISSIVE LEVY, AND THE NET TAX LEVY FOR THE TRANSPORTATION BUDGET.



EXHIBIT 12

DATE 3-13-91

MAR 12 '91 16:32 YELL-CO-CENT-SVCS.

Post-It brand

## Fax Transmittal Memo

7672

No. of Pages 1

Today's Date

HB

Time

8:17

To RON KLAPHAKE  
Company MISSOULA DEL.  
Location

From C.A. L. CUMIN  
Company YELLOWSTONE CO  
Location

Fax # 721-5034 Telephone #

Fax # Dept. Charge 857 Telephone # 256-2703

Comments Original Disposition ☐ Destroy ☐ Return ☐ Call for pickup

County of Yellowstone



COMMISSIONERS

(406) 266-2701

March 12, 1991

Box 35000  
Billings, MT 59107

Chairman and Members  
House Taxation Committee  
Montana Legislature  
Helena, MT 59620

Dear House Taxation Committee:

This letter will express our support for HB877 which removes the voter approval prior to 12/31/90--requirement for an economic development levy.

Thank you for your consideration.

Very truly yours,

BOARD OF COUNTY COMMISSIONERS  
YELLOWSTONE COUNTY, MONTANA

*Mike Mathew*  
Mike Mathew, Chairman

*Dwight MacKay*  
Dwight MacKay, Member

*James A. Ziegler, Sr.*  
James A. Ziegler, Sr., Member



# Montana County Treasurers' Association

EXHIBIT 13  
DATE 3-13-91  
HB 883

Patricia J. Cook, President  
Lake County Treasurer  
106 4th Avenue East  
Polson, MT 59860

March 11, 1991

Representative Dan Harrington, Chairman  
House Taxation Committee  
Capitol Station  
Helena, MT 59820

Dear Representative and Committee Members,

As President of the Montana County Treasurers' Association, I am seeking your support for HB-883, a bill which raises the taxable limit of a personal property tax lien which is attached to real property from \$1,000 to \$10,000 after the mortgage company or lienholder has filed proper notice in the office of the county treasurer. This is NOT the amount of tax but taxable value and the amount of taxes attached to real property would be considerably less.

We also support the requirement directing the holder of a mortgage to file annual notice with the county treasurer. The law as it exists now is archaic and outdated. \$1,000 worth of taxable value generates very little revenue. This change would not inflict a hardship on any mortgage or lien holder.

Sincerely,

*Patricia Cook*

Patricia J. Cook  
President, Montana County Treasurers' Association



CHOUTEAU COUNTY  
TAX LIEN ON REAL PROPERTY FOR  
TAXES OWED ON PERSONAL PROPERTY

SD	Current \$1000/\$10,000	Proposed \$10,000
1	302.47	3024.70
1A	302.47	3024.70
7	276.40	2764.00
7A	274.40	2744.00
11	294.84	2948.40
26	254.05	2540.50
28	350.62	3506.20
1B	310.00	3100.00
28B	354.62	3546.20
28G	334.31	3343.10
44	283.95	2839.50
44B	277.29	2772.90
44BC	279.35	2793.50
49	265.68	2656.80
56	268.96	2689.60
59	262.30	2623.00
99	252.94	2529.40



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. 5869  
 DATE 3/12/91 SPONSOR(S) Sen. Eck

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Gordon Morris</i>	<i>MA60</i>	<i>69</i>		<input checked="" type="checkbox"/>

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



## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

1062

TAXATION COMMITTEE BILL NO. HB 781  
 DATE 3/13/91 SPONSOR(S) Rep. Kimberly

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Janet Ellis	MT Audubon	781		w/sponsor amendment ✓
Tim Baker	DHES	781		✓
Kris Knutson	EPA	781		✓
Dexter Bredy	Montana R-fining	781		✓
Trd J. Dore	ASARCO	781	✓	
Jeff Chaffee	Dept of Health & Env. Sci.	781		✓
Kay Bluhm	NPRC / YUCC	781		w/ amendment ✓
Jim Mockler	MT. Coal Council	781	✓	
Rex MANUEH	GENEX	781	✓	
John Fitzpatrick	Regent Gold	781	✓	
B. Davis	ASARCO Inc	781	✓	
Ken Williams	Entech	781	✓	
STEVE BROWN	Noranda	781	✓	

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

Jim Jayson  
 Mary Westwood

MEIC  
 Montana Sulphur  
 CHEIPAC

781  
 781  
 781

X Amendments  
 X w/amendment  
 X



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

2562

Taxation COMMITTEE BILL NO. HB 781  
 DATE 3/13 SPONSOR(S) Rep. Kimbrey

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
John Alke	MOU	781	✓	

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 793  
 DATE 3/13/91 SPONSOR(S) Rep. M. Hanson

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
William Duffell	Lobbyist Fallon County	793		X
Donald Rigney	Fallon County Commissioner			X
Bernt Ward	Sheridan Co. Comm			X
Curtis Hunter	Fallon County Assessor			X
Al Rinstad	Fallon Co. Comm.			X
John S. Witt	Chouteau Co.			X
Mike Steph	MT Oil & Gas & Coal			X

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



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Texas COMMITTEE HB 877  
 DATE 3/13/91 SPONSOR(S) Rep. Ream

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jim Klaphecke	Msla Econ Dev. Corp			X
Evan Barrett	Butte Local Devel.			X
Samantha Sanchez	MAPP			X
Gordon Morris	MHC	877		X
JANES TUTWILER	MT Chamber Com			✓
Kay Foster	City of Deps / Yellowstone Beelings Chamber	877		✓
Laurie Shadon	Bozeman Chamber	877		✓
Bob Helfner	MT Dept of Commerce	877		✓

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



## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 878  
DATE 3/13/91 SPONSOR(S) Rep. O'Keefe

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
<i>Susan Boone</i>	<i>MSGA / MWGA</i>	<i>878</i>	<i>X</i>	
<i>Kim Enkerud</i>	<i>Dist. Mt. Assn. State Grazing</i>	<i>878</i>	<i>✓</i>	
<i>Jim Peterson</i>	<i>MSGA</i>	<i>878</i>	<i>✓</i>	

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



HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Taxation COMMITTEE BILL NO. HB 883  
 DATE 3/13/91 SPONSOR(S) Rep. R. DeBruycker

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
CORT HARRINGTON	County Treas Ass	HB 883		✓
Susan Spurgeon	Fergus Co. Treasurer	HB 883		✓
John E. Wirth	Chouteau Co. Comm. President MACO	883		✓
Gordon Morris	MACO	883		✓
Myra DeBruycker	self	883		✓

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