

## **MINUTES**

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

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN HARRINGTON**, on April 9, 1991, at 9:00 AM

#### **ROLL CALL**

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

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

##### **Members Excused:**

Marian Hanson (R)  
Tom Nelson (R)  
Ted Schye (D)

**Staff Present:** Lee Heiman, Legislative Council  
Julia Tonkovich, Committee Secretary

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

#### **HEARING ON SB 415**

##### **Opening Statement:**

**SENATOR ELEANOR VAUGHN** explained the bill, which establishes a state parks recreational vehicle fee on all recreational vehicles (campers, motor homes and travel trailers), and provides that the fee be processed and earmarked for state parks' recreational

vehicle services and facilities. Montanans own approximately 35,000 recreational vehicles, and most of them realize the need for upgraded water, sewage, and accommodation facilities. There has never been enough state funds for these facilities, so the recreational vehicle owners are willing to pay an annual fee of \$3.50.

**SEN. VAUGHN** said the bill also provides that the Fish, Wildlife and Parks Department seek the advice of recreational vehicle owners on the most appropriate ways to spend the monies collected. This bill is agreeable to both the recreational vehicle owners and the Fish, Wildlife and Parks staff. They have specified that the money collected from this fee go only to the fund designated for parks upgrading.

Proponents:

**Paul Kessler, Montana Good Sams**, spoke in favor of the bill.

**Stuart Doggett, Montana Manufactured Housing and RV Association**, spoke in favor of the bill.

**Don Tuttle, State Parks Future Committee, Good Sams**, spoke in favor of the bill. **Exhibit 1**

Opponents: None

Questions: None

Closing Statement:

**SEN. VAUGHN** said the fee would bring the state parks approximately \$125,000/year. Having adequate facilities for recreational vehicles will also bring more tourists to the state parks. The bill received no opposition in the Senate.

HEARING ON SB 460

Opening Statement:

**SENATOR PAUL SVRCEK** explained the bill. Montana is very competitive with other states in most areas that attract investment, with one glaring exception. Property taxes on business equipment are significantly higher in Montana than in other states. These high rates may be hindering business development in Montana. SB 460 proposes to lower the rates on most business equipment by one-third (from 9% to 6%). It would also give an additional 1% decrease (from 6% to 5%) for business equipment used in any new, value-added processes that would come up after July 1, 1991.

**SEN. SVRCEK** said the proposal is rendered revenue-neutral by the creation of a new class of property, income-producing commercial real property, and increasing the tax rate on that property. The

committee may change the rate as it sees fit; the goal of the legislation is not to raise money, but to provide incentive for business.

**SEN. SVRCEK** said the rate on agricultural implements will remain at 9%, because the rate on agricultural land remains the same in this bill. Some mining machinery is also kept at 9%. The mining industry benefits a great deal by the reduction in the personal property tax, but the tax rate on mining land is not increased in the bill. Multi-family units are kept at the residential rate of 3.86%, because he wanted to keep the changes within the business community, and did not want to pass the tax shift onto people's home. There has been discussion of residential property tax relief, and although he supports those efforts, he does not want SB 460 to be extended to provide that relief. The scope of the bill should be kept narrow.

**SEN. SVRCEK** said there is a need for a mechanism to mitigate the effects of SB 460 on individual local governments, and such a mechanism is currently being developed. The bill is a relatively clean, simple proposal to reduce the tax on business equipment, and bring Montana to a competitive level with other states. Decreasing the business equipment tax by 33% is offset by an 18% increase on income-producing real property.

#### Proponents:

**Ward Shanahan, Stillwater Mining Company**, spoke in favor of the bill. Substantial investments of human ingenuity and effort deserve recognition, and this bill is to be endorsed in that regard, with particular attention being paid to its treatment of value-added property. Value-added property can be tied directly to the minerals industry, and we appreciate the spirit in which this bill was offered.

#### Opponents:

**Dennis Burr, Montana Taxpayers' Association**, spoke against the bill. The intent of the bill, which is to reduce personal property taxes, is good; however, it does this by raising real property taxes on commercial property. The first objection is the separating of real estate into two classes: income-producing and residential. Before 1975, residential property, real estate, commercial real estate and manufacturing machinery were all in the same tax class. After that year, the personal property was segregated, and since then, the classification rate on personal property has ballooned to 3-4 times the rate of real estate. The separation of all commercial property from all residential property may make it much easier in the future to raise the tax rate on business property, without raising taxes on residential property as well. The state should be trying to reduce, not expand, the number of property classifications it holds for tax purposes. The more classes there are, the fewer individuals are represented in each class and the harder it is for them to

represent themselves.

Mr. Burr said people should not expect the measure to increase economic development in Montana, because although the bill reduces the tax rate, it is still three times the national average. The bill benefits businesses already in Montana, but won't attract new business on a large scale. In 1985, Montana's effective tax rate (the percent of market value for property that one pays in taxes annually) on personal property was 4.46%. In Idaho, the effective tax rate was 1.53%, and North and South Dakota exempted personal property completely. Montana is considerably higher than any of the surrounding states in this regard. This bill will reduce the rate from an average of three times that of surrounding states to two times their rate. It's an improvement, but it's not enough.

Mr. Burr said because the bill is revenue-neutral, some people will be paying less while others pay more to compensate. If a predominant part of a business is in personal property, the business owner will save; however, if the predominant part is in real property, the business owner will pay. The Department of Revenue provided some estimates on what this bill would do to several Montana businesses. According to these estimates, property taxes on Stone Container's Missoula plant will be reduced by \$800,000. However, this is still double what Stone Container plants of comparable size and function in other states pay. In Billings, Western Sugar has a piece of equipment for which they paid \$150,000. In 1988, their tax on this equipment was \$3618 in Nebraska, \$3800 in Colorado, \$1279 in Wyoming and \$9366 in Billings. This bill would reduce their taxes to \$5151, still two-thirds higher than what the state with the second-highest tax rate charges.

Mr. Burr said in general, cities will have an increase in taxable value, because that's where the majority of retail and wholesale establishments are. Many of the counties will see a reduction in taxable value, because the industrial plants are usually outside of the city limits. This bill will improve things, but will not cause a great deal of economic development in Montana. Instead of shifting the tax structure, Montana needs a new source of revenue to reduce its overall reliance on property taxes. Montana's property tax rates are now the second highest in the United States.

Forrest Boles, Montana Chamber of Commerce President, spoke against the bill, saying that the separation of commercial and residential property offers another opportunity for a tax increase involving more money and fewer citizens. If this bill had been in effect this session, there would probably be a proposal to increase certain business and industry property taxes. The bill pits one aspect of industry against another, and moves away from property tax stability. This is one of the most potentially troublesome bills under consideration this session. SEN. SVRCEK has good intentions, but the potential harm the bill

harbors outweighs its potential benefits.

**Alan Nicholson, Montana Tax Reform Coalition**, said the plan is good in that it lowers personal property taxes. However, the bill creates two new classes of property, taxes production and not consumption, and narrows the tax base. The bill will lower the value of commercial property in Montana by a factor of 10. The tax burden should be spread across all the classes, and should not be targeted at commercial real estate. This will eliminate the disparities between counties and cities, and will not result in anything as high as an 18% increase, which is what some businesses are facing under this bill.

**Scott Heck, Bozeman Chamber of Commerce**, spoke against the bill. SB 460 puts the highest property tax on the equipment that can most easily leave the state; the trucks can leave Montana and move into Wyoming instead. Montana's need for total tax reform is becoming critical, and this is not the answer.

**Kay Foster, Billings Chamber of Commerce**, spoke against the bill. The Chamber of Commerce appreciates the spirit in which the bill was offered, but cannot support the bill without a general lowering of property tax and the implementation of a new source of revenue, such as a sales tax.

**Gene Phillips, Eagle Bend Golf Course**, spoke against the provision in the bill that would increase the property tax rates on golf courses by 17.5%.

Questions:

**REP. ELLIOTT** asked **Mr. Burr** if a sales tax is a shift in taxation from businesses to individuals. **Mr. Burr** said he didn't think so; both businesses and individuals pay sales taxes. **REP. ELLIOTT** asked whether businesses and individuals pay at the same level. **Mr. Burr** replied that usually, businesses pay at least 30% of the total take of a statewide sales tax.

**REP. STANG** asked whether **Mr. Burr** had information on Stone Container's total tax picture in other states. **Mr. Burr** replied he did not.

**REP. HOFFMAN** asked if it were true that golf courses' property taxes would increase by 17.5% under this bill. **Mr. Phillips** replied that under this bill, golf courses would be taxed at half the rate of other Class 22 property, which would effectively increase their taxes by that amount.

**REP. HOFFMAN** asked whether the sponsor could give a synopsis of the tax shifts and financial impacts the bill would cause. **SEN. SVRCEK** said a furniture and fixtures tax remains in the bill, but the tax will be reduced. He did not have complete financial information at the time of the hearing.

REP. HOFFMAN asked whether the new Class 21 the bill proposes would include rental units. SEN. SVRCEK said according to section 8, page 13, multi-family residential units would remain at their current tax rate. Judy Rippingale, Department of Revenue (DOR), agreed.

REP. NELSON asked whether small businesses that operate out of residences would be affected by the bill. Ms. Rippingale replied that DOR currently classifies those properties as residential, and will probably continue to do so, since assessing all homes with offices would be too time-consuming for the department.

REP. HARRINGTON asked whether the fiscal note the committee received were up to date. SEN. SVRCEK replied it did not reflect the Senate amendments, although a new fiscal note was requested on April 8.

REP. ELLIOTT asked Mr. Burr to clarify whether the reduction in property taxes caused by a sales tax would be offset by the sales tax itself. Mr. Burr said reductions would probably not be completely offset. Adopting a sales tax would not be a revenue-neutral process, nor should it be. A sales tax should bring more money for government programs, and should not be used solely to reduce other taxes.

REP. ELLIOTT asked whether Mr. Burr feels that a tax shift is acceptable only if a sales tax is included in the shift. Mr. Burr said the state's income tax rates are the third lowest in the country, while its property tax rates are the second highest. Taxes on businesses and people who provide jobs are high, while taxes on individuals are low. This shows that the state needs equalization.

REP. COHEN asked whether HB 452 would provide more value-added benefit for the state's industries than SB 460. Mr. Shanahan said he didn't know, since the industries' taxable values will vary depending on which bill is implemented; however, the mining industry supports both bills.

REP. WANZENRIED asked whether it should be the goal of the legislature to group properties according to similarities; if not, what is the logical reason for keeping them together? Mr. Boles replied that he was not thinking of legislative goals but rather the impact of tax policy on businesses. Developing different classes and rates for the different facets of commercial business will not make a stable, predictable tax base, which is what the state needs.

Closing:

SEN. SVRCEK said the golf course provision is a very minor part of the bill and could easily be amended out. The separation of residential and commercial properties for tax purposes should not be a problem; they are functionally different and are not tied

together for any other purposes. If there is a concern that separating commercial from residential will lead to a general increase in businesses' tax rates, protective measures for commercial property could be added to the bill. Even without these protections, there are enough articulate supporters of business in this legislature to keep commercial rates down.

**SEN. SVRCEK** said in regards to other states, Minnesota, Utah, Wyoming and Colorado all separate commercial and residential property for tax purposes. **Mr. Burr's** effective tax rate study is six years old. A more recent study indicates that even at the 9% rate, Montana's effective tax rate is 2.44%, which is very competitive. This bill only improves a good situation in that regard. Local chambers of commerce find the proposal interesting, if not favorable, because the bill gives the state the opportunity to reduce high business equipment tax rates while maintaining a rate on commercial real property that is still competitive with that of other states. Only one opponent spoke of a sales tax; the Senate leadership considered the possibility of adding a sales tax provision to this bill, but decided it would not be politically possible. Now is the time for economic development in Montana; the state cannot afford to wait until the time is "politically right" to become competitive.

#### HEARING ON SB 94

##### Opening Statement:

**SENATOR TOM BECK** explained SB 94, which will create a ground water characterization and monitoring program, and establish a ground water assessment account and schedule. The Environmental Quality Council (EQC) completed a major study of the groundwater in Montana, which stated that the state does not keep accurate and complete records of groundwater use in Montana. Since most of the surface water in the state has been over-appropriated, the current tendency is to begin to appropriate the groundwater as well. The state must determine the volume of groundwater available, as well as the pollutant problems from pesticides and septic systems, before it begins to appropriate groundwater. This is one of the most important pieces of legislation this session. Once groundwater is degraded, it is very difficult to get it back to a usable level.

**SEN. BECK** said the main concern with the program is the funding source. The bill drafters had previously hoped to use RITT funds or mining funds; however, neither of these options seems possible. **REP. O'KEEFE** has come up with an alternative funding source, which may be rather piecemeal at this point. However, this source will allow the program to get off the ground; Montana must begin to monitor its groundwater this session. If the legislature can approve a small funding source this session, the program can be established and built upon during the next session.

Proponents:

**Ed Ruppel, Montana Bureau of Mines and Geology**, spoke in favor of the bill. **Exhibit 2**

**John Arrigo, Department of Health and Environmental Sciences**, spoke in favor of the bill. The groundwater evaluation program would divide the state into 20 two to three-county areas; a detailed inventory of groundwater in each one of these areas would be conducted on a yearly basis. After 20 years, we would have a statewide coverage of groundwater resources. Last session, the legislature passed the Montana Agricultural Chemical Groundwater Protection Act, which was designed to prevent pollution of groundwater by pesticides through the development of pesticide management plans. Under the 1986 amendments to the Safe Drinking Water Act, Congress required states to develop wellhead protection programs. These programs delineate the area around a public water supply well that contributes water to that well, and then develops management alternatives to the sources of groundwater pollution in that area. Both of these programs are groundwater pollution prevention programs. It has been established that prevention is significantly cheaper than clean-up. Before these prevention programs can be successfully implemented, a basic understanding of groundwater quality in Montana is necessary. The program proposed in SB 94 will make such information available.

**Sandy Olsen, Department of State Lands (DSL)**, spoke in favor of the bill. **Exhibit 3**

**Chris Kaufman, Montana Environmental Information Center**, spoke in favor of the bill. Montana does not have reliable information concerning its groundwater; most of its current information stems from some problem diagnosed with a particular source of groundwater, rather than comprehensive and ongoing statewide data. The information currently available is not well coordinated among the various state agencies concerned with groundwater use, and this bill will help on all these counts. Citizens' groups often contact the center, concerned about how a development project will affect groundwater sources, and are often frustrated by the lack of information the state has in terms of potential impacts to groundwater resources. This program is critical to the state, and should be implemented as soon as possible.

**REP. O'KEEFE** spoke in favor of the bill, and explained the funding system, detailed in the amendments. **Exhibit 4** The Natural Resources Committee looked at RITT taxes and metal mine taxes, and neither one seemed feasible. The program needs \$1.2 million in order to function properly; however, in order to get the program running, he and **SEN. BECK, REP. RANEY**, and members of the EQC staff developed a fee-based plan which will bring in approximately \$100,000/year for the biennium. This will be enough to form some sort of administrative framework for the



monitoring program, which can then be built upon in future sessions.

REP. O'KEEFE said four sources of funding will be used to pay for the program. The first, bringing in \$20,835, is a one-time \$10 fee to be added to the \$10 currently charged for the notice of completion filed for groundwater wells drawing less than 100/gallons minute. This means if a person drills a well with up to 100 gallons/minute capacity (these are usually domestic wells), he or she will pay a total of \$20. The second is a fee on the notice of completion filed for groundwater wells drawing over 100 gallons/minute. It is based on a fee of \$1/acre foot of water being appropriated for any use. If a person drills a well that produces 300 acre feet of water/minute for irrigation, his or her one-time fee would be \$300. This would raise approximately \$22,210 for the program. The third source is a portion of the water well contractor/driller monitoring well construction license fee. This is another user fee, and may be more controversial than the others. Contractors currently pay \$250/year for a license to drill wells; this raises that fee to \$275. Drillers and monitoring well constructors currently pay \$150; under this bill they would pay \$165. This will bring the program approximately \$9,323. The fourth source depends on a fee developed by SB 407, which is a public water supply system fee. This allocates 25 cents to the proposed public water supply system fee, and would generate \$47,105/year for the program. The total of all these sources is \$99,473/year for the groundwater monitoring program. This is not the \$1.2 million the program needs, but it will be enough to get the program of the ground administratively. These are user fees and will be collected from people who either make money from developing groundwater sources, or make their livelihood by using Montana's groundwater sources.

Opponents: None

Questions:

REP. FOSTER asked SEN. BECK to respond to REP. O'KEEFE's proposal.

SEN. BECK said each funding source will be considered thoroughly. EQC discussed the funding sources extensively; they preferred using the RITT funding because it was a single, stable source, and were disappointed to see it removed from the proposal.

REP. GILBERT asked how the bill would fit in with the Agricultural Chemical Groundwater Protection Program that the Agriculture Department is implementing. Gary Gingery, Department of Agriculture, said once each segment of the project proposed by the bill is completed, it will be an enormous help to the department. Two important issues need to be dealt with: potential contamination by pesticides, and actual occurrence of contamination. Most of the present data available from various agencies is not comprehensive. Currently, the department must

first collect base information on specific sites before it begins dealing with the pesticide issues. This removes some of the resources that should be used to deal with the pesticide problems, which is supposed to be the Groundwater Protection Program's main function.

REP. RANEY asked how the Department of Natural Resources and Conservation (DNRC) feels about the program. Lawrence Siroky, Water Resources Division, DNRC, said the department needs more information concerning quantity of water where groundwater development is occurring. Pumping effects, pumping yields, and drawing effects are all issues of concern to the department, which has seen a substantial (76%) increase in the amount of groundwater permit applications during the last three years.

REP. RANEY asked whether other western states have similar groundwater monitoring programs. Mr. Siroky said he did not have that information.

REP. ELLIOTT asked whether those who would be charged the fees had been asked for input. SEN. BECK said the formula was just worked up the previous evening; there was not sufficient time to contact any of the potential fee payers.

Closing Statement:

SEN. BECK said although the initial funding may be difficult, Montana definitely needs a groundwater monitoring program, and the committee should consider his proposal carefully.

HEARING ON SB 341

Opening Statement:

SENATOR DEL GAGE explained the bill, which was proposed by a CPA in Missoula. Currently, taxpayers are allowed credits for various things, such as job training programs. On the federal tax return, you must reduce your deduction by the amount of credit you are allowed. For example, if someone had a \$10,000 amount that qualified for credit under a job training program and was entitled to a \$500 credit on her tax return as a result of that expenditure, she would only be allowed to deduct \$9,500 on her tax return (she would have to reduce her expenditure by the amount of credit allowed). On the state income tax return, she still only gets the \$9,500 deduction because Montana is tied to the federal code, but she doesn't get any credit against her tax. This bill says she can take the credit as a deduction on her state income tax return, while she has been required on her federal return to reduce her business expenses by the amount of credit.

SEN. GAGE said this applies to a number of areas, but most of them are quite small. The fiscal note indicates minimal impact. The bill would apply to tax years after December 31, 1988. DOR

does not believe it is good tax policy to allow two years to be amended, and this date should be changed to December 31, 1990.

Proponents:

**Tom Harrison, Montana Society of Certified Public Accountants,** spoke in favor of the bill.

Opponents: None

Questions:

**REP. RANEY** said the Senate amended in a corporate net income provision, and asked what that will do to the fiscal impact. **Bob Harris, Department of Revenue,** said the amendment will not have a large fiscal impact, although the fiscal note has not yet been updated.

**REP. STANG** noted that the federal and state corporate tax forms will need to be reconciled.

**REP. ELLIOTT** asked **Samantha Sanchez, Montana Alliance for Progressive Policy (MAPP),** what this adjustment would do. **Ms. Sanchez** replied the bill allows a deduction for the full business expense, rather than the business expense reduced by the tax credit. Federal law makes getting a tax credit for an amount of a business expenditure similar to getting a rebate on it. If you buy a machine for \$100 and get a \$10 credit, you've only paid \$90 for that machine. The federal law has now been amended to allow deductions only for that \$90 (actual cost). This is probably the appropriate basis for any business deduction, be it state or federal taxes. Using the federal definition of the business expense is the more sensible route.

**REP. STANG** asked if the credit is taken in the same year that the tax return is due. **SEN. GAGE** said yes.

Closing Statement:

**SEN. GAGE** clarified that if one didn't get the full deduction on the federal return, one shouldn't get it on one's federal return either. This bill allows full credit for business expenditures.

HEARING ON SB 454

Opening Statement:

**SENATOR STEVE DOHERTY** explained the bill, which deals with subdivisions and court funding. Court funding is a large problem in several counties in Montana, not only Cascade County. The current funding sets a limit on the number of mills that can be levied by county commissioners to fund court operations. This bill allows county commissioners to pay off debts that have been incurred for district court funds in the past by levying

additional mills. It also allows them to levy additional mills in order to meet their existing budgets. The bill does provide an exemption to I-105, but the needs are there; if the county incurs the debts, it must pay for them.

Proponents:

**Gordon Morris, Montana Association of Counties**, spoke in favor of the bill. The mechanism would probably be used in a limited amount of cases.

**Larry Fasbender, Cascade County**, spoke in favor of the bill, saying although it does not provide a permanent funding source, it will allow the counties to get back to a financially even situation until a more permanent solution is found.

Opponents: None

Questions:

**REP. O'KEEFE** said although there is a six-mill levy limit currently in law, there are counties levying above the set limits for courts. **Mr. Morris** said this is true. Most counties have done this by virtue of the 105% rule (counties may levy enough mills to get them to 105% of the prior fiscal year). **REP. O'KEEFE** asked why the bill is needed, if there are currently mechanisms allowing counties to levy past set limits for court funding. **Mr. Morris** said the 105% rule is limiting because of the 5% eligibility for increase. In some cases, this is not sufficient to fully fund the court system. A legitimate shortfall may only be addressed by funding.

Closing Statement:

**SEN. DOHERTY** said most people are aware of the need for district court funding in several counties. District courts should always be available to resolve citizens' disputes. County commissioners know that they will have to take responsibility for debt repayment.

HEARING ON SB 438

Opening Statement:

**SENATOR BOB BROWN** explained the purpose of the bill, which is to exempt railroad tracks and right-of-ways owned by the United States from beneficial use taxation. This is a small bone of contention in the ongoing lawsuit between the state and the utility companies. Montana has thus far reserved the right to tax railroads and right-of-ways owned by the United States; however, there is no such property in Montana. By eliminating this right of taxation, the state will eliminate a minor striking point that utility companies have used against it. Beyond that, there is relatively no significance.

Proponents:

REP. STANG spoke in favor of the bill.

Dave Woodgerd, DOR, spoke in favor of the bill.

Opponents:

Gene Phillips, Kalispell attorney, said according to the law, the state cannot tax beneficial use of federally-owned property without imposing a light tax on the beneficial use of state-owned property. The United States Supreme Court upheld this ruling.

Questions: None

HEARING ON SB 375

Opening Statement:

SENATOR BOB BROWN said the bill was initiated by a tax consultant, who said when he argued cases before the State Tax Appeals Board, the members of the board were not always clearly grounded in the concepts of market value and other things DOR uses to arrive at taxable or market value. Confusion in litigation sometimes resulted due to this lack of information on the part of the board members. Each year, DOR sponsors an educational program on tax appraisal practices. The bill requires each member of the appeals board to attend this class at least once.

SEN. BROWN said the members of this board consider cases which may involve millions of dollars, and there ought to be some sort of educational training provided. Supreme Court justices, district court judges, justices of the peace, police court judges and even lawyers participate in ongoing legal education, as do professionals in other fields. Simply because a person is admitted to the State Tax Appeals Board does not necessarily mean that he or she knows the system as well as possible. This is a reasonable approach. The fiscal note indicates a \$4000 hit on the State Tax Appeals Board; this is incorrect. The course will probably not cost anything, since the bill does not require appeals board members to enroll in the class or take the test, it merely requires them to attend. DOR has not taken a position on the bill; they merely feel it would be a good idea for members to take the class.

Proponents: None

Opponents: None

Questions:

REP. HARRINGTON asked whether attendance would be problematic.

SEN. BROWN said the programs take place in Helena. This bill is

in no way a criticism of the performance of any members of the Tax Appeals Board; its intent is merely to expose these people to the same educational programs that DOR bases its policies on.

REP. MCCAFFREE asked whether it would be an annual requirement.

SEN. BROWN replied the course occurs annually, but members of the board would only be required to attend once.

ADJOURNMENT

Adjournment: 10:50 AM

  
DAN HARRINGTON, Chair

  
JULIA TONKOVICH, Secretary

DH/jmt

# HOUSE OF REPRESENTATIVES

## TAXATION COMMITTEE

ROLL CALL

DATE

4/09/91

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

EXH. 1  
DATE 4/09/91  
HB SB 415

To: Representative Dan Harrington and Members of the House Taxation Committee

My name is Donald Tuttle and I have been a member of the State Park Futures Committee and am Past Director of the Montana Good Sams (1985-1990). I was asked to serve on this committee to represent recreational vehicle users.

The committee found in traveling around to many of the State Parks that the condition of these parks were undesirable. Access roads were in poor shape (potholes and ruts) Recreational Vehicles cannot operate on roads in these conditions without damage. Restrooms were clean but not up to acceptable standards. There is no electricity to any designated camping spots, (if you use campground hosts, this is a necessity).

The Montana Good Sams support this bill. At my last two Montana Good Sam meetings we brought up that the State Parks were in need of more funds, especially for services conducive to recreational vehicles. A \$3.50 fee was suggested. I contacted Senator Eleanor Vaughn to write this legislation. She agreed. There was no opposition at either of these meetings.

There are certain necessities that RV users need in order to camp at state parks for any length of time. Some of these things are good access roads, availability of water, dump stations (at larger parks), flush toilets, showers and electricity. These things will also benefit the tenter as well as those who bicycle and stay at our state parks. Some of these things are not a necessity but will enhance the park so that users will come back and stay longer and not just use the park as a stopping off place on there way somewhere else. We want the tourists that come to MONTANA to enjoy our natural beauty and to want to return again and again.

State Parks in our neighboring states have at least water and electricity at each designated camping spot and good restrooms. These are the parks people return to time and time again.

I highly recommend that SB415 be passed. It is not often that a group of people offer to tax themselves in order to help improve our State Parks.

I want to thank you for listening to my presentation and I look forward to your favorable recommendations. I will happy to answer any questions you may have.

  
Donald R. Tuttle

1275 Goldeneye Dr.

Victor, Mt. 59875



Testimony  
concerning

The Groundwater Characterization and  
Groundwater Monitoring Programs  
SB 94

EXHIBIT 2  
DATE 4/09/91  
HB SB 94

Edward T. Ruppel  
Director and State Geologist  
Montana Bureau of Mines and Geology

Senate Bill 94 proposes two programs for the protection and wise use of Montana groundwater, and suggest possible ways of funding these programs. Recognizing that groundwater is a critical resource for more than half of all Montana citizens, the Environmental Quality Council has carefully and thoughtfully designed the two groundwater programs to provide reliable and scientifically sound information on water quality, availability, and aquifer characteristics, information that is needed now to guide decisions on groundwater use. The groundwater programs address these needs systematically, provide for program guidance and oversight through a steering committee, and provide flexibility on that committee to accommodate both local and regional concerns.

The Bureau of Mines and Geology has been the principal source of groundwater information in Montana for many years, and with the support of past legislatures has established the Ground Water Information Center, with logs of more than 100,000 water wells and water quality data for more than 6,000 wells. Bureau hydrogeologists have completed hundreds of studies on saline seeps, coal hydrology, artificial recharge, hazardous substances, and other groundwater problems. Most of these studies have been site specific and problem-oriented, and although they do not in themselves permit characterization of groundwater resources, they do provide an excellent base for regional characterization.

The systematic, long-term groundwater appraisal and monitoring programs proposed by the Environmental Quality Council in SB 94 will provide for confident and cost-effective resource protection and use. Similar programs that have been completed in all of the states adjacent to Montana demonstrate how effective the Montana programs will be. The Bureau of Mines and Geology can only emphasize the need and recommendations as given in Section 1 of the Environmental Quality Council report to the 52nd Montana State Legislature, and strongly support the proposed programs.

EXHIBIT 3  
DATE 4/29/91  
HB SB 94

Testimony of Bonnie Lovelace, Chief,  
Coal and Uranium Bureau, Department of State Lands  
House Natural Resources Committee  
January 25, 1991

*by [signature]*

The Department of State Lands has a great need for sound information regarding the water resources of the State in two of its functions. Those functions are: (1) management of lands held by the State of Montana in trust for the support of the common schools and other institutions and (2) regulation of mining conducted on private, state, and federal lands.

Decisions made by the Department regarding any development or use of the land's surface or mineral resources can have both short and long term impacts on the water resources. The Department is responsible to perform an environmental analysis of the proposed actions as mandated by the Montana Environmental Policy Act and various statutes addressing specific actions such as licensing a surface disturbance or issuing a mine permit.

Further, in areas of multiple use lands where many uses may be impacting the water resources, no single group or agency is responsible for assessing cumulative or regional conditions or impacts to the hydrology. A multiple use area can be found in and near any town; there are municipal uses of water resources, domestic uses, landfills, stock yards, agricultural developments, and mine areas all in close proximity throughout Montana.

In areas where few uses of the water resources are occurring, the wrong kind of development could have serious impacts: prospecting or exploration drilling could mix contaminated ground water with clean water, landfill siting in sensitive areas could likewise cause contamination, agricultural developments which allow erosion or washing of chemicals into the surface and ground waters of the State could contaminate water resources. The list of potential impacts is extensive.

In spite of the need for water resources information, little or no water resource information is available for many areas of the state. While the Department is not taking a position on any groundwater bill, we do want the committee to know of our need for water resource information and the fact that it is currently unavailable for much of the state.

EXHIBIT 4  
DATE 4/09/91  
HB SB94

Amendments to Senate Bill No. 94  
Third Reading Copy

Requested by Rep. O'Keefe  
For the Committee on Taxation

Prepared by Gail Kuntz  
April 8, 1991

1. Title, line 9.

Following: line 8.

Insert: "INCREASING THE FILING FEE FOR NOTICE OF COMPLETION OF GROUND WATER DEVELOPMENT; INCREASING THE FILING FEE FOR PERMITS TO BENEFICIALLY USE GROUND WATER; DIRECTING THE BOARD OF WATER WELL CONTRACTORS TO AMEND RULE 36.21.415, ADMINISTRATIVE RULES OF MONTANA, TO INCREASE LICENSE FEES;"

2. Title, line 11.

Following: "PROGRAMS;"

Insert: "PROVIDING AN APPROPRIATION; AMENDING SECTIONS 37-43-303, 37-43-307, 85-2-302, AND 85-2-306;"

3. Page 4, lines 8 through 23.

Following: line 7.

Strike: subsection (a) in its entirety

Insert: "(a) the portion of the application filing fee for a permit to beneficially use ground water, allocated pursuant to 85-2-302(2);

(b) the portion of the filing fee for processing notices of completion of ground water development, allocated pursuant to 85-2-306(5);

(c) the portion of the water well contractor, driller, and monitoring well constructor license fee, allocated pursuant to 37-43-303(2), and the portion of the license renewal fee, allocated pursuant to 37-43-307(1);

(d) the portion of public water supply system fees, allocated pursuant to [section 4(1) of Senate Bill No. 407];"

Renumber: subsequent subsections

4. Page 9, line 9.

Following: line 8

Insert: "Section 8. Section 37-43-303, MCA, is amended to read:

"37-43-303. Application -- fee. (1) Except as provided in 37-43-302(2), a person desiring to engage in the drilling, making, construction, alteration, or rehabilitation of one or more water or monitoring wells for underground water in this state shall first file an application with the department for a license. The application must set forth the applicant's qualifications, the equipment proposed to be used in the contracting, and other matters required by the board on forms adopted by the board.

(2) The department shall charge a fee prescribed by the board for filing an application. The application shall not be acted on until the fee has been paid. Fees collected under this

section shall ~~must~~ be deposited in the state special revenue fund for the use of the board, except that \$25 of the fee collected from each applicant for a water well contractor license and \$15 of the fee collected from each applicant for a water well driller license or a monitoring well constructor license must be deposited in the ground water assessment account established in [section 4].

(3) An appropriate license shall be issued to an applicant if, in the opinion of the board, the applicant is qualified to conduct water well or monitoring well construction operations. In the granting of licenses, the board shall have due regard for the interest of this state in the protection of its underground waters."

Section 9. Section 37-43-307, MCA, is amended to read:

"37-43-307. Annual renewal -- fee -- revocation for nonrenewal. (1) The term for licenses issued under this chapter is from July 1 of each year through the following June 30. After the payment of the initial fee under 37-43-303, a licensee shall pay, before the first day of each license year, a renewal fee as prescribed by the board. Renewal fees collected under this section must be deposited in the state special revenue fund for the use of the board, except that \$25 of the fee collected from each renewal of a water well contractor license or a monitoring well constructor license and \$15 of the fee collection from each renewal of a water well driller license must be deposited in the ground water assessment account established in [section 4].

(2) If a licensee does not apply for renewal of his license before the first day of a license year and remit to the department the renewal fee, he shall have his license suspended by the board. If the license remains suspended for a period of more than 30 days after the first day of a license year, it shall be revoked by the board. However, the department, prior to this revocation, shall notify the licensee of the board's intention to revoke at least 10 days prior to the time set for action to be taken by the board on the license, by mailing notice to the licensee at the address appearing for the licensee in the records and files of the department. A license once revoked may not be reinstated unless it appears that an injustice has occurred indicating to the board that the licensee was not guilty of negligence or laches. If a person whose license has been revoked through his own fault desires to engage in the business of water well drilling or monitoring well construction in this state or contracting therefor, he must apply under 37-43-303. Notice of suspension shall be given a licensee when the suspension occurs."

NEW SECTION. Section 10. Board to amend rule. The board of water well contractors shall amend Rule 36.21.415, Administrative Rules of Montana, as follows:

"36.21.415 FEE SCHEDULE

(1) Application and examination		
(a) Contractors	\$250.00	\$275.00
(b) Drillers	150.00	165.00
(c) Monitoring well constructor	150.00	165.00
(2) Re-examination		
(a) Water well contractor	125.00	

EXHIBIT 4  
DATE 4/09/91  
HB SB 94

(b) Water well driller	75.00	
(c) Monitoring well constructor	75.00	
(3) Renewal		
(a) Contractor	<del>115.00</del>	<u>140.00</u>
(b) Driller	<del>75.00</del>	<u>90.00</u>
(c) Monitoring well constructor	<del>115.00</del>	<u>140.00</u>
(4) Late renewal		
(in addition to renewal fee)	55.00	
will be charged for any license		
not renewed prior to July 10		
(5) Duplicate certificate and/or license	40.00	
(6) Change in contractor name and/or		
address	40.00	
(7) Change in responsible contractor	40.00	
(new driller license fee)		
(8) Copies of law and rules--per page	.20	
(drillers and contractors are exempt		
from fee)"		

Section 11. Section 85-2-302, MCA, is amended to read:

"85-2-302. Application for permit -- fee. (1) Except as otherwise provided in (1) through (3) of 85-2-306, a person may not appropriate water or commence construction of diversion, impoundment, withdrawal, or distribution works therefor except by applying for and receiving a permit from the department. The application shall be made on a form prescribed by the department. The department shall make the forms available through its offices and the offices of the county clerk and recorders. The department shall return a defective application for correction or completion, together with the reasons for returning it. An application does not lose priority of filing because of defects if the application is corrected, completed, and refiled with the department within 30 days after its return to the applicant or within a further time as the department may allow. If an application is not corrected and completed within 30 days or within a further time as the department allows, up to 3 months, the priority date of the application shall be the date of refileing the application with the corrections with the department. An application not corrected within 3 months shall be terminated.

(2) In addition to the application filing fee prescribed by the board by rule pursuant to 85-2-113, a person applying for a permit under subsection (1) shall pay a fee of \$1 per acre-foot of ground water appropriated. The fees collected by the department under this subsection must be deposited in the ground water assessment account, established in [section 4], within the state special revenue fund."

Section 12. Section 85-2-306, MCA, is amended to read:

"85-2-306. Exceptions to permit requirements -- fee. (1) Ground water may be appropriated only by a person who has a possessory interest in the property where the water is to be put to beneficial use and exclusive property rights in the ground water development works or, if another person has rights in the ground water development works, the written consent of the person with those property rights. Outside the boundaries of a

controlled ground water area, a permit is not required before appropriating ground water by means of a well or developed spring with a maximum appropriation of less than 100 gallons per minute, except that a combined appropriation from the same source from two or more wells or developed springs exceeding this limitation requires a permit. Within 60 days of completion of the well or developed spring and appropriation of the ground water for beneficial use, the appropriator shall file a notice of completion with the department on a form provided by the department at its offices and at the offices of the county clerk and recorders and pay a \$20 filing fee. Upon receipt of the notice, the department shall review the notice and may, before issuing a certificate of water right, return a defective notice for correction or completion, together with the reasons for returning it. A notice does not lose priority of filing because of defects if the notice is corrected, completed, and refiled with the department within 30 days or within a further time as the department may allow, not to exceed 6 months. If a notice is not corrected and completed within the time allowed, the priority date of appropriation shall be the date of refileing a correct and complete notice with the department. A certificate of water right may not be issued until a correct and complete notice has been filed with the department. The original of the certificate shall be sent to the appropriator. The department shall keep a copy of the certificate in its office in Helena. The date of filing of the notice of completion is the date of priority of the right.

(2) An appropriator of ground water by means of a well or developed spring first put to beneficial use between January 1, 1962, and July 1, 1973, who did not file a notice of completion, as required by laws in force prior to April 14, 1981, with the county clerk and recorder shall file a notice of completion, as provided in subsection (1) of this section, with the department to perfect the water right. The filing of a claim of existing water right pursuant to 85-2-221 is sufficient notice of completion under this subsection. The priority date of the appropriation shall be the date of the filing of a notice as provided in subsection (1) of this section or the date of the filing of the claim of existing water right. An appropriation under this subsection is an existing right, and a permit is not required; however, the department shall acknowledge the receipt of a correct and complete filing of a notice of completion, except that for an appropriation of less than 100 gallons per minute, the department shall issue a certificate of water right. If a certificate is issued under this section, a certificate need not be issued under the adjudication proceedings provided for in 85-2-236.

(3) A permit is not required before constructing an impoundment or pit and appropriating water for use by livestock if the maximum capacity of the impoundment or pit is less than 15 acre-feet and the appropriation is less than 30 acre-feet per year and is from a source other than a perennial flowing stream and the impoundment or pit is to be constructed on and will be accessible to a parcel of land that is owned or under the control of the applicant and that is 40 acres or larger. As used in this

subsection, a perennial flowing stream means a stream which historically has flowed continuously at all seasons of the year, during dry as well as wet years. However, within 60 days after constructing the impoundment or pit, the appropriator shall apply for a permit as prescribed by this part. Upon receipt of a correct and complete application for a stockwater provisional permit, the department shall then automatically issue a provisional permit. If the department determines after a hearing that the rights of other appropriators have been or will be adversely affected, it may revoke the permit or require the permittee to modify the impoundment or pit and may then make the permit subject to such terms, conditions, restrictions, or limitations it considers necessary to protect the rights of other appropriators.

(4) A person may also appropriate water without applying for or prior to receiving a permit under rules adopted by the board under 85-2-113.

(5) The department shall deposit \$10 of each filing fee collected pursuant to subsection (1) in the ground water assessment account, established in [section 4], within the state special revenue fund."

NEW SECTION. Section 13. Appropriation. There is appropriated to the Montana bureau of mines and geology for the biennium ending June 30, 1993, \$200,000 from the ground water assessment account, established in [section 4], in the state special revenue account for purposes of establishing a ground water monitoring program and a ground water characterization program."

Renumber: subsequent sections

5. Page 9, lines 17 through 19.

Following: line 16

Strike: section 9 in its entirety

Renumber: subsequent section

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 415  
 DATE 4/09/91 SPONSOR(S) VAUGHN

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Don Tittle	State Parks Future Good Sam Com	415		✓
Paul Lerner	Montana Bond Issues	415		✓
Stuart Duggett	MT Innkeepers Assoc. MT Manufactured Housing & RV Assoc.	415		✓
Janet Ellis	MT Audubon	415		✓

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 460  
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Gordon Morris	MA Co.			
Kay Foster	Billings	460	X	
Ward SUTANAWAN	SILLWATER MINING	460		X
JA Buck Bales	MT Chamber	SP 460	X	
Charles R. Brooks	MT Retn. / ASSOC	460	X	
Marvin Barber	A. P. A	460	X	<del></del>
Dennis Burr	MT Taxpayers Assoc.	460	X	
GENE PHILLIPS	EAGLE BEND LHC INC		X	
SCOTT HELIC	Bozeman Chamber		X	

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 94  
 DATE 4/09/91 SPONSOR(S) BECK

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
LAURENCE SIROKY	DNRC	94	-	-
Anna Miller	DNRC	94	-	-
ET. Ruppel	MBMG	94		✓
S. J. Olsen	DSL	94		5
Marvin R. Miller	MBMG	94		✓
JOHN ARRIGO	DHES	94		✓
Marvin Barber	F.P.A.	94		✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 341  
 DATE 4/09/91 SPONSOR(S) GAGE

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mike Lopach	Galusha Higgins & Galusha	SB 341		X
Tom Harrison	MT. Soc of CPAs			✓

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 454  
DATE 4/09/91 SPONSOR(S) DOHERTY

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Gordon Morris	MAco	SB 454	.	✓
Steve Doherty	SD 20			✓
Larry Eastman	Cascade County			✓

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 438  
 DATE 4/09/91 SPONSOR(S) BROWN

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Dave Woodgarth	Dept. of Revenue			X
GENE PHILLIPS	PACIFIC POWER & LIGHT		X	

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