

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on March 15, 1991,
at 7:15 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 Stepler (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: HB 664, SB 424, SB 394, HB 795, SB 112
were heard and executive action taken.

HEARING ON HOUSE BILL 664

Presentation and Opening Statement by Sponsor:

REP. JIM SOUTHWORTH, HD 86, Southwest Billings, sponsor said this is part of an overall strategic funding package of bills on research and development in Montana. The main bill in this effort is SB 242 which is currently being debated in the Senate Rules Committee. If that bill gets through the Senate, it is the measure that all the interest behind this legislation will support. If this Committee acts favorably upon this bill, he asked that it be sent to the Appropriations Committee for action

if SB 242 does not come over from the Senate.

HB 664 contains an appropriation from the Income Fund of the Coal Severance Tax Trust Fund. This Fund contains the money that is earned each year as interest on the Trust Fund investments. The earnings on the Trust are made available each session for appropriation by the Legislature as part of the General Fund, so in essence, this bill requests General Fund appropriation for purposes which will be explained. As the bill is currently written, it directs an appropriation of \$1 million to medical research facilities that are being developed or expanded in Montana or which have realistic plans to become nationally significant research programs. The State's money under this bill would be available only to facilities that can match it with at least 2-1/2 times the amount of the State's grant.

The language in HB 664 was developed around the framework of a bill passed last session which appropriated \$2 million to be made available for expansion of the McLaughlin Research Institute in Great Falls. The McLaughlin Institute was successful in securing a matching federal appropriation of \$5 million from the National Institutes of Health. McLaughlin is currently in the process of applying for last session's appropriation to begin a significant expansion program. The language on the amendments ensures last session's \$2 million appropriation can be available to McLaughlin, and that no other facility can get into that amount after all the work these people did to get the federal matching money.

On line 9 there is also an amendment to change the date to take into account the things McLaughlin got for its commitment from the federal government. In addition to the appropriation HB 664 makes private money eligible as match for the State's money in funding medical research facilities. It does some other things that make the original language applicable to a broader range of medical research facilities. More specific information on the language in the bill will be given by proponents of the bill.

He has some very significant amendments which expand the amount of money requested in the bill and which also expand the intended recipients of that money. Very briefly, the amendments **EXHIBIT 1** do the following things: 1. The amount of money available for medical research facilities is reduced from \$1 million to \$500,000; 2. \$600,000 is made available for use under the Montana Science and Technology Alliance Research and Development loan program to match a \$7.5 million federal award to the Engineering Research Center at Montana State University; 3. \$400,000 is made available for use under the Science and Technology Alliance Loan Program as matching funds for the Montana Entrepreneurship Center which has offices at the University of Montana, Montana State University, and Eastern Montana College. With the amendments \$1.5 million is now requested by this bill.

In conclusion he asked the Committee to act favorably on the bill

and amendments. This bill as amended could then be reported to the floor to be sent directly to the Appropriations Committee to await the results of SB 242.

Proponents' Testimony:

Sam Hubbard, representing the Deaconess Research Institute and the Deaconess Medical Center of Billings, as a concept strongly supports the need for increased research and development funding for Montana. From past associations with the Science and Technology Alliance, he can attest to the fact there are some very solid research and development activities that are going on in Montana, both in the private sector and in the University system. This R&D if it is to mature, develop and foster additional economic development activities needs additional financial support from the State. The McLaughlin Research Institute in Great Falls is starting to show that if the State does step forward and provide this kind of funding, the federal government and private sources will match that money very generously. Representatives of the Engineering Research Center from Montana State University will illustrate that better.

This bill as a part of the overall strategic funding package which includes SB 242 is really an investment in the future, but in addition it is also an investment in the present.

He talked about the Deaconess Research Institute and expansion plans as a way of illustrating both present and future values of this kind of funding. The Institute is proposing to expand its operations to include between ten and fifteen principal investigators who will be performing biomedical research in both clinical and basic modes. It is expected, particularly from the clinical side of the research program at Deaconess, they will see products and processes that will be developed and will have immediate commercial potential. These will in turn form a very solid foundation over time for new companies to start up to commercialize these products and processes both in Billings and throughout Montana as well. When you look at the McLaughlin Research Institute in Great Falls and some of the other biomedical and advanced research activities taking place in some of the other major centers of the State, the same thing can be expected to happen. That is the investment in the future.

In terms of the present, however, there is some fairly significant economic benefit potential as well. If Deaconess is successful in expanding to ten principal investigators, it can be expected that 90% of that expansion will be financed through private and federal sources, grant and contract revenues primarily. They will have an annual operating budget to support that kind of operation of between \$5 and \$7 million. That is all new money that will come into both the Billings area and the State of Montana. You are talking about 60 or so new jobs that really cover the spectrum in terms of the kinds of jobs, the income levels, everything from well-paid scientists down to

fairly well paid technicians and technical support personnel. Basically, this kind of research activity is not just a bet on the future, it is also support for present and near term economic development as well.

At the Deaconess Research Institute they support the amendments REP. SOUTHWORTH has offered to the bill and encourage HB 664 be given a Do Pass.

Jon Marchi, was representing himself as an individual businessman and the Montana Private Capital Network as a Director and Officer. EXHIBIT 2. They wholeheartedly support HB 664 and the inclusion of the Montana Entrepreneurship Center (MEC) which is an amendment proposed by the sponsor. In the first four full months of operation MEC has served 439 entrepreneurs. They will be utilizing the computer software and forms developed by the University of New Hampshire and M.I.T. to help link deserving Montana entrepreneurs and out-of-state investors. This would be an add-on benefit to MEC.

Kay Lutz-Ritzheimer, Executive Director for the Montana Entrepreneurship Center, supports HB 664 as amended to include the Montana Entrepreneurship Center (MEC). This is a truly cooperative effort of the entire University System. It is one of the first of its kind in the nation, and is being given national recognition and being watched by Mid-Western and Eastern states on what Montana is doing. The Center uses the strengths of the whole University System to address business development and economic diversification by creating the infrastructure that is absolutely critical for entrepreneurs and small business owners if they are to get their businesses off the ground and have them successful. EXHIBIT 3

The Center functions in four key ways to do this. Entrepreneurs are linked with resources they need. They service an information broker to connect them with whatever help they need at that time. Entrepreneurs are helped network together between the private sector and the public sector and the reverse. Research that can identify business opportunities and research that can help new technologies, concepts and products is available. They are helped to facilitate the transfer of technology developed within the Universities back to the private sector. EXHIBIT 3A indicates services in full.

The primary function the entrepreneur sees at this point is linking entrepreneurs with the resources they need. That is done through the three offices at the Montana State Campus, the U of M Campus and the EMC Campus in Billings. By having offices in those three locations entrepreneurs across the State can be helped. A comprehensive data base is maintained. That data base lists all resources found in the University System to include facilities, equipment, faculty expertise. It is the first of its kind in Montana and one of the first of its kind in the nation. They are being watched and even MRT is interested in their data base and

how they put it together. The data base has expanded to include the public sector, as it was opened it included the private sector. There are listings of private sector expertise, public and University resources that can all be used to connect the entrepreneur or small business owner with the resources they need.

They have received initial funding from the Science and Technology Alliance and from the private companies that Jon Marchi denoted. They have served over 400 clients. There is a summary sheet EXHIBIT 3B which gives the numbers in detail. In addition to the roughly 440 client service calls and contacts and meetings they have had, they have done over 120 networking calls to link people with the help they need. That might be a phone call, a meeting with the resource to get them connected to facilitate the match between the entrepreneur and the resource. The clientele served to date is equally as impressive as the numbers. EXHIBIT 3C gives a run down of eight very quick profiles of clients that were served from just the central office alone. The Bozeman and Billings directors have provided written testimony distributed to the Committee which also identifies the kinds of clients they are seeing at their units. EXHIBITS 3H, 3I, 3J

Montana provides the ideal setting for entrepreneurial development in the future. It is the key to the future for Montana. The State of Montana has the highest percentage of small businesses established in the nation; the highest percentage of employment generated from small businesses in the nation. It is very clear that entrepreneurship and small business development are the keys to Montana's future.

The Center has established an incredibly high quality program. Many, many people who deal with the Center have written in support of this legislation and SB 242. The demand for services today has been overwhelming, the success has been phenomenal. This program has already made a significant difference, and it is certain to make a critical difference between survival, success and failure for many small businesses. She asked for support for this legislation.

She entered other additional letters of support: EXHIBITS 3D, 3E, 3F, 3G.

Ken L. Thuerbach represented himself as a member of the Montana Business Community. For the past few years he has been extremely active in promoting economic development in Montana. EXHIBIT 4 He explained MEC allows Montana taxpayers to access millions of dollars they have already paid for through the University System faculties. The amendment to HB 664 will help coordinate and strengthen the already existing resources there are in Montana. He asked HB 664 be amended to include the MEC program.

Marilyn Wessel testified in support of HB 664 generally and the

amendments specifically. She will be a resource person if there are questions about the Engineering Research Center located at Montana State University. HB 664 would provide matching money for the Engineering Research Center. It was founded at MSU last year on the basis of a grant from the National Science Foundation. It was one of four Engineering Centers of Excellence founded throughout the nation. It is a cooperative venture with Montana Tech and the Idaho National Engineering Lab, and next Monday a major agreement will be signed between the State of Montana and the Idaho National Engineering Lab on cooperative interstate research.

The Engineering Research Center brought a \$7.5 million grant into Montana. That is the largest grant the NSF has ever made to Montana, and perhaps the largest grant Montana has ever received. That grant came here contingent upon a match from the State of Montana and it is still depending upon that match to come through. This amendment to HB 664 would find a home for that match and they encourage support for it. The Engineering Research Center has already brought new jobs into the State. It has more than thirty industrial affiliates, some from Montana, many from around the nation which are coming to Montana for advice and counsel in the particular areas of engineering research in which it specializes. It sends a message to the people of the nation that Montana is indeed serious about research and that it can provide for business and industry which is research based and research oriented. It is strongly supported by business and industry throughout this State and also throughout the region. She encouraged Committee support.

Opponents' Testimony: None

Questions From Committee Members:

REP. KNOX reminded you said you started several businesses over the years and were forced to go out of Montana to do this. Why was that necessary? Mr. Thuerbach answered for the very reasons he is serving on the MEC Board and trying to rectify this. It has been very difficult to access unknown business people in the State. There is no way to talk to other successful businesses because of the land mass of Montana. He can call a friend in Denver and if he needs a specialist, he can give him someone's name and he knows immediately who to go to, and through connections he can get help. The MEC is allowing that to be done, not only through the Boards at the various centers but because they are getting a collection of business people in the State who will start helping other business people. That is the primary purpose. The expertise in the State has been hidden from us. It is very easy to access firms or expertise out-of-state, it is very hard to do that in the State of Montana. Now that they are getting into the University system they have a great amount of expertise that can be contracted here for private business.

REP. BENEDICT said these are not pure University funding

programs, but they are associated with the Universities. Why aren't they included in a University budget as opposed to being outside of the University budget and coming directly to the Legislature? Is it because there is private entrepreneurship involved? **Ms. Wessell** answered these are unique combinations of public/private project support systems with both the federal government, private business, and the public involved, and it seems more appropriate for these issues to be discussed more broadly than as if they were just before the University system. That is why this is seen in SB 242 and also HB 664 in this Committee. **REP. BENEDICT** said but the Universities are involved. **Ms. Wessell** said indeed the Entrepreneur Centers are excellent examples, the Research Center is another example. Those grants would not have come to the State of Montana nor those services founded if it weren't for the Universities, but it is not probably accurate to say any more that they are just confined to the campuses. They have a much broader scope and broader mission. That is why you see them today.

REP. BENEDICT said you are saying they are between a rock and a hard spot because they are not pure University, they are outside the University.

REP. ELLIS stated you talked about not being able to access the information at the University System. He has had a great deal of success working with the University System in the agriculture arena. Have you really made an effort to get appropriate information from the various units? **Mr. Thuerbach** answered he was speaking for Montana business in general. Agriculture is one of the places where the best job has been done. That is the one place the University System has to get real input. In a lot of the other systems, the average business may have a question that has to do with geology, etc. The Universities get hundreds and hundreds of calls. They really don't have any place to start. They can be referred to the MEC which has a data base, and can pull up immediately the experts in any area on any question you may have relating to any kind of business matter, not only agriculture. They can learn where to go and will know who is willing to work with business people to do that. The people on the street do not know where to go to get answers to their questions. The MEC is the place that provides that information. It has brought this information together and is a networking information system to now utilize all those resources. Besides for agriculture, there are other outreach programs funded by the federal government, SDIC, etc. that try to help business. This is Montanans helping Montanans, and taking Montana resources to the people.

REP. BACHINI asked if she would like to respond to **REP. ELLIS'** question also? He didn't think there was any problem getting information from any University. **Ms. Wessell** responded it is key to recognize that since 1914 the federal government, states and counties cooperated to make sure that agricultural information is available to people through county extension offices. That has

been funded as a service operation from Montana State University and from other Universities in the United States. The issue of providing assistance in the business area has never been quite so clear cut. Faculty are paid to provide instruction on the campus, but there is not always a system by which they get information out. Some outlets do, such as the extension offices, but the Entrepreneur Center has filled a real void in that regard, and the MEC centers are working with the county extension agents so they don't duplicate those systems. That is an important point.

REP. ELLIS thinks people could work directly through the University System. Ms. Wessel said they need to do a better job of informing people. The MEC can direct them to knowledgeable people who can answer their questions. The MECs bring together information in a single place and provide one-stop shopping for people who need to come on the campus. Perhaps people are learning to use the University faculty a bit more like the agriculture people have been doing for many years.

REP. STELLA JEAN HANSEN said this bill with its amendments proposes to take \$3 million from the Permanent Coal Tax Trust Fund? REP. SOUTHWORTH answered that is not quite right. The bill proposes to appropriate \$1-1/2 million over the next biennium from the income earned on investments made from the Trust. From the income of the Trust 15% is initially allocated to the school equalization program and the remaining 85% to the general fund. This constitutes an appropriation that would affect the general fund. REP. HANSEN was concerned about all this money going to Bozeman since there is a School of Business in Missoula that helps her a great deal. Mr. Thuerbach advised the Entrepreneurship Center is actually headquartered at the University of Montana in Missoula and the money is pretty well spread around since the UM is the anchor campus as was originally envisioned. Obviously the Engineering and Research Center is in Bozeman, but the two principal potential beneficiaries of the biomedical research aspects of this are located in Billings and Great Falls.

Closing by Sponsor:

REP. SOUTHWORTH closed saying the benefits to the State is immense and he hoped the Committee would look favorably on this and pass it to the Appropriations Committee.

HEARING ON SENATE BILL 424

Presentation and Opening Statement by Sponsor:

SEN. TOM HAGER, SD 48, Billings Heights, sponsor said this is an Act revising the terms of conversion of certain insurance policies; and amending sections 33-22-508 and 33-30-1007, MCA. The health insurance conversion laws of Montana extend coverage to individuals who through no fault of their own have lost

coverage under a group plan. Because conversion plans are normally selected only by persons who are unhealthy or have significant health risks, premiums are high. Even though conversion policies are expensive some people find it economically profitable to maintain a conversion policy along with another policy in part because health insurers cannot coordinate benefits between individual policies and conversion in other policies. This means those persons are paid twice for the same treatment. The result is increased cost to those persons who have conversion only because they cannot obtain other coverage.

He had been covered under two health policies, one with the business where he worked and one through the state. Because the two policies were coordinated the insurance companies knew that he had both coverages, so when the bills came due to the hospital, because they were coordinated he only got paid once. When you get about \$250,000 in medical bills, you can see how unfair it would be if these policies weren't coordinated and he had gotten paid twice for it.

Mr. Jensen will explain what happens when a person has both policies and they weren't coordinated.

Sections 1 and 2 answer the problem by providing a conversion is only available if applicant is not insured under any other major medical disability insurance or plan at the time of eligibility. Sections 3 and 4 answer the question of when should conversion coverage end. Until now the conversion law has been open ended. These sections set up events for termination. They are eligibility for Medicare because of age; failure to pay the premium; or enrollment under any other major medical plan except if there is a waiting period and member can still be insured until the waiting period is satisfied. Section 6 makes this Act prospective. Should this Committee have specific questions about this Act, Bill Jensen of Blue Cross and Blue Shield of Montana is present to answer them.

Proponents' Testimony:

Bill Jensen, General Counsel, Blue Cross and Blue Shield of Montana, distributed EXHIBIT 7 to the Committee and read it. An example of losing group coverage is when there is a divorce, or a person loses employment. Conversion insurance is an insurance of last resort and is intended to keep those people from dropping out of the safety net. Conversion rates are high, and it was thought no one would stay on a conversion policy if other coverage was available. However some people do, and also have other coverage, and because benefits cannot be coordinated, they have collected twice for their claims. This results in higher claims for those people who only are able to have conversion coverage and can scarcely afford it.

This legislation is good and it intends that those persons who need the conversion obtain it, but those who really don't need

the policy would no longer be eligible for it.

Larry Akey, Montana Association of Life and Health Underwriters, supports Committee concurrence with this bill.

Dave Barnhill, Deputy Insurance Commissioner, supports the bill.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

SEN. HAGER hoped the bill would go right through. REP. JAN BROWN will carry SB 424 on the House floor.

EXECUTIVE ACTION ON SB 424

Motion/Vote: REP. BOB PAVLOVICH moved SB 424 Be Concurred In. Motion passed unanimously. A motion was made to place SB 424 on the Consent Calendar. It was adopted unanimously without objection.

EXECUTIVE ACTION ON HOUSE BILL 664

Motion/Vote: REP. PAVLOVICH moved HB 664 Do Pass. He further moved the Amendments be adopted.

Discussion:

REP. STELLA JEAN HANSEN objected to taking this amount of money out of the interest from the Coal Tax Trust because it does go to the general fund, and when you do that that is money that has to be put back into the fund. If all the money is taken out of that Trust, taxes will have to be raised. We are using the interest right now to fund the budget. There has been one bill for infrastructure. There are others, and they pay the money back. That way the Coal Tax Trust can be used to produce some positive things in Montana. She appreciates what they are doing at the University, but this is indirectly giving money back to the people. The coal tax money should directly be given to the places it needs to go like the infrastructure, creating jobs. Very little money has been returned to the people of Montana. It has gone to directors, executive directors, set up offices for programs. The amount that has really done what it was intended to do is very little.

REP. WALLIN explained this money will come from the anticipated earnings on the Trust. It is more for just now.

REP. ELLIS agreed with REP. HANSEN. If this money is taken out of the interest that goes into the general fund, it has to be replaced. The idea is very good. He agrees with REP. PAVLOVICH

The rainy day is here, and the corpus of the Coal Tax Trust Fund should be used. HB 664 diverts the interest the State is being run on. That money is going to have to be replaced by this Legislature. As a result he can't support it.

REP. SHEILA RICE spoke in favor of HB 664. She didn't disagree with any of the amendments because they deal with the dollars. These amendments are legitimate uses of general fund or Coal Trust earnings that bring jobs and dollars to the State of Montana, and therefore these amendments should be passed.

Mr. Verdon referred to the amendments, one amendment provides \$400,000 to the Montana Entrepreneurship Center which is not an entity described in the Code anywhere. If it is used for the MEC, another subsection should be provided saying as used in this section 'Montana Entrepreneurship Center means...' and use the language in Ms. Lutz's definition of the 'Montana Entrepreneurship Center which is a cooperative effort of the University of Montana, Montana State University, and Eastern Montana College, and uses the strengths of all six units of the University system to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship and small business development.' He suggested that definition be included in this amendment.

Motion: REP. PAVLOVICH moved the proposed amendment be adopted.

REP. TUNBY said the title of the bill says 'An Act to extend the appropriation made by Chapter 634, Laws of 1989'; just how was that appropriated before in 1989? REP. RICE answered in 1989 it was appropriated from the 15% of coal trust earnings which were then undesignated. Today that 15% is now allocated to the school foundation program. HB 664 would be funded out of the 85% coal trust earnings that go to the general fund, so it would affect the general fund if passed and funded.

REP. KILPATRICK reminded there is another bill coming. HB 664 does have to go to Appropriations. It is a good bill, but Appropriations might not approve.

Vote: Motion to adopt the amendments was passed with REPS. KNOX, STEPPLER, STELLA JEAN HANSEN voting No.

Vote: Motion HB 664 Do Pass As Amended was adopted with REPS. KNOX, STEPPLER, ELLIS, TUNBY, STELLA JEAN HANSEN voting NO.

HEARING ON SENATE BILL 394

Presentation and Opening Statement by Sponsor:

SEN. PAUL SVRCEK, SD 26, Thompson Falls, stated SB 394 regulates utilization review which is a process whereby health care

insurers review medical procedures as to whether they are appropriate for coverage. None of the people who will testify today are against utilization review. Some difficulties have arisen lately whereby some of the procedures that people thought they were being covered for have been denied. It has been unclear why and the reasoning has not been completely forthcoming. This bill sets down some standards. It is an Act to regulate the conduct of utilization reviews by health insurers and other third-party payers; to prohibit a person from conducting utilization reviews unless the person maintains with the Commissioner of Insurance a utilization review plan; to protect patients and health care providers in the conduct of utilization reviews by requiring concurrence of a physician in a determination relating to the necessity or appropriateness of health care services rendered to a patient; to provide for the appeal of an adverse decision resulting from a utilization review; and to authorize the Commissioner of Insurance to adopt rules.

Section 1 states the Purpose. Page 3, (4) essentially is the purpose of the bill to protect the patients, employers, and health care providers by ensuring that utilization review results in informed decisions. This bill is mostly about allowing the purchasers of health care insurance to be informed when they are making their decisions about the purchase of that health care about what is available for coverage and what is not. The definition (4) on page 4 is a good definition of utilization review. Section 3 is the Utilization Review Plan. This essentially requires all health care insurance providers to file a plan with the Commissioner of Insurance stating to the public how they will conduct their utilization reviews.

On Page 5 Medicaid has been accepted. It is difficult at best to bring them into this system. Section 4 sets down the standards by which utilization review must be conducted. The review must be done if at all possible in consultation with the patient's physician. There will be some amendments in this area that will clean this provision of the bill up a little more.

Section 7 is a rule making section. Section 8 is a preemption of federal law. Anything that governs this area in federal law will be preempted. Section 9 is the application. Section 10 is for codification.

Pat Melby will explain the amendments in more detail. There was a mixup in the hearing in the Senate. The Blue Cross and Blue Shield especially was not in favor of the original bill. Work has been done with the providers. Some amendments were acceptable to the Senate. During the last week some of the unclear things in the Senate have been cleared up. If the amendments offered today are adopted, everyone will be comfortable with the bill.

Proponents' Testimony:

Pat Melby, Rimrock Foundation, said they had some amendments EXHIBIT 10 There was quite a free for all in the Senate hearing in the Business & Industry Committee. Since that time they have been working with Blue Cross Blue Shield and the Health Insurance Association of America, other insurance interests, provider interests to come up with amendments to this bill that would make everybody comfortable. These amendments would make this a compromise bill. Some people may not be entirely happy with this language and feel that it may be subject to interpretation, but this is the best to be accepted for two sides who are quite a ways apart on what utilization review is. The fiscal note shows Medicaid to be a problem. The amendments proposed will eliminate any fiscal impact Medicaid would have been caused by this bill.

Amendment #1 was requested by the Health Insurance Association (HIA) of America. It makes clear that utilization review does not include routine claims review to determine if there is even coverage for a claim. Amendments #2 through #9 eliminate the requirement that all these reviews have to be done by a physician. That was in the original bill. These amendments provide that on the final review that is done by the managed care agency, there is an initial review done that advises a patient their claim is going to be denied. They have the opportunity to appeal or ask for a reconsideration of that claim by the insurance company. That review has to be done by a health care professional trained in that relevant health care area rather than a physician having to review it when it is in a different field of health care. They also provide that before a final denial is made, they should make a reasonable attempt to consult with the health care provider that is treating the patient. If they are going to deny the claim, they should put the reasons for that down in writing, and those should be made available on request.

Amendment #10 gives the insurance company flexibility to give a patient at least 30 days to appeal. Amendment #11 is an amendment requested by Blue Cross Blue Shield as well as by Medicaid to give them a little longer time in which to make a final decision after they review all the medical records.

David Cunningham, Director of Rimrock Foundation, urged support of SB 394. It is an important key piece of legislation. The object of this bill is to bring reasonable business practices to the conduct of utilization in review which is a relatively new, totally unregulated process in Montana designed to reduce unnecessary medical expenses. Everyone is in favor of the goal of reduction of medical expenses where possible. The means and procedures by which such a goal is achieved is the subject of SB 394. It seeks to assure that in conducting utilization in review for medically necessary services, insurance companies do not engage in unquestionable practices or practices which create economic barriers to medically necessary care. Some companies in Montana currently are using practices which cause great concern at this point. It is not uncommon to have a nurse without

training or experience in the treatment of chemical dependency deny admissions for the treatment of chemical dependency even though a physician has diagnosed an individual patient as being chemically dependent. In too many instances utilization review companies are using criteria which have no foundation in research and which are clearly intended to be economic barriers to care. The clinical needs of the patient are not the primary concerns of these companies. Cost containment is their central goal even though the patient is insured for those services. SB 394 seeks to bring utilization in review firms under the auspices of the Insurance Commissioner's office and it does basically four things. It defines that we utilize nationally recognized criteria, it requests that those criteria are published, that reviews are conducted in a timely manner, and trained professionals are used in the area in which they are going to be reviewing. This bill requires reasonable business practices in the conduct of utilization in review. It seems only reasonable to expect this of a company that has the power to deny medical services. They do not believe the patients who have purchased insurance should have the courts as their only resort in a matter like this. Please support SB 394.

Jim Ahrens, President of the Montana Hospital Association which represents 56 member hospitals, supports SB 394 as amended. About every week they get a call at the Association on this issue. People are legitimately looking at health care bills and costs. A lot of times those reviewers are not known and neither is their criteria known when they review the claims. Obviously they are not opposed, it is good business practice. The way the bill is set up and the criteria is being set up and established, at least they will be able to look at those ahead of time and understand what is going on. They also would be able to identify once and for all who the companies and people are who are almost waltzing in and out of the hospitals at will asking for records and costs and charts, and such things. People have a right to know and to check out their hospital charges and bills. This sets up a reasonable process for this to take place. It looks at costs, at quality, and everything is reviewed. The system makes a lot of sense as it has been presented in this legislation.

Ann Bellwood, Director of the Rocky Mountain Treatment Center in Great Falls, passed out EXHIBIT 11 which appeared in one of the counselling magazines and, although it is a comedy farce and very amusing, unfortunately they are finding this farce is actually occurring on a daily basis in many cases where the process that is taking place is comical. The only problem is that it is dealing with human lives and serious illnesses which makes it no longer very amusing. They have experienced a number of problems along these lines where they were dealing with someone who didn't have any kind of understanding of what they were reviewing, they didn't have an understanding of what Montana conditions are. They are running into imposition of standards for outpatient care for instance that may be appropriate for an urban area where there are lots of outpatient treatment places available, yet they try

to impose the same standards on us and say the patient needs to go to outpatient; they don't care if there is no outpatient facility for them, saying that is their problem, it is not ours. She urged support for SB 394. It is an important step in helping ensure that Montanans get the appropriate health care they deserve.

Mona Jamison, Legal Counsel and Lobbyist for the Rocky Mountain Treatment Center, summarized the significant aspects of SB 394. She explained utilization review. It is the determination by your insurance company whether or not the medical service that you received is appropriate and necessary. Utilization review is conducted by the insurance company when your claim is filed by your physician or by yourself or by any other health provider. They are saying was this treatment appropriate and necessary? Why is this bill in here? This bill has been introduced because claims have been denied, consumers are confused, the battles have increased between the insurance companies and third-party payers, and the consumers are the insureds regarding these policies. The consumers believe many times a certain treatment or certain service was covered in an insurance policy, and the insurance company is saying No it wasn't covered or perhaps this was the inappropriate kind of treatment or level of treatment. So you end up creating what has been created, particularly during the last year or two, with bad will between consumers and the people who pay their claims. Obviously you can understand why that would happen when we think we have an insurance policy that is going to cover something and then we are told No it doesn't because of some fine print in the insurance contract or even in interpretation that no one reasonably even suspects could be made from the language.

This bill requires the filing of a utilization review plan. That is probably the most significant part of this bill. The bill requires the third-party payer or the insurance company to file a plan with the Insurance Department, listing what the criteria and standards are that will be utilized to determine whether or not specific claims are reasonable, necessary and fair. This is a bill of disclosure. State agencies are required to not only file their rules that affect citizens when they take certain actions or try to get licenses and actually make them go through a notice and public hearing situation or process. This bill requires the insurance company to file with the Insurance Department those standards they will use in determining whether or not your claims are valid or not. That is all it is. It's a bill of disclosure. The bill actually benefits the consumer and the insurance company. Once the criteria and standards for review are filed and published so the insurance company is actually required to think through the process if they haven't and file their plan, then the consumers can actually see what they are, that the mere disclosure and knowledge of what those standards are will diminish a lot of the battle and bad will that has been created by not knowing what those standards are. That will go a long ways to improving the relationship between the insureds and the

insurance companies.

The other important aspect of the bill in addition to the number one aspect of filing the plan is that the conduct of utilization review is regulated to a certain minimal extent. Mr. Melby has explained who will be doing the review by insurance company and third-party payers regarding your claims if it was submitted for a particular procedure. They support this bill, believe it is a consumer bill, it is a fairness bill, and in the long run it will actually improve the relationships between the insureds and the third-party payers.

Larry Fasbender works for the Chemical Dependency Programs of Montana. This is an important piece of legislation to let everyone know what the rules of the game are before they start the game. In any situation whenever there is that in existence in advance all of the parties are going to be much happier. If this legislation goes towards alleviating a lot of problems that would arise otherwise, that in itself is an important enough reason to pass this legislation. It will do that. It will allow everybody to know the rules under which they are playing so they have an understanding going in what is going to be paid for, how it is going to operate, the standards that are going to be used. It is important SB 394 be passed so there is not a lot of consumer concerns as well as provider concerns because of not knowing what those rules are.

Dolores Deyerle, Manager of Medical Information Services Department at St. Peter's Hospital, Helena, explained one of the functions of that department is to provide utilization review. Within the hospital that is done on a concurrent basis to certify the admission of a patient to a facility. Utilization review is very definitely a patient's service because patients subscribe and enroll in an insurance plan assuming their hospitalizations are going to be reimbursed. However, a staff of RNs communicating that information to utilization review companies does not always know under what criteria they are working. It certainly behooves all of us to control health care costs and it is apparent when so many return calls are needed to communicate the type of information that are necessary to get an admission certified. If there could be very distinct criteria known as to what the companies were using to certify admissions, that would reduce their time in the process and reduce the reviewer's time in the review company. That ultimately has to contain health care costs. She was speaking in support of SB 394.

Mary McCue, representing the Montana Mental Health Counsellors Association which is a group of licensed professional counsellors most of whom are in private practice in Montana, supports this bill because there have been certain instances when claims have been denied for services they provide, and it is not always clear why they were denied. It will be beneficial to have this plan on file at the Commissioner's office so they can learn more about how the process is carried out. They particularly support the

amendments, specifically the one that changes the language in the bill from physician to health care professional with experience in the relevant area because as the bill is currently written it would always be a physician who would be reviewing that adverse determination and they feel strongly because they are providing mental health services, it is necessary to have that language in the amendment Mr. Melby presented.

Dave Barnhill, Deputy Insurance Commissioner, supports this bill. It would make the Insurance Department a clearing house for the dissemination of basic information to consumers so they could look out for their own interests. That would be the most effective and cost efficient form of regulation.

Steve Brown represents Blue Cross Blue Shield of Montana and supports SB 394 as amended. Blue Cross Blue Shield has a utilization review program called Managed Care Montana. He emphasized the procedures required in this bill are already in their Managed Care program. Included in those procedures was an opportunity for the providers to comment on that Managed Care program before it was implemented. Managed Care is an important part of the effort to control health care costs because without a managed care program if unnecessary treatment is provided or treatment is not provided in the appropriate setting, who pays for those excess health care costs? You do. The consumer will be faced with that dilemma in your very own health program this year for state employees which also applies to each Legislator. They are \$9-11 million in the hole. Why is it important? Simply because regarding the question of appropriate treatment setting, if outpatient alcohol mental counseling works, the figures Blue Cross Blue Shield has indicated, that treatment can be provided at a cost of several hundred dollars vs inpatient costs which can be as high as \$8,000 per case. So it becomes important for there to be a legitimate viable managed care program to help deal with those cost concerns. He thanked Pat Melby and Tom Hopgood for working so diligently and supported these amendments offered.

Opponents' Testimony:

Roger Tippy, representing the Montana Dental Association, said the dentists like any other provider group can see what the proponents have been talking about and would be as unhappy as any other provider to learn some insurance company had a person who wasn't a dentist deny all or 80% of a claim for reimbursement. This bill is confusing and hard to read. He hoped the Committee would get a grey bill worked up through a subcommittee appointment so it could be more clearly viewed. Sections 4 and 9 read together are confusing. Section 2 (4) is a very broad definition of utilization review even with Mr. Melby's amendments. That covers a lot more than the applicability Section 9 purports to cover. Dental peer review is taken in in Section 2 (4), and tries to say in Section 9 that it is out.

What is dental peer review? It is one of the most successful

recognized ways of starting out with mediation if a dental patient or a third-party reimbursor has a problem with what the dentist has provided to the patient. You can ask for peer review if a dentist has not provided satisfactory service. Initially a form of mediation is determines if there were unforeseen problems that in good faith could not have been anticipated at the outset and whether the fee should be adjusted. Whether the care was appropriate is also within the scope of dental peer review. The proponents don't want to cover dental peer review even though third-party providers can access and utilize it. The applicability Section 9 Exemptions doesn't seem to provide any exemptions. One is needed there. This peer review process, committees of dental peers, is conducted on behalf of (a) a Montana business entity, on behalf of the dental association which has a nonprofit health service plan. You cannot write down too easily in a book in black and white like the diagnostic research groupings that the hospitals use that you should always be able to straighten a teenager's teeth in eight months if it is not an overbite or occlusion of more than X%. The peers have to apply some subjective factors to that and look at all the considerations that apply to a given case. They feel they don't know how you would get from the ADA in Chicago one short brisk set of standards that would say in every case 'this should be time enough to cure the problem'. He thinks the means of the bill are laudable. He doesn't want it to not pass but does think a grey bill subcommittee examination might benefit it best.

Dave Hartman is Executive Secretary with the Montana Education Association. He has prepared testimony in opposition to SB 394 EXHIBITS 12 and 12A. It was prepared before receipt of the amendments offered to the third reading copy; however, some of it is still relevant. He was impressed by the people behind him who are representatives of health care providers and health insurance industries serving Montana. Health care providers have historically opposed utilization review programs because those providers, whether hospitals, chemical dependency treatment centers, family physicians, or surgeons don't want folks looking over their shoulders and second guessing their decisions about courses of treatment, types of treatment and the expenses and costs associated with those treatments. They don't want people saying wait a minute. For the particular condition under consideration you proposed a course of treatment that is going to cost \$10,000. Upon utilization review it is determined there is an equally effective procedure available for \$1,000. We are talking profit in many cases. Who is benefitted? The consumers of health care services in Montana are not represented here today. The people of Montana including the 8,500 members represented by the Montana Education Association, many, many of whom have agreed through their local unions in cooperation with their employers to implement utilization review programs that save them premium dollars.

When health care providers are supporting a bill addressing utilization review, a process they have historically opposed and

resisted, he becomes a suspicious consumer of health care services. His suspicions have been assuaged in part by the numerous amendments offered. But there is still a flaw from a consumer's point of view, and that is the very restrictive nature of SB 394 even in the form which the amendments would recreate it. There is still reference for the need for utilization reviews to be conducted by health care professionals. The vast majority of utilization reviews are performed by registered nurses using the procedures and criteria laid down by physicians. The reviews and the reviews upon appeal are not traditionally conducted by physicians. Under SB 394 they are to be conducted by health care professionals, and specifically in proposed amendment #4 health care professionals trained in the relevant area of health care. If the Committee were to focus on amendments #4 and #7 and replace the phrase 'health care professional' with 'utilization review agent' the consumers of health care services in Montana who elect to participate in utilization review procedures would be well served because an effect of this bill even with the amendments is to very greatly restrict access to utilization review services.

The Health Insurance Industry of America has been represented here. The fact of the matter is the Health Insurance Industry of America does not represent those national firms that provide utilization review and case management services, many of whom provide those services in Montana. He urged consideration of that point to substitute the phrase 'health care professional' with 'utilization review agent', mindful that utilization review agents may well be registered nurses who currently provide these services day in and day out using the guidelines established by physicians.

Related to those observations, the term 'health care professional' as now appearing in SB 394 and is referenced in the amendments, there is no definition of health care professional in this bill, and none has been offered in the amendments.

Mary Dalton, Primary Care Bureau Chief in the Medicaid Services Division of the Department of SRS, read EXHIBIT 13. The Department, in consultation with appropriate health care professionals, already has developed standards to control its utilization review activities, and the provisions of this bill are unnecessary with respect to Medicaid and state medical programs and should be exempted from the provisions of this bill.

Larry Akey represented the Montana Association of Life Underwriters. Their Association uses utilization review as a way of trying to hold the line of spiraling health costs to the health consumer in the State. As originally introduced SB 394 would essentially gut utilization review for commercial health carriers. He commended the sponsor and the proponents of this bill in trying to work with the industry to come up with a bill that would address some of the concerns expressed by the proponents without eliminating utilization review for commercial

carriers. They believe Draft #4 submitted by Mr. Melby goes a long way to solving those concerns. Although they cannot in good conscience appear as proponents to SB 394, if the proposed amendments are adopted, their opposition will melt away.

Tom Hopgood representing the Health Insurance Association of America, emphasized support for the remarks made by Mr. Brown and Mr. Hartman as to the need for utilization review. The reason utilization review is needed is because of the tendency on the part of some providers to overprescribe. Considerable amount of time has been spent working on the amendments back and forth with the various companies and committees within the Association he represents. With the amendments proposed they do not oppose this bill.

Questions From Committee Members:

REP. LARSON asked if anyone from the Workers' Compensation Division was present. There was no one. He found that curious.

REP. BENEDICT also found that curious. You are involved in a lot of legislation that is trying to contain costs in Workers' Comp. One of the things to be seen a lot more of is utilization review of Workers' Comp. Won't this restrict the availability of Workers' Comp to control costs? SEN. SVRCEK said absolutely not. All this bill does is set up the rules before the game starts and sets up the criteria by which medical coverage is going to be provided. Presently, to the best of his knowledge, the Division of Workers' Compensation does not make use of utilization review. Perhaps it is a good idea at some point down the line, but this bill has no effect on the Division one way or another. That is probably why they are not here.

REP. ELLIS asked if the amendments she submitted had been talked over with the sponsor. Ms. Dalton said they had indicated to Mr. Melby they would be asking to be exempt. She had not talked directly to the sponsor. Mr. Melby had a meeting yesterday with Nancy Ellery, Administrator of the Medicaid Division, and gave her a copy of his amendments Draft #3. She asked for the amendment on Draft #4 submitted today requesting 60 days to do the review instead of 30. Ms. Ellery had told him she didn't feel Medicaid should be in the bill. They could live with the bill with the amendments proposed. All of the problems talked about in EXHIBIT 13 were resolved with the amendments. They were concerned about having physicians review all of the claims even though some of the services are provided by other types of providers. That has been taken care of in the bill. The time period for review has been increased from 30 to 60 days at Medicaid's request in the proposed amendments. He doesn't think their proposed amendments are necessary.

REP. BACHINI asked if she concurred with the amendments made by Mr. Melby. Ms. Dalton said Mr. Melby's amendments would be acceptable to them, but they preferred to be exempt from this

bill. As a state agency they already file administrative rules.

REP. ELLIS asked why he didn't want to exempt Medicaid from the reviews. Mr. Melby advised Medicaid doesn't do their own utilization review. They use independent companies like insurance companies like anybody else does. Medicaid is one of the biggest insurance companies in the State and they probably should be under the same standards as anybody else. They advised him they didn't have any problem with the bill because they already have their criteria and make them available. They already follow the procedures set up in HB 394. He represents some clients he didn't appear on behalf of here today. Rivendall of Butte and Rivendall of Billings specifically would like to see Medicaid covered under this just so that in the future everybody knows what the rules are and there is some statutory direction, not only to insurance companies and health service corporations, also to state agencies that are providing insurance benefits.

REP. ELLIS asked if you still feel this requires double review. Ms. Dalton said she doesn't believe it required double review. It is a double administrative burden. They already file rules that are open to public comment as a state agency at all times. To do this they would have to go through not only their review process and make their rules available through the department, but once again go through the Insurance Commissioner which would double the paperwork on both us and the Insurance Commissioner.

REP. CROMLEY said your proposed amendment would take out 'health care professional' and put in 'utilization review agent', so it would be 'determination by utilization review agent trained in the relevant area of health care'? Mr. Hartman said that is an excellent question. Utilization review agent trained in the relevant area of health care would depend on how that was defined. Certainly a registered nurse could be instructed and trained and supplied background information that in a reasonable person's view would cause one to conclude that a registered nurse trained in that area certainly would be knowledgeable in that area. The question has been raised about the application of SB 394 to Medicare and Medicaid recipients.

It is interesting that SEN. KEATING is a co-sponsor of SB 394. He is also the chief sponsor of SB 391 which has also come over to the House. SB 391 mandates managed care including utilization review for Medicare and Medicaid recipients because it is recognized that managed care including utilization review saves consumers money, and in this case saves the State of Montana money, thus assuring that necessary medical care is appropriate and is provided in an appropriate setting, and on the other hand SB 394 restricts and limits the opportunity for utilization review and the participation of the people of Montana who are not Medicare or Medicaid recipients to participate in managed care including utilization review.

Closing by Sponsor:

SEN. SVRCEK was not too clear what Mr. Tippy's complaints about the bill are. The definition he has problems with comes from utilization review legislation that has been enacted in several other states. It was taken right out of the other statutes. They probably have dentists in those states that would come under the purview of those statutes. If you want to exempt a peer review and even exempt dentists out of SB 394, there are consumers who will come back at them sometime.

He has particular difficulty with the testimony of Mr. Hartman from the MEA. He testified as if this bill would make utilization review illegal, and nothing could be further from the truth. In my opening I said we agree that utilization review is an important process for containing costs and nothing in this bill would take away utilization review. It is interesting Mr. Hartman purports to represent consumers when, if you were to come down on the side he is advocating, the consumers of the health care would be frozen out of the picture altogether. They would have no access to the information about the health care that is being provided them. It would seem judging by his testimony that he is advocating the position of the insurance providers, but even the insurance providers have said they can support SB 394 with the amendments proposed. Specifically Mr. Hartman asked the health care provider be changed to a utilization review agent, so in essence there will be a utilization review agent reviewing utilization review. Often he said that person could be a registered nurse. What is unreasonable about having the health care provided by a physician reviewed by a physician? by having the health care provided by a psychiatrist reviewed by a psychiatrist? There is nothing unreasonable about that. If you change the language in the way Mr. Hartman asked you to, you may in essence be undercutting the service that is being provided to the consumers he purports to represent.

There are presently in the Insurance Commissioner's office sixteen complaints on file against insurance companies because of the rejection of health care provision that was presumed to be covered. Because there isn't something like this in place, it is not known what the rules are before you go in. Under SB 394 you would know what is covered and what is not. It is a health care consumer bill. He thanked all those people who worked so hard on the amendments which are simple and straightforward and will provide access to health care utilization review.

REP. O'KEEFE will carry SB 394 on the House floor.

HEARING ON HOUSE BILL 795

Presentation and Opening Statement by Sponsor:

REP. HAL HARPER, HD 44, Helena, explained this bill is an Act creating an Infrastructure Trust Fund within the permanent Coal Tax Trust Fund; authorizing the creation of a state debt through

the issuance of coal severance tax bonds for the purpose of making loans for local government infrastructure projects; providing for the terms and conditions of loans; providing a method for recommending priorities for loans; requiring legislative authorization for loan projects; and amending several sections of the MCA. It provides for local government infrastructure financing. The bill has the potential to present in excess of \$400 million to infrastructure projects over the next ten years. The way he calculates the bill, and other people who are knowledgeable agree, it approximates the amount of money that is made available in the first few years by the Governor's plan and possibly more money than that by the end of the ten year period. This particular proposal is a prudent way to invest the coal severance tax into repairing our communities' water and sewer systems, solid waste systems, and bridges that are added in by the amendments given in the grey bill.

This bill does not risk the State's capital or impinge on Montana's bonding capabilities. That is an important point to make because when talking to people who concern themselves with bonding capability of this State, one concern that arose time and again was when the State is doing bonding for the local governments we are using either our own revenue bonding authority or using our own general obligation bonding authority. That is a precious commodity to the State, we are using it up.

This bill provides a partnership that allows local governments to use their own bonding capability and allows the State to come in and negotiate with them to subsidize that interest rate. There are some communities and some districts, and this bill includes with the amendments special purpose districts, who would like to work together on infrastructure projects. An example is maybe two or three or four rural counties that would like to form a solid waste disposal district, maybe establish a dump that meets Subtitle D. This bill will allow those people to come together and do that, but in some cases where there is a dump in an area where the communities can't access a capital market, there is a bridge in a remote section of a county and that particular local government can't access a capital market, the State in that case, and as a last resort, is going to come in and use the State's bonding authority and issue those bonds for that local government.

On the first page of the grey bill, EXHIBIT 15, towards the bottom where the capital language starts. It says up to \$10 million a year for reducing principal and interest payments. The reason the word 'principal' is in there is because of these examples where these local government entities are not able either to access a capital market and are not even capable of making the full payments on principal, we are prepared to go in and subsidize those loans; in effect we are talking grants. That is the only way the grant concept is used in this bill.

This bill requires that all projects receive a three-quarters

vote of the Legislature to be funded, then the projects are going to be rated either by the Department of Natural Resources that is still responsible for the water bonding part of the bill or by the Department of Commerce that is going to be responsible for the infrastructure part of the bill. Those projects will come back in front of the Legislature every time, just like the water bonding projects do. They will require a three-quarters vote. That will ensure this bill is neither a pork barrel for the executive branch of the government or for the legislative branch of government.

One point he is very sensitive to is someone charging that legislators are coming in and are just using the coal tax trust money as a different way to fund their own projects. This bill precludes that from happening. It is aimed exclusively at local governments and their needs, no one else can get into this bill. This bill provides the best use of bonding capacities of both state and local governments. Local bonding capacity is used whenever possible, the state is the bonding authority of last resort. He hopes this Legislature and this Governor can agree on exactly what is the best way to use the Coal Tax Trust Fund to allow necessary infrastructure projects to proceed in Montana. He presents this particular approach as the most prudent way to proceed; this will answer the needs of our State.

He is open to suggestions the Committee may have. He will certainly consider any suggestions that bond counsel or any other interested party has in this bill. The brains of every committee that this bill goes through should be used to improve it and make it the best possible vehicle for accomplishing these needs in the State of Montana.

Proponents' Testimony:

SEN. TOM TOWE, SD 46, Billings, spoke in favor of HB 795. He handed out an outline EXHIBIT 16 comparing the three bills that deal with infrastructure this session. SB 55 which is the Governor's Big Sky Dividend program, HB 905 which is REP. DOROTHY BRADLEY's New Century Fund, HB 795 which is the bill before you today. He outlined the important parts of each bill. HB 795 is a loan program, there are no grants. That is significant and a big difference because the focus is on investment. There are subsidies involved, that is true. We are taking and using some of the Coal Tax Trust to subsidize interest rates and, maybe if approved by the Legislature, even some of the principal. But it is a loan program and not a give away or grant, and for that reason it isn't subject to the possibility of a pork barrel charge that there is with the others.

How does it work? There is an Infrastructure Trust established. There is a trust fund within the permanent Trust. It is a part of the permanent Trust, so it is not in fact removing the Trust. It is dedicating a part of the permanent Coal Trust for infrastructure so that the interest is being used to help

subsidize government bonds, and that is a very significant factor. Another handout EXHIBIT 17 shows what the Infrastructure Trust will do in the next 21 years and how it will build. Assuming existing production and existing tax rate after July 1, 1991, when the rate goes to 15%, 25% of the flow into the Trust goes into this Infrastructure Trust, and it will build up until 21 years from now it will have \$100 million, and the interest income which is on the right hand column is the amount of money that will be available to subsidize interest. Subsidizing interest is only one of two ways this bill works to help local governments. As you can see in 20 years there will be \$9 million with which to subsidize interest.

Another handout EXHIBIT 18 - How are we going to use that? What does that mean? How many dollars worth of projects can be done with that subsidized interest? There are two programs that help subsidize the interest and possibly the principal, just like the water bond program which is being copied, so there will be money available to the extent that it is available in our bonding program. There is \$112 million available, \$55 million of outstanding water bonds, \$37 million have been approved but not issued, \$8 million before the Legislature this session, leaving a balance of \$12 million. That is a soft figure and probably could pull in in the range of between \$12 and \$20 million. If a couple of bonds that are already in the process of refinancing are refinanced, there could be as much as \$50 million available in that side of that part of the program. That can be used when the municipality itself doesn't want to actually go out and do the bonding, but wants the state to do it for it. The coal tax monies will stand behind those bonds, they will be the best bonds in the country, they will sell very, very well. They are for a very low rate of interest at the present time, at least no more than 7% interest. That is a state program to help the local infrastructure and is a bond program through the state.

That is \$50 million, that is the first column. Then take the interest from the Trust Fund EXHIBIT 17 and use all of that to buy down interest at an average of 3-1/2%. We buy down the interest from 7% to 3-1/2% on an average. Some may be able to pay 5%, some we may need to buy down to 1% or maybe 0% or even into the principal. He hoped that would be a very rare case although it is a possibility. He used the average of 3-1/2% to give an idea of what kind of money is available. EXHIBIT 18 In the 1993 biennium \$13 million will be available, in the 1995 biennium there will be \$77 million, that is of bonds. By buying down interest at 3-1/2% this will make available \$77 million worth of bonds at 3-1/2%. Add that to the \$50 million from the other side, and in effect, \$127 million could be available the first go around. The first go around has to come back in 1993 in order to get approval of the Legislature for each project.

So there is \$127 million under that calculation available for the first go around. In 20 years' time there is a cumulative total of \$600 million dollars available. That exceeds both of the other

two programs in terms of monies available if you use that on an average of 3-1/2% buy down. That makes a very strong, significant commitment to the infrastructure of this State. This is a loan program and not a pork barrel. It focusses on investing our monies and not spending or using them up so they are gone forever. There is some subsidy, but the focus is on the investment.

SEN. JOE MAZUREK, SD 23, Helena, spoke in support of HB 795. Personally he is in support of such a concept. It is absolutely critical that this bill or one of the infrastructure bills that is pending before the Legislature is passed. This is not a new idea. One of the good features of this bill as opposed to some of the others, is it uses a tried and true method, that being the water bonding type program. That is not to say the other bills pending do not have good features also. He urged consideration that what is ultimately needed out of this process is a solution. It is necessary to look at the real infrastructure needs, but need to be cautious what this money is invested in. It is necessary to be prudent with how the money is spent. The Coal Tax Trust is 15 years old. We ought to look very cautiously before that Trust is permanently capped. Right now approximately one out of every ten general fund dollars comes from that Trust.

A good feature of this bill is that it leaves some money going into the Coal Tax Trust. It is necessary to be very careful before getting into a grant program. That is not to say that grants should not be made in some instances as a last resort. There is great danger for mischief in a grant program. It is important there be ongoing legislative review of any proposal that is ultimately passed. It is also important that what infrastructure applies to is narrowly defined. It is necessary to build wisely for the future. This ought not to be a government expansion program to go on a great new building spree and build buildings all over the State. We ought to be looking at the idea of building and repairing wisely the true infrastructure needs in our communities. That is another feature of this bill that is very positive.

He urged that whatever proposal is arrived at it be politically realistic. There are many different elements of interest in this game. There has been a lot of talk about cooperation this session between houses, between parties, with the executive. This concept of an infrastructure program, whether it be this bill or another, requires cooperation of both houses, both parties, and the Executive as well. This whole idea which is not new has also been brought before us by the Governor this session. It has been before the Legislature before by both parties and both houses. This is the issue which will test the ultimate cooperation of this session. He hoped everyone will strive to come up with a bill which is hopefully somewhat narrow in its focus but accomplishes the serious needs for infrastructure improvement that are in the State.

Gordon Morris, Executive Director of the Montana Association of Counties, said economic development begins with local government services. Altogether too many perspectives were thought of at the end of the session rather than at the beginning. This is a beginning. The Association of Counties certainly supports the concepts of change contained in the grey bill which he just received. The one concern he has on what appears to be Page 3 of the bill, Section G is too narrow or has been narrowed too much. If the bill stands the way it is right now, from a county perspective there is very little in this bill for them in terms of infrastructure.

The fact transportation systems have been taken out is wrong. He suggested the addition of bridges is appropriate, but bridges should be assumed to be included under transportation. They are an integral part of the transportation system in Montana. When looking at transportation it is assumed that includes bridges, but it should be clarified to say in (d) transportation systems include bridges.

Subsection (f) should include other public works projects. That might mean in some cases as determined by the DOC to be appropriate and to be in the public interest; it might mean bricks and mortar. Public buildings should not be excluded wherever necessary. One public building concept that should be included here as being an eligible project based on a determination made, weighed against all the other projects, would be jails. If the language is left as it was in the introduced bill with the exception of the fact we are striking school districts, which is appropriate here, this would be a much better bill from the standpoint of those projects that would be determined to be eligible for consideration under this particular concept. He asked HB 795 be given favorable consideration set against all the other bills that are out there.

Alec Hansen, Montana League of Cities and Towns, supports this bill. The problem of infrastructure, he likes to call it public works, is out there. It is like a time bomb ticking away beneath our streets in Montana. It has been ignored for too long. It is becoming more serious every day, and the costs for remediation are massive. The numbers are so large to correct all the water and sewer and other problems there are in Montana, a person almost hesitates to use these figures. When you start throwing around numbers like \$100 million it scares everyone. It is necessary to get started on this problem. We cannot delay the costs of correcting this problem, and put the burden of costs of years and years of deferred maintenance on the following generations. Every day this problem is ignored, it is going to cost more to correct it. It is necessary to start now and this bill is a very good beginning.

They support HB 795 particularly the provision that could reduce the principal on some of these bonds under particularly difficult local financial circumstances. He pointed out using a study

prepared by Montana State University why some type of subsidy for principal in extreme cases is appropriate and in many cases necessary. The debt service on \$1 million at 7.5% interest spread out over 20 years would be \$1550 for the average annual payment per household in the very smallest towns with up to 125 households. That would be a water bill of well in excess of \$100 a month which is outrageous and which at that point in time nullifies any possibility of economic development in that community. That is a death sentence for that town. At 0% interest, however, the debt service would go down to \$800 a year which is \$70 a month which is within the range of reason, but is still an excessive amount in many cases. This is a perfect situation where some type of help on the principal of the loan would be appropriate and necessary. For the next range of cities and towns with up to 350 households, about the size of Townsend, a \$1 million 7.5% interest project paid off over 20 years, the average cost per household would be \$450. At 0% interest with the subsidies provided for in this bill, it would be \$225, which is \$18 a month; that is fair, it is affordable and it allows that city or town to make these improvements without essentially putting itself out of business. For these reasons they support this bill; it represents a fairly good compromise.

There are numerous other bills, there is a Senate bill The Big Sky Dividend program. They intend to work as closely as possible with this Committee, with the administration, the Legislative leadership to try to come up with a public works financing bill in this session of the Legislature so they can say now finally we have taken a good hard look at this problem, have a program, and are going to solve it. EXHIBIT 19.

Ken Dunham, Manager of the Montana Contractors' Association, said this is an association of about 250 commercial building firms, highway and heavy industrial firms, and suppliers to the industry. Two days ago they testified on a similar bill introduced by **REP. DOROTHY BRADLEY**. Their testimony today would be about the same as that. At that time they handed out a Summary of Infrastructure Needs in Montana compiled from a variety of sources, and those figures are as accurate today as they were two days ago. Whether it is this bill, HB 905, or the Governor's bill the concern of the construction industry of Montana is that something should get going and get going now. Pick one of the bills or compromise from all three bills, and begin to rebuild the infrastructure of Montana because time is running out for all of us.

Richard C. Parks, Legislative Chair for the Northern Plains Resource Council, appeared as a somewhat reluctant proponent for the bill in that Northern Plains has always recognized the reality of the infrastructure problem. They support investing the coal revenues in Montana. There are a number of caveats to be made clear. When we spend money from the Trust Fund as opposed to investing it, each dollar spent costs Montana approximately nine cents annually every year forever under current interest

conditions. That does not apply even to a zero interest loan in that money borrowed at zero interest from the Trust Fund only costs us the income, the principal has not been touched, and in the future a different decision could be made on the investment of the corpus of the Trust and it is not a permanent loss. Over the last several years for various reasons it has been seen fit to erode the local government's tax base. Part of the problem that created the infrastructure mess we are in is through having progressively reduced local government's ability to fund maintenance and ongoing construction through the erosion of their local tax base. Unless something is done about that this is not going to do anything except move the problem around in time. They would not like to see this taken as a great universal solution. It is a step that needs to be taken. This is the best of a number of alternatives, none of which they can be enthusiastic about to the extent that they do touch the Trust. This one does not cap the Trust as some of the other proposals. It is better in that respect. It invests the Trust, so they think it is the better of the various alternatives that are out there.

Ron Klaphake, President of the Missoula Economic Development Corporation, appeared as somebody who works in the area of trying to get economic development to happen, not just in the city but in the area including places like Stevensville, Lolo, Victor, Arlee, Thompson Falls, St. Regis. These towns and communities need some assistance. They are unable to provide those infrastructure improvements on their own and pay the interest that goes along with it because the interest ratchets that bill two to two and one-half times the principal, and as a result it is just not going to happen. There are federal grant programs that are challenging us to put in local matches, but local matches can't be met. Some form of bill like this recognizing the need for infrastructure is very important, especially in the smaller communities which have a very difficult time mortgaging themselves and their kids and their future to make those improvements and if we don't do something about some of these places, sooner or later they are going to say we are out of business and we can't live here any more. As a result all the people would have to flood into the big City of Missoula. It would be best if these communities be viable in and of themselves.

James Tutwiler, Montana Chamber of Commerce, said strong arguments for the need for infrastructure improvement have been presented as have the various advantages of this bill as far as the use of coal tax funds. The Montana Chamber views the bill very positively. Infrastructure has at least three major win, win, wins for Montana. Improvement of our infrastructure which is desperately needed represents an improvement of the quality of life. Improvement of our infrastructure means a lot of jobs a lot of work for Montanans which in itself helps the economy. The infrastructure besides improving the quality of life provides an economic foundation, a basis from which we can further expand the economy of Montana. These things are important. This bill moves

in that direction very positively whether or not we decide on a melding or merging of bills, the important thing is that the infrastructure problem is addressed and this bill does that. He urged support.

Don Judge, Montana State AFL-CIO, said this morning's Tribune had a short story in which Governor Stan Stephens charged his organization with opposing his Big Sky Dividend program which would create literally thousands of jobs for Montana's building and construction trades workers. He is accurate, they do oppose the Big Sky Dividend program. They have never opposed the creation of those thousands of jobs for Montanans in the building and construction trades industry. They testified to that effect on his legislation, on **REP. BRADLEY's** legislation, and are here today to testify on **REP. HARPER's** legislation to create jobs and to provide a better infrastructure for Montana cities and towns and counties.

This legislation fits the mandates provided to them by their convention which dictated to their organization the use of the Montana Coal Tax should be protected or designed in such a way that the corpus of the Trust would be protected into the future, that money would not be given away to local governments or state government programs, but would be used to provide for investments in the creation of a better infrastructure for Montana.

They have just received the amendments offered by **REP. HARPER** to further limit the use of these monies. They concur with those amendments. They are good choices to rebuild the water and sewer systems, the landfills for Montana, and to do something about the decaying bridges seem to be a priority for all Montana citizens. They are in full support of this legislation. This bill is the best approach of those bills that have been heard so far - to use Montana's Coal Tax in accordance with the way the citizens of Montana would like to see it used, to do something for local government across the State, and to provide thousands of jobs for Montana workers in rebuilding our infrastructure. He urged HB 795 be given a Do Pass consideration.

Jane Murphy, Executive Director of the Montana Democratic Party, unlike some of the people who have testified, said she wasn't here to testify in favor of **REP. BRADLEY's** bill, nor was she here to testify in favor of the Governor's bill. She supports this bill because they believe it meets their desire not to cap the Coal Tax Trust Fund while still meeting the critical needs of local governments with their infrastructure. This bill is consistent with their platform, that the Coal Severance Tax should be managed to promote economic development and invest in community infrastructure. They urged support of this bill.

Dennis M. Taylor, Chief Administrative Officer of the City of Missoula, testified in support of HB 795. There are public works challenges facing local governments all across Montana. This loan program provides a good start to perform a true partnership to

begin to reinvest in our infrastructure needs, and urged support for this bill.

He passed out a letter EXHIBIT 20 from Dan Kemmis, Mayor of the City of Missoula, who makes another point for the Committee to consider. In addition to the infrastructure this loan would pay for, more local authority is needed to raise the necessary funding locally to be able to participate in a program such as this bill would provide, and to get on with the work that is stacking up all across Montana to improve our public works and infrastructure. He supports this bill, and hopes local option taxes will be looked upon favorably next week.

Opponents' Testimony: None

Questions From Committee Members:

REP. BENEDICT asked if a new fiscal note is being prepared. REP. HARPER said a very complete fiscal note will be prepared for this, but this Committee will probably first want to look at this bill to see exactly what it and the other bills do. He hasn't asked for a new fiscal note yet because he wanted to submit the amendments, get the feel for the way they are going to go. He intends to express his support for at least part of the amendments offered by MACO because he is sensitive to what he can accept.

REP. BENEDICT asked how he sees HB 905 interfacing with HB 795 if it were put into a subcommittee. REP. HARPER thought the main difference between this and HB 905 is the scope. HB 795 is maybe a little too narrow for the local governments and his amendments make it narrower than they would like to see it. His problem with HB 905 is that it allows money to be used for state projects that otherwise would be funded by the State - parks, university buildings. When talking about using a finite amount of money and about addressing the needs of local governments, he wants to be sure this Legislature is in no way accused of putting its own pet projects, or shifting part of its responsibility onto the Coal Tax Trust Fund while saying it is for local governments. He wants it to be very clear this bill is for local governments.

REP. BENEDICT said SEN. FARRELL's bill SB 272 basically tried to pin down what public infrastructure was. That bill was sent out in a very different form than when it came into the Committee. It included many different things, public buildings, malls, it went back to the original language that is already on the books as far as the definition of infrastructure is. Do you see that having any particular problem with this bill? REP. HARPER said he hoped not. This bill cannot be used for any private project.

REP. STELLA JEAN HANSEN said SB 272 was SEN. FARRELL's bill and they are talking about two different things. The subcommittee amended that to really expand it into something that is unconstitutional because they were using tax money. Here we are

using money that is not hampered by the Constitution because this is legal. If their definition of infrastructure was a good definition, you might just take a look at that. **REP. HARPER** explained that is the same problem they had with Science and Tech when they tried to fund that. That is a problem.

REP. SHEILA RICE believes the definition for eligible projects in this bill whatever they turn out to be will be the only projects that are funded under this law should it be passed. Is it correct that the definition of infrastructure that deals with a totally separate law in a different section of the code will not influence this law because it will have its own definition of eligible projects? **REP. HARPER** said that is correct.

REP. ELLIS said until the early 1980's interest rates were always more than the rate of inflation, so the purchasing power of any money put into the Coal Trust Fund would actually decrease faster than the interest that accrued. How much of the Coal Trust money purchasing power has been eroded by time? **Alec Hansen** said he was not qualified to answer that. There was no one else present to answer.

Alec Hansen suggested some of these loan encumbrances might be exchanged for physical services. There is SB 55 the Big Sky Dividend Act which they enthusiastically endorse and support, and the reason is obvious. Under that bill they are granted the money and that is a more attractive proposition than borrowing it. If that bill in that form cannot be approved, this is a very good alternative, and he hoped this Committee when it discusses this entire issue would take a look, maybe not at some grants, but at the possibility of expanding the provisions of this bill. It allows for buy-down of the principal on some of these loans because there are some places out there that aren't going to be able to afford these projects. We have to keep those places in Montana viable because if you don't, you are saying to this town, this district they no longer have a right to exist in the future.

REP. ELLIS asked **Ann A. Miller**, Department of Natural Resources, until the early 1980's inflation actually exceeded interest rates. The Trust Fund was probably invested at a rate lower than the inflation rate and the value of the purchasing power was eroding over the years. Do you have any figures on what it has been on average since the inception of the Coal Trust Fund. **Ms. Miller** said she did not have the figures as far as investment is concerned, but currently the Trust earns about 9 to 9-1/2%.

Dave Lewis, Executive Director of the Board of Investments, answered that at the present time, and that has been the case for the last five or six years, they spend all of the interest on the Trust Fund. It goes into the general fund and the foundation program so the principal of the Trust is diminished by the rate of inflation in a real dollar perspective every year. So again, talking about using some of the Trust as investment in hard assets such as water and sewer systems and those kinds of things,

from an economic standpoint that is probably a good discussion to have because at the present time we are not really protecting the Trust from the ravages of inflation because we have chosen as a public policy to spend the entire interest income of the Trust on internal operations of state government.

Since about 1980 the average has been about 10% on the Trust. At the current time, the CPI is 4-1/2%. Back in the 1970's it was the opposite. There was a period of time where the earnings were much less than the CPI, but it is a relevant question since we have chosen as a policy to spend all the interest anyway, so they take the entire effective inflation as a diminishment to the Trust.

REP. STEPPLER asked on Page 3 of the New Section G (1) you removed school districts and under (2) telecommunications and other high technology systems for education. The last two years a lot of bills were passed that have to do with long distance learning and satellite projects and telecommunications. Why were those removed from this bill? REP. HARPER said his intent was to narrow these so the benefactors of this bill were local governments. Local government has come in and said 'they would like to include transportation systems'. That means maybe if Great Falls wants a bus system they would be eligible. Those are policy decisions to be made. He wanted to limit that to bridges because in his mind he thinks about bridges on some obscure county road somewhere that really has trouble getting the money to rebuild. With these other things, when you get into schools and get into that other area, he is wondering about diluting the intent and the effect of this bill. This Committee can work on it and if they have some ideas that won't dilute the effect of the bill and will not allow the Legislature to come in and raid it for their own purposes, he would be willing to think about that, but that is what he is concerned about; concerned that this money gets to the people who need it. Even though something like telecommunications, and even transportation like a bus system are very important to people, still when you talk about the relative importance of that compared to drinking water or a sewage system, you have to prioritize somewhere. There is not enough money to subsidize everybody and everything.

REP. STEPPLER stated in comparing HB 905 and HB 795, quite a few of the job opportunities have been removed in this bill. Please comment on that and if some of these eliminated systems were put back in, especially transportation, telecommunications and other public works, would you still support that? Mr. Judge answered they would support that. Money is finite, there is only a certain amount of money there. The effect of rebuilding what the basic infrastructure needs in cities and towns, which are the sewer and water systems, the waste disposal systems and in some instances bridges, will in fact provide additional money for dealing with some of those other problems, you are looking at relieving some of the tax burden on local governments by assisting them in taking care of their local problems. They agree with REP. HARPER

you have a choice, and your choice is how much are you willing to do. They will look at those jobs no matter where there are, whether that is building a new high school system, a telecommunications system, whatever, but they concur with the sponsor there are some real priority needs in Montana, into the billions of dollars of needs and they need to be addressed, and limiting those with this legislation is a real good idea.

REP. STELLA JEAN HANSEN said she was concerned about how the interest on this interacts with the Trust Fund. Is it true that none of the interest from the Fund goes back into the Trust Fund? **SEN. TOWE** explained a part of the Trust Fund is being separated. Are you familiar with the Subfund A and Subfund B concepts? The Subfund A money from the Coal Tax goes into Subfund A and then is held there for security for paying the water bonds until that payment date goes by and if it is not needed to go to pay the water bonds, then it sinks into Subfund B which is the Permanent Trust. This in effect sets up another Subfund B which is called the Infrastructure Trust, and then down from that is the Permanent Trust, or that is a part of the Permanent Trust. Subfund C under statute is another real permanent trust. The point is that Subfund B which is the Infrastructure Trust, the interest income from that will always be available and is dedicated to subsidize these bonds. Before that money has always gone to the general fund, so there is less money in the general fund, but that is only because we dedicated a part of the Trust Fund for infrastructure and said the future income from that part is to go to the Infrastructure bonds and not to the general fund.

As is seen on the bottom of the printed paper he handed out, **EXHIBIT 16A** that means the loss to the general fund would be less than one-fourth of either of the other proposals because they were going to intercept \$20 million and take it out before it even got to the Trust Fund and use that money. We are putting it into the Trust Fund and the only thing that is a loss is the income that would otherwise go to the general fund. \$1 million this biennium, and \$2.6 million next biennium would be the loss to the general fund because of that loss of interest in this proposal, whereas in the other one multiply that by four to get a real figure.

REP. HANSEN asked regarding the investment part of this fund, there is no interest generated from that Trust at all going back into the Trust? How is the Trust managed now and the interest from the Trust that went into the general fund? There is no longer any interest that goes back in to maintain the Trust? **SEN. TOWE** said the 15% rule. For a long time we by design, plowed back 15% of the interest of the Trust into the school foundation. What about the inflationary impact on the Trust Fund? In 1987 or 1989, he wasn't here, somebody took that money and it is gone, and can't be used any more. It isn't brought back.

REP. BARNETT needed some help on definitions. Having had to borrow money for his business, he is fully aware of what a loan

is, and that it has to be repaid. The term 'grant' was used in this bill. Please define a grant and a subsidy and what is the difference. **SEN. TOWE** answered if you want to call a subsidy of the interest, and we are focussing here on probably an average of 3-1/2% interest, that is kind of a design, maybe even as much as 7% or even more which would then get into the principal for a very rare instance, if you want to call that a grant from state government, he probably wouldn't quibble. It is probably true that is a subsidy and in effect a grant they do not have to repay. The thing that is very critical, very important in what we are talking about is a difference in concept. The Governor's plan for example, takes \$20 million before it goes into the Trust Fund and takes it over here and gives it away. It is gone, there is no intent to pay it back. This program says to local governments, if you really need that money, you apply for a loan, and we will help subsidize the interest so you can afford to pay it back, but we're not going to give you anything. That is a big conceptual difference.

REP. CROMLEY said this is more of a rhetorical question. In a sense under this bill is there less of a need to narrow the focus of infrastructure because of the added check of the three-fourths vote? **REP. HARPER** answered that might be the case, but once again, and I suppose there is that effect, we are representatives that come from all over the State, each individual area comes with its own needs. We come here, we do our job when we try to promote the needs that benefit our own area. Here we are trying to hold down that tendency in ourselves. The major difference in approach is that with this bill, as you say, the Legislature is going to be approving these projects with a three-fourths vote. In at least one of the other bills the grants will not come through the Legislature, that is true.

REP. BENEDICT said this whole process is still a little bit fuzzy. If this has a general fund impact, and it does have a \$1 million impact in the first biennium, and \$2.6 million for the next biennium, does this need to go to Appropriations so they can figure out what they are going to kill in order to fund this? Is it a cat and dog bill? **REP. HARPER** answered that is the question everyone has in mind when any bill goes to the Appropriations committee. Look at the pile of bills that the Appropriations committee has down there. I do not see how it is physically possible for those people to consider those bills. But when talking about a general fund impact in this bill, you are not talking about money that reduces a current level or current ability. If this bill passes, you will not be seeing an impact until the projects come back next time for the Legislature to look at. If there is an impact by the holding in this fund, it will be minimal. The other bills have at least a four times amount of general fund impact as this bill, and that goes on forever.

REP. ELLIS asked if any funding would be done until after the next Legislature meets because it will take some time to get some

money in the kitty and additional time to get legislative approval? REP. HARPER said that is exactly correct. REP. ELLIS said that was his understanding of HB 905. How does that compare with the Governor's bill? REP. HARPER explained the Governor's bill provides the Department of Commerce is going to rate and make grants before the Legislature has an opportunity to review those grants. The Governor's bill does not ever anticipate that the Legislature ever review those grants.

REP. ELLIS said some mention was made of 'pork barrel', and he understands there are politics played when the DOC or the DNRC might make these judgments, set up the criteria as to what the project was (sewer, water, bridge, etc.) and would have to meet in order to get funding from this. Then it would have to go to the Legislature. How does the Legislature avoid being pork barrelled? There seems to be the same politics played in that level. REP. HARPER said he could not debate what REP. ELLIS had said. As long as we are human beings and elected under the system under which we are elected to represent certain districts and certain people, and come with our differences and different points of view, it is going to happen in a bureaucracy as well. He pointed to REP. CROMLEY's point as a lending factor, but also submitted this question to you and to the committee, would you rather put the extra level of check and balance and have the Legislature review providing that check because the whole state is represented, and everyone from the whole state gets a look at this, or would you rather hand that responsibility over to a department?

Closing by Sponsor:

REP. HARPER left the amendments up to the Committee. He would support at least including jails. He is having a problem with including any building that any local government and possibly any other state government wants to build anywhere. Gordon Morris was saying 'jails'. You have his blessing to put jails back in. Telecommunication the Committee can argue about. This bill as he supports it probably requires a Statement of Intent since the DOC will adopt rules. The Committee may want to look at that. He will work in that regard and look at it himself. The passage of this bill demonstrates a very, very serious commitment that state government is making in assisting local governments with their infrastructure needs. It represents a major change in state policy he believes, and a major change in terms of the use of the Coal Tax Trust Fund. It is a major commitment that is being made, but it is the least Montana can do to sustain existing businesses in many of these communities and to establish the basis to attract other businesses to the State.

The cost of these projects will be paid by the users over the life of the project. That is important because that is the method that is being recommended for financing projects. That financing is the way that is commonly accepted by economists all over the State and all over the nation as the proper way to do it. This

bill does not cap the trust fund, that is an extremely important provision. The trust continues to grow for the benefit of present and future generations which is most important when it is realized that one out of every general fund dollars we are spending in our budget is provided just from interest from this coal tax trust fund. This bill will allow the use of this money in the most creative way possible to address the needs of today and of tomorrow. Members of the State Legislature, let's join hands with our sisters and our brothers in local government, let's pass one of these bills and get to work.

REP. BACHINI announced HB 795 will go into the Economic Development subcommittee also.

HEARING ON SENATE BILL 112

Presentation and Opening Statement by Sponsor:

SEN. JOHN HARP, SD 4, Kalispell, introduced this bill at the request of the Board of Realty Regulation. It has been in the B&I Committee in the Senate and also the Finance and Claims Committee. It involves an additional one FTE. It is an Act that would allow the Board to appoint an executive secretary. He turned the testimony over to others.

Proponents' Testimony:

Helen Garreck, Real Estate Broker from Missoula, MT, is in the first year of her second term as a member of the Board of Realty Regulation, so she has been at this for five years. There is a problem that other state people may have in that staffing for someone to obtain an increase in pay their people are constantly applying out of their area of expertise in which they have been trained, and moving to another department. Recently there have been three attorneys in six months because they cannot be given a pay increase in the position for which they have been trained. The Board of Realty Regulation is an all-volunteer board consisting of three industry members and two lay people. They have expanded programs. The Legislature gives them more things each year. Last session they got time share. This year appraisal may affect them, but it will affect the department. The Board will come into the DOC. There are no full time employees at this point. There is a great deal of work that is done there, there are excellent people. She has no complaint with the workers they have. They have two part time investigators, one part time attorney, and some part time staff people. The administrative assistant works for two other boards. Her secretary works for three other boards. Their attorney works for seven other boards. They have a problem with continuity and consistency answering the needs of both their licensees of which there are 4800 now, as well as the demands of the public who have a problem. The staff person attends the meetings. They have the smallest staff of any department of Realty in the nation. They are smaller staffed than

North Dakota, South Dakota, Wyoming, Alaska and Puerto Rico, so they know they are getting good service from their people. They want to be able to get someone that they can keep at a wage they think is fair and equitable. The public wants more knowledge, the licensees want to become more professional, more knowledgeable. There are so many things happening in their industry they feel this position can help them to accomplish. They are self funded, and are not asking for any money. She would be happy to answer questions. There is a fiscal note attached, but they are self funded and are not asking for any general fund money.

Opponents' Testimony: None

Questions From Committee Members:

REP. BENEDICT said it seems like \$64,000 to fund one FTE is a lot of money. Why does it cost that much? Ms. Grace Berger, Department of Commerce, explained the Bureau of Professional and Occupational Licensing which includes the Board of Realty Regulation has a pool system in place. All boards are a member of that pool which pays for a variety of different things including administrative assistant's fees, an attorney legal pool, data processing pool, a number of things. Any time an increase in appropriations to a particular board occurs that is figured into the pool charges to that particular board. The Board of Realty having the largest budget of all POL boards does pay a substantial amount into that pool. An increase in appropriations is only going to increase their pool charges. It is kind of a ripple effect. Not only do personal services go up, we have to pay additional rent for a person, additional computer charges, phone charges. All of this will come directly out of the Board's budget in addition to the pool charges going up.

REP. BENEDICT continued this seems to go through \$25-30,000 a year. In three years you could build a house. If you just want an office and an additional secretary, it seems like you could get those for less than \$30,000 a year. Ms. Berger would not argue with that. The Division Administrator prepared the fiscal note arrived at a formula for the pool system. The pool provides his fees, the bureau chief, the management services, rent for the entire department, parking fees, receptionist for the Bureau, all of the supplies, the list is endless. It is figured on a percentage of the total appropriation. Since the Board of Realty does have the largest appropriation of all boards, it is going to pay the largest share into the pool.

REP. TUNBY thought it seems it is a little erroneous to do that. A lot of things should be in place already and encouraged a message be taken back to see if all of that is necessary. It seems like an automatic thing that grows and grows. Ms. Berger said she had discussed that a number of times with the powers that be.

Closing by Sponsor:

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

March 15, 1991

Page 39 of 39

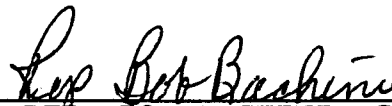
REP. HARPER closed. He said if the bill is passed, REP. McCULLOCH will carry SB 112 in the House.

EXECUTIVE ACTION ON SENATE BILL 112

Motion/Vote: REP. CROMLEY moved SB 112 BE CONCURRED IN. Motion was unanimously adopted.

ADJOURNMENT

Adjournment: 11:45 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE March 15, 1891

[illegible]

3:10
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JDB

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 664 (first reading copy -- white) do pass as amended .

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, line 8.

Following: "STATE;"

Insert: "TO APPROPRIATE MONEY TO THE MONTANA SCIENCE AND TECHNOLOGY DEVELOPMENT BOARD TO MAKE RESEARCH AND DEVELOPMENT PROJECT LOANS TO CERTAIN AGENCIES;"

2. Page 2, line 9.

Strike: "1990"

Insert: "1991"

3. Page 4, line 1.

Following: "Appropriation."

Insert: "(1)"

4. Page 4, lines 2 and 3.

Strike: "\$1 million"

Insert: "\$500,000"

5. Page 4, line 12.

Following: line 11

Insert: "(2) There is appropriated from the coal severance tax income fund \$1 million to the science and technology development account established in 90-3-305 for the use of the Montana board of science and technology development during the biennium ending June 30, 1993, to make research and development project loans as provided in Title 90, chapter 3, if the board makes the determinations, findings, and decisions required under that chapter. The board shall allocate the appropriation as follows:

(a) \$600,000 to the center for interfacial microbial process analysis at Montana state university, to meet matching requirements for the \$7.5 million national science

March 15, 1991
Page 2 of 2

foundation award; and

(b) \$400,000 to the Montana entrepreneurship center, a cooperative activity of the university of Montana, Montana state university, and eastern Montana college, that uses the strengths of all units of the Montana university system to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship and small business development."

DeLatti

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 424 (third reading copy -- blue) be concurred in and be placed on consent calendar .

Signed: *Bob Bachini*

Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

March 15, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that Senate Bill 112 (third reading copy - blue) be concurred in.

Signed: Bob Bachini
Bob Bachini, Chairman

Carried by: Rep. McCulloch

HOUSE BILL 664

SPONSOR'S PROPOSED AMENDMENTS

1. Page 1, line 8:

after "STATE;"

insert "TO APPROPRIATE MONEY TO THE MONTANA BOARD OF
SCIENCE AND TECHNOLOGY DEVELOPMENT FOR MAKING RESEARCH
AND DEVELOPMENT PROJECT LOANS TO CERTAIN ORGANIZATIONS,"

2. Page 2, line 9:

strike "1990" and insert "1991"

3. Page 4, lines 2 and 3:

strike "\$1 million" and insert "500,000"

4. Page 4, line 1:

after "Appropriation." insert (1)

5. Page 4, line 12:

insert "(2) There is appropriated from the coal severance
tax income fund \$1 million to the science and technology
development account established in 90-3-305, for the use
of the Board of Science and Technology Development,
during the biennium beginning July 1, 1991, to make
research and development project loans according to the
provisions of title 90 chapter 3, to the following
recipients;

a) \$600,000 to meet matching requirements for the \$7.5
million National Science Foundation award to the Center
for Interfacial Microbial Process Analysis at Montana
State University, and

b) \$400,000 to the Montana Entrepreneurship Center.

c) The research and development project loans referred
to in this subsection are to be made if the Board of
Science and Technology Development makes the necessary
determinations, findings, and decisions required for the
making of such loans under title 90 chapter 3."

Testimony of Jon Marchi
As a Proponent with Amendments
House Bill 664
Business & Economic Development Committee
8:00 A.M. March 15, 1991

Mr. Chairman,

Members of the Committee, for the record my name is Jon Marchi. In my testimony today I represent myself as an individual businessman and the Montana Private Capital Network as a Director and Officer. I have previously testified before your committee in support of economic development legislation; thusly, I will attempt to be brief and not take up any more of your valuable time than is necessary.

We wholeheartedly support this legislation and particularly the inclusion of the Montana Entrepreneurship Center:

1. MEC is truly a private sector/public sector partnership that is working. Major private sector contributors now include U.S. West, ARCO and Montana Power.
2. A 1 to 1 cash match of private sector funds to public sector funds is required.
3. For the first time all the units of our Montana University System are tied together through a comprehensive data base. Three of those campuses have on site offices.
4. A track record is already in place. In the first three full month's of operation MEC has served 331 entrepreneurs.
5. The Montana Private Capital Network has recently begun negotiations with MEC whereby we would fund the cost of establishing a computerized match system to help link Montana and out-of-state investors with deserving Montana entrepreneurs seeking funding. This match system has been developed by the University of New Hampshire and M.I.T. and is already working well in some states.

Kay Lutz-Ritzheimer is here to provide a brief overview of MEC. Ken Thuerbach will comment on the entrepreneur's perspective. On a personal note, Ken was recently named the "Entrepreneur of the Year" by the 1800 Deans of the accredited university business schools throughout the United States. Quite a coup for Montana.

Thank you.

Jon Marchi
7783 Valley View Road
Polson, MT 59860 883-5470

Testimony of: Kay Lutz-Ritzheimer, Executive Director
Montana Entrepreneurship Center

Testimony for: House Bill 664

Committee: House Standing Committee for Business and
Economic Development

Hearing date: March 15, 1991

EXHIBIT 3
DATE March 15, 1991
HB 664

Mr. Chairman and Members of the Committee:

This testimony is offered in support of House Bill 664 which allocates in-state investment funds to be used for several high-quality programs in Montana including the Montana Entrepreneurship Center.

The Montana Entrepreneurship Center is the cooperative effort of the University of Montana, Montana State University and Eastern Montana College and uses the strengths of all six units of the Montana University System to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship and small-business development.

I have provided a summary of objectives and Center services for your review. I would like to point out that one of the Center's key functions is to provide business and technical assistance to entrepreneurs, inventors and small-business owners by connecting them with the resources they need to make their ventures operational. With offices in Missoula, Bozeman and Billings, the Center provides services to businesses statewide as well as to companies trying to relocate to Montana.

The Center maintains a comprehensive database of expertise and resources found in Montana's universities as well as in the public and private sectors...the only database of its kind in Montana and, to our knowledge, in the nation. The Center also provides resources to help entrepreneurs develop business and marketing plans, and directs them to sources of financing and start-up capital.

In its second biennium, the Center will sponsor research to identify business and entrepreneurial opportunities, and will sponsor applied research to help businesses develop new products and technologies. As new products and technologies are developed within our universities, the Center will help facilitate the transfer of that technology to the private sector by matching research products with the required entrepreneurial skills and capital found in the private sector.

Funding to date:

The Center has received loan funding from the Montana Science and Technology Alliance with a dollar-for-dollar match stipulation, and has received private funding from the U S WEST Foundation, Atlantic Richfield Corporation and Montana Power Company.

Clients served to date:

Demand for services has been strong since the Center opened in late October, 1990. Exhibit A provides a breakdown of clients served during the first three months of operation. You will note that the center served over 300 clients and that Center staff made over 100 networking contacts on behalf of Center clients during that time period.

The clientele served by the Center is as impressive as the number of clients served. Center clients include new and developing businesses in all industries with a wide range of management and technology problems. Exhibit B provides eight brief client profiles as a sampling of the types of businesses being served by the Center.

In summary:

Montana provides the ideal setting for entrepreneurship and small-business development. The state has the highest percentage of small-business establishments in the nation and the highest percentage of employment generated from small-business operations. It is clear that entrepreneurship and small-business development are the keys to Montana's future.

The Montana Entrepreneurship Center has established a high-quality program that provides invaluable assistance to inventors, entrepreneurs and small-business owners statewide. Demand for services is strong and success to date has been phenomenal! For many businesses, this program will make the critical difference between success and failure.

House Bill 664 is absolutely critical to the Center's future and to business and entrepreneurial development in Montana in the 1990's. On behalf of the Center's Board of Governors, I urge you to support this important legislation.

Thank you.

EXHIBIT A
MONTANA ENTREPRENEURSHIP CENTER

SUMMARY OF CLIENT AND COMMUNITY GROUP SESSIONS
SUMMARY OF NETWORKING CALLS AND MEETINGS

	November 1990	December 1990	January 1991	February 1991	Total
CLIENT SESSIONS:					
A) "IN-DEPTH" sessions: (Require an average of 3 to 4 hours staff time)					
1) Clients/Client groups	62	19	33	22	136
2) Community groups	3	4	10	5	22
TOTAL IN-DEPTH SESSIONS	65	23	43	27	158
B) "BRIEF" sessions: (Require less than 1 hour staff time)					
1) Requesting information specific to business	27	21	35	62	145
2) Requesting information about the Center/services	53	30	34	19	136
TOTAL "BRIEF" SESSIONS	80	51	69	81	281
TOTAL CLIENT SESSIONS	145	74	112	108	439
NETWORKING calls/meetings on behalf of clients	38	30	22	18	108
TOTAL CLIENT-RELATED CONTACTS, SESSIONS AND NETWORK CONTACTS	183	104	134	126	547

EXHIBIT B
SELECTED CLIENT PROFILES

EXHIBIT 3
DATE March 15, 1991
HB 664

- Case 1 Coffee Row, a new business in Southgate Mall, Missoula, has exceeded all expectations in its first eight months of operation. Its owner would like to expand to more locations in western Montana to include Hamilton and Kalispell. The Center helped this client investigate financing options, evaluate the company's structure, refine a business plan and formulate a marketing strategy.
- Case 2 A client group in western Montana is developing new technology for an innovative information system to be used in our national park system. This group would like to keep all research and manufacturing for this project within the state of Montana. The Center linked this client to the Montana Science and Technology Alliance and outlined other options for obtaining research and start-up funds.
- Case 3 An inventor requested assistance in patenting a logging system that could significantly impact the timber industry. The Center linked the client with the Innovation Center at Washington State University for expert evaluation of the project and to the U.S. Patent Depository Library at Montana Tech in Butte.
- Case 4 In another case, a business owner in Kalispell produces and successfully wholesales a cheese product and wants to expand the business to a full retail operation. This entrepreneur requested assistance with a market feasibility study to evaluate demand and forecast revenues for the new venture. A database search provided the names and backgrounds of sixteen university faculty qualified to provide the market research expertise needed.
- Case 5 A Whitefish client requested assistance in locating a marketing consultant with medical sales experience to structure a nationwide distribution strategy for a new physical therapy product. A database search provided the names of several faculty members with the experience required for this project.
- Case 6 A community group from the Bitterroot Valley is investigating the feasibility of establishing an industrial park. This group requested assistance in outlining a plan to study the concept. In addition to linking this group with resources to research the project, the Center is helping to arrange an intern from the graduate program in city planning.
- Case 7 A group of thirty consultants with expertise in soil and water conservation is forming a new firm to provide consulting services for environmental impact studies. This group requested assistance in developing a marketing strategy, a quality control program and a strategic plan. As is the case with many clients who visit the Center, this group also entered the Center's database as a private sector business that can provide valuable services to other Montana companies.

THE MONTANA ENTREPRENEURSHIP CENTER

Central Office:	University of Montana	(406)243-4009
Regional Office:	Montana State University	(406)994-2024
	Eastern Montana College	(406)657-2813

The Montana Entrepreneurship Center is the cooperative effort of the University of Montana, Montana State University, and Eastern Montana College and is funded by the Montana Science and Technology Alliance. The center uses the strengths of Montana's university system to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship.

The center opened in October to offer services to the business community. Directors in Missoula, Bozeman, and Billings use a comprehensive database of public and university resources to link business owners and entrepreneurs with the information, expertise, and facilities they need to make their ventures operational. Directors identify ventures with potential to create jobs and impact the economy and work closely with these management teams to increase the probability of success.

Future plans for the center include providing business information through conferences, newsletters, and electronic bulletin boards. Serving as the central information source for the state, the center will also access other databases and maintain a

calendar of conferences, seminars, and business activities scheduled statewide.

In addition, the center will encourage and promote networking among entrepreneurs by maintaining a statewide computer conferencing system. The conferencing system will link Montana businesses to national and international systems to bring information and expertise to the state in areas where experience is lacking. This will help create the infrastructure necessary to support entrepreneurship and business development.

The center will also sponsor research within Montana's universities and technical schools to develop new products, concepts, and technologies and then transfer that technology to the marketplace by matching research products with the required entrepreneurial skills and capital found in the private sector.

Finally, the center plans to monitor the changing needs of business owners and entrepreneurs and use that information to adjust and develop client services. Faculty and center staff will conduct research to identify entrepreneurial and business opportunities and disseminate the results to the business community.

THE MONTANA ENTREPRENEURSHIP CENTER

MISSION

The Montana Entrepreneurship Center uses the strengths of Montana's university system to address business development and economic diversification by creating the infrastructure necessary to encourage and support entrepreneurship.

FUNCTIONS AND SERVICES

1

Providing Client Services

Meeting with clients to assess and prioritize their needs.

Matching clients with the appropriate resources from the public and private sectors and the university community.

Providing resource materials including guidelines for preparing business, marketing, and financial plans.

Identifying ventures with the potential to impact the economy; providing intense "hands on" services to these entrepreneurs.

2

Providing Information

Maintaining a database of public, private, and university resources to include programs, services, and expertise.

Providing electronic bulletin boards to list business events and activities scheduled statewide.

Providing computer conferencing systems to network business owners and entrepreneurs statewide and to bring expertise to the state when experience is lacking.

Building a venture capital network to link entrepreneurs with the financial resources they need to make ventures operational.

Publishing a quarterly newsletter for statewide distribution.

3

Facilitating Research and Technology Transfer

Facilitating applied research to address specific client needs.

Coordinating research to develop new products, concepts, and technologies.

Sponsoring research to identify business and entrepreneurial opportunities.

Transferring research results to the private sector by matching new products and technologies with the required entrepreneurial skills and capital from the private sector.

EXHIBIT 3 B *Exhibit # 3B*
DATE March 15, 1991
HB 664

Mr Kieth Colbo

Fax# 443 4965

Mr. Colbo

please Let It Be Known That I Ron Adkins
of Billings Montana plus Valley Welders supply of
Billings, Montana Supports "House Bill 664 as
amended To provide funding For The
Montana Entrepreneurship Center.

The Entrepreneurship Center provides a much-
needed service Thru-out our state, as
well as in Our Community.

Sincerely

Ron Adkins

V. Pres of Valley Welders Supply

3/13/91

EXHIBIT 2C

DATE March 15, 1991

HB 664

Exhibit #2C

P.O. Box 1222
Red Lodge MT 59068
13 March 1991

~~Class~~

Dear Mr. Colbo:

I understand you are spearheading the effort to pass House Bill 664 as amended to include support for the Montana Entrepreneurship Center. I would like to add my voice in support of the bill.

The Entrepreneurship Center has been of great help to me in my efforts to set up business as a Consulting Economist here in Red Lodge.

Small business growth is the road to economic prosperity for the state. The Entrepreneurship Center encourages this growth and should stay in business.

Thanks for your attention.

Sincerely,

John S. Clayton

**Support Testimony of
Ann F. Keenan, Bozeman Director
Montana Entrepreneurship Center, Montana State University
To the testimony of Kay Lutz-Ritsheimer, Executive Director
Montana Entrepreneurship Center, University of Montana**

House Standing Committee for Business & Economic Development

In support of HOUSE BILL 664

March 6, 1991

Now that you have the basic information regarding the mission, administration and operation of the Montana Entrepreneurship Center. I will report on two Center clients with the potential to significantly impact Montana's economy.

Both clients have been receiving intense hands-on services from the Bozeman office since its opening in October and require on-going assistance in making their ventures operational.

While confidentiality is a critical issue to the Center and its clients, the following have provided the authorization to report on their operations in support of the high quality services they have received.

The first client, Paul O'Leary from Ohio, contacted the Center requesting market research and demand analysis to determine the feasibility of establishing a micro-brewery in Gallatin county. The Center assisted Mr. O'Leary in identifying marketing professors who would be interested in the project. In addition, the Center provided information on other resources of potential value to his operation, including those provided by the University Technical Assistance Program, SCORE and the MSU Marketing Club. After receiving the Center's information, he made arrangements with the MSU Marketing Club to conduct primary market research which was completed in January.

As a direct result of the research conducted, he and his wife plan to move from Dayton to open a micro-brewery in the Bozeman area by winter 1991.

His operation's initial capacity of 1250 barrels per year is expected to yield a gross income of \$190,000. During the first year of operation, the business will employ two full-time employees. Projections indicate the number of employees to double within four years and production to triple by the end of the fifth year. Initial distribution will be limited to the Gallatin valley while planning for eventual statewide distribution.

He is currently selling stock to fund his recently incorporated venture and will apply for a small business loan to finance the remaining balance. The Center is currently forwarding information on state and private loan programs.

The second client, Earl Skogley, Professor of Soil Science at Montana State University, has received funding from the Montana Science and Technology Alliance for conducting research in the development of new methodologies in modernizing soil testing. The commercialization of his new technology, the resin capsule, could result in a multi-million dollar manufacturing operation and distribution center.

Dr. Skogley, as a Center client, has received assistance in patenting his invention, studying its market potential and listing the invention on a worldwide database of licensable technology. Before he can properly develop the commercialization of this new technology, he states "We will need much more support from this Center...."

These clients are representative of the numerous clients who have expressed sincere appreciation for the services received from the Center. The job creation and economic impact of these ventures demonstrate the value of the Center's services in promoting business development in Montana.

EXHIBIT 3 E
DATE March 15, 1991
664

JASE O. NORSWORTHY

NATURAL RESOURCE DEVELOPMENT

P O Box 2244 □ Billings, Montana 59103 □ 408-248-5000

March 5, 1991

Business and Economic Development Committee
52nd Legislative Session
State Capitol Building
Helena, Montana

Dear Committee Members:

The purpose of this letter is to register my support for HOUSE BILL 664, as amended to include State funds to serve the needs of entrepreneurs and small businesses in the state, with the state funds to be matched on a dollar for dollar basis by the private sector.

As I view this bill it will bring the University System resources into a one on one delivery mechanism with the private sector. Certainly this is a WIN/WIN situation for both parties, with resulting benefit to all Montanans.

The Montana Entrepreneurship Center has already demonstrated the urgent need for the kind of the services it can deliver. In developing this database of information and services, those of us on the Governing Board have witnessed unparalleled cooperation between the three larger schools in the University System. House Bill 664 would foster and encourage more and more of this type cooperation between this and other sectors of that System - a results highly desired and supported throughout the state. Our citizens also gain by having the private and public sectors working together and jointly funding a program for which a strong need has already been demonstrated.

Because of the shortness of time, I have asked Keith Colbo to deliver this letter to you via his FAX machine.

Thank you for your consideration of these thoughts of support for House Bill 664, as amended.

Respectfully,


JASE O. NORSWORTHY



A COMMITMENT TO LASER DIODE INSTRUMENTATION

EXHIBIT 3 F

DATE March 15, 1991

HB 664

Testimony of Lawrence A. Johnson
As a Proponent of
House Bill 664 with Amendments
52nd Legislative Session - State of Montana
Business and Economic Development Committee
8:00 AM March 6, 1991

Mr. Chairman and Members of the Committee,

As a citizen of Montana and also as President of ILX Lightwave Corporation in Bozeman, I wish to express my full support of House Bill 664 as amended to include funding for the Montana Entrepreneurship Center, during the forthcoming Biennium.

My support is based on the beliefs that (1) the start-up and development of small, entrepreneurial companies will play a major role in the economic future of the State of Montana, that (2) the Montana Entrepreneurship Center (MEC) is uniquely positioned to bring the resources of our University system to bear in encouraging this development, and that (3) MEC has made remarkable progress over the past 2 years in fulfilling their mission despite limited funding.

Thank you,

A handwritten signature in cursive script, reading "Lawrence A. Johnson".

Lawrence A. Johnson
President and CEO
ILX Lightwave Corporation

**MONTANA
STATE
UNIVERSITY**

1893 • CENTENNIAL • 1993

EXHIBIT 3 G
DATE March 15, 1991
RE: 664

College of Business
Office of the Dean

412 Reid Hall
Montana State University
Bozeman, Montana 59717-0004

Telephone 406-994-4423

March 6, 1991

TO: Keith Colbo
Fax: 443-4965

FROM: Jim Brock, Dean *JB*

RE: HB 664

Please introduce the following testimony in support of HB 664, if time and conditions permit.

My name is Jim Brock, and I am the Dean of the College of Business at Montana State University. As a business program at a Land Grant University, the College is committed to outreach efforts that enhance the economic recovery and development of the Great State of Montana. I support HB 664 as amended to include the Montana Entrepreneurship Center. As a founder of the Entrepreneurship Center I can attest to the need for the services it provides, and to the service it is rendering to clients during its relatively short life thus far. There is too much potential, there is too much positive momentum, and there is too much at stake to risk closure of the Entrepreneurship Center due to lack of minimal funding.

Not incidentally, the Montana Entrepreneurship Center is perhaps the best example of intercampus cooperation throughout the Montana University System. The University system is striving to operate more as a system, and the Entrepreneurship Center has both required and enabled significant cooperative efforts among the three center locations (UM, MSU, EMC) and indeed throughout the system via the construction of a system-wide database of expertise.

EXHIBIT 317
DATE March 15, 1991
HB 664

TESTIMONY OF
LARRY GIANCHETTA, DEAN
SCHOOL OF BUSINESS ADMINISTRATION
UNIVERSITY OF MONTANA

Before the House Standing Committee
for
Business and Economic Development
State of Montana

Testimony for House Bill 664
March 15, 1991

For the record, my name is Larry Gianchetta. I am dean of the School of Business Administration at the University of Montana. I would like to speak in favor of House Bill 664 as amended to include the Montana Entrepreneurship Center. The Montana Entrepreneurship Center is unique in its role of economic development in that it brings all the resources of all six units of the Montana University System to the private sector. In the 20 years I have have been actively involved in economic development, no single model has been as efficient as the Montana Entrepreneurship Center in serving clients.

Deaconess Research Institute, Inc.

EXHIBIT 3 H
DATE March
HB _____



February 11, 1991

Representative Jim Southworth
Capitol Station
Helena, MT 59620

Dear Representative Southworth:

As you know, Billings has achieved some eminence in the state as a medical center; we are at a key point to be able to expand the services offered to the patients of the State of Montana by developing and enhancing a research project for our state.

To meet this goal will require active support and participation from the legislature. We have in place an active research program that is ready to be expanded and wants only commitment, both personal and financial, from our state. The benefits to our state are immense. The most obvious to all of us is the additional 100 jobs we will create as we expand our Institute. These 100 jobs will be in the highly technical and scientific area, again improving the reputation of Montana nationally by virtue of quality research, and making it clear to other technologically oriented companies and industries that we have the ability to support these endeavors. *note*

There are many positive spin-offs from research activities that impact directly upon patient care and directly upon continuing education for our physician community.

I am in hopes you will support us strongly as we continue our development efforts.

Sincerely,

Robert K. Snider, M.D.
Chairman of the Board and Medical Director,
Deaconess Research Institute

Deaconess Care
Corporation

2520 17th Street West
Suite B-3
Billings, Montana 59102

Telephone 406-255-8470

John M. Jurist, Ph.D./Scientific Director
Robert K. Snider, M.D./Medical Director

**Testimony of Lori Morrin
As a Proponent
House Bill 664 as Amended
52 Legislative Session - State of Montana
Business & Economic Development Committee
March 15, 1991**

Members of the Committee, for the record my name is Lori Morrin and I am the Regional Director of the Billings' office of the Montana Entrepreneurship Center. I am writing in support of House Bill 664. This bill will provide research and development funding to be administered as loans by the Montana Science and Technology Alliance. In the past, the Alliance has provided funding for the initial development and operation of the Montana Entrepreneurship Center. As Regional Director of the Billings office at Eastern Montana College, I would like to briefly provide an overview of business assistance activities that have resulted since our opening the end of October.

Clients from a broad range of businesses in fields such as welding, construction, service industries, and agricultural by-product manufacturing, have requested assistance in a multitude of areas. I see numerous clients from new and existing businesses seeking assistance for sources of financing opportunities, licensing procedures, consultants in specific areas such as business risk assessment, marketing research, marketing plans, and patent/trademark information. Many individuals have been in need of specific information on starting a new business or further developing an idea. I assess what business stage of development they are in and then direct them to the individuals, private sector businesses, and university system/other resources that can assist them in setting and working toward the goal of developing or expanding their business idea.

The Billings office has helped individuals from a diverse spectrum of businesses covering not only the Billings area but also a large surrounding area -- from Red Lodge to Miles City to Lodge Grass. The Montana Entrepreneurship Center permits individuals to easily and quickly access information and resources they need-- all in one place. The Center promotes small business growth throughout the area and the state by filling the informational and networking gap encountered by the small business sector. Funding provisions contained in House Bill 664 will make it possible for the continuance of these business growth-oriented activities performed by the Montana Entrepreneurship Center.

Thank you.

Ex 35 DATE 1/16/91 HB 664

Research Institute Monitor

0 17th Street West, Billings, MT 59102 406-255-8470 February 1991 Volume 2 Number 2

Expansion Plans Announced

At a Press Conference held at the Institute on February 5, officers of the Deaconess Medical Center announced major expansion plans for the Deaconess Research Institute.

Cal Winslow, President, Deaconess Development Foundation, indicated that a feasibility study is currently underway which is expected to result in the expansion of the research organization into the Deaconess Research Institute for Geriatric Studies. The expanded institute will have as its research focus the study of medical problems related to the human aging process.

"Once the expansion process is completed, we expect the new institute to both compliment the programs of the Deaconess Medical Center as well as the emerging

biomedical research interests of both the community and the state," Winslow said. The expansion process is expected to be accomplished over the next 5 to 7 years.

The new institute will expand from its current 7 employees to as many as 100, Winslow indicated, and is expected to generate some \$10 million per year in new program funding, virtually all of which will come from out-of-state sources.

Since its founding in 1988, the Institute has focused its research activities primarily on orthopaedic studies. We have been active in conducting both basic and clinical research, in promoting community education and outreach activities, including the annual Billings Regional Science Fair, and in providing research support for the local medical and academic communities.

The expansion feasibility study is focusing on the development

Dr. Claire Oakley, Assistant Professor of Biology at Rocky Mountain College, noted at the Press Conference that the expansion of the Institute will have a major impact on the academic community both at Rocky as well as Eastern Montana College. Expertise at the Institute can be used to enrich the learning experience of the students at both colleges. Further, students can have the opportunity to get their first exposure to original research earlier

in their training than otherwise would be possible. Also the facilities of the Institute are available to the faculties of both colleges to use in individual research projects of interest to both that faculty member and Institute staff.

Dr. Oakley further noted that the research and academic communities in Billings respect and appreciate the considerable investment that the Deaconess Care

TESTIMONY OF KEN L. THUERBACH
As a proponent of House Bill 664 with Amendments

Fifty-second Legislative Session, State of Montana
Business and Industry Committee

Members of the committee, for the record, my name is Ken L. Thuerbach. In my testimony today, I represent myself, as a representative of the Montana business community. For the past few years I have been extremely active in promoting business and economic development in the State of Montana. I currently serve on several state, local, and private boards that are working toward these goals. I am on the Board of Governors of the Montana Entrepreneurship Center and serve on the board of the Montana Science and Technology Alliance. However, I am representing neither of those today.

I am a successful Montana businessman, and I have started several businesses over the past few years. I have found myself, however, having to go out of Montana with my business ventures because of the many needs not being met for a business person in this state. The Montana Entrepreneurship Center (MEC) addresses these needs and allows residents to develop their businesses here in Montana.

I do not wish to reiterate the purpose, superb organization or successful operations of the MEC to date as that information is well known and available. Instead, I want you to know why this program is one of the most effective programs creating economic and business development within the state.

1. By funding the MEC we allow taxpayers to access a resource that the State has already paid millions of dollars to create. The MEC program has provided a way for the private sector to call upon the expertise of the University system's faculties. Without the MEC program, this is impossible for small businesses.

2. With our small population and large land mass, networking among businesses and business people has been impractical. MEC has given us this networking capability through its centers.

3. The program links business to the assets the State currently owns at various facilities. Why should a Montanan go to Colorado or California if his business is in need of an a special centrifuge machine when there may be one available in the state. Let's keep Montana business in Montana. We already have many of the tools and facilities here, and MEC is linking them to the private sector.

4. The program is the only one in the State that interfaces successful business persons with new or struggling businesses.

MEC's advisory boards at each center are made up of people who operate successful Montana businesses. We need Montana businesses learning from thriving Montanans, not from federal, pure public, or out-of-state programs.

5. Very simply, the program physically takes the private sector to the University system as the MEC offices are located on State campuses. Linking business to the University system will mean private sector support for the schools in the future.

6. On the other hand, the University faculty is working with and exposed to private enterprise needs. Faculty are called upon to help Montana businesses. It is important to have a University system that knows the needs of the businesses in our State.

7. The MEC program is the entity in the State that has a methodology for providing comprehensive information on sources of capital for Montanans. This is one of our businesses greatest needs.

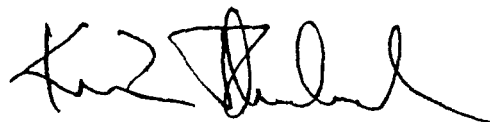
8. Finally, the MEC program is the only one of its kind in the State that has an inventory of all private, public, and university resources that are available to business persons. MEC's highly accessible data base system is invaluable.

Members of the Committee, by funding the MEC program, we are matching resources that currently exist in the State to create business and economic development rather than spending millions of taxpayer dollars trying to plan, fund, or create new ones.

I respectfully request that you favorably consider funding MEC over the next biennium. The funds should be matched on a one-to-one basis by non-state funds and be administered by the Science and Technology Alliance staff. This amendment to House Bill 664 will help coordinate and strengthen the already existing resources we have here in the State of Montana. Please amend the HB 664 to include the MEC program.

Thank you for your attention and time.

Respectfully,



March 15, 1991

There were no exhibits 5 or 6 for this day

March 15, 1991
H24

Exhibit # 7

March 15, 1991

SB-424

William N. Jensen, General Counsel, Blue Cross and Blue Shield of Montana

Testimony of Blue Cross and Blue Shield in support of SB-424.

The Montana Conversion Laws which apply to health insurance have as their purpose continuation of insurance coverage for those persons who through no fault of their own cease to be covered under a group policy and are unable to obtain coverage.

Conversion insurance is insurance of last resort.

Persons who apply for conversion coverage usually have significant health problems and incur significant medical bills. Rates are high. Our rates range for family coverage from \$560 to nearly \$1200 per month. Even with these rates Blue Cross and Blue Shield does not collect our costs. In 1990 claims for 760 conversion contracts of Blue Cross and Blue Shield of Montana exceeded premiums by \$613,000. In 1989 claims for 1082 contracts exceeded premiums by \$1,637,493. Benefits are identical to those contained in a company's individual policies.

Because of the rates, it was never thought that a person would stay on a conversion policy if other coverage was available. We have discovered however that some people have continued conversion while on other coverage and because benefits cannot be coordinated. This means that they have collected twice for their claims. The result is even higher claims costs for those who cannot afford it.

An example is a member who had a child with a growth disorder. Even though this member's group insurance with another company paid over \$60,000 in drug claims, the member submitted the same claims to us under his conversion policy and insisted that payment be made a second time. This member made \$60,000 on his daughter's illness.

SB-424 provides an exception to the conversion laws when a person who would normally be eligible for coverage either has other insurance or obtains other coverage.

Sections 1 and 2 provide that conversion is available unless an applicant is presently insured under another group major medical insurance policy or plan.

Sections 3 & 4 set out terminating events. Montana law unlike the Federal COBRA law does not currently provide for termination of conversion policies.

Subpart (1) makes eligibility for medicare for persons 65 a terminating event. Medicare supplemental policies are generally available to persons enrolling for Medicare without the necessity of showing good health.

Subpart (2) makes failure to pay premium a ground for termination.

Subpart (3) needs some explanation. It is a terminating event if a person obtains other major medical coverage, however, it recognizes that some plans have waiting periods. It therefore allows people to remain on conversion during any waiting period. This makes payment consistent with the theory that this is a policy of last resort.

I believe that this legislation is good, both for the consumer who has to pay high conversion rates and for the other policy holders who have to pay for the amount not collected by the insurer.

March 15, 1991

There were no exhibits 8 or 9 for this day

March 15, 1991
SB 394

Exhibit #10

DRAFT NO. 4
March 14, 1991

PROPOSED AMENDMENTS TO SB 394 (THIRD READING COPY)

1. Page 4, line 15.
Following: "provided."
Insert: Utilization review does not include routine claim administration or determination which does not include determinations of medical necessity or appropriateness."
2. Page 4, lines 16 through 20.
Strike: Subsection 5 in its entirety
3. Page 6, line 17.
Strike: "BY A UTILIZATION REVIEW AGENT AS"
Insert: "made on appeal or reconsideration as provided in [section 6] adverse to a patient or to an affected health care provider may not be made on a question relating"
4. Page 6, lines 19 through 22.
Strike: lines 19 through 22 in their entirety
Insert: "of a health care service without prior written findings, evaluation and concurrence in the adverse determination by a health care professional trained in the relevant area of health care. Copies of the written evaluation, findings, and concurrence shall be provided to the patient on request in compliance with Title 33, Chapter 19."
5. Page 6, line 23 through page 7, line 6.
Strike: subsection 2 in its entirety
Renummer: subsequent subsection
6. Page 7, line 7.
Following: "determination"
Insert: "made on appeal or reconsideration as provided in [section 6]"
7. Page 7, line 9.
Strike: "physician"
Insert: "health care professional"
8. Page 7, line 11.
Strike: "physician or other"
9. Page 7, lines 11 and 12.
Strike: ", as the case may be,"

10. Page 8, line 6.
Strike: "has"
Insert: shall be provided at least
11. Page 8, line 10.
Strike: "30"
Insert: "60"

EXHIBIT 10
DATE 3/15/91
SB 394

In The Trenches By Gary A. Morse, M.A., M.S.

"Earth to HMOs...come in"



Provider Evaluator: "I just did an assessment on Tom Toxic. He's abusing seven street drugs and three pharmaceuticals, and drinks a quart of vodka a day. I recommend detox and inpatient until we see if he can be downloaded to day status. He'll need some psych also; has a history of major depression with several suicide attempts."

Insurance Adviser: "Okay. He's got HMO coverage with Less is Best of Persnickety, Ohio. I'll call 'em for admission clearance — I think they might still be in the office."

HMO Verifier: "Good afternoon, Less is Best! The end of your stay is just a day away!

Adviser: "I'm calling from Provider Anonymous, and we have Tom Toxic in our waiting room. He has Less is Best coverage and clearly has a dual diagnosis."

Verifier: "Sorry, our policies don't cover gunfighting; we don't cover swordfighting either, for that matter."

Adviser: "Not dual diagnosis, dual diagnosis — you know, co-existing psych and CD problems. What kind of training do you have?"

Verifier: "Oh, lots! I just learned how to use the FAX machine yesterday, and next week we learn how to mince

words! So tell me about this gunfighter. Does he get drunk and shoot people or something?"

Adviser: "Is coverage available for Mr. Toxic, or not?"

Verifier: "You don't have to get so upset. After all, I'm a Certified Restrictor And Prognosticator, you know. I don't have any details on dual diagnosis for Toxic here, although I see that he does have preventive orthomolecular intracranial combustion coverage. Can I call you back on Monday?"

Adviser: "This man is severely ill, Madam; he has a fatal disease. He may not live until Monday!"

Verifier: "Well why don't you give him some Anti-Buse or something to hold him over. I hear that stuff tastes pretty good."

Adviser: "It's called Antabuse, and that would be highly inappropriate. Can I talk to your supervisor, please?"

Verifier: "I don't have a supervisor, so there! But I know one thing, we only cover detox after outpatient failure, and the insured must own a green Mustang with yellow pinstripes. If he meets those criteria and you have a 90 percent or better recovery rate that has been verified by Ralph Nader, then you get six days for rehab. But

remember, not a day more! Oops! It's five after five, gotta go. Bye-bye!"

Adviser: "It's the same old story. This poor guy has been paying his share of premiums for two years. He thinks he's covered, but he really isn't, considering the shape he's in. What are we supposed to do? He can't go to the County program because, technically, he has insurance."

Evaluator: "This stuff is driving me nuts. I wonder what it costs to get into a Wendy's franchise these days . . ."

This exaggerated farce has been brought to you by the thousands of frustrated CD professionals who would simply ask managed care companies to 1) write clear and realistic CD treatment policies, and 2) hire staff that speak addictionese.

Gary A. Morse is director of chemical dependency programs at Penrose Hospital in Colorado Springs, CO.

Handwritten: 12

March 15, 1991
Testimony on SB 394
Before the House Business & Economic Development Committee

IN OPPOSITION TO SB 394

David Hartman
Montana Education Association

Utilization review procedures have proven effective in controlling unnecessary and inappropriate medical procedures and services.

Confronted with skyrocketing medical care costs and the inflationary health insurance premiums that go along with them, many employee groups in Montana, working cooperatively with their employers, have instituted utilization review, case management and other procedures to keep unnecessary or inappropriate medical services to a minimum.

SB 394, in its present form, would effectively eliminate most utilization review services currently available in Montana. The problem remains in subsections 2 and 3 of proposed Section 4. It also represents a contradiction.

While subsection 1 of Section 4 at page 6 was amended in the Senate to permit determinations as to the necessity or appropriateness of proposed medical procedures or services to be made by a utilization review agent (in most cases a registered nurse) in accordance with standards or guidelines approved by a physician, subsections 2 and 3 of this Section 4 at pages 6 and 7 still require that determinations be made by physicians.

I urge your "do not pass" on SB 394. In the alternative, I urge the amendment of SB 394 to eliminate subsection 2 of proposed Section 4 at pages 6 and 7, and amend subsection 3 at page 7 by deleting the word "physician" at page 7, line 9, and replacing it with the word "agent."

Acting upon these proposed amendments will at least eliminate the contradictions now found in proposed Section 4.

The fact of the matter is, registered nurses, using guidelines and criteria approved by physicians, make determinations under utilization review programs on the need and appropriateness of proposed medical services. We can all appreciate how much utilization review services would cost if doctors made these decisions!

Blue Cross and Blue Shield of Montana representatives have backed off their opposition to SB 394 in its amended form. It's possible that the Blues can accommodate the direct participation of a "physician trained in the relevant area

Handwritten: over

of health care" in the utilization review process as contemplated by SB 394 in its present form.

It's possible that the Blues have figured out that, under SB 394 in its present form, they may be the only organization that could provide utilization review services in Montana, thus "cornering the market" on this popular cost control device.

Many reputable companies provide utilization review services on a nationwide basis. Most if not all of them use registered nurses as utilization review agents. None of them is going to change the way they do business for the small fraction of client potential in Montana. These national utilization review companies just won't do business in Montana.

Finally, it must be noted that the medical care providers who have supported SB 394 don't want anyone looking over their shoulders as they prescribe medical treatment, places of treatment, and services. After all, there's money to be made. The last people they want keeping an eye on them are utilization review agents who have the gall to conclude that an alternative \$1,000 procedure for a specific medical condition is just as effective as the \$10,000 procedure that the provider is proposing. The fact of the matter is the utilization review agents are usually right and they are saving patients, employees and employers a lot of money by keeping health care costs and health insurance premiums down.

I urge your "do not pass" on SB 394. In the alternative, I urge your action on the amendments in subsections 2 and 3 of proposed Section 4 which I identified earlier.

Thank you.

EXHIBIT 12A

DATE March 15, 1991

SB 394

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 15 day of March, 1991.

Name: DAVID HARTMAN

Address: 1232 E 6TH AVE
HELENA, MT 59601

Telephone Number: 442-4250

Representing whom?

MONTANA EDUCATION ASSOCIATION

Appearing on which proposal?

SB 394

Do you: Support? Amend?

Amend?

Oppose? X

Comments:

SEE PREPARED TESTIMONY

★ AS TO THE PROPOSED AMENDMENTS:
DELETE "HEALTH CARE PROFESSIONAL"
IN AMENDMENTS 447, AND REPLACE
WITH "UTILIZATION REVIEW AGENT."

Ex. 13
3/15/91
SB 394

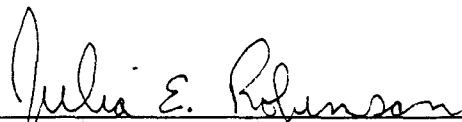
Although the department does not object in principal to submitting utilization review plans to the commissioner of insurance, the department must point out that this requirement will require extensive administrative time and effort at a time when other essential administrative requirements are increasing and funding for additional staff is scarce or nonexistent.

We do not believe that the additional requirements of this bill are warranted with respect to the department's medical assistance programs. We ask that the committee carefully consider the impact of this bill in terms of resulting increases in the cost of performing utilization review and the administrative and effectiveness problems caused to the department's utilization review programs. We would ask that SB 394 be amended to specifically exclude the Montana medicaid and state medical programs. Attached for your review is a proposed amendment that would do just that.

If the committee does not wish to exclude these programs from this legislation, we would ask that the second set of attached amendments be adopted. These amendments would allow utilization review programs to use health care professionals other than physicians to perform medical necessity review. The amendments would also exempt the medicaid and state medical agencies from the appeals provisions provided in Section 6 since such programs already provide for reconsideration and appeal under reasonable timelines consistent with federal law.

Thank you for your consideration of this request.

Submitted by:



Julia E. Robinson, Director
Department of SRS

med.legtests.394

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

DATE March 15, 1991

HB 88394

13



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

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TESTIMONY OF THE DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES BEFORE THE
HOUSE BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE
(RE: SB 394 Conduct of Utilization Review)
MARCH 15, 1991

Senator Svrcek has introduced Senate Bill 394 to regulate the conduct of utilization review (UR) by health insurers and other third party payers. SRS is concerned about this bill because of its effects upon the Department's utilization review activities for the medicaid and state medical programs. SRS is not opposed to the concept of utilization review standards. To the contrary, the Department, in consultation with appropriate health care professionals, already has developed standards to control its utilization review activities.

We believe the provisions of this bill are unnecessary with respect to the medicaid and state medical programs, and that these programs should be exempted from the provisions of this bill. At a minimum, we feel that the bill should be amended to address particular effects of this bill upon the Department's utilization review activities.

Utilization review is one of the most important avenues available to contain rapidly escalating health care costs while ensuring that persons receive medically necessary care in the most appropriate and least restrictive setting. Medicaid and the state medical program currently operate an extensive utilization review program. A variety of health care professionals and health care review organizations contract with the Department to conduct medical necessity determinations. These providers include physicians, dentists, speech therapists, audiologists, and other health care professionals. These contracts allow Medicaid to utilize the most appropriate specialist for the area of care being reviewed.

If in the course of this review a claim is denied as not being medically necessary, ^{written} both the "patient" and the medical care provider are given an explanation of why the claim is being denied and afforded an opportunity for reconsideration by the reviewer.

If the patient or provider is not satisfied with the results of the reconsideration, they are entitled to a due process hearing to challenge the decision. The patient or provider may present

3/15/91

SB 394

testimony from the health care professional of their choice to support the care provided or to dispute the review standards employed on behalf of the department. An objective hearing officer determines the outcome.

In addition, the Department distributes its utilization review criteria to providers and makes the criteria available to the public upon request.

This bill as proposed would add unnecessary duplication to this process in the following areas:

The bill title and Section 4 (2) and (3) would require that a physician conduct all medical necessity denials. We do not believe that a physician has the expertise in all areas to review medical care provided by other health care professionals. For example, physician review of the medical necessity of dental care would be as unacceptable to a dentist as dentist review of an appendectomy would be to a surgeon.

The physician review requirement in the bill would require that, in addition to contracting with appropriate health care professionals in the area of review, the department would be required to pay a physician to review the same information. This duplication of review, conservatively estimated, would cost an additional \$30,375 per year in the medicaid program alone. This physician review would benefit neither the recipient nor the provider.

Medicaid has in the past had some difficulty finding physicians willing to perform medical necessity review, both because of the nature of the work and the amount of time it requires away from their practice. Section 3 (4) and section 6 (2) will contribute to this difficulty. These sections require the physician to be reasonably accessible to patients and health care providers at all times and to complete utilization reviews within 30 days of receipt of the records. Most of our medical reviewers are in private practice. To require that they be available at all times would seriously impact their private practices.

The requirement to complete review within 30 days of receipt of the record would not be a problem in the majority of cases. In some instances, however, these cases may contain records that are 6 to 36 inches thick. Again, a physician or other health care professional with an active private practice may not be able to complete a review within this time frame. An inability to contract with physicians because of these extra review requirements would threaten the department's ability to run any effective utilization review program. This would significantly increase the cost of the medicaid and state medical programs to the taxpayer.

Further, this legislation will increase the costs of administering the medicaid program. The bill provisions will create the need for at least an additional .5 FTE to manage the program, coordinate the 30-day requirement, and track all utilization review activities.

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

P.O. BOX 4210
HELENA, MONTANA 59604-4210
(406) 444-5622
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Amendment to Senate Bill 394
(RE: Utilization Reviews)
Third Reading Copy

1. Page 1, line 19.
Following: "UTILIZATION REVIEW"
Insert: "EXEMPTING UTILIZATION REVIEW ACTIVITIES
PERFORMED ON BEHALF OF THE MONTANA
MEDICAID AND STATE GENERAL RELIEF MEDICAL
ASSISTANCE PROGRAMS;"
2. Page 5, lines 8 through 12.
Following: "care"
Strike: ", EXCEPT THAT A UTILIZATION REVIEW PLAN
FOR HEALTH CARE SERVICES UNDER THE GENERAL
RELIEF MEDICAL ASSISTANCE OR MEDICAID
PROGRAMS PROVIDED FOR IN TITLE 53 NEED NOT
REFLECT COMMUNITY STANDARDS OF CARE"
3. Page 10, line 11.
Following: "agency"
Insert: ", except that utilization review for
health care services provided under the
Montana medicaid and state general relief
medical assistance programs provided for
in Title 53 is exempt from the provisions
of [this act]"

- end -

Rationale: The proposed amendments exempt from the provisions of the act persons or entities performing utilization reviews with respect to health care services provided under the Montana medicaid and state general relief medical assistance programs provided for in Title 53. The amendments would also delete references to such programs which the exemption renders unnecessary.

Submitted by:

Julia E. Robinson
Julia E. Robinson, Director
Montana Department of Social and
Rehabilitation Services

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

Ex. 13
3/15/91
SB 394



STAN STEPHENS
GOVERNOR

JULIA E. ROBINSON
DIRECTOR

STATE OF MONTANA

Amendment to Senate Bill 394
(RE: Utilization Reviews)
Third Reading Copy

P.O. BOX 4210
HELENA, MONTANA 59604-4210
(406) 444-5622
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1. Page 1, line 15.
Following: "PATIENT"
Insert: ", OR IN THE CASE OF UTILIZATION REVIEWS PERFORMED ON BEHALF OF THE MONTANA MEDICAID AND STATE GENERAL RELIEF MEDICAL ASSISTANCE PROGRAMS, BY REQUIRING REVIEW IN ACCORDANCE WITH STANDARDS OR GUIDELINES APPROVED BY A PHYSICIAN OR OTHER HEALTH CARE PROFESSIONAL TRAINED IN THE RELEVANT AREA OF HEALTH CARE;"
2. Page 6.
Following: line 11
Insert: "(1)"
3. Page 6, line 13.
Following: "state"
Insert: ", other than such a program employed by or on behalf of the Montana medicaid or state general relief medical assistance programs,"
4. Page 6, line 15.
Strike: "(1)"
Insert: "(a)"
5. Page 6, line 23.
Strike: "(2)"
Insert: "(b)"
6. Page 7.
Following: line 6
Insert: "(2) A program of utilization review with regard to health care services provided in this state and reimbursed by the Montana medicaid or state general relief medical assistance programs, must require that a determination as to the necessity or appropriateness of an admission, service or procedure must be made in accordance with standards or guidelines approved by a physician or other health care professional trained in the relevant area of health care."

7. Page 7, line 9.
Following: "physician"
Insert: "or other health care professional"
8. Page 8.
Following: line 13
Insert: "(3) This section does not apply to health care services provided in this state and reimbursed by the Montana medicaid or state general relief medical assistance programs."

- End -

Rationale: The proposed amendments address special circumstances which apply only to utilization review programs designed to assure medical necessity and appropriateness of medical services paid for by the Montana medicaid and state general relief medical assistance programs. The amendments allow utilization reviews under these programs to continue to use appropriate health care professionals other than physicians to develop guidelines and standards for review purposes. The amendments exempt these government programs from the appeal provisions provided in Section 6, because such programs already provide for appeal under different timelines consistent with federal law.

Submitted by: Julia E. Robinson

Julia E. Robinson, Director
Montana Department of Social and
Rehabilitation Services

March 15, 1991

There was no exhibit 14 for this day

House BILL 795 - HARPER

EXHIBIT 215
DATE March 15, 1991
HB 795

A BILL FOR AN ACT ENTITLED: "AN ACT creating the montana community infrastructure act; CREATING AN INFRASTRUCTURE TRUST FUND WITHIN THE PERMANENT COAL TAX TRUST FUND; AUTHORIZING THE CREATION OF A STATE DEBT THROUGH THE ISSUANCE OF COAL SEVERANCE TAX BONDS FOR THE PURPOSE OF MAKING LOANS FOR LOCAL GOVERNMENT INFRASTRUCTURE PROJECTS; PROVIDING FOR THE TERMS AND CONDITIONS OF LOANS; PROVIDING A METHOD FOR RECOMMENDING PRIORITIES FOR LOANS; REQUIRING LEGISLATIVE AUTHORIZATION FOR LOAN PROJECTS; AND AMENDING SECTIONS 17-5-701, 17-5-702, 17-5-703, 17-5-704, 17-5-706, 17-5-719, ~~85-1-603, 85-1-604, 85-1-605, 85-1-617, 85-1-618, 85-1-619, AND 85-1-620~~, MCA."

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

Section A. Section 17-5-703, MCA, is amended to read:

"**17-5-703. Coal severance tax trust funds.** (1) The trust established under Article IX, section 5, of the Montana constitution shall be composed of the following funds:

(a) a coal severance tax bond fund into which the constitutionally dedicated receipts from the coal severance tax shall be deposited;

(b) A coal severance tax infrastructure fund;

~~(b)(c)~~ a coal severance tax permanent fund; and

~~(e)(d)~~ a coal severance tax income fund.

(2) The state treasurer shall from time to time transfer to the coal severance tax permanent coal severance tax infrastructure fund all money in the coal severance tax bond fund except the amount necessary to meet all principal and interest payments on bonds payable from the coal severance tax bond fund on the next two ensuing semiannual payment dates. The state treasurer shall from time to time transfer to the coal severance tax permanent fund 75% of the money in the coal severance tax infrastructure fund not encumbered for projects by the legislature.

(3) The purpose of the coal severance tax infrastructure fund is to assist local governments in funding infrastructure projects. Interest earned on the coal severance tax infrastructure fund MUST BE DEPOSITED IN A SPECIAL REVENUE ACCOUNT. UP TO \$10 MILLION A YEAR is available for reducing principal and interest payments on coal severance tax bonds issued for local government infrastructure projects AND BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 16, FOR PROJECTS APPROVED BY THE LEGISLATURE TO RECEIVE AN INTEREST SUBSIDY."

Section B. Section 17-5-701, MCA, is amended to read:

"**17-5-701. State of Montana coal severance tax bonds.** This part provides for the issuance of state of Montana coal severance tax bonds (also referred to as coal severance tax bonds in this part) to:

(1) finance water resource development projects and activities in the state designed to provide, during and after extensive coal mining, a healthy economy, the alleviation of social and economic impacts created by coal development, and a clean and healthful environment for present and future

generations; and

(2) allow local governments a cost-effective alternative method of financing infrastructure projects that enhance the quality of life and protect the health, safety, and welfare of Montana's citizens and that support long-term, stable economic growth and job creation by keeping Montana competitive with nearby states through the provision of the infrastructure necessary for economic growth."

Section C. Section 17-5-702, MCA, is amended to read:

"17-5-702. Purpose and intent. (1) The purpose of the coal severance tax trust fund bond provisions of this part and [sections 6 through 10] is to establish the authority to issue and sell coal severance tax bonds that have been approved by an act of the legislature for financing specific water resource development projects and activities and local government infrastructure projects and activities in the state authorized by the legislature and to guarantee redemption of ~~such~~ the bonds by revenue derived from the receipts from the coal severance tax imposed by Title 15, chapter 35, part 1, and ~~such~~ other money as the legislature may from time to time determine.

(2) The legislature intends that projects to be financed by coal severance tax bonds include:

(a) water resource development projects and activities as part of the water development program established in Title 85, chapter 1, part 6. The legislature further intends that the income from water resource development projects and activities in excess of the amount required for debt service and operation and maintenance of those projects and activities be deposited in the water development state special revenue account established in 85-1-604.

(b) local government infrastructure projects and activities as part of the local government infrastructure program established in [sections 6 through 10]. The payments of principal and interest on local government infrastructure loans in excess of the amount required for debt service must be deposited in the coal severance tax permanent fund."

Section D. Section 17-5-706, MCA, is amended to read:

"17-5-706. Authority to issue coal severance tax bonds. The board of examiners, upon approval of the legislature as hereinafter provided in this section, shall issue and sell coal severance tax bonds to finance ~~such~~ approved water resource development projects and activities and local government infrastructure projects and activities when authorized to do so by any law that sets out the amount and purpose of the issue. Each project or activity ~~shall~~ must be separately approved as to amount by a two-thirds vote of each house of the legislature."

Section E. Section 17-5-719, MCA, is amended to read:

"17-5-719. Limitation on amount of coal severance tax bonds issued. No more than ~~\$250~~ \$450 million worth of coal severance tax bonds may be issued for water development projects and activities and local government infrastructure projects and activities."

NEW SECTION. Section F. **Purpose.** The purpose of [sections 6 through 10] is to establish a local government infrastructure

investment program that will:

(1) enhance the quality of life and protect the health, safety, and welfare of Montana's citizens by creating a partnership between the state and local governments to help finance necessary public infrastructure projects;

(2) support long-term, stable economic growth and job creation and help keep Montana competitive with nearby states by providing a means for financing the infrastructure necessary for economic growth;

(3) encourage local public facility improvements by state investment in improvements in order to make these improvements affordable to Montana citizens;

(4) protect future generations from the undue fiscal burdens that result when infrastructure systems are inadequate or are allowed to deteriorate;

(5) encourage maximum use of all available private and public funding sources;

(6) complement and improve the effectiveness of existing private and public infrastructure financing mechanisms and improve coordination between state and federal infrastructure financing programs; and

(7) encourage coordinated, long-term strategies for addressing Montana's infrastructure needs.

NEW SECTION. Section G. **Eligible projects.** (1) A county, incorporated city or town, consolidated local government, ~~school district, OR special purpose district, or private nonprofit corporation that provides public services~~ is eligible to apply for a loan under [sections 6 through 10].

(2) Loans may be made for the direct costs related to the planning, design, construction, reconstruction, acquisition, alteration, modernization, improvement, or expansion of:

(a) drinking water systems;

(b) sewer systems;

(c) solid waste collection and disposal systems; OR

(d) ~~transportation systems;~~

~~(e) telecommunications and other high technology systems for education; or~~

~~(f) other public works projects the department of commerce determines to be in the public interest~~ **BRIDGES.**

NEW SECTION. Section H. **Priorities for projects -- procedure.** (1) The department of commerce shall receive proposals for projects from the local government entities listed in [section 7(1)]. The department shall work with the local government in preparing cost estimates for the project. In reviewing project proposals, the department may consult with other state agencies with expertise pertinent to the proposal. The department shall prepare and submit a list of recommended projects to the governor. THE DEPARTMENT MAY RECOMMEND EITHER THAT PROJECTS BE FUNDED THROUGH THE ISSUANCE OF COAL SEVERANCE TAX BONDS OR THAT THE PROJECTS BE FUNDED THROUGH BONDS ISSUED PURSUANT TO TITLE 17, CHAPTER 5, PART 16, AND RECEIVE AN INTEREST SUBSIDY.

(2) In preparing recommendations under subsection (1), preference must be given to projects based on the following order

of priority:

(a) projects that solve urgent and serious public health or safety problems;

(b) projects that enable local governments to meet state or federal health or safety standards;

(c) projects that enable local governments to obtain funds from sources other than the funds provided under [sections 6 through 10];

(d) projects that provide long-term, full-time job opportunities for Montanans;

(e) projects that provide public facilities necessary for the expansion of a business that has a high potential for financial success;

(f) projects that result in a benefit to the public commensurate with the size of the grant;

(g) projects that reflect greater need for financial assistance than other projects; and

(h) projects that are high local priorities and have strong community support.

(3) The legislature shall authorize the board of examiners to sell coal severance tax bonds to finance loans for the projects authorized by the legislature OR APPROPRIATE MONEY FROM THE SPECIAL REVENUE ACCOUNT ESTABLISHED IN 17-5-703(3) FOR AN INTEREST SUBSIDY ON PROJECTS AUTHORIZED TO RECEIVE THE SUBSIDY AS PROVIDED IN SUBSECTION (1).

NEW SECTION. Section I. **Loan terms.** (1) The period for repayment of a local government infrastructure investment loan may not exceed ~~30~~ 20 years. The department of commerce shall from time to time establish the interest rate at which loans may be made under [sections 6 through 10] that is sufficient to cover the bond debt service for a loan.

(2) The department of commerce shall make loans for the local government infrastructure projects approved by the legislature.

NEW SECTION. Section J. **Administration of loans.** The department of commerce shall:

(1) administer the loan program established by [sections 6 through 10]; and

(2) service loans made or contract and pay for the servicing of loans.

Section K. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. (1) Money in the coal severance tax bond fund, the coal severance tax permanent fund, the coal severance tax infrastructure fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds except as provided in subsection (2). Income Subject to the provisions of 17-5-703(3), income and earnings from all funds must be transferred to and retained in the coal severance tax income fund until appropriated by the legislature.

(2) Except as provided in subsection (1) and section 1, Chapter 634, Laws of 1989, beginning on July 1, 1990, the legislature shall appropriate 15% of the income and earnings from all funds to be deposited to the state equalization aid account

each year."

Section L. ~~Section 85-1-603, MCA, is amended to read:~~

~~"85-1-603. Water development coal severance tax bond debt service fund created -- coal severance tax allocated -- water development loan loss reserve fund created. (1) (a) There is created a water development coal severance tax bond debt service fund within the debt service fund type established in 17-2-102.~~

~~(b) The state pledges and allocates and directs to be credited to the water development debt service fund, as received:~~

~~(i) 1 1/2% of all money from time to time received from the coal severance tax collected under Title 15, chapter 35, and remaining after allocation of such tax under 15-35-108(1) and (2);~~

~~(ii) any principal and accrued interest under 85-1-613(3)(a) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617;~~

~~(iii) all interest income earned on proceeds of water development coal severance tax bonds;~~

~~(iv) revenue or money otherwise required to be paid into the water development coal severance tax bond state special revenue account pursuant to 85-1-604, as determined by the board of examiners in connection with the issuance of bonds pursuant to Title 17, chapter 5, part 7, and 85-1-617; and~~

~~(v) money received from the water development coal severance tax bond loan loss reserve fund as the result of a loan loss.~~

~~(2) (a) There is created a water development coal severance tax bond loan loss reserve fund within the debt service fund type established in 17-2-102.~~

~~(b) The state pledges and allocates and directs to be credited to the water development coal severance tax bond loan loss reserve fund all accrued interest under 85-1-613(3)(b) received in repayment of a loan made from the proceeds of bonds issued under 85-1-617.~~

~~(c) If the department determines that a loan loss has occurred on a loan made pursuant to this part, funds from the water development coal severance tax bond loan loss reserve fund must be transferred to the water development coal severance tax bond debt service fund in an amount equal to the amount that would otherwise be available for debt service under subsection (1)(b) as a result of the loan loss."~~

Section M. ~~Section 85-1-604, MCA, is amended to read:~~

~~"85-1-604. Water development state special revenue account created -- revenues allocated -- limitations on appropriations from account. (1) There is created a water development state special revenue account within the state special revenue fund established in 17-2-102.~~

~~(2) Except to the extent that they are required to be credited to the water development coal severance tax bond debt service fund pursuant to 85-1-603, there shall be paid into the water development state special revenue account:~~

~~(a) all revenues of the works and other money as provided in 85-1-332;~~

~~(b) 30% of the interest income of the resource indemnity trust fund as provided in and subject to the conditions of 15-32-202;~~

~~(c) the excess of the coal severance tax proceeds allocated by 85-1-603 to the water development coal severance tax bond debt service fund above debt service requirements as provided in and subject to the conditions of 85-1-619; and~~

~~(d) any fees or charges collected by the department pursuant to 85-1-616 for the servicing of loans, including arrangements for obtaining security interests.~~

~~(3) Appropriations may be made from the water development state special revenue account for the following purposes and subject to the following conditions:~~

~~(a) An amount less than or equal to that paid into the account under 85-1-332 and only that amount may be appropriated for the operation and maintenance of state-owned projects and works. If the amount of money available for appropriation under this subsection (3)(a) is greater than that necessary for operation and maintenance expenses, the excess may be appropriated as provided in subsection (3)(b).~~

~~(b) An amount less than or equal to that paid into the account from the resource indemnity trust account plus any excess from subsection (3)(a) and only that amount may be appropriated from the account for:~~

~~(i) the rehabilitation of state-owned projects and works, including the rehabilitation of spillways of state-owned dams;~~

~~(ii) the formulation of downstream emergency warning and evacuation plans for state-owned dams;~~

~~(iii) the development of the hydropower potential of state-owned dams;~~

~~(iv) assistance in the implementation of the water reservations established under 85-2-316 of conservation districts;~~

~~(v) the promotion of the development of offstream and tributary storage;~~

~~(vi) the promotion of joint state-tribal, state-federal, and state-tribal-federal water development;~~

~~(vii) projects or programs that improve water use efficiency, including development of new, efficient water systems and rehabilitation of older, less efficient water systems;~~

~~(viii) administrative expenses, including but not limited to the salaries and expenses of personnel, equipment, office space, and other necessities incurred in the administration of the water development program except the administration of loans and grants; and~~

~~(ix) any other expenditures that meet the policies and objectives of the state water development program.~~

~~(c) An amount less than or equal to that paid into the account from the sources provided for in (c) and (d) of subsection (2) and only that amount may be appropriated from the account for loans and grants for water development projects and activities; for purchase of liens and operation of property as provided in 85-1-615; for administrative expenses, including but not limited to the salaries and expenses of personnel, equipment,~~

and office space; for the servicing of loans, including arrangements for obtaining security interests; and for other necessities incurred in administering the loans and grants."

Section N. Section 85-1-605, MCA, is amended to read:

~~"85-1-605. Grants, loans, and bonds for state and local government assistance. (1) The department may recommend to the legislature governor that grants and loans be made from coal severance tax proceeds deposited in the water development state special revenue account, that loans be made from water development coal severance tax bond proceeds deposited in the water development account, and that coal severance tax bonds be authorized pursuant to Title 17, chapter 5, part 7, to provide financial assistance for a water development project to a department, agency, board, commission, or other division of state government or to a city, county, or other political subdivision or local government body of the state. The governor shall review the projects recommended under this section and the projects recommended by the department of commerce under [section 8] and shall submit a list of recommended projects to the legislature. The legislature may approve by appropriation or other appropriate means those grants and loans it finds consistent with the policies and purposes of the program.~~

~~(2) In addition to implementing those projects approved by the legislature, the department may request up to 10% of the funds available for grants from the water development special revenue account in any biennium to be used for emergencies. These emergency projects must be approved by the department and be defined as those projects which, if delayed until legislative approval can be obtained, will cause substantial damages or legal liability to the project sponsor. In allocating such funds, the department shall inform the legislative finance committee of the legislature.~~

~~(3) The grants and loans provided for by this section may be made for the purchase, lease, development, or construction of water development projects and activities for the conservation, management, use, development, or protection of the water and related agricultural, land, fish, wildlife, and water recreation resources in the state; for the purpose of feasibility and design studies for such projects; for development of plans for and the rehabilitation, expansion, and modification of water development projects; for other water development projects and activities that will enhance the water resources of the state; and for similar purposes approved by the legislature."~~

Section O. Section 85-1-617, MCA, is amended to read:

~~"85-1-617. Issuing bonds. (1) When authorized by the legislature and within the limits of the authorization and within the further limitations established in this section, the board of examiners may issue and sell water development coal severance tax bonds of the state in the amount and manner it considers necessary and proper to finance the water development loan program and the local government infrastructure loan program. The full faith and credit and taxing powers of the state are pledged for the prompt and full payment of all bonds so issued and interest and redemption premiums payable thereon on the bonds~~

according to their terms.—

(2) ~~Each series of water development coal severance tax bonds may be issued by the board of examiners, upon request of the board of natural resources and conservation or the department of commerce, at public or private sale, in such denominations and forms, whether payable to bearer with attached interest coupons or registered as to principal or as to both principal and interest, with such provisions for conversion or exchange and for the issuance of notes in anticipation of the issuance of definitive bonds, bearing interest at such a rate or rates, maturing at such a rate or rates, maturing at such a time or times not exceeding 30 years from date of issue, subject to optional or mandatory redemption at such earlier times and prices and upon such notice, with such provisions for payment and discharge by the deposit of funds or securities in escrow for that purpose, and payable at the office of such a banking institution or institutions within or outside the state, as the board of examiners shall determine subject to the limitations contained in this section and 17-5-731.—~~

(3) ~~In the issuance of each series of water development coal severance tax bonds, the interest rates and the maturities and any mandatory redemption provisions thereof shall of the bonds must be established in such a manner that the funds then specifically pledged and appropriated by law to the water development coal severance tax bond debt service fund will in the judgment of the board of examiners be received in an amount sufficient in each year to pay all principal, redemption premiums, and interest due and payable in that year with respect to that and all prior series of such bonds, except outstanding bonds as to which the obligation of the state has been discharged by the deposit of funds or securities sufficient for their payment in accordance with the terms of the resolutions by which they are authorized to be issued.—~~

(4) ~~In all other respects, the board of examiners is authorized to prescribe the form and terms of the bonds and notes and shall do whatever is lawful and necessary for their issuance and payment. Such The coal severance tax bonds, notes, and any interest coupons appurtenant thereto to the bonds must be signed by the members of the board of examiners, and the bonds and notes must be issued under the great seal of the state of Montana. The bonds, notes, and coupons may be executed with facsimile signatures and seal in the manner and subject to the limitations prescribed by law. The state treasurer shall keep a record of all such bonds and notes issued and sold.—~~

(5) ~~There is created a water development account within the state special revenue fund established in 17-2-102.—~~

(6) ~~All proceeds of bonds or notes issued under this section for water development projects, other than refunding bonds, must be deposited in the water development account established in subsection (5), except that any principal and accrued interest received in repayment of a loan made from the proceeds of bonds issued under this section must be deposited in the water development coal severance tax bond debt service fund and the water development coal severance tax bond loan loss~~

~~reserve fund pursuant to 85-1-603. All proceeds of refunding bonds must be deposited in the water development coal severance tax bond debt service fund and applied to the payment and redemption of outstanding bonds issued under this section as directed by the board, whether at maturity or on any earlier date on which they may be prepaid according to their terms.~~

~~(7) All actions taken by the board of examiners under this section or 85-1-619 must be authorized by a vote of a majority of the members of the board of examiners."~~

~~Section P. Section 85-1-618, MCA, is amended to read:~~

~~"85-1-618. Restrictions on use of bond proceeds. Water development Coal severance tax bond proceeds issued for water development projects may be used only for the purpose of making loans as provided in the water development program or for purchasing liens and operating property as provided in 85-1-615."~~

~~Section Q. Section 85-1-619, MCA, is amended to read:~~

~~"85-1-619. Debt service fund -- pledge and administration of sufficient balance. (1) The legislature may levy, impose, assess, and pledge and appropriate to the water development coal severance tax bond debt service fund any tax, charge, fee, rental, or other income from any designated source. The state reserves the right to modify from time to time the nature and amount of special taxes and other revenues pledged and appropriated to the water development coal severance tax bond debt service fund, provided that the aggregate resources so pledged and appropriated are determined by the legislature to be sufficient for the prompt and full payment of the principal of and interest and redemption premiums when due on all bonds payable from that fund and provided that the pledge of the full faith and credit and taxing powers of the state for the security of all such coal severance tax bonds shall be are and remain irrevocable until they are fully paid.~~

~~(2) Money in the water development coal severance tax bond debt service fund must be used to pay interest, principal, and redemption premiums when due and payable with respect to water development coal severance tax bonds, and for bonds issued prior to 1985, to accumulate a reserve for the further security of such payments.~~

~~(3) After the reserve provided for in subsection (2) for bonds issued prior to 1985 has been accumulated in the water development coal severance tax bond debt service fund, money at any time received in the water development coal severance tax bond debt service fund from water development projects in excess of that amount must be transferred by the treasurer to the water development state special revenue account."~~

~~Section R. Section 85-1-620, MCA, is amended to read:~~

~~"85-1-620. Water development Coal severance tax refunding bonds. (1) The board of examiners may issue refunding bonds at such times and in such amounts, if any, as may be necessary to pay principal or interest due that cannot be paid from funds then on hand in the water development coal severance tax bond debt service fund. The board of examiners may also issue refunding bonds to refund outstanding bonds before maturity for the purpose~~

~~of extending the maturities thereof of the outstanding bond so far as determined by the board of examiners to be necessary to assure ensure that the funds then pledged to the water development coal severance tax bond debt service fund will be sufficient for payment of principal and interest due in subsequent years. The board of examiners may also issue refunding bonds to refund outstanding bonds before maturity for the purpose of reducing the interest cost or the total amount of principal and interest payable thereon on the outstanding bonds.~~

~~(2) No refunding Refunding bonds may not be issued and sold more than 3 months before all bonds refunded thereby by the refunding bonds mature or are called for redemption unless the proceeds thereof of the refunding bonds, with any other funds in the water development coal severance tax bond debt service fund that are needed and available for the purpose or securities purchased from such bond proceeds and other funds, are deposited with a suitable banking institution within or outside the state, in escrow, for the retirement of the refunded bonds at maturity or at a prior date or dates on which they have been called for redemption in accordance with their terms, in an amount and in a manner sufficient under the provisions securing the refunded bonds, so that the state's obligation to pay the same bonds, from sources other than the escrow fund, is discharged.~~

~~(3) No new New debt may not be created by the issuance of refunding bonds in accordance with this section, but such the refunding bonds shall evidence the debt previously created and shall be are secured by the pledge of the full faith and credit and taxing powers of the state and by the further provisions of this part in the same manner as the bonds refunded thereby."~~

NEW SECTION. Section S. **Three-fourths vote.** Because [this act] appropriates money that would otherwise be deposited in the coal severance tax permanent fund, a vote of three-fourths of the members of each house is required for enactment of [this act].

-End-

BIG SKY DIVIDEND - AND ALTERNATIVES

Senate Bill 55 - Governor Stephens Big Sky Dividend .

(Crippen, sponsor). (HB 374 is the companion bill that appropriates money from the Coal Tax Trust)(J. Rice, sponsor).

- Up to \$20 million each year from the Coal Tax Trust.
- Grant program only.
- To local governments for infrastructure projects - water and sewer systems, solid waste disposals, transportation systems, telecommunications and other public works.
- Administered by Department of Commerce - based on a list of priorities set forth in section 9 of the bill.
- 50% local match required.
- Big Sky Dividend Advisory Council created.

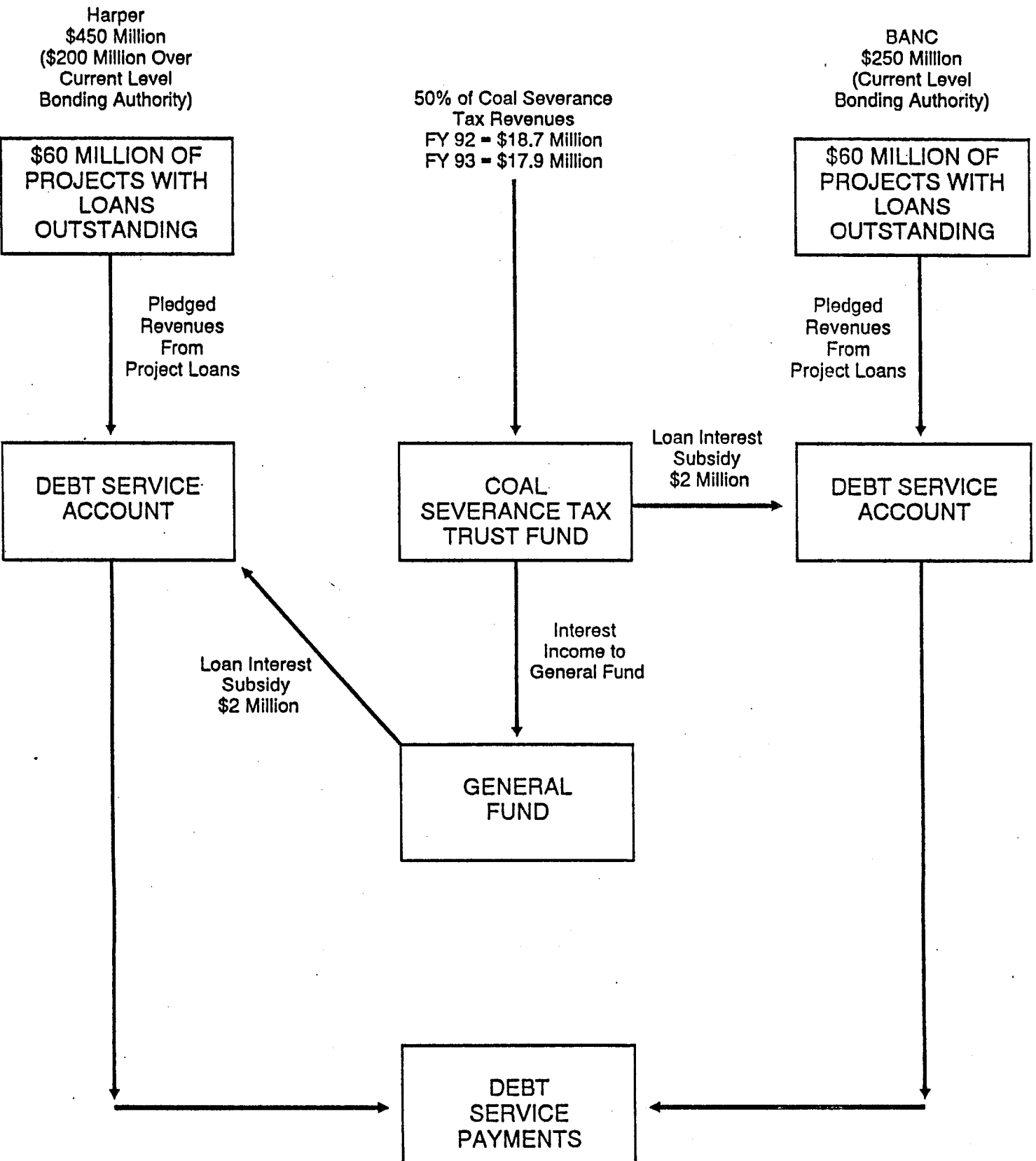
House Bill 905 - Dorothy Bradley's New Century Fund.

- \$20 million each year from the Coal Tax Trust.
- Contemplates floating a bond issue and part of the money is used to pay off the bond issue, thus substantially increasing the initial sum available.
- Grant and loan program.
- To local governments and private non profit corporations.
For Infrastructure (same definition and list of priorities as the governor's program) from the sale of Bonds just like the water bond program now (supported by the coal tax trust).
- To the capital construction program for the improvement, expansion, reconstruction, and construction of state buildings, including University buildings.
- To the Department of Fish, Wildlife and Parks for improvement and construction of facilities at park and recreation areas.
- Individual approval on a project by project basis by a 3/4ths vote of the legislature.

HOUSE BILL 795 - The Montana Community Infrastructure Act: Harper and Towe.

- Loan program only. No grants.
- Special fund within the Coal Tax Trust created, called the Infrastructure Trust Fund.
- Bonding program parallel to the Water Bond Program now in existence (secured by the coal tax trust funds flowing into the coal tax trust). Some subsidy of interest is available.
- To local governments for infrastructure (same priorities as the governor's program but the projects are limited to Drinking Water, Sewer, and Solid Waste Systems and Bridges).
- In addition, the interest from the Infrastructure Trust Fund will be available permanently to further subsidize interest rates and maybe even some principle if necessary.
- A permanent Trust Fund dedicated to Infrastructure. 25% of the future flow into the Coal Tax Trust Fund would be set aside as the Infrastructure Trust Fund. In many ways this is a more significant commitment to infrastructure than either the Governor's or Representative Bradley's program. In 21 years, this Fund would contain \$100 million.
- The loss to the General Fund would be less than one fourth of either the Governor's proposal or Representative Bradley's proposal. \$1 million this biennium and \$2.6 million next biennium.

Comparison of HB 795 & HB 905



Bond sales under both bills are limited by coal severance tax and other pledged revenues that must be two (2) times the annual debt service on all outstanding bonds.

INFRASTRUCTURE TRUST

	Pr	Int.
1 July 92 =	4,750,000	451,250
1 July 93 =	9,500,000	902,500
1 July 94 =	14,250,000	1,353,750
1 July 95 =	19,000,000	1,805,000
1 July 96 =	23,750,000	2,256,250
1 July 97 =	28,500,000	2,707,500
1 July 98 =	33,250,000	3,158,750
1 July 99 =	38,000,000	3,610,000
1 July 00 =	42,750,000	4,061,250
1 July 01 =	47,500,000	4,512,500
1 July 02 =	52,250,000	4,963,750
1 July 03 =	57,000,000	5,415,000
1 July 04 =	61,750,000	5,866,250
1 July 05 =	66,500,000	6,317,500
1 July 06 =	71,250,000	6,768,750
1 July 07 =	76,000,000	7,220,000
1 July 08 =	80,750,000	7,671,250
1 July 09 =	85,500,000	8,122,500
1 July 10 =	90,250,000	8,573,750
1 July 11 =	95,000,000	9,025,000
1 July 12 =	99,750,000	9,476,250

Sub Fund A Bonds
(Secured by the Coal
Tax) Amount available

* 112 million available
55 million outstanding
37 million approved but not issued
8 million before '91 Legislature

12 million balance
Plus 12 million refinance in HB -
22 million refinance Toston Dam
5 million reversion from 37*8 above
9 million range safety area

EXHIBIT 18
DATE 9/10/91
HB 795

Interest Subsidy

- Interest income from the Infra Structure Trust Fund.
- Available to buy down (subsidize) the interest (and principle payments is necessary) on Bond sold through Municipal Finance Consolidation Pool or Coal Tax Bonds

1993 - \$50 million

* 13 million*

1995 - 50 million

77 million

1997 - 50 million

129 million

1999 - 50 million

180 million

2001 - 50 million

232 million

2003 - 53 million

284 million

2005 - 60 million

335 million

2007 - 80 million

386 million

2009 - 90 million

438 million

2011 - 100 million

516 million

Total - in 20 years = \$616 million

* Assumes average subsidy of 3.5% interest (buy down)

EXHIBIT 19

DATE March 15, 1991

HB 795

The Montana Community Infrastructure Act

Putting Montana's Coal Tax Into Infrastructure For the New Century

Ex. 19
3-15-91
HB 795

MAJOR POINTS

- Allocates coal tax revenues to assist in infrastructure development -- major change in state policy.
- Expands on proven water bond program, utilizing interest rate subsidy approach for local infrastructure needs -- not grants.
- Allocates at least \$5.5 Million per year from Coal Trust for infrastructure projects.
- Can result in over \$400 Million Dollars in infrastructure repair\construction projects in the next 10 years.
- Uses local government bonding where possible; state bonding where necessary; preserving the state's bonding capacity.
- Requires 3/4 vote of the legislature on all project assistance -- eliminating potential for "pork barrel" decisions.

CAPITAL AVAILABILITY

- Communities which can access capital handle their own debt.
- Communities which cannot access capital participate in state bonding program (expanded water bond approach).

CAPITAL AFFORDABILITY

- State provides interest rate subsidies to communities which have issued bonds.
- State can also provide interest rate subsidies to communities participating in state bonding program.

ELIGIBLE PARTICIPANTS

- **Cities**
- **Counties**
- **Consolidated Local
Governments**
- **Special Purpose Districts**

3-15-91
HB 793
3-19

2x.19
3-15-91
HB 795

INFRASTRUCTURE TARGETS

- **Drinking Water Systems**
- **Sewer Systems**
- **Solid Waste Collection and Disposal Systems**
- **Bridges**

5x.19
3-15-91
HB 795—

DECISION MAKING PROCESS

- 1) Department of Commerce Receives Proposals
- 2) Commerce & Local Governments Prepare
Cost Estimates and Negotiate
Interest Subsidies
- 3) Commerce Brings Recommendations to
the Governor
- 4) The Governor Submits Recommendations to
the Legislature
- 5) Legislature, By 3/4 Vote, Approves Projects

COMMERCE WILL GIVE PRIORITY TO SUPPORTING PROJECTS WHICH ARE:

- Solving urgent public health or safety problems;
- Meeting state or federal health or safety standards;
- Obtaining matching funds from other sources;
- Providing long-term, full-time job opportunities;
- Providing public facilities necessary for fiscally prudent business expansion;
- Resulting in a significant public benefit;
- Reflecting greater project financial assistance;
- Representing high local priorities with strong community support.



DANIEL KEMMIS

OFFICE OF THE MAYOR

435 RYMAN MISSOULA, MT 59802-4291 (406) 523-4601 FAX: (406) 728-6690

February 19, 1991

Missoula
3-15-91
HB 795

The Honorable Hal Harper
Speaker
Montana House of Representatives
Montana State Capitol
Helena, Montana 59620

FASCIMILE TRANSMISSION

Dear Hal:

This letter is written in support of HB795, your bill to establish an Infrastructure Trust Fund and a local government infrastructure loan program.

The evidence that state and local governments have to address the infrastructure crisis in America is overwhelming. I am enclosing a copy of the front page of a recent National League of Cities newspaper citing the United States' low level of investment in infrastructure and technology compared with Europe and Japan. With the federal government's financial situation and proposed highway bill, it is obvious that state and local governments will be left to solve the problem on our own.

HB795 would create a loan program of a larger scale and different purposes than what now exists with the Board of Investments INTERCAP program, one of the state's more successful programs for local government. This larger scale and emphasis on infrastructure will be part of local governments' ability to address infrastructure problems. Of course, we still need more local authority to raise the local funds necessary for infrastructure, but HB795 would be part of a true partnership effort in starting to address re-investment in infrastructure.

One problem that we in Missoula have with this program (as with the Big Sky Dividend Program) stems from the fact that we are one of only two cities in the state which does not own its water system. We would therefore not be eligible for assistance to this major area of infrastructure. SB261, introduced by Senator Lynch, would, if restored to its original form, assure our power to acquire our water system. We would appreciate your support on that issue.

Please count on the City of Missoula's support of HB795 and let me know if there are additional efforts I can do personally to support HB795.

Sincerely,



Daniel Kemmis

cc: Alec Hansen, Montana League of Cities and Towns

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 664

DATE MARCH 15, 1991 **SPONSOR(S)** REP. SOUTHWORTH

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
KAY LUTZ-RITZHEIMER 304 MCGILL HALL, U/17	MT. ENTREPRENEURSHIP CENTER	✓	
KEN L THUERBACH BOX 85 VICTOR MT	SELF	✓	
David L. Tappin	O CHE	✓	
Samuel T. Hubbard	Diabetes Res. Institute	✓	
JOE MARC HI	MONTANA PRIVATE CAPITAL NETWORK	✓	
Ron Klephake	Mslc Econ Dev	✓	

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

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. SB 424

DATE MARCH 15, 1991 **SPONSOR(S)** SEN. HAGER

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Bill Jorgensen	Blue Cross Blue Shield	✓	
Dave Barnhill	MT insurance dept	✓	
LARRY AKET	MT ASSOC OF LIFE UNDERWRITERS	✓	
Tom Hager	SD 48 - Sponsor	✓	
Tom Hopgood	Health Ins Assoc Amer	✓	

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

**HOUSE OF REPRESENTATIVES
VISITOR REGISTER**

SB 394

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. _____

DATE MARCH 15, 1991 **SPONSOR(S)** _____ **SEN. SVRCEK**

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Tom Hopgood	Health Ins Assoc America		<input checked="" type="checkbox"/> Amend
DAVID HARTMAN	MEHA		<input checked="" type="checkbox"/> AMEND
JOLURES DEYERLE	ST. PETER'S HOSP.	<input checked="" type="checkbox"/>	
DAVID CUNNINGHAM	ROCKWELL FIDN	<input checked="" type="checkbox"/>	
Pat Melby	Rockwell Foundation	<input checked="" type="checkbox"/>	
Dave Barnhill	Insurance dept	<input checked="" type="checkbox"/>	
LARRY AKEY	NIT ASSOC OF LIFE UNDERWRITERS		<input checked="" type="checkbox"/> AMEND
Mary Walton	Medicaid Revision Kyrst SRS		<input checked="" type="checkbox"/> amend
Steve Brown	Blue Cross-Blue Shield	<input checked="" type="checkbox"/> as amended	
Mary McCare	MM HCA	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/> or amend
Tom Allen 2	Mont Hospital Association	<input checked="" type="checkbox"/>	
Larry Ziskender	CDPM	<input checked="" type="checkbox"/>	
Menk Jamison	Rocky Mtn. Transit Center	<input checked="" type="checkbox"/>	
Ann Bellwood	RMTCC	<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 REGISTER**

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB795

DATE MARCH 15, 1991 **SPONSOR(S)** REP. HAL HARPER

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PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Neacell Anderson	DoC	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Anna Miller	DNR	<input type="checkbox"/>	<input type="checkbox"/>
John Miller	DNR	<input type="checkbox"/>	<input type="checkbox"/>
Richard Clarke	NPRC	<input checked="" type="checkbox"/> Limited	<input type="checkbox"/>
Gordon Morris	MACo	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ron Klephue	Missla Econ Dev.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
KEVIN DUNHAM	MT CONTRACTORS' ASSOC	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Don Judge	MT STATE AFL-CEO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DENNIS M. HAYLER	CITY OF MISSOULA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
JAMES T. TAYLOR	MT Chamber	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jane C. Murphy	MT Democratic Party	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

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

HOUSE OF REPRESENTATIVES
VISITOR REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. SB 112

DATE MARCH 15, 1991 SPONSOR(S) SEN. JOHN HARP

PLEASE PRINT

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
HELEN GARRECK	BOARD OF REALTY REG	X	
Grace Berger	Dept. of Commerce	Information	
Brendan Beatty	MT. Assoc. of Realtors		

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