

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on March 14, 1991,
at 8:00 A.M.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

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

Announcements/Discussion: SB 360 and SB 335 were to be heard and
Executive Action taken on SB 335, SB 360, SB 272

Motion: REP. BACHINI announced before the Committee hearing
begins, we have a motion by one of our Committee members. He
recognized REP. JOHN SCOTT who moved to have a Committee Bill
drafted. There has been a lot of legislation concerning juveniles
and juvenile treatment and detention. The biggest problem with
the bills we have is the funding. He asked to introduce a
committee bill to require a \$100 yearly permit fee to be charged
on coin-operated amusement games machines. He is talking about
Pac Mans, pinballs, etc. This industry is virtually unregulated.
There is a \$200 permit fee on poker and keno plus 15% of their

net profits. There is no way to figure out what the revenue from these coin-operated amusement games machines may be. They don't have counters on them. He talked to a vendor who thought they could live with a permit fee of \$100 a year on these amusement games machines. There are about 20,000 of them throughout the state. Using conservative figures this would create about \$2 million. The \$2 million would be earmarked to go to 15-25-122. The breakdown on that is one-third would go to Family Services for evaluation, chemical abuse, and aftercare programs. Of the two-thirds remaining, one-half would go to the Justice Department to be used for grants to youth courts, to fund chemical abuse assessment; the other one-half of the two-thirds would go into detention facilities for juveniles.

Montana has been very fortunate, there have not been any juveniles who have had some unfortunate situation when they are being held temporarily. This is a very real problem. The addiction to these amusement games could lead to addiction to more serious forms of gambling. The juveniles are getting used to dropping quarters in the slots the same as is done in the casinos. He would appreciate having such a committee bill pass out of this Committee.

REP. BENEDICT said he has always been an opponent of selective targeted taxes that are punitive on one particular segment of the business community. He is really opposed to selective targeted taxes. They are not right.

REP. STELLA JEAN HANSEN said that is the way we have to tax things. This would be a good idea because these kids should not be playing these games like they are. It is a sin tax just like the poker machines, etc., except it is juveniles doing the playing.

REP. CROMLEY asked if this was a tax. **REP. SCOTT** explained this is not a tax, it is permit. This problem has to be addressed. It is a sin tax in essence since these kids get all their quarters from their parents, so the children are not being taxed.

REP. TUNBY said he is not really familiar with committee bills. Why not go ahead and get it.

REP. BACHINI repeated the motion to have a committee bill drafted to provide for a \$100 a year permit fee on amusement games machines. It will take a two-thirds vote of the committee to approve that motion.

REP. McCULLOCH said there is a lot of money made off these machines. We are not voting on the bill right now. If **REP. SCOTT** wants to try to put something together, we should not be denied the possibility of looking at something and if we don't like it, we don't have to accept it if we don't think it is fair. We should be allowed the opportunity and have the chance to look at different options. He suggests that be allowed to happen here.

REP. DOWELL knows that many of the Committee members have kids. He has two children that are in the prime age for playing video games, one is thirteen and one is eight. His thirteen-year old would rather do nothing other than go to a mall and seek out that video arcade and play and play and play. There are some patterns being set there. Those places are in dark rooms where you pop in your quarters and you are surrounded by other kids popping their quarters in. It is not necessarily such a bad thing that it should not be allowed, but he doesn't think there is anything wrong with putting a little tax on there. We have lots of selective taxes.

REP. WALLIN asked how would you implement this once you have this pot of money, how would it be dispersed? REP. SCOTT repeated he would go with 15-25-122. One-third of the money would go to Family Services for youth evaluation, chemical abuse, aftercare programs. One-half of the remaining two-thirds would go to the Justice Department to be used for grants to youth courts to fund chemical abuse assessments, detention centers and juvenile facilities separate from adult jails; the other one-half would be an account credited by 44-12-206(3) to the Justice Department for drug laws enforcement.

REP. WALLIN asked if these people have asked for more money. Is there a need? REP. SCOTT explained on the floor of the house last week we passed about four bills concerning juvenile detention, juvenile treatment, juvenile counselling. They haven't asked for money, but they are trying to get money out of the general fund. This is a source of money. Something this important should not die in the black hole and this is the way to keep these programs alive. REP. WALLIN said it looks like we are searching for a way to raise more money for something that is already being funded. He didn't object to that effort if they come in and ask for money, and say they don't have enough to administer their programs right now. If we don't have to have the money, he didn't think we are here to suddenly impose another tax. That is not being fair when it is one that is not needed.

REP. BACHINI reminded the motion is whether the Committee wants to vote in favor of having a committee bill drafted.

REP. SONNY HANSON asked how much money is allocated for regulation of these boxes and how much is going to fund the other services? REP. SCOTT answered he sees no problem with regulation. The Department of Commerce requires a stamp or notice on other types of these machines. It would not be a burden on them to check these machines when they are checking cigarette, poker, etc. machines. When they are licensed by the DOC the owners get the stickers and put them on themselves. He had explained the disposition of the funds very clearly and had written information. A fiscal note would show that also.

REP. SONNY HANSON said if you are going to draft a bill, then there should be consideration for the regulation of the equipment

you are going to tax, and that should be included in the draft of the bill. He is trying to bring up whether it is going to be regulated or just taxed. REP. SCOTT said his intent was to put a fee, a permit on these machines. It is not to regulate them. We are already regulating these things through our gambling laws. There already is a good definition of the regulation of the video machines that are considered gambling and the ones that aren't.

REP. BENEDICT said we are talking about fairness here, and when you start targeting one industry just because you don't think it is as good as another industry, how about putting \$2 on every movie that is shown because some of them are bad. REP. DOWELL mentioned we have a lot of selective taxes already. REP. BENEDICT repeated just because we have a lot of them doesn't make them right. We don't need to keep picking away at different industries. Maybe we ought to have enough guts then to have a general sales tax. The trend seems to be we are taxing more and more, a little tax here and a little tax there, we are not going to have a sales tax, but we are going to have a little tax on just about everything; what do we have, we have a sales tax.

REP. SCOTT thought we should look beyond the fairness of the person who owns that machine. Let's look at the fairness of these juveniles who are really in need of treatment and they are really in need of decent facilities. This is to protect the State of Montana, because there could be the day we could be in really big trouble unless these juvenile facilities are provided. That day is a lot closer than we think.

REP. ELLIS said the 'sin' aspect and the novelty of the video machines is not new. Forty years ago kids were around the pinball machines just like they are the video machines now. While there is more discretionary income now and more money is spent that way and people didn't use them for babysitting like they do in the malls now where the kids are put in the video room and you go shopping, it still existed then. It was mentioned this was and was not a regulation. He doesn't see it as a regulation. He sees it as a specific tax. It was pointed out that this is for a very good cause. That is not questioned. There are a lot of good causes and if you really are going to fund them we are going to have to buck up and say 'how'. We are going to decide that some of these dogs and cats are high priorities.

REP. STELLA JEAN HANSEN wanted to answer REP. WALLIN. Congress has now decreed that we cannot put youth in adult jails, so in Missoula there is no place to put a youth. Just before Christmas the Legislators were called into the County Attorney's offices because they didn't have an answer of where to put a fifth grader who knifed another kid. He needed someplace to put him. He had to be put somewhere. They put him in the County jail and broke the law. This is what we are talking about. We are all going to be sued by the federal government if we don't do something.

REP. SCOTT closed saying he could see there is a lot of interest

here. He was asking the Committee for permission to have such a bill drafted. He expects to have to do a lot of home work. He would appreciate the opportunity to have such a bill drafted.

Vote: REP. BACHINI asked for a voice vote; those in favor of the motion would say Aye. Opposed say No. Those voting No were REPS. PAVLOVICH, KNOX, BENEDICT, BARNETT, ELLIS, HANSON, WALLIN. REP. LARSON was absent. The vote was 7 Noes, 10 Ayes. The motion failed.

HEARING ON SENATE BILL 360

Presentation and Opening Statement by Sponsor:

SEN. DELWYN GAGE, SD 5, Cut Bank, explained this bill was introduced at the request of the Senate Business and Industry Committee. It is an Act to limit the liability of persons serving on accounting review boards or of nonprofit corporations performing the function of accounting review boards; and to exclude from evidence the proceedings and records of accounting review boards. It is patterned after what is happening in the medical field with regard to review functions for doctors, and somewhat after what is happening in the legal field with regard to legal review on lawyers. It provides that a person serving on a review committee cannot be held liable by anyone for the action taken by that review committee. It also provides the information disclosed in those committee review hearings cannot be used, and the people in that committee cannot be forced to divulge the information. It does, however, say whatever information is disclosed at a review committee hearing that is generally available anyway, can be used. In pursuing action a person on that committee cannot be questioned with regard to comments or questions that were asked at the review hearing.

Proponents' Testimony:

David Johnson, CPA in Helena, represented the Montana Society of CPAs which has approximately 1200 members in the American Institute of CPAs which has approximately 300,000 members. They support this bill. It is functional within the peer review process. It ensures the reviewers and the firms being reviewed can carry on candid conversations about the relationship that is being evaluated, and that conversation is protected. He recommended the Committee support this bill.

Opponents' Testimony: None

Questions From Committee Members:

REP. CROMLEY asked him to please be more specific in the types of situations we are dealing with. Mr. Johnson answered since 1979 the CPA profession has had a voluntary peer review program. In 1987 that became mandatory for approximately 40,000 firms within

the United States. As part of that program, firms are required to have outside accountants come in, look at their practice, evaluate that practice and issue reports on deficiencies if they might exist within that practice, and as part of writing that report there are conversations that take place between the review team and the firm that are very candid and often critical. The point is to protect those conversations and work papers from the discovery process. If there is a failure within an account, an audit per se, those work papers are still available to be subpoenaed in a litigation hearing. The firm's work product per se is not protected, but the peer review product would be protected. There have been several situations in the East where attorneys have sought to obtain the work papers on these peer review engagements which are typically destroyed within a relatively short period of time. The American Institute has attempted to resist subpoenas of these work papers and to date they have been able to do that. The purpose of this bill is to protect this whole peer review process.

REP. CROMLEY asked if he knew of any other industries that enjoy this protection. He has been in situations where there has been discovery or attempted discovery of background in the insurance industry work products where there has been some sort of self-critical analysis in the past for which there was some reason to not disclose, but he has never come across the specific statute which would decree nondisclosure. Are there other industries that have a similar type of protection? **Mr. Johnson** said it is his understanding the medical profession has comparable peer review and comparable protection. He was not sure what the procedure within the bar is, but there probably is protection up to a certain point.

REP. STELLA JEAN HANSEN asked if this were just for non-profit corporations? **Mr. Johnson** said it is for the non-profit corporations and their agents that are conducting the reviews. Typically the reviews are conducted by other CPAs and that those review teams are either put together by the American Institute of CPAs, one firm reviewing another firm, or by a state society organized in a review team to have a firm reviewed.

REP. HANSEN asked if he was talking about non-profit nursing homes, and things like that? **Mr. Johnson** said No, they are talking about the Montana Society of CPAs, the American Institute of CPAs, and the reviews that they organize.

REP. KILPATRICK asked if this review would be held in secret, they would talk amongst themselves and nothing would come out except the results? **Mr. Johnson** explained there are two classes of reviews, one of which the report and a 'Letter of Comments' of the findings and the recommendations are placed in a public file and that file is available to the public by writing to New York to get the results of the report. That is what is called the peer review process. The newer process is the quality review process which is mandatory and has compelled about 34,000 firms to go

through this process. To get the profession to buy off on that, in part, the results of those reviews are not included in the public file. Again this does not protect the work product itself. If there is an audit failure, if there is economic damage to an individual or business, certainly the work papers of the firm can be obtained and used in litigation hearings. It is just this one relationship between an accountant and another accountant evaluating that accountant's practice and form of practice.

REP. KILPATRICK said to clarify. down the line somebody is going to say "they did this to me", and they are going to get half of them coming back next time objecting. Does your accountant group overall feel this is a good bill? Mr. Johnson advised he is Chairman of the Montana Society of CPAs, he is one of the 21 members of the Peer Review Committee of the American Institute of CPAs. He is familiar with what this process has evolved into. They feel this bill gives them the necessary protection of that one on one conversation talking to one another and being able to candidly criticize a practice. The accounting profession is one that has sought self regulation rather having the SEC and other governmental agencies involved in regulating the profession. These peer and quality reviews are an integral part of that self regulation.

REP. STEPPLER asked regarding the limit of the liability of the persons, does that mean whatever actions the group comes up with they are not liable for whatever they say or do? Mr. Johnson said it is his understanding in conducting the review a great deal of judgment is involved. Perhaps a reviewer might miss something that someplace down the line results in litigation against the firm. If a particular audit had a problem with it, that audit wasn't selected, and the party is damaged down the line, the attorney comes back, and firstly he tries to sue the firm, and secondly, he tries to sue the reviewer of the firm. Just by the size of these things, the scope of the reviews range from maybe 3% of the practice for a very, very large multinational firm maybe ten, fifteen, twenty percent of the practice for smaller firms, so it is a selection process, not everything is looked at in these reviews.

REP. STEPPLER asked about the actions they do know about? If they do make mistakes, would this still cover them as far as liability? Mr. Johnson answered the review team would communicate to the firm any deficiencies noted. At that time it is the firm that is responsible for taking corrective action on those deficiencies that are noted. This does not take the firm out of the litigation picture, so the firm is ultimately responsible for its actions.

REP. ELLIS said as he understood this legislation it is to protect the reviewers when they are going over various accounting practices to determine whether the public is well served by that particular firm or individual. Mr. Johnson said that is essentially correct.

Closing by Sponsor:

SEN. GAGE said this is a good consumer protection bill. With that assurance of protection those review team people are going to be much more thorough and willing to question their peers in that whole review process, whereas if this is all information that is available, they would be less apt to be as thorough in what they are doing, especially if there is liability involved even though they may be sincere in what they are doing. If they don't have protection of some kind, they may be less apt to do as thorough a job. REP. BENEDICT will carry SB 360 on the House floor.

HEARING ON SENATE BILL 335Presentation and Opening Statement by Sponsor:

SEN. JERRY NOBLE, SD 21, Cascade and Lewis & Clark Counties, is carrying this bill on behalf of the Montana Contractors' Association. It is an Act revising excavation procedures near underground facilities; requiring that entities and persons that have the right to bury underground facilities be members of one-call notification centers; exempting public authorities from liability for improper or unauthorized installations made by others; and amending several sections. In the Senate Committee there were no opponents, it passed 100% on the Senate floor. It is a very good bill and a good safety issue. Montana currently has a law providing for notification to contractors and others of the existence of underground facilities, such as power, gas, water, communication lines, etc. However, the law does not provide for that information to be centrally available to all who might excavate. Most utilities in the State participate in a one-call system in which they are notified about the upcoming excavation near their lines. The utility then marks their line locations prior to excavation by the contractor allowing the work to proceed with safety and no damage to lines.

Not all utilities participate in this service where the contractor and the public have a major risk that someone may not have marked a line. At the very least tearing up utility lines is going to cost both the utility and contractor money, disrupt service and delay the project. At the extreme end striking a power line or natural gas line could kill or severely injure a worker and others. Such accidents have happened in Montana, one as recently as last year. The cost of participating in the one-call system is paid for by the participating utilities. This is a safety issue for all Montanans.

Proponents' Testimony:

Ken Dunham represented the Montana Contractors' Association. This bill is above and beyond a safety issue for Montanans. Most of us have assumed the one-call system was in place throughout the State and was working well, and it is. Where Montana's one-call

law falls a little bit short is that it does not require everybody to participate in it. They would like to see the bill strengthened to require all utilities that have underground installations to be part of a one-call system. Underground construction is among the most dangerous construction around. When digging into the ground you have no idea what is under there until you get down six or eight inches. This is also an issue for other than construction companies. People who dig in their backyards have no idea of what utility lines are located under there. Everyone has seen the posters about calling before you dig. This bill is the result of a number of meetings over the past year between people in the construction industry, various utilities involved, and a number of the municipal governments from around the state have had participation in this bill.

The second part of the bill is a cost issue. It is expensive to hit an underground line of any sort. A segment of the new fiber optic line would cost about \$500,000 to replace. It is an expense item for everybody involved. The cost of a utility to participate in a one-call system is very, very minimal. It is about \$204 for the first 160 calls; the calls average \$1.23 after that so it is not a major issue costwise to a utility and it is something borne by the utility, not the consumer. He hoped the Committee would support the bill.

Dan Walker, representing U.S. West, supports SB 335 which requires entities such as U.S. West to belong to a one-call system, not only as a utility company but as a contractor. They are often digging and excavating to put in new facilities and repair those that need it. They recognize and appreciate the value of having a one-call system in place, and recognize the safety factor. For those contractors that are new to our area it is most helpful to them as they are going into the business of doing their work. They have been supportive of this legislation. They have been involved in helping develop it over the past few years and think it is good legislation. It has been proven in other areas and is an extension of the law we already have in place which has been working quite well for the past several years.

Gene Phillips, Pacific Power & Light, and the Northwestern Telephone Systems, stated they also support this legislation. They have had in effect in the Flathead area for a number of years a system called "You dig" which is listed in the telephone directory. Anybody who is preparing to do any excavation can call that number and they will notify Montana Power Company, Pacific Power & Light, Northwestern Telephone, Flathead Electric and local cable TV companies to go out and mark their facilities in the area where the excavation is going to occur. Because they have had that system in place, they requested an amendment to the bill which the Senate did put in which requires that if there is already a one-call notification center covering the service area of the entity, Page 4, line 14, you don't have to be part of the statewide system. Since they already have such a system in place, they asked for that amendment. With that amendment, they think it

is a very good piece of legislation, and strongly urge concurrence in it.

Leo Berry, attorney in private practice in Helena, represents MCI, a long distance telecommunications Company, and for the reasons stated by the previous witnesses, MCI would like to go on record as supporting SB 335.

Henry Lohr, representing Montana State Volunteer Firefighters Association, explained what the Broadwater Fire Chief in Townsend found when he was called about the gas leak in the Yellowstone Pipeline which runs from one end of Broadwater County to the other. A good sized crawler had ripped into the gas pipeline and it was shooting gas up out of it. It was premium gas at that time. It was on a hill. The gas was running down towards the railroad tracks. They had to call Burlington Northern and shut down the railroad that day in case sparks would ignite the gas. If this system had been in effect and he had used it, the crawler operator would have saved himself a lot of lawsuits and a lot of other problems. He supports SB 335.

Bob Warner, a gas engineer for the Montana Power Co, urged support for SB 335. Far and away the greatest cause of damage to their underground gas facilities is third-party damage or dig-ins. Some of them can be quite serious. This is a good step in the prevention that has been pretty much adopted nationwide, and is supported by the department of transportation. He urged support for this measure.

Tom Barnard, Chief Engineer with the Montana Department of Highways, supports this bill as amended by the Senate.

Bud Griner is the Montana representative of the Underground Utility Location Center. He illustrated on a map showing the 56 counties in Montana the ones that belong to the two-in-one-call system. All the states are pushing in the direction towards the mandatory system. When a person is going to excavate, if the excavator makes one call 1-800-424-5555 he gets the Underground Utility Location Center. The person at the Center advises the conversation is being recorded. Everything that comes in and goes out of that Center is recorded. All that can be pulled off the recordings as well as off the paper work. It is kept for 6-1/2 years at separate locations. The information is passed off to any of the subscribing utilities, water, lights, gas, sewer, telephone, TV. EXHIBIT 1 - Making a Quick and Complete Locate Request.

A normal location request, if the caller has the proper information and allows them to lead the conversation, takes about three minutes to get a call in. That is passed back to the subscribing utilities in that area within another three to five minutes. They also request the excavator to mark in white the excavation area so the utility doesn't have to locate a lot of area, just the area to be dug into. The utility has until the

second business day to locate the requested area. Not everybody can wait that long a time and the utility surely doesn't wait until the last minute, they try to get out there as soon as possible. The Center requires the name of the excavator, the contractor, time of starting to dig, etc. The utility is to be notified at the end of the conversation. The Center tells the caller who in that area will be notified, in Helena AT&T, Sprint, Montana Power, U.S. West and also tells them anybody else. They will have to find out who has any other facility in that area. By law the utilities have to have that recorded with the Clerk and Recorder in that County. Sometimes the Clerk and Recorder has problems finding that information if the utility has supplied them with the information. The utility receives the information the Center has obtained from the caller.

This was started in February 1989 and has rapidly increased since. In 1990 there were 72,736 calls to utilities from the Center. There are 41 utilities presently subscribing who are in the process of doing their paper work; among them are the Blackfoot Telephone, Mid Rivers, Montana-Dakota, Branch Tel-CoOp, U.S. West Communications, Montana Power Co., Namont, City of Great Falls, City of Shelby, Montana Refining Pipelines, Premier Communications which is a TV company out of Missoula, local gas companies, etc.

There are three ways a call can be received. One is by printer, two is by Fax, three is by telephone. The printer and the Fax both cost \$1.23 per locate request. There is a minimal charge of \$204 which allows 166 calls, after that it is \$1.23 per call. The telephone takes more time to use and requires repeats and usually costs \$1.75 per call. If the Fax averages over 100 calls a month they request that be given to a printer. The printer and the Fax have to talk to each other. At the end of the day to make sure you have all the calls that came in, there is also a form sent out showing the locate request numbers for each utility that have been received that day so they can be verified.

There are four types of notifications: One is the regular type where the excavator calls in today and he is going to dig several days ahead, no problem, just a normal locate request. The second case is a short notice when he calls in today and wants to start digging in the morning. The utility and the excavator should get together and make proper arrangements. Third, the crew is on site, the excavator is on his machine and wants to start digging. The Center gets that call and usually from the time the excavator puts in the phone call, they get someone out there as soon as possible. Fourth, an emergency call is made to the utility. They get the printed copy with bold lettering at the top, and a telephone call to make sure they have received the locate request.

They are in the process of setting up a grid system in the State in the seven communities that have approximately 90% of the locate requests, which are Yellowstone, Gallatin, Lewis & Clark,

Cascade, Silver Bow, Missoula, and Ravalli. In these seven counties there is no additional charge to the utilities. They are putting it in so they can cut down the area they get calls for that aren't needed. In a rural area they will be able to get the locate request down to a quarter section. In the city down to approximately one to one-tenth of a mile or a city block.

The maps they are using are scaled down to one-tenth of a mile. If a utility has nothing in the map's area, they write in 'none'; on those that have facilities, they indicate where they are. All county and city maps in the state will be available, and if there is a problem locating that specific spot the caller and the Center can get together and between the two they can pinpoint it.

They were asked how they advertise this. As of the first of the year he started doing some of the advertising. He travels all over the State. The utilities get together and have a contractors' meeting, where they have a dinner and invite the contractors in and they answer questions and go over anything that makes it work better. They have been doing this for several years. By the end of April he will have presented this program to 600 contractors and numerous utilities in the Eastern end of the State. That is one of the ways they advertise. They do have some material the utilities purchase at cost and they hand out as they travel. One is the sheet of paper that basically tells the format for calling in a locate request. There is a calendar and a poster. He stops in at all the construction units, utilities, cafes, bars, anyplace people congregate, gives them a calendar and request they hang up the photo as a reminder. That is some of the material they now have. Contractors like the little calendars they put under their dashes that have the Center number on them, key chains, stickers saying "Call before you dig", and request they put that on all their digging equipment. They use newspaper, TV, printed articles in the utility bills, etc.

Opponents' Testimony: None

Questions From Committee Members:

REP. SHEILA RICE said she works for the Great Falls Gas Company who participate in this program, and is in favor of the bill. She asked how the cost of the Center is handled. Is it passed on to the consumer when it is considered by the Public Service Commission when setting rates? Gene Phillips said he did not know whether these costs were considered in their last rate case or not as part of their operating costs. He will check to see if he can identify that. He would assume it is passed on.

REP. RICE asked if he knew this was a cost of doing business under the PSC rules. Mr. Walker didn't know with absolute certainty. He agrees with you 99% it is a regular cost of doing business and is passed on. They do not belong to the one-call system in Montana.

REP. RICE asked who he worked for. Mr. Griner said he worked for the Underground Utility Location Center which is located in Bellview, Washington. It is a business property. The price per call is basically unregulated. When this was set up in Montana, he wasn't working for the Center at that time. They shopped around and got the most inexpensive facility possible. If they get the number of calls going into the system increased to well over 50,000 calls a year, then they would consider putting a Center here in Montana. They have the most inexpensive system on the market today.

REP. BARNETT asked if this system gets in place you are talking about a general contractor who has a number at which you could call him. What about a private individual with a backhoe who is going to do some work on his place. Would he be able to access this system? Mr. Griner advised anybody can access this system by calling their 800 number and all the utilities will be notified. The citizen who only digs once every five years is the hardest person to get to. They are addressing that problem by going around handing out posters in public areas. They are involved with the energy council. There are billboards with the 800 number on it "Call before you Dig". The local utility companies advertise in the paper, on TV and in the telephone directory under 'Underground Location'.

REP. BARNETT asked in regard to the amendment you were able to get in in the Senate, would this system if a person wanted to call in your area, would he be able to call this 1-800 number and reach you? Mr. Phillips explained there is a listing in their local telephone directory that covers the Flathead area. It is known as 'You Dig'. It is a local number. You are connected with a Center that provides the same information as that provided out of Bellevue, but it is a different phone number. If the 1-800-424-555 number was called in their area, the Bellevue office would refer them to the Flathead number. There is a little overlap along the edges where the systems come together, in the West Glacier area where U.S. West serves, you can call that number also.

Closing by Sponsor:

SEN. NOBLE thought the Committee agrees this is a nice safety bill and will be some real help to everybody. They had some small amendments done in the Senate committee, all the glitches are out of it. It is a very pure bill and hoped it would be kept on its way. REP. SONNY HANSON would carry SB 360 in the House.

EXECUTIVE ACTION ON SENATE BILL 335

Motion/Vote: REP. DOWELL moved SB 335 BE CONCURRED IN. Motion passed by all those present.

EXECUTIVE ACTION ON SENATE BILL 360

Motion: REP. WALLIN moved SB 360 BE CONCURRED IN.

Discussion:

REP. KILPATRICK does not like secret committees. This is only dealing with accounting but it is bothersome that these people can talk and say there is nobody in command, nobody knows what is going on, and there is no liability whatsoever. That should be a public record. He is not happy with it.

REP. BACHINI explained he understood it to be the conversation they have while discussing the review. REP. KILPATRICK agreed it did not have to be an open meeting, and it doesn't have to be open because it is not a government meeting. Everybody should be able to look at their procedure and report.

REP. SONNY HANSON said this is a peer review, it is a review that the accounting CPA organization, evidently it is a requirement on a federal level, but engineers requested this out of Washington, D.C. They have groups who come in and will review two or three or four of their projects on how you do it and what are you doing wrong. It is strictly an internal operation to improve what you do. He doesn't know if that is public, or whether the responses to it are. This is our method of how we operate our business, and how we can improve our business, not from the financial aspect but from the technical aspect. It has nothing to do with the actual meeting or taking care of accounting of one of your clients, it is strictly a peer review by those in the trade that come in and say, look at it this way. Engineering started this about five years ago, and there are groups going all over the United States. It is strictly confidential for what happens.

REP. CROMLEY said the way Section 1 stands there is no liability for those persons provided they act on a reasonable belief without malice. Subsection (2) says the proceedings of the review are not admissible as evidence in any proceeding. You could have a review and during the course of the review it is brought to the attention of the accounting firm being reviewed that there is some mistake. Assuming the accounting firm does nothing about that and later there is a loss to an investor or person using the accounting firm, the fact that this was brought to the accounting firm's attention could not be brought out, so he objects to Subsection (2).

Motion: REP. CROMLEY moved to amend SB 360 by striking Subsection (2) which is on Page 1, line 24 through Page 2, line 12.

Discussion:

REP. BENEDICT thought the next sentence took care of that. REP.

CROMLEY said he read that also, but he reads it to say the materials can still be produced. Say there is a loss and you can still produce the books, etc., but that goes on to say the reviewer on Page 2, line 9 'however, he may not be questioned about his testimony or the proceeding before the committee or about opinions or other proceedings before the committee or any member of the committee'. The fact that the mistake was brought to the attention of the accounting firm it seems that it cannot be brought out.

REP. BENEDICT reminded these are peer reviews, they aren't expert reviews, these aren't calling in some high authority to say this is the way it is. It is one person's opinion. All this bill does is to say if I offer my opinion, I am not going to be held liable.

REP. SONNY HANSON said the concept on the peer review is that they are doing a review to improve the operation of the accounting firm, usually at the request of the accounting firm that they come in and do this for. Whatever they find, they as individuals, should not be subject to go before a court in the discovery processes and say "I found this". They have the peer review to be our basis for evaluating that stuff. It is a form of improving the accounting ability of the CPA firm.

REP. ELLIS said it seems that this part **REP. CROMLEY** is objecting to would make it easier for the reviewing committee or both to get information as to how an accounting firm does its business. It does not make it available. The second sentence merely means we are not changing the availability of that information. If it is available now, it still will be and if it wasn't available before the mere fact they gave it to this forum so it could be judged, does not make it available. **REP. CROMLEY** said he is not familiar with accounting things. He is thinking in terms of the legal profession. They have had peer review for companies they represent and will occasionally send in a team to evaluate what they are doing in the case in terms of their billing to see what sort of job they are doing. It seems to him they will then have to evaluate a case and they indicate to them that they have neglected to include under the special Statute of Limitations on an action that happened more than three years ago. They call to this to their attention which is good. Section 1 indicates that in the course of their review they make mistakes but if they are reasonably correct it protects them. Section 2 says if my client were to sue me because we didn't have the Statute of Limitations problem, they didn't use the Statute of Limitations defense but the fact that it was called to his attention by the peer review should be held against them. Not only did he miss it, it was specifically called to his attention by the peer review and maybe at that point there was a chance to correct it, still that error was not corrected. The fact that it was called to his attention should be discoverable.

REP. BARNETT commented on the bill. In light of a teacher and

being in the profession goes along with the same pattern that **REP. SONNY HANSON** was referring to if my principal comes in and evaluates me and points out some things that need correcting then I think it is my responsibility to correct them, the same within the legal profession. The fact he doesn't correct them does not make him liable for pointing them out to me, but at the same time if it was something that took me to court, then I think he has an obligation to testify against me that he pointed this out and I didn't make the correction. This is not saying that, it is just saying he is not liable, but whether he wants to testify or not, he could still be free to do so. The same thing would be true in the legal profession. If someone pointed out that you were doing something wrong and you didn't correct it, to protect the legal profession I would testify against you in court. He didn't see any difficulty with this legislation.

REP. KILPATRICK said if you are pulled on the carpet by a principal or school board, you can have representation and you have somebody there with you and those records are filed and on form and you know what is going on and anything they say is in the record, that is the point he was trying to make. He still doesn't like the idea of keeping it quiet. If you actually have the person there and have the representation, fine. That is one thing.

REP. BACHINI said we are speaking to the amendment.

Motion/Vote: Amendment to strike Section 2 in its entirety. **REPS. SHEILA RICE, KILPATRICK, McCULLOUGH, STELLA JEAN HANSEN, BACHINI, DOWELL, CROMLEY** voted in favor of the Amendment. **REPS. PAVLOVICH, KNOX, BENEDICT, LARSON, STEPPLER, BARNETT, ELLIS, WALLIN, SONNY HANSON, TUNBY** - amendment failed 7 to 10. **REP. SCOTT** was absent.

REP. BACHINI said there will now be discussion on the bill.

REP. BARNETT commented when his principal comes in and evaluates his class he would hate to make that a public hearing because it is for his benefit and he is helping me in trying to point out some weaknesses and some strengths. In some areas there is the right of privacy and it is something the public should not have to know at this particular point if I am weak in my teaching profession. He is trying to help me. For that reason he would defend the secrecy or right of privacy.

REP. STELLA JEAN HANSEN asked if this protects the principal and not the teacher? It exempts him from that review, so we can't sue the accountant? **REP. CROMLEY** said this section just protects the reviewers but not the party being reviewed. **REP. HANSEN** said we are relieving from litigation that reviewer at the time of that review. **REP. CROMLEY** maintained Section 1 protects the reviewers, and he maintains Section 2 protects the persons that were reviewed.

Motion/Vote: SB 360 BE CONCURRED IN. Motion carried.
REPS. STELLA JEAN HANSEN, KILPATRICK, DOWELL, CROMLEY, BACHINI
voted NO.

EXECUTIVE ACTION ON SB 272

REP. CROMLEY reported on the subcommittee on SB 272. **REPS. NORM WALLIN** and **REP. SHEILA RICE** were committee members.

REP. CROMLEY explained SB 272 sponsored by **SEN. FARRELL** defines industrial infrastructure and tends to tighten it up. The opponents and subcommittee people were generally inclined not to tighten it up too much, and felt the Act has been serving a good purpose; however, it was felt some sort of definitinal type of action should be taken with regard to the industrial infrastructure. There is another section of the code 7-15-4283 which does say industrial infrastructure development project, which means a project undertaken within or for an industrial district that consists of any or all of the activities authorized by 7-15-4288 so that is on the amendment, and put in additional language attempting to itemize more than has been done in the past exactly what the terms infrastructure and industrial infrastructure are. We used particular language from **SEN. FARRELL's** bill but basically what this amendment does is strike the New Section in SB 272, and include the language from the bill which was in there, natural gas lines, sewer lines, electric lines, telecommunication lines, and put those all in the list but also left the original list intact. So the intent of this amendment is to clarify (rather than define in the title), and did not narrow the use of the tax increment financing projects but just perhaps clarified it somewhat by the language.

REP. SONNY HANSON asked why did you strike out 'public' buildings and 'other' public improvements? The infrastructure normally refers to public accommodations of one sort or another. **REP. CROMLEY** said it was felt public buildings somehow means a city hall and was too narrow in terms of exactly what a public building is. Sometimes these buildings can be leased and not operated by the city or county.

REP. RICE said there is an EPA program that allows industrial buildings to be constructed and leased to the industry, and that too narrow a definition of this would prevent a city from participating in that program.

REP. SONNY HANSON said public buildings are defined throughout the statutes and by the Attorney General who defines it as any building that has public funds involved. Most of the codes and through other areas define public buildings as those accessed by the public, in other words a movie theater could be a public building. There are many connotations. **REP. CROMLEY** was thinking in terms of construction of public buildings.

REP. STELLA JEAN HANSEN said she served on a tax increment

committee for some time in Missoula and they weren't allowed to do anything with private buildings. 'Public' buildings was stricken. Missoula built a public parking facility with the tax increment funds. REP. RICE explained by striking 'public' it does not exclude them. REP. HANSEN said so you can also build a private building which we have never been able to do before. She did not think she would want tax increment money going into building public buildings, or any such money going into a private building.

REP. CROMLEY said the building would be owned by the public and leased to a government entity. REP. HANSEN said there was a situation in Missoula where they tried to take tax increment money and build a private office building. They had to go to court over that. It seems to be a little too narrow, she would like to see that covered.

REP. WALLIN said if there was \$10,000 of federal money available for job creation, some of the tax increment money could be used for buildings. REP. CROMLEY explained it is a value-added situation. REP. HANSEN said if you are looking at the whole concept of tax increment that is to create new taxes for the taxing jurisdiction. So if you put public money into a private building, you are going to run into trouble.

REP. PAVLOVICH asked if all the parties agreed with these amendments? REP. CROMLEY answered No. SEN. FARRELL knew about the amendments, and he might not like them because they are narrowed down. He wanted to see some statement regarding the broadness.

Evan Barrett said he spoke to Mayor Kemmis. In Missoula there are two layers of government, the county and city. The county is more inclined towards the narrow approach that SEN. FARRELL had. The city is more inclined toward keeping it broad and flexible. The Missoula Development organization felt SEN. FARRELL did not read the amendment in its entirety. If he objects strenuously it might go into a conference committee, or the Senate might adopt them over his objections. There is a difference in the approach.

REP. RICE said as a member of the subcommittee she philosophically is in full agreement with the amendments. We believe there is a broad interpretation of infrastructure that would include direct assistance, buildings perhaps leased back to companies, interest rate subsidies on equipment and machinery because they feel broad interpretation of tax increment financing is being able to build jobs in Montana. It is not that we are blessing this with absolutely no control. The control remains with local government. It remains with tax increment financing committees, with county commissioners and city commissioners, and she comes down on the side of broad infrastructure development. The broadest interpretation possible basically, but define it within this law.

REP. PAVLOVICH asked if this affects REP. BRADLEY's bill at all.

REP. RICE explained she has a list, both Bradley's, the Governor's and Hal Harper's bills all have a list of what they consider infrastructure improvements. This pertains only to tax increment financing. This is a narrow interpretation of tax increment infrastructure financing.

REP. ELLIS we are so changing this bill he would like to hear it again to know how people feel about it. What is there in this amendment that prevents that type of financing? REP. CROMLEY didn't think this bill addresses that any more and it doesn't address any problem in that regard. Maybe the original bill didn't either. This is in a sense a different bill. The original bill would have narrowed things down. They felt they had the choice of recommending the original bill not be concurred in or doing something like this as far as making some sort of statement on what tax increment financing could be involved with.

REP. RICE said REP. WALLIN had explained if this bill passed this committee and passes the House, it goes back to the Senate with the House amendments and at that time SEN. FARRELL can oppose the amendments and if the Senate chooses to not accept the House amendments, it will go to conference committee and then both Houses will have a chance to vote on the conference committee report. This would provide a chance to discuss the bill again and to vote on it later.

REP. HANSEN said the amendments to this bill and to SEN. FARRELL's bill confuses the whole issue of tax increment. If you are going to use these amendments for infrastructure where a system is to be set up for financing infrastructure, the tax increment in order to put it into effect has to be voted on by the people. You draw a circle that you normally would encompass that amount of business that can be improved with a tax increment district. You have to go out and sell that to the people who may have to vote on it. Tax increment districts and financing have always been a public process, it is not a private one. There is a very fine line between the private and the public. She doesn't believe people would vote on a tax increment committee again if the money could be used for public entities. It is a good idea to build public entities, but this is not the vehicle to do that. Let's set up an infrastructure facility which HB 905 does and put these in HB 905 which would be in much better shape. If this were done in a tax increment committee, you would kill any more tax increment committees in the State.

REP. BARRETT said the tax increment asked by the committees, the House and the Senate, actually the districts are enacted by the governing body. There is no vote of the people on this thing. The governing body specifies the area and they aggregate the tax increment in that district and use it to develop.

REP. HANSEN clarified that it was then reviewed by the city council and voted on by the county. Each local government body, the county and city commissioners votes and creates a district in

which it then aggregates the capital and does this work in the district. She thinks this takes money away from the school districts. This tax money, once the increment is frozen, all those taxes go into the increment district, not into the school districts, not into local government that receives money from the property taxes. It would be hard to sell those people on the private concept. Missoula has already gone through a big squabble with this.

REP. ELLIS said we have to substantiate every bill here and we should let everybody who is involved in it testify on it. Unless we rehear it he would vote to Table.

Motion/Vote: REP. ELLIS moved to TABLE SB 272. Motion fails 3-14, See EXHIBIT 2.

REP. WALLIN in answer to REP ELLIS' concern said tax increment financing can only be used for value-added. Looking through the minutes of the hearing of two years ago, he had asked if tax increment financing could be used for establishing a shopping mall. It was said probably it could not be. Somebody else asked if it could be used for a motel, and the answer was No. Those by any stretch of the imagination are not value-added. Your implement agency wouldn't be taking a product and adding value to it, so REP. ELLIS' concern is really not appropriate to this particular bill. It couldn't ever have been used to help or hurt the agency in Red Lodge.

REP. BENEDICT agreed with REP. STELLA JEAN HANSEN. The focus of the bill in its original form is to bring some definition to what public infrastructure is all about. He takes exception to REP. WALLIN that probably before tax increment financing couldn't be used to put private enterprise into competition with another private enterprise, but these amendments allow that to happen. Acquisition of land for development or redevelopment by private enterprise is allowed under these amendments. A lot of things are involved here that we are starting to get away from what public infrastructure is all about. The original bill addresses public infrastructure where these amendments start to loosen it up and let anybody qualify for tax increment financing. That is why he is opposed to the amendments. EXHIBIT 3.

REP. RICE clarified that pedestrian malls are in the existing law. It is just the underlined items that would be new language and most of those are taken from SEN. FARRELL's bill.

REP. ELLIS said it has been said this has to be for value-added, so it wouldn't be. Evan Barrett testified the same way the other day on SB 272, but we have in Yellowstone County a small slaughter plant that slaughters cattle mostly on a custom basis. Packing plants are a value-added industry. They have been operating for years in that area. During this time another packing plant that had to kill at least 100 head a day to be feasible was opened up and it went bankrupt. There is nothing in

this bill to keep tax increment financing from being used to finance something like that. That is value-added and it would have a dramatic effect on the custom slaughterer who is in that area right now if, because of this kind of financing, they did allow the bigger one to survive.

REP. LARSON thinks it is necessary to make sure the definition of infrastructure is properly drawn so that in the event you want to take the monies from the bank and use it for an infrastructure development in the tax increment financing district you can do it. If you draw the definition of infrastructure too narrowly or incorrectly, there is a very good chance you couldn't use the money from the coal trust for infrastructure projects.

Evan Barrett said tax increment financing is a tool under the statutes. It has two purposes at this point. One is urban renewal programs. The other is for industrial development purposes. That was the new thing added two years ago. Much of the law, in fact the bulk of the law, applies strictly to urban renewal, but industrial infrastructure development is the new component and certain elements of the law apply to that. Most of the other aspects of urban renewal do such things as relocating businesses and people, etc. That is strictly the urban renewal side. The urban renewal structure and the tax increment portion of it are used to apply to infrastructure development projects. It is very narrowly construed.

Motion: **REP. CROMLEY** moved amendments as shown on EXHIBIT 2 be adopted.

Discussion: **REP. BENEDICT** feels **SEN. FARRELL's** bill tightens up what infrastructure and public infrastructure is. These amendments don't put something new into law. It is already there, but the sponsor is trying to tighten up what the definition and clarification of public infrastructure is. We need to do that. These amendments will not do that. **REP. BACHINI** agreed the sponsor would not concur with these amendments. But it is also the option of the Committee to amend the bill with these amendments.

REP. RICE said she is asking the Committee by adopting these amendments to say "I'm going to leave it to a local tax increment financing board which then has all their decisions approved by the municipality's governing board to make the best decisions for economic development for that county or city." to bring jobs to that location.

REP. LARSON disagrees with that. To throw away the statewide property tax mill levy would cause complete disarray. You have to define infrastructure here, and the local entities throughout the state have to abide by that, otherwise there is chaos.

REP. RICE clarified tax increment financing means once you have the district, the taxes from an improvement that happens in that

district don't go into the general tax distribution, they go into tax increment financing. Approval of this doesn't change the amount that goes into tax increment. The improvements will go into tax increment regardless. It is only the use of the tax increment dollars that are already out of the general taxation structure that is being discussed.

REP. PAVLOVICH asked Evan Barrett to define the word 'infrastructure' and what it does? Evan Barrett explained in the form in which it is now, but also as it was brought in, amended the statutes that were passed two years ago. The intention of the bill as it was written was to be able to do infrastructure assistance on two sides. One side was public infrastructure and the other was private industrial infrastructure. That is why most of the Committee last session focussed on public infrastructure. In that hearing there was a section that called for direct assistance to the secondary value-added industries to assist them in acquiring their infrastructure within the tax increment financing industrial district. The purpose of the statute was to provide this two-sided thing. **SEN. FARRELL** has decided that it means public only. That is his decision, not the decision of the Legislature, not the decision of the authors of the legislation initially, so he has drawn up a bill to narrow it to that. These amendments are acceptable because they more clearly lay out what has been the established practice so far under the law as it has been used in the last two years, and it does so by amending the proven and established section of the law rather than by creating a new section. It is actually better that it works off existing language, but keep in mind the objective is to clarify the meaning of public infrastructure. **SEN. FARRELL's** objective is to define infrastructure for industrial development into a purely public forum. That was not the intent of the legislation when it was drafted and sent here last time. It was a two-sided approach. Public infrastructure, direct assistance and private infrastructure is what that section meant when it was put in there. His objective was to significantly narrow the statute as it was passed last time. These amendments reinforce the existing meaning of the statute. In all the forums of infrastructure the existing infrastructure was defined as tax increment. It added some language that made it go more to where the sponsor wanted.

REP. BENEDICT didn't feel like Mr. Barrett is an unbiased observer in this. If we are going to have a debate about the original intent of the bill introduced two years ago, then maybe we ought to have more than just one particular aspect of the bill be discussed.

REP. HANSEN said she knows where Mr. Barrett is coming from. He would like to take some of the tax increment money and build a building for Patagonia in Missoula. Patagonia can build their own building. This is tax money because even though the taxes are frozen and then when the tax money goes into the tax increment committee, she is not sure you can sell the public on the idea of using tax dollars to build private things as listed in the

amendments.

Vote: On the motion to adopt the subcommittee amendments on EXHIBIT 3 to SB 272. Amendments were adopted 10-8 by roll call vote EXHIBIT 4.

Vote: Motion SB 272 As Amended by EXHIBIT 4 SB027201.APV BE CONCURRED IN. REPS. KNOX, BENEDICT, STEPPLER, ELLIS, HANSON, STELLA JEAN HANSEN, TUNBY voted NO. Motion passed 11-7. EXHIBIT 5.

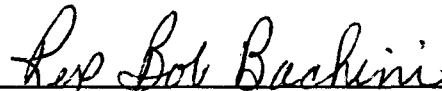
REP. BACHINI asked all in favor of SB 272 As Amended BE CONCURRED IN to show their hands. REPS. PAVLOVICH, McCULLOCH, LARSON, CROMLEY, DOWELL, KILPATRICK, RICE, BACHINI, SCOTT, WALLIN, BARNETT voted in favor of adoption of the motion. Motion carried 11-7.

REP. BACHINI thought SB 272 as amended by this Committee would go to a conference committee since the sponsor did not want his bill amended in any way and he would probably ask the Senate to refuse these amendments.

REP. CROMLEY will carry SB 272 on the House floor.

ADJOURNMENT

Adjournment: 11:00 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

1:50
3-14-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 335 (third reading copy - blue) be concurred in .

Signed: _____
Bob Bachini, Chairman

Carried by: Rep. Hanson

1-50
3-14-91
JDB

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 360 (third reading copy - blue) be concurred in .

Signed: [Signature]
Bob Bachini, Chairman

Carried by: Rep. Benedict

HOUSE STANDING COMMITTEE REPORT

March 14, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 272 (third reading copy - blue) be concurred in as amended .

Signed: Bob Bachini⁰⁷
Bob Bachini, Chairman

Carried by: Rep. Cromley

And, that such amendments read:

1. Title, line 4.

Following: second "ACT"

Strike: "DEFINING"

Insert: "CLARIFYING THE MEANING OF THE TERMS"

2. Title, line 6.

Following: "ACT"

Insert: "; PROVIDING THAT DIRECT ASSISTANCE TO SECONDARY VALUE-ADDED INDUSTRIES BE THROUGH AN INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECT; AND AMENDING SECTION 7-15-4288, MCA"

3. Page 1, line 9 through page 2, line 5.

Strike: sections 1 and 2 in their entirety

Insert: "Section 1. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs which may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

- (1) land acquisition;
- (2) demolition and removal of structures;
- (3) relocation of occupants;
- (4) the acquisition, construction, and improvement of infrastructure or industrial infrastructure, which includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunication lines, rail lines, rail spurs, bridges, public buildings, and other public

improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district; and

(11) the provision of direct assistance, through industrial infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the industrial district." "

Making a Quick and Complete Locate Request

When you make a call to the Utilities Underground Location Center (UULC), you can be off the phone in no time...if you are prepared to give complete information in the order required by the computer.

If you start right off spilling out the information in just any random order, you might be on the phone for a while, as the attendant moves the insertion point around on the screen to try and get everything into the right slots. It's kind of like digging holes here and there and hoping they'll all come together to form a trench when you're finished.

Computers have their own sense of what's logical. That logic is determined by some overall scheme of things that may not seem logical when items are looked at individually. For example, most callers want to give their names right away when the phone is answered at the UULC. But, the caller's name is well down the list in the order required by the computer.

Next time you call in a notification to the UULC, try giving your information in the following order and see how much faster you get off the phone. Having complete information on hand before you place your call helps.

1. **Contractor Number:**
Frequent callers are usually assigned a "Contractor Number" which they can give the UULC operator. When keyed into the computer, this number automatically brings up the name, address, and phone number of the caller's firm. Anyone can request a Contractor Number.
2. **County and State:**
Where the digging is to take place.
3. **Municipality:**
The nearest city or community to the dig site. For metropolitan areas, a suburb name may be needed.
4. **Address:**
Urban: Specific street address or nearest cross streets with directionals (East, West, North, South) etc., and whether it is an Ave, St, Ct, Pl, Rd, Dr. etc. New developments and lot numbers are helpful. We can put multiple addresses on the same ticket if the addresses are on the same street and block.
Rural: Closest road or highway with specific instructions on how to get to the dig site. Name of the residence is helpful. Post Office Box or Route numbers are not. We will soon have additional screening capabilities for hard to find, rural, unaddressed areas, or new addresses. It will be helpful for you to know the Zip Code for the area and the Township, Range, Section and Quarter Section of your site. This information will help ensure accurate utility notification. In the case of unnamed streets or roads, be prepared to give directions to the site from the nearest city or area name that you have given.
5. **Type of Work:**
Be specific - landscaping, installing/repairing a utility line, installing a fence, digging a basement, etc.
6. **Extent of Work:**
Give precise details, including beginning and ending point where digging will be taking place. For extensive jobs, set up a meeting with the locators to explain the extent of the work. Pre-marking the dig area with white paint is also helpful.
7. **Name of Caller:**
Give your first and last name in case a utility needs to contact you.
8. **Job Title:**
This can also assist a utility in contacting you within your company.
9. **Start Date and Time:**
The time when you plan to start digging. In most states, this must be at least 48 hours (two business days) after you call the UULC.
10. **Phone Number:**
The number where you can be contacted during business hours.
11. **Best Time to Call:**
Time when you can be reached at that number.
12. **Name of Contractor:**
Person who is actually doing the digging.
13. **Contractor Address:**
... of person actually doing the work.

When the above information has been provided, the caller is given the names of the utilities who will be notified. The caller is also advised that other facility owners who are not UULC members may have lines at the dig site, and they will have to be notified individually.

Each caller is also given a "Request Number". This number should be kept with the job file and used in all subsequent queries regarding a particular locate request. The number contains eight digits, the first four of which indicate the year and week of the request. It should not be confused with a telephone number.

*Note: A handy wallet size card is also available with this format.

U.U.L.C. LOCATION REQUEST

Contractor #	S/N?	County
--------------	------	--------

City, Town, or Area Name	1/0
--------------------------	-----

Address _____

Township/Range/Sect/Qt/ Section _____

Type of Work _____

Extent of Work _____

Start Date	Start Time
------------	------------

Name of Caller _____

Title	Phone #	Return Call
-------	---------	-------------

Contractor _____

Contractor Address _____

Utilities To Be Notified

Call before you dig

1-800-424-5555 (ID, MT, ND, OR, WA)

EXHIBIT 2
 DATE March 14, 1991
 # SB 272

HOUSE OF REPRESENTATIVES
 BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE Mar. 14, 1991 ROLL CALL VOTE BILL NO. _____ NUMBER 1

MOTION: To Table SB 272

motion fails

NAME	AYE	NO
REP. JOE BARNETT		✓
REP. STEVE BENEDICT		✓
REP. BRENT CROMLEY		✓
REP. TIM DOWELL		✓
REP. ALVIN ELLIS, JR.	✓	
REP. STELLA JEAN HANSEN	✓	
REP. H.S. "SONNY" HANSON		✓
REP. TOM KILPATRICK		✓
REP. DICK KNOX		✓
REP. DON LARSON		✓
REP. SCOTT MCCULLOCH		✓
REP. BOB PAVLOVICH		✓
REP. JOHN SCOTT		
REP. DON STEPPLER	✓	
REP. ROLPH TUNBY		✓
REP. NORM WALLIN		✓
REP. SHEILA RICE, VICE-CHAIR		✓
REP. BOB BACHINI, CHAIRMAN		✓
TOTAL	3	14

Amendments to Senate Bill No. 272
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Rep. Brent Cromley
March 13, 1991

1. Page 1, line 4.
Following: the second use of the word, "ACT"
Strike: "DEFINING"
2. Page 1, line 4.
Following: the second use of the word, "ACT"
Insert: "CLARIFYING"
4. Page 1, line 6.
Following: "ACT"
Insert: "; PROVIDING THAT DIRECT ASSISTANCE TO SECONDARY VALUE-ADDED INDUSTRIES BE THROUGH AN INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECT; AMENDING SECTION 7-15-4288"
5. Page 1, lines 9 through 22.
Strike: All of lines 9 through 22.
6. Page 2, lines 2 through 5.
Strike: All of lines 3 through 5.
7. Page 2, line 5.
Following line 5
Insert: "Section 1. Section 7-15-4288, MCA, is amended to read:
'7-15-4288. Costs which may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:
(1) land acquisition;
(2) demolition and removal of structures;
(3) relocation of occupants;
(4) the acquisition, construction, and improvement of infrastructure or industrial infrastructure, which include streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatments facilities, storm sewers, waterlines, waterways, water treatments facilities, natural gas lines, electrical lines, telecommunication lines, rail lines, rail spurs, bridges, public buildings, and other public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;

Ex. 3

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(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district; and

(11) the provision of direct assistance, through industrial infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the industrial district.

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 14, 1991 ROLL CALL VOTE
 BILL NO. SB 272 NUMBER _____

MOTION: _____

Amendments from Subcommittee

be adapted SB 272

amendments are adapted

NAME	AYE	NO
REP. JOE BARNETT		✓
REP. STEVE BENEDICT		✓
REP. BRENT CROMLEY	✓	
REP. TIM DOWELL	✓	
REP. ALVIN ELLIS, JR.		✓
REP. STELLA JEAN HANSEN		✓
REP. H.S. "SONNY" HANSON		✓
REP. TOM KILPATRICK	✓	
REP. DICK KNOX		✓
REP. DON LARSON	✓	
REP. SCOTT MCCULLOCH	✓	
REP. BOB PAVLOVICH	✓	
REP. JOHN SCOTT	✓	
REP. DON STEPPLER		✓
REP. ROLPH TUNBY		✓
REP. NORM WALLIN	✓	
REP. SHEILA RICE, VICE-CHAIR	✓	
REP. BOB BACHINI, CHAIRMAN	✓	
TOTAL	10	8

Amendments to Senate Bill No. 272
Third Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
March 14, 1991

1. Title, line 4.

Following: second "ACT"

Strike: "DEFINING"

Insert: "CLARIFYING THE MEANING OF THE TERMS"

2. Title, line 6.

Following: "ACT"

Insert: "; PROVIDING THAT DIRECT ASSISTANCE TO SECONDARY VALUE-ADDED INDUSTRIES BE THROUGH AN INDUSTRIAL INFRASTRUCTURE DEVELOPMENT PROJECT; AND AMENDING SECTION 7-15-4288, MCA"

3. Page 1, line 9 through page 2, line 5.

Strike: sections 1 and 2 in their entirety

Insert: "Section 1. Section 7-15-4288, MCA, is amended to read:

"7-15-4288. Costs which may be paid by tax increment financing. The tax increments may be used by the municipality to pay the following costs of or incurred in connection with an urban renewal project or industrial infrastructure development project:

(1) land acquisition;

(2) demolition and removal of structures;

(3) relocation of occupants;

(4) the acquisition, construction, and improvement of infrastructure or industrial infrastructure, which includes streets, roads, curbs, gutters, sidewalks, pedestrian malls, alleys, parking lots and offstreet parking facilities, sewers, sewer lines, sewage treatment facilities, storm sewers, waterlines, waterways, water treatment facilities, natural gas lines, electrical lines, telecommunication lines, rail lines, rail spurs, bridges, public buildings, and other public improvements authorized by parts 41 through 45 of chapter 12, parts 42 and 43 of chapter 13, and part 47 of chapter 14 and items of personal property to be used in connection with improvements for which the foregoing costs may be incurred;

(5) costs incurred in connection with the redevelopment activities allowed under 7-15-4233;

(6) acquisition of infrastructure-deficient areas or portions thereof;

(7) administrative costs associated with the management of the industrial district;

(8) assemblage of land for development or redevelopment by private enterprise or public agencies, including sale, initial leasing, or retention by the municipality itself at its fair value;

(9) the compilation and analysis of pertinent information required to adequately determine the infrastructure needs of secondary, value-adding industries in the industrial district;

- 2. 5
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secondary, value-adding industries in the industrial district;

(10) the connection of the industrial district to existing infrastructure outside the industrial district; and

(11) the provision of direct assistance, through industrial infrastructure development projects, to secondary, value-adding industries to assist in meeting their infrastructure and land needs within the industrial district.""

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT

COMMITTEE

BILL NO. SB 360

DATE MARCH 14, 1991

SPONSOR(S) SENATOR GAGE

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
DAVID JOHNSON, HELENA	MT SOC. CPAS	360		✓
TOM HOLLISON	MT. Soc. of CPAs			✓

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

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. SB 335

DATE MARCH 14, 1991 SPONSOR(S) SEN. NOBLE

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
GENE PHILLIPS	PACIFIC POWER & LIGHT NORTHWESTERN TEL.	SB 335		X
Henry E. Loter	MT. ST. VOL. Firefighters Assn	SB 335		X
BOB WARWER	MONTANA POWER CO	SB 335		X
Bud Cramer	UWLC	SB 335		X
Tom Barnard	Mont Dept of Highways	SB 335		X
KEN DUNHAM	MT CONTRACTORS' ASSOC	SB 335		X
Ken Young	Cable Montana	SB 335	X	X
D. Young G	CABLE TV	SB 335	X	X
Don DeShaw	Cable TV of hubs	SB 335	X	/
Tom Glendenning	TCI CABLEVISION	SB 335	X	X
Lew Berry	MCI	SB 335		X
DAN WALKER	U.S. WEST	SB 335		X

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