

## **MINUTES**

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

#### **COMMITTEE ON TAXATION**

**Call to Order:** By **CHAIRMAN HARRINGTON**, on April 10, 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)  
Marian Hanson (R)  
David Hoffman (R)  
Jim Madison (D)  
Ed McCaffree (D)  
Bea McCarthy (D)  
Tom Nelson (R)  
Mark O'Keefe (D)  
Bob Raney (D)  
Ted Schye (D)  
Barry "Spook" Stang (D)  
Fred Thomas (R)  
Dave Wanzenried (D)

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

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

#### **HEARING ON SB 411**

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

**SENATOR HARRY FRITZ** explained the bill, which alters the permissible use of bed tax money by the Montana Historical Society. It does not change the amount of money that the Historical Society gets from the tax, or the structure of the tax itself. The Historical Society has been awarded 1% of bed tax money since the inception of the tax for the purpose of

installation or maintenance of roadside historical signs and historic sites. This bill changes that permissible use to include the administration and enhancement of public enjoyment and maintenance of historic sites. The issue in question is Capitol tours. Since 1988, the Historical Society has been using its bed tax money to conduct tours of the Capitol. The auditor recognized this during the last tax cycle, and with the agreement of the Governor's Budget Office, the Historical Society came in with this bill to encompass the conducting of Capitol tours with bed tax funds. This alteration does not endanger the signing programs undertaken by the Historical Society.

Proponents:

**Larry Sommer, Director, Montana Historical Society,** spoke in favor of the bill. **Exhibit 1**

**Gloria Hermanson, Montana Cultural Advocacy,** spoke in favor of the bill. Although the General Fund is a more appropriate source of funding for the tour program, everyone knows how overextended it already is. The tours deserve to be continued.

**Jennifer Jeffries Thompson, Montana Historical Society,** said over one hundred students will visit the Capitol on this day alone. guided tours of the Capitol nearly double during legislative years. The tours are an excellent promotional tool for state government and the city of Helena, and should be fully funded.

Opponents:

**Keith Colbo, Montana Tourism Coalition,** spoke against the bill, saying although he is not opposed to Capitol tours, he is opposed to funding them with bed tax money. The General Fund should be the source of funding. The 1% of the bed tax allotted to the Historical Society should be used for its original purpose, which was to promote tourism in the entire state of Montana, not merely in the state capital.

**Vern Sitter, Montana Innkeepers Association,** spoke against the bill.

Questions:

**REP. ELLISON** asked how much money 1% of the state's bed tax would generate, and how much the tours program would cost. **Brian Cockhill, fiscal officer, Montana Historical Society,** said 1% of the accommodations tax would raise approximately \$50,000. The tour program will cost approximately \$22,000, and the signage program will cost approximately \$27,000. This year, there has been some difficulty implementing the signage program; consequently, there is currently a balance in the fund of approximately \$70,000.

REP. COHEN noted that the fiscal amounts in Larry McRae's letter of testimony differ from those Mr. Cockhill presented. Exhibit 2 He asked for clarification of the term "unidentified uses" and also asked for a copy of the program's budget. Mr. Cockhill said that the tour program did not divert funds from those earmarked for signs; those funds were reserved.

REP. COHEN said if tours are a good use of the bed tax, perhaps a better plan of action would be to change the percentage of the bed tax the Historical Society receives in order to increase the money for the sign program. Mr. Colbo replied that proposal should be considered during the next session.

REP. COHEN said if SB 411 passes, the Historical Society would have the option of using all their allocated funds to sponsor the tour program. Mr. Colbo said the society would not exercise that option.

Closing Statement:

SEN. FRITZ said the bill would not adversely affect the signage program. The Historical Society has never turned down a request for a sign noting a historical site in Montana, and will not begin now. The bill merely puts current practice into statute.

HEARING ON SB 416

SENATOR BOB WILLIAMS explained the bill, which allows an income tax credit for the installation of a geothermal device, or ground-source heat pump. The amendments strike the \$400 tax credit and replace it with a \$250 tax credit. Exhibit 3 These heating systems can save an enormous amount of energy by using the earth for heat storage to provide 100% of air heating and cooling, and up to 60% of water heating at 1/3 the cost of electric services. Geothermal devices may also reduce pollution by a substantial amount by reducing the amount of particles from burning wood or gas emitted into the environment. The devices are initially expensive, however. A tax incentive will encourage more Montanans to install ground-source heat pumps in their homes, and to maintain their focus on conservation. It will be especially useful for new home buyers.

Proponents:

Gene Phillips, Pacific Power and Light, spoke in favor of the bill. Exhibit 4

Richard Brown, Ravalli County Electric Co-Op, spoke in favor of the bill. Exhibits 5 and 6

Gary Willis, Montana Power, spoke in favor of the bill.

Doug Hardy, Park Electric, spoke in favor of the bill.  
Geothermal devices replace lost heat in a very efficient manner,

and the legislature should provide any incentives possible to encourage more Montanans to install them. Heat pumps are size-variable to fit the exact needs of any size building, unlike other heating sources which only come in a few sizes. Because of the duct system a ground-source heat pump requires, the installation is labor-intensive; although this raises the installation price, the process is also good for the local economy in that it provides jobs.

**Wilbur Anderson, Vigilante Electric Co-Op**, spoke in favor of the bill.

**Jim Jenson, Montana Environmental Information Center**, spoke in favor of the bill. Geothermal devices will reduce Montanans' dependence on electrical energy, and turn their attentions to alternative forms. Efficient use of current resources will make more electricity available for other enterprises to develop.

Opponents: None

Questions:

**REP. THOMAS** asked how much a geothermal device costs to install. **Mr. Brown** replied approximately \$6,000. This would include duct work.

**REP. MCCARTHY** asked whether the installers could use the existing duct work in a home with a forced-air furnace and convert it to be compatible with a ground-source heat pump. **Mr. Brown** replied they could; this would cut the cost of installation by approximately 1/3. The system can also be used for air conditioning.

**REP. HARRINGTON** asked what the fiscal impact of the amendments would be. **SEN. WILLIAMS** replied that it's difficult to judge, since no one can anticipate how many people will take advantage of the tax incentive and install a ground-source heat pump.

**REP. RANEY** asked if debt-financing or low-interest loans were currently offered for the installation of these devices. **Mr. Phillips** replied that both options exist.

Closing Statement:

**SEN. WILLIAMS** said there is a lot of interest in ground-source heat pumps, not only in Montana but in surrounding states as well. These devices can save up to 80% of standard heating and electrical costs. The national energy strategy is one of shared responsibility; federal, state and local governments must cooperate with national and international producers and consumers to keep energy costs down and supply up. This is a method to meet energy needs while enhancing environmental quality, and there aren't many programs that can do both.

HEARING ON SB 428Opening Statement:

**SENATOR DENNIS NATHE** explained the bill, which would allow the state and the tribes to enter into a cooperative agreement on the sharing of the motor fuels tax on gas and diesel fuel. If the tribes and the state agree, there shall be one tax imposed on the reservations, and that tax will be equal to the tax imposed outside the reservations to avoid a double taxation situation. Reservations have been negotiating with the state concerning the payment of gasoline taxes by their enrolled tribal members. Currently, the state does not have the power to tax on any reservation in Montana.

**SEN. NATHE** said the tribes now feel they have three possible courses of action. The first is a lawsuit, which the state will probably lose. If this is the case, the state will need to reimburse the tribes in proportion to their population for the full 20 cents/gallon tax that it has been imposing. This will result in a loss of approximately \$4 million to the highway funds. The second alternative relates to the U.S. Supreme Court decision stating that any distributor that sells to a retail, tribally owned outlet on a reservation is not subject to any taxes imposed by the state. That retail outlet can then sell gas at 20 cents less/gallon to Indians and non-Indians alike. The third option is to look at cooperative agreements between the state and the tribes. This bill allows that third option to take place.

**SEN. NATHE** said the amendments further clarify that the amount of money to be disbursed to the tribal governments is the amount entered into in the agreement, not necessarily the full 20 cents/gallon. **Exhibit 7**

Proponents:

**Merle Lucas, Fort Peck Tribal Executive Board**, said there is a definite need for cooperative agreements between the tribes and the state of Montana. The tribes envision that the Department of Revenue would collect the tribal taxes, as well as the state taxes, and remit the tribal tax payment to the tribes as provided in the proposed bill. The tribes are also agreeable to the deduction of the state's administrative costs. The 5% figure may not be justifiable, however; 1% may be sufficient to cover DOR's administrative costs.

**Mr. Lucas** said aside from the legality of the taxation, there is a larger matter at hand: the relationship between the state and tribal governments. The Fort Peck tribes have been willing to enter into agreements in other matters with the state, such as water usage within tribal jurisdiction. Government-to-government relationships entail a respect for the legal rights and jurisdiction of each government, and such respect must be at work

in this cooperative effort.

**Mr. Lucas** said the tribes realize the Department of Highways may not be pleased about the funds this agreement may take away from them. **SEN. NATHE** already went over the alternatives the tribes have. The tribes would like to work out a satisfactory resolution with the state. Factual circumstances of each reservation differ, so different agreements or formulas may be needed. The tribes are open to negotiations, but reiterate that tribal members shall not be taxed illegally or unfairly.

**Ed Asher, Fort Belknap Community**, said there have been previous agreements between the state and the tribes that have proven virtually worthless. These agreements show the necessity of true cooperation between state and tribal governments. **SEN. NATHE's** proposal would benefit both the state and the tribes. There are 41 miles of roads on the Fort Belknap Reservation that the tribal members would like to see taken care of, not only for their benefit but for the benefit of tourism as well. The Fort Belknap tribes would like to see the negotiation agreement drafted and in place by July 1, 1991.

#### Opponents:

**Bill Salisbury, Department of Highways**, spoke against the bill. It is difficult to estimate the fiscal impact of the legislation. There is no assurance that the gasoline tax collected and given back to the tribes will be used for road maintenance and repair. The Highway Trust Fund is losing \$20-25 million per year; increases or new funding sources are needed.

#### Questions:

**REP. SCHYE** asked if the gas tax is not used for roads, would it take a three-quarters vote for the legislature to pass such a bill? **SEN. NATHE** said different rules apply, because the state constitution applies to the state legislature negotiations only. These negotiations are not taking place between state agencies, but between a state and a sovereign tribal nation. Enrolled tribal members hold dual citizenship, but it is unclear whether the same constitutional provisions apply. This bill does not divert funds; it only applies to the negotiation process. Different legislation will apply to revenue, and that will probably need a two-thirds or three-quarters legislative vote.

**REP. ELLISON** asked if the federal government matches funds on reservation roads as it does on other state roads. **Mr. Salisbury** said that 100% of reservation road maintenance is paid by the state; 78% of construction costs are paid by federal funds, and the remaining 22% is paid by state funds. **REP. GILBERT** said this is no different than any other area in the state. **Mr. Salisbury** said VIA monies are also spent on reservation roads.

Closing Statement:

SEN. NATHE said the formula in the original bill was replaced by the negotiation agreement in the current bill. The fiscal note was also based on the original formula. Since there is no longer a formula, the fiscal note does not apply; each tribe will have to negotiate its own fiscal agreement with the state.

HEARING ON SB 461Opening Statement:

SENATOR MIGNON WATERMAN explained the bill, which provides for quarterly payment of estimated income taxes and establishes a schedule for filing. There are over 292,000 Montanans who now have their income taxes withheld from their paychecks. There are 28,000 Montanans who should be filing estimated individual income tax forms; only 4,500 are currently filing because Montana does not have a penalty for nonpayment. Wage earners are currently carrying the state through monthly or biweekly withholding of their income tax. This bill puts parity into the Montana income tax system by requiring that the rest of us pay as we go as well. There are no tax increases in the bill. The same amount of tax will be paid, but it will be paid in four equal installments. The bill is intended to be simple for both the administrators and the filers to understand.

SEN. WATERMAN said the bill is also intended to mirror the federal payment dates and penalties to avoid confusion. 37 other states require estimated payments and invoke penalties for nonpayment. 6 states require estimates but have no penalty; Montana is one of those states. The bill will need to be amended. DOR has drafted two sets of amendments; one clarifies that the penalty is for withholding as well as for estimated income tax payments, and the other is the appropriation. Some people want to use the money this bill will raise for inappropriate things. It is one-time revenue, and should be used for one-time expenses. There are a number of projects in the line of infrastructure needs for the university system as well as the men's and women's prisons.

Proponents:

Jack Noble, Deputy Commissioner of Fiscal Affairs, spoke in favor of the bill. The university system has a long list of infrastructure repairs and deferred maintenance programs that are long overdue. SB 461 could help pay for these projects.

Opponents: NoneQuestions:

REP. ELLISON asked how closely the proposed legislation follows federal law. SEN. WATERMAN said farmers, ranchers, and stockmen

are excluded from the bill in order to simplify the schedules.

REP. THOMAS asked what other one-time expenses could be covered by this bill. SEN. WATERMAN said in addition to the university system, the parks futures program, the women's prison, and perhaps the Lewis and Clark Interpretive Center could be considered.

REP. THOMAS asked how the bill can raise so much money if it's not a tax increase. SEN. WATERMAN said the bill provides a penalty for people who don't follow the law; it will also allow funds to be made available earlier.

Closing Statement:

SEN. WATERMAN said Montana's tax system does not stand the test of fairness. Law mandates that everyone pay income tax on set dates, and working people have no choice but to comply with that law, as the money is automatically withheld from their paychecks. Independently employed people are allowed to ignore the law because there is no penalty, and this cannot continue.

HEARING ON SB 436

Opening Statement:

SENATOR BOB BROWN explained the bill, which was requested by the Department of Revenue. SB 436 restructures the property tax classification system. There are presently 17 active classes of property in Montana; this bill eliminates two of the obsolete classes and combines several of the other classes. If the bill passes, there will be 12 classes of property for taxation purposes in the state. The number of classes of property has fluctuated somewhat over time, and there have been many questions as to why there are so many classes. The bill attempts to simplify the system somewhat, and could probably be worked over by the property tax subcommittee to correct any flaws.

Proponents:

Kay Foster, Billings Chamber of Commerce, spoke in favor of the bill, and asked the committee to consider amending it. Currently, Class 20 property (eliminated by this bill) is defined as "out-of-production agricultural land and timberland." Current statute also includes all real and personal property integrally related and devoted exclusively to the processing of agricultural and timber projects in the class. If the land has been out of production for 12 months, or has been acquired in an arms-length transaction (foreclosure or bankruptcy), DOR can reduce the assessment value by 25% each year the plant continues to be out of production, until the market value is reduced to salvage. After it reaches a salvage value, it may be considered as "new and expanding" industry. The Pierce Packing Plant in Billings is currently under this reduction program. Hopefully the



subcommittee can amend this portion of the statute into the bill so the Chamber of Commerce can continue its project.

Opponents:

**Dan Whyte** for **Ward Shanahan, Stillwater Mining Company**, noted that one of the "obsolete" classes of property which the bill will eliminate is Class 18 property. Nonproductive mining claims are not obsolete, and should be placed into Class 3 property, as HB 1004 attempted to do. Exploration and development are important to the mining industry; the exploration part of mining is by definition "nonproductive." Eliminating this class of property would stymie any exploration or development of mining claims, seeing as there would no longer be a tax break for this class of property. Consolidating nonproductive mining claims into Class 3 property also stays with the intent of the legislation in that it will not create a new class, but merely consolidates existing classes.

**Brendan Beatty, Montana Association of Realtors**, noted that subheading 2 of the fiscal note consolidates Class 19 property (nonproductive real estate) into Class 4, residential property. Currently, nonproductive real estate is taxed at 2% of its market value; residential property is taxed at 3.86% of its market value. This is a substantial raise in tax. By definition, nonproductive real estate is a piece of land that has been precluded from development; the land is not worth much because nothing can be done with it. DOR has said that the property will be appraised down to get rid of the revenue impact; however, the bill does not require this to be done. Such a large increase in tax should be avoided.

Questions:

**REP. HOFFMAN** asked what the impact of the amendment **Mr. Whyte** proposed would be. **Judy Rippingale, DOR**, said the staff will look at all the nonproductive mining claims individually to ensure that they are at the lowest values possible. There may be some land that will actually have a tax increase, but the amount of money raised will be less than \$3000/year.

**REP. HOFFMAN** asked why Class 18 property was not moved into Class 3, since nonproductive mining claims and nonproductive real estate are virtually the same thing. **Ms. Rippingale** said the department has no objection to consolidating Class 18 property with Class 3.

Closing Statement:

**SEN. BROWN** said moving these two classes into Class 3 property would not damage the bill, as the total number of classes would remain the same.

Opening Statement:

SENATOR STEVE DOHERTY explained the bill, which was requested by the Department of Revenue. SB 445 attempts to bring uniformity to the current tax appeals procedure in Montana. This bill will make appeals rules easier to understand.

Proponents:

Dave Woodgerd, DOR, explained the bill further. Currently, there are different rules throughout the department for appealing different types of taxes. This bill creates one process which will be simple and inexpensive for both taxpayers who wish to appeal and administrators in the department. After consulting with the State Bar, the department had concerns about the language relating to the appeals process in district court; that language has subsequently been taken out. The State Bar is in favor of the bill. The amendments clarify some of the bill's language. Exhibits 9-12 The bill will not change property taxes.

Opponents: None

Questions:

REP. COHEN said the title includes property taxes, and said the property tax subcommittee will want to review those sections dealing with property tax appeals.

Closing Statement:

SEN. DOHERTY said the State Bar Association and DOR worked together to come to an agreement with the tax practitioners in Montana to make the tax appeals process more uniform throughout the state.

ADJOURNMENT

Adjournment: 10:50 AM

  
DAN HARRINGTON, Chair

  
JULIA TONKOVICH, Secretary

DH/jmt

# HOUSE OF REPRESENTATIVES

## TAXATION COMMITTEE

ROLL CALL

DATE

4/10/91

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		



EXHIBIT \_\_\_\_\_  
DATE 4/10/91  
HB SB 411

# MONTANA HISTORICAL SOCIETY

225 NORTH ROBERTS STREET • (406) 444-2694 • HELENA, MONTANA 59620-9990

## SB 411

The Society is asking for consideration of SB 411 to correct a technical problem that we can otherwise do little about.

Prior to 1987 the Society operated Capitol tours with general fund support at the direction of the Governor's office. As a result of general fund budget cuts made in 1987, the Capitol tours program was eliminated. Subsequently, the Governor's office directed the Society to continue operating these tours using part of our "accommodations tax" allocation. This funding was accepted by the Legislature in 1989, and many legislators have since expressed their interest and concern that these tours continue.

Earlier this year the Legislative Auditor determined that funding the Capitol tours program with accommodations tax money was not within the scope and intent of the statute. As a result of this finding the Society received an audit exception and a recommendation from the Legislative Auditor to amend the language in the statute to permit the Society to continue the Capitol tours program.

This is why we are here today. The Capitol tours program has been a very popular and successful service for tourists from throughout the United States, Canada and many foreign countries. We believe this activity is fully within the intent of the accommodations tax statute to promote and develop Montana's tourism industry.

Thank you for considering this amendment that would allow this very popular program to continue.

Lawrence Sommer, Director

April 6, 1991

EXHIBIT 2  
DATE 4/10/91  
HB SB 411

## TESTIMONY

### SENATE BILL 411

**CONTACT: LARRY McRAE, CHAIRMAN, TOURISM ADVISORY COUNCIL  
755-6100**

I am chairman of the Tourism Advisory Council, which oversees Montana's travel promotion efforts, and the budgets and marketing efforts of the six tourism regions and eight convention visitors bureaus which receive bed tax funding. We also direct the university system regarding Montana travel research, and approve all programs prior to their being undertaken. I wish to submit testimony against Senate Bill 411.

The Montana Historical Society has received 1% of the accommodations tax collected in Montana since the tax was initiated on July 1, 1987. The funds were earmarked by legislation for the purpose of installation and/or maintenance of roadside historical signs and markers. In 1989, the 51st Legislature further mandated that signs be erected and maintained for Native American historic sites.

In the fiscal years 1987/88 the Historical Society received \$33,471 from bed tax collections, in 88/89 they received \$50,032 and in 89/90 they received \$55,044. It is anticipated that they will receive over \$58,000 in FY 90/91 for a total funding of nearly \$200,000 since the tax was enacted.

The Tourism Advisory Council recognizes the importance of the historical and cultural heritage of our state, and invited Mr. Sommer to a recent TAC meeting to advise us of the progress of the signage program. We were very surprised to learn that only \$19,000 had been earmarked for signs and maintenance this year and that the remainder of the collections had been diverted to other uses, including \$19,000 for a Capitol Tour program, and \$20,000 for unidentified use.

While Capitol tours are of importance, the resulting economic benefits are derived by only one community. On the other hand, if the tax funds were used for which they were intended, i.e. historical and Native American markers and signs, the economic impacts would benefit the entire state. Resident and non-resident visitors alike would be informed about the heritage and history of each region, encouraging longer visits to areas of importance resulting in purchases of goods and services in nearby communities. The intent of the tax has always been to provide visitation opportunities throughout Montana resulting in a positive economic impact.

Page Two  
Senate Bill 411

MCA 15-65-122, paragraph 3 states that a maximum of 20% of bed tax funds received by regional and convention/visitors bureaus non profit organizations can be used for administrative purposes. This was mandated by the 50th. Legislature to assure that needless administrative expenses were not incurred. The Tourism Advisory Council has been very careful to follow that guideline over the past four years. We have turned down many requests for funding of staffing local attractions. Tour guides are considered administrative expense under our interpretation of the law. We strongly feel that the Montana Historical Society should follow the same guidelines.

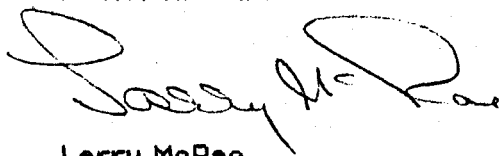
We believe that the Historical Society has violated MCA 15-65-121, which explicitly states that funding provided by the bed tax must be used for the installation and maintenance of highway signs and markers identifying important historical and cultural sites.

The Historical Society staff indicated in recent testimony at a Senate hearing that there is a need for 6,000 to 7,000 signs across our state. If that is the case, it is important that bed tax funding be used for only the purpose for which it was intended!

We urge you to reccomend a do not pass on this legislation.

Sincerely,

MONTANA TOURISM ADVISORY COUNCIL

A handwritten signature in dark ink, appearing to read "Larry McRae", is written over the typed name and title.

Larry McRae  
Chairman

Amendments to Senate Bill No. 416  
Third Reading Copy

Requested by Senator Williams  
For the Committee on Taxation

Prepared by Jeff Martin  
April 4, 1991

EXHIBIT 3  
DATE SB 4/10/91  
HB SB 416

1. Page 3, line 13.

Following: "~~70%~~"

Insert: ", as provided in subsection (3),"

2. Page 3, line 15.

Strike: "\$400"

Insert: "\$250 per year for 4 years"

3. Page 3, line 17.

Following: "YEAR"

Insert: "in which the credit is claimed"

4. Page 4, line 4.

Following: "(3)"

Insert: "The tax credit allowed under this section is deductible from the taxpayer's income tax liability for the taxable year in which the installation costs were incurred and for the next 3 taxable years succeeding the taxable year in which the installation costs were incurred."

5. Page 4, lines 5 and 6.

Strike: "AND" on line 5 through "INCURRED" on line 6

Kootenai Valley Eagle-Libby, Mt. Fri., October 28, 1988-11

## Libby air quality below new federal standards

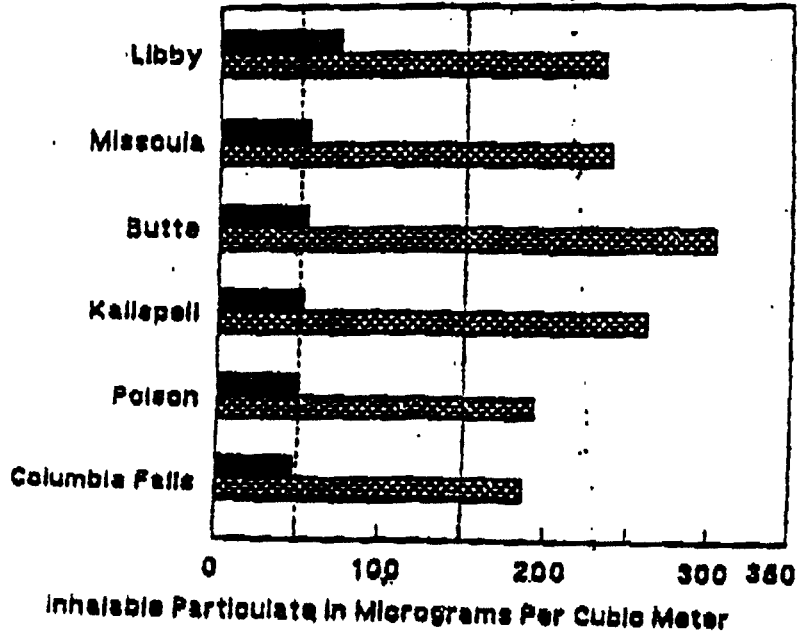
Eight Montana communities are in violation of new state and federal air quality standards for particulates.

According to the Montana Department of Health and Environmental Sciences, the communities include Libby, along with Columbia Falls, Kalispell, Polson, Ronan, Missoula, Butte and Lame-Deer. Although Columbia Falls was not originally on the Environmental Protection Agency's (E.P.A.) list, it is now considered in violation of the standards based on recent air monitoring data.

The new federal particulate matter standards are based on inhalable particulates (particles in the air with a diameter less than 10 micrometers in size) instead of the old total particulate matter

standard. The 'PM-10' standards became effective on July 31, 1987 and establish a maximum 24-hour concentration of 150 micrograms per cubic meter — not to be exceeded more than once per year — and a maximum annual average of 50 micrograms per cubic meter.

In establishing the new PM-10 standards, EPA reviewed extensive scientific research comparing atmospheric particulate concentrations with human health effects. The result was a standard based on particles with a diameter of less than 10 micrometers (approximately 1/10th the thickness of a human hair). These fine particles are capable of penetrating deep into the oxygen-exchanging areas of the lungs and are considered to be the most dangerous.



■ Annual Average Concentration  
▨ Maximum 24-hour Concentration



4/10/91

SB 416

FIGURE 42

# LIBBY PM-10 SOURCE APPORTIONMENT

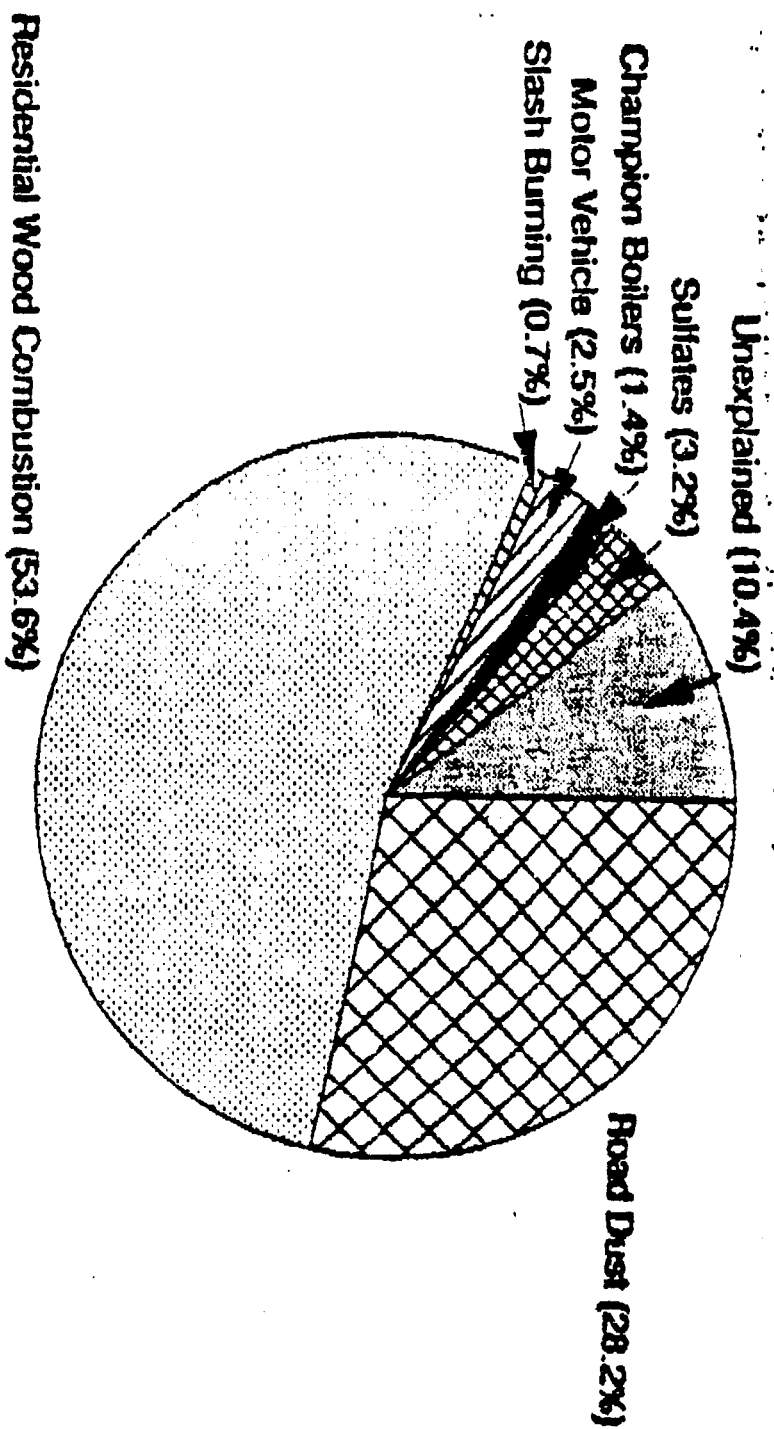
Total Contribution (0-10 microns)

Courthouse Parking Lot

December 1, 1987 - February 17, 1988

and December 26, 1988

(Winter Average 82.1 ug/m<sup>3</sup>)



# Ravalli County Electric Co-op

EXHIBIT 6

4/10/91

SB 416

NE 1051 Eastside Highway  
P.O. Box 109  
Corvallis, MT 59828-0109

April 9, 1991

TO: Dan Harrington, Chairman  
House Taxation Committee

RE: PRO GSHP TAX INCENTIVE

For the record, my name is Richard J. Brown, General Manager at Ravalli County Electric Co-op, Inc. I would like to present the following information on Ground Source Heat Pumps.

The most energy efficient heat source available is the Ground Source Heat Pump using the earth as heat storage by using an open flow system removing 6 degree's of the water temperature and returning the water to the same aquifer from which it was taken.

- \*\*A closed loop system either horizontal or vertical using the same fluid to remove the temperature from the earth.
- \*\*Safest system available - not even a spark - heat is removed by refrigerant process.
- \*\*Provides heating, cooling, and 60% of hot water heating.
- \*\*Co-efficiency of 3.5 or better, electric resistance heat has a co-efficiency of "1".
- \*\*Reduces peak demand on utilities which is eventually passed on to the consumer which delays future new generation.
- \*\*Reduces energy bills for consumers.
- \*\*Reduces pollution by burning much less wood or gas. Gas vents off 3% under the most ideal conditions.
- \*\*Healthier environment, safe and comfortable.
- \*\*But it is expensive to install. A tax incentive is needed to encourage future installations.



Richard J. Brown  
General Manager

# Ground heats water up

## By PAT RHODES

Agnes Cooper of Darcy is an enthusiastic valley customer with a newly-installed ground water heat pump that heats her house in the winter and, with a flick of a switch, will cool it in the summer. "I love it," she said Tuesday. "For the first time I'm warm when I go to bed and when I get up, I'm 82 years old and now I don't have to carry wood."

Cooper, who lives in the turn-of-the-century house in which she was born, said she had been heating her home with old-fashioned wall heaters and a wood stove. Her monthly electric bills were running more than \$100 but she won't know until February how much her electricity is going to cost with the new system. "I hope it will save me some money but I know it won't cost me any more and it is the safest system I know of and it is non-polluting. Those are the most important things to me."

Goosey and Smith said they can put their system in a house of any age. They assess the building first and then design the system that best fits the heating and cooling requirements of the structure with no guesswork about any part of it. "It is done through computer programs for each aspect," Smith said.

The system uses the earth itself or well water as its source of energy. In the valley, the earth temperature at six feet is about 50 degrees. The heat pump transfers that heat to the home. Through the use of a heat exchanger — similar to a refrigerator coil — the temperature is brought to about 160 degrees. A side benefit is that residual heat from running the system can be used to heat domestic water to 120 degrees.

Electricity runs the pump, blower and compressor of the system. The well or ground water used is

recirculated in the case of a closed coil system or returned to the aquifer in an open system. A closed system recirculates about 50 gallons of water in an outside loop buried under the ground.

"It is safe because there is no combustion and no possibility of explosion," Goosey said. "It is the safest as well as most efficient type of heat there is and it is 100 percent clean."

Although the heat pump process seems complicated on first perusal, it involves the same scientific principle of moving heat energy from one place to another that a refrigerator does. A refrigerator uses an air-source heat pump for energy and a ground-source heat pump works the same way, except that its heat source is the warmth of the earth.

The process of elevating low temperature heat to over 100 degrees and transferring it indoors involves a cycle of evaporation, compression, condensation and expansion.

Heat pumps are more than three times as efficient as the most efficient fossil fuel furnace, according to Goosey and Smith. Instead of burning a combustible fuel to make heat, the pumps move heat that already exists. By doing that, they provide three units of energy for every one unit used to power the heat pump system.

Free energy audits are provided by REC to its customers and by Energy-ResCon to non-REC customers. Those audits can then be used to figure the payback period for a ground-source heat pump, Kratochil said.

For more information regarding ground heat pumps, contact Kratochil at 961-3001, or Energy-ResCon at 961-3583.

Using the earth

# Invention tr

## By PAT RHODES

Two members a three-way partnership which owns Energy-ResCon of Corvallis are former athletic coaches turned energy consultants. They are, with the blessings of the Ravalli County Electric Co-op, promoting, selling and installing ground source heat pumps to heat and cool homes and businesses.

Their product uses the earth's constant temperature to heat and cool homes and businesses.

Kelly Goosey was previously a history teacher and basketball coach, who by chance coached two years in Corvallis during his career in education. He has joined forces in the young business venture with Tony Smith, who is also a former coach and teacher. Local businessman Russ Kearns of Corvallis is the third member of the partnership.

Rudy Kratochil of REC says the co-op is involved with Energy-ResCon because the company's approach to heating and cooling a home helps hold down REC costs. "It keeps down our peak demand — or highest time of the month which is what we pay Bonneville Power for. That cost is then built into the consumer rate," Kratochil said.

REC is also interested in ground source heat pumps from the marketing and competitive standpoint. "Montana Power is burying gas lines in the valley with no charge to REC consumers. People are converting to gas without considering alternatives or that ground source conversion is the most efficient way to heat and cool."

Once in place, ground source

heat pumps save consumers money, according to Goosey, Smith and Kratochil. And, the cost of installing the systems — estimated by the men as being between \$4,500 and \$8,500 depending on the size of the house and other variables — is competitive with natural gas, electricity or fossil fuel heating sources.

Kearns, who has had a system in his home for about four months says he is realizing a 60 percent savings in heating and cooling his home and in heating domestic water over last year. "We've figured our payback at 21 months."

Energy-ResCon is a private corporation. REC brought it into the valley, provides technical assistance and advice and recommends it to REC customers but there is no other business relationship between the two entities. "There is a lack of people with the knowledge to install these systems and REC would rather have the private sector do it," Kratochil said.

Smith said he and Goosey left their education professions in search of something more profitable. "We decided there had to be something better and we saw the potential in energy. It's been back to school ever since."

REC is helping promote the company and the ground source energy concept. The co-op had a display at the 1989 Ravalli County Fair and will have one at the home show in Missoula in March. There are 15 REC customers already on the books in the valley and the company is in the process of putting a commercial system in a Missoula building.

# THE GEO-THERMAL™ HEAT PUMP SYSTEM

TYPICAL GEO-THERMAL™ CLOSED LOOP SYSTEMS

EXHIBIT 6  
DATE 4/10/91  
HB SB 416

THE GEO-THERMAL™ HEAT PUMP SYSTEM MAY BE INSTALLED IN A CLOSET, ATTIC, EQUIPMENT ROOM OR BASEMENT.

TYPICAL VERTICAL  
CLOSED LOOP  
HEAT EXCHANGER

CONSTANT  
EARTH  
TEMPERATURE

HEAT REJECTED  
WHEN COOLING

HEAT ABSORBED  
WHEN HEATING

FLUID  
FLOW  
PATH

FOR MORE INFORMATION CONTACT:

POLYBUTYLENE OR  
POLYETHYLENE HEAT  
EXCHANGER - BORES ARE  
4" DIAMETER MINIMUM, 1  
FOOT MINIMUM SPACING

NO OUTDOOR EQUIPMENT

NO HAZARDOUS FLAMES OR FUMES

REDUCED FREE HOT WATER COSTS

## ClimateMaster

# GEO-THERMAL™ HEAT PUMP SYSTEMS



# ClimateMaster®

## THE GEO-THERMAL™ HEAT PUMP SYSTEM

**HIGH TECH.** The latest high tech, high performance system that is revolutionizing the way we heat and cool our homes.

The ClimateMaster Geo-Thermal™ Heat Pump System is the latest high performance home environment system available and has established itself as the best system value for many reasons. It provides:

- Extremely high efficiency
- Low operating cost
- No outdoor equipment
- Longer equipment life
- Energy conservation
- Virtually free hot water
- Low maintenance costs
- No hazardous flames or fumes
- Clean operation
- Excellent return on investment

### GEO-THERMAL. Borrowing the heat energy from the earth to heat and cool our homes.

The ClimateMaster Geo-Thermal™ Heat Pump System is an electrically powered device that uses the natural heat stored in the earth. The system simply moves heat from one place to another. By tapping the free geothermal heat stored within the earth under your own backyard, the System transfers the heat into your home to give you comfortable warm air in the winter.

In the summer the heat moving process is reversed, taking the heat out of your home and returning it to the earth, leaving your home cool and refreshingly comfortable.

### HEAT EXCHANGER. Opening the door to free geothermal energy.

The ClimateMaster Geo-Thermal™ Heat Pump System collects heat from fluid that is circulated through a special "closed loop" pipe "heat exchanger" buried in the earth. Through extensive research by The Shell Oil Company and Phillips Petroleum Company, the pipe resins "Polybutylene" and "Polyethylene" were developed. These long life high density resins made the "heat exchanger" possible. They are the key to unlocking the earth's energy resources - free geothermal energy found in your own backyard.

### SUBSTANTIAL SAVINGS. Savings up to 65% on your total heating, cooling and hot water costs.

Did you know that heating and cooling your home and your hot water requirements make up approximately 70% of your utility consumption? The ClimateMaster Geo-Thermal™ Heat Pump System can substantially reduce your operating costs in all three areas.

Proven savings up to: 70% on domestic hot water - - - - - 65% on heating - - - - - 35% on cooling

### SAFETY FIRST. Simply the safest heating and cooling system available.

**NO vents      NO flames      NO fumes**

## **CLIMATEMASTER GEO-THERMAL™ HEAT PUMP SYSTEMS**

7300 S.W. 44th Street • Oklahoma City, OK 73179 • (405) 745-6000 • FAX (405) 745-6058

EXHIBIT 6DATE 4/10/91HB SB 4/10RUSS KEARNS - 961-355  
KELLY GOOSEY - 363-3271  
TONY SMITH - 961-4153

# Energy-Re/Con

"Ground Source Heat Pumps"

582 CHRISTOFFERSEN LANE • CORVALLIS, MT 59828 • (406) 961-3583

In North America, homes and businesses are being heated and cooled by a system that bridges the gap between high technology and affordable efficiency—the ground-source heat pump. This guide was developed to introduce you to this new technology. Using a question and answer format, we've tried to provide you with the information many consumers have sought about ground-source heat pumps. If we can be any further help please contact us.

## GROUND-SOURCE HEAT PUMPS:

What are they and how do they work?

**Q: How does it work?**

**A:** Like any type of heat pump, it simply moves heat energy from one place to another. Your refrigerator works using the same scientific principle. (See Mechanics of the Heat Pump Process) By using the refrigeration process, ground-source heat pumps remove heat energy stored in the earth and/or the earth's groundwater and transfer it to the home.

**Q: How is heat transferred between the earth and home?**

**A:** The earth has the ability to absorb and store heat energy. To use that stored energy, heat is extracted from the earth through a liquid medium (groundwater or an anti-freeze solution) and is pumped to the heat pump or heat exchanger. There, the heat is used to heat your home. In summer the process is reversed and indoor heat is extracted from your home and transferred to the earth through the liquid.

**Q: You mentioned heating and cooling. Does it do both?**

**A:** One of the things that makes a heat pump so versatile is its ability to be a heating and cooling system in one. You can change from one mode to another with a simple flick of a switch on your indoor thermostat. In the cooling mode, a ground-source heat pump takes heat from indoors and transfers it to the cooler earth through either groundwater or an underground loop system.

**Q: Do I need separate ground loops for heating and cooling?**

**A:** No. The same loop works for both. All that happens when changing from heating to cooling, or vice versa, is that the flow of heat is reversed.

**Q: What type of loops are available?**

**A:** There are two main types: open and closed. The next few pages will give you specifics about each.

**Q: Does the underground pipe system really work?**

**A:** The buried pipe, or "ground loop," is the most recent technical advancement in heat pump technology. The idea to bury pipe in the ground to gather heat energy began in the 1940s. But it's only been in the last few years that new heat pump designs and improved pipe materials have been combined to make ground-source heat pumps the most efficient heating and cooling systems available.

### **THE MECHANICS OF THE HEAT PUMP PROCESS**

Anyone who has a refrigerator or an air conditioner has witnessed the operation of a heat pump, even though the term heat pump may be unfamiliar. All of these machines, rather than making heat, take existing heat and move it from a lower temperature location to a higher temperature location. Refrigerators and air conditioners are heat pumps which remove heat from colder interior spaces to warmer exterior spaces for cooling purposes. Heat pumps also move heat from a low temperature source to a high temperature space for heating.

An air-source heat pump, for example, extracts heat from outdoor air and pumps it indoors. A ground-source heat pump works the same way, except that its heat source is the warmth of the earth.

The process of elevating low temperature heat to over 100 degrees F and transferring it indoors involves a cycle of evaporation, compression, condensation and expansion. A refrigerant, is used as the heat-transfer medium which circulates within the heat pump.

The cycle starts as the cold, liquid refrigerant passes through a heat exchanger (evaporator) and absorbs heat from the low temperature source (liquid from the ground loop). The refrigerant evaporates into a gas as heat is absorbed. The gaseous refrigerant then passes through a compressor where the refrigerant is pressurized, raising its temperature to over 180 degrees F. The hot gas then circulates through a refrigerant-to-air heat exchanger where heat is removed and pumped into the home at about 100 degrees F. When it loses the heat, the refrigerant changes back to a liquid. The liquid is cooled as it passes through an expansion valve and begins the process again. To become an air conditioner, the flow is reversed.

### CLOSED-LOOP SYSTEMS

**Q: What is a closed-loop system?**

**A:** The term "closed-loop" is used to describe a ground-source heat pump system that uses a continuous loop of special buried plastic pipe as a heat exchanger. The pipe is connected to the indoor heat pump to form a sealed, underground loop through which water or an anti-freeze solution—depending on where you live—is circulated. Unlike an open-loop system that uses water from a well, a closed-loop system recirculates its heat transferring solution in pressurized pipe.

**Q: Where can this loop be located?**

**A:** That depends on land availability and terrain. Most closed-loops are trenched horizontally in yards adjacent to the home. But any area near a home or business with appropriate soil conditions and adequate square footage will work.

**Q: How deep and long will my trenches be?**

**A:** Trenches are normally four to six feet deep and up to 400 feet long, depending on how many pipes are in a trench. One of the advantages of a horizontal loop system is being able to lay the trenches according to the shape of the land. As a rule of thumb, 500-600 feet of pipe are required per ton of heat pump capacity. A well-insulated, 2000-square foot home would need about a three-ton system with 1500 to 1800 feet of pipe.

**Q: How many pipes are in a trench?**

**A:** Normally, a run of pipe is laid at five feet then looped back over itself at three feet once the bottom pipe is covered with soil. This allows more length of pipe to be put in one trench and has no adverse affect on system efficiency. Other loop designs use four or six pipes and allow for shorter trenches if land area is limited.

**Q: What if I don't have enough room for a horizontal loop?**

**A:** Closed-loop systems can also be verticle. Holes are bored to about 120-180 feet per ton of heat pump capacity. U-shaped loops of pipe are inserted in the holes. The holes are then backfilled with a sealing solution.



**Q: How long will the loop pipe last?**

**A:** Closed-loop systems should only be installed using high-density polyethylene or polybutylene pipe. Properly installed, these pipes will last 50-75 years and are guaranteed for 50 of those years. They are inert to chemicals normally found in soil and have good heat conducting properties. PVC pipe should not be used under any circumstances.

**Q: How are pipe sections of the loop joined?**

**A:** The only acceptable method to connect pipe sections is by thermal fusion. Pipe connections are heated and fused together to form a joint stronger than the original pipe. Mechanical joining of pipe for an earth loop is **never** an accepted practice. The use of barbed fittings, clamps and glued joints is certain to result in loop failure due to leaks.

**Q: Will an earth loop affect my lawn or landscape?**

**A:** No. Research has proven that loops have no adverse effect on grass, trees or shrubs. Most horizontal loop installations use trenches about six inches wide. This, of course, will leave temporary bare areas that can be restored with grass seed or sod. Vertical loops require little space and result in minimal lawn damage.

**Q: If the loop falls below freezing, will it hurt the system?**

**A:** No. The antifreeze solution in the loop will keep it from freezing down to a ground temperature of about 10 degrees F. In the U.S. and Canada, three types of antifreeze solution are acceptable: propylene glycol, methyl alcohol and calcium chloride.

**Q: Can I install an earth loop myself?**

**A:** It's not recommended. In addition to thermal fusion of the pipe, good earth-to-coil contact is very important for successful loop operation as well as sizing the unit and loops correctly. Nonprofessional installations may result in less than optimum heat pump performance.

**Q: I have a pond near my home. Can I put a loop in it?**

**A:** Yes, if it's deep enough and large enough. A minimum of six feet in depth at its lowest level during the year is needed for a pond to be considered.

### OPEN-LOOP SYSTEMS

**Q: What is an open-loop system?**

**A:** The term "open-loop" is commonly used to describe a ground-source heat pump system that uses groundwater from a conventional well as a heat source. The groundwater is pumped into the heat pump unit where heat is extracted, then the water is disposed of in an appropriate manner. Since groundwater is a relatively constant temperature year-round, it is an excellent heat source.

**Q: What do I do with the discharge water?**

**A:** There are a number of ways to dispose of water after it has passed through the heat pump. The open discharge method is the easiest and least expensive. Open discharge simply involves releasing the water into a stream, river, lake, pond, ditch or drainage tile. Obviously, one of these alternatives must be readily available and must possess the capacity to accept the amount of water used by the heat pump before open discharge is feasible.

A second means of water discharge is the return well. A return well is a second well bore that returns the water to the ground aquifer.

**Q: Does an open-loop system cause environmental damage?**

**A:** No. They are pollution free. The heat pump merely removes heat (about six degrees F) from or adds heat to the water. No pollutants are added whatsoever. The only change in the water returned to the environment is a slight increase or decrease in temperature.

### PARTS OF THE SYSTEM

**Q: What are the components of a ground-source heat pump system?**

**A:** The three main parts are the heat pump unit, the liquid heat exchange medium (open or closed loop), and the air delivery system.

**Q: Are all ground-source heat pumps alike?**

**A:** No. There are different kinds of ground-source heat pumps designed for specific applications. Many ground-source heat pumps, for example, are intended for use only with higher temperature ground water encountered in open-loop systems. Others will operate at entering water temperatures as low as 25 degrees F which are possible in closed-loop systems.

Most ground-source heat pumps provide summer air conditioning, but a few brands are designed only for winter heating. Ground-source heat pumps can also differ in the way they are designed. Self-contained units combine the blower, compressor, heat exchanger and coil in a single cabinet. Split systems allow the coil to be added to a forced

**Q: Will I have to add insulation to my home if I install one of these systems?**

**A:** Ground-source heat pumps will reduce your heating and cooling costs regardless of how well your home is insulated. However, insulating and weatherizing are key factors in realizing savings from any type of heating system.

**Q: Can a ground-source heat pump also heat water for my home?**

**A:** Yes. Using what's called a desuperheater, some types of ground-source heat pumps can save you up to 50 percent on your water heating bill by pre-heating tank water. Desuperheaters are standard on some units, optional on others.

**Q: Is a ground-source heat pump difficult to install?**

**A:** Most units are easy to install, especially when they are replacing another forced-air system. They can be installed in areas unsuitable for fossil fuel furnaces because there is no combustion, thus, no need to vent exhaust gases.

**Q: Can a ground-source heat pump be added to my fossil fuel furnace?**

**A:** Split systems can easily be added to existing furnaces for those wishing to have a dual-fuel heating system. Dual-fuel systems use the heat pump as the main heating source and a fossil fuel furnace as a supplement.

**Q: I have ductwork, but will it work with this system?**

**A:** In all probability, yes. Your installing contractor should be able to determine ductwork requirements and any minor modifications if needed.

**Q: Do I need to increase the size of my electric service?**

**A:** Ground-source heat pumps don't use large amounts of resistance heat, so your existing service may be adequate. Generally, a 200-amp service will have enough capacity, and smaller amp services may be large enough in some cases. Your electric utility or contractor can determine your service needs.

**Q: Do ground-source heat pumps have outdoor units?**

**A:** No. The equipment goes inside your home, usually in the basement, garage, utility closet or crawl space. Because it's indoors, the lifespans of the compressor and major components are greatly extended.

**Q: How efficient is a ground-source heat pump?**

**A:** They are more than three times as efficient as the most efficient fossil fuel furnace. Instead of burning a combustible fuel to make heat, they simply move heat that already exists. By doing that, they provide three units of energy for every one unit used to power the heat pump system.

All types of heating and cooling systems have a rated efficiency. Fossil fuel furnaces have a percentage efficiency rating. Natural gas, propane and fuel oil furnaces have efficiency ratings based on laboratory conditions. To get an accurate installed efficiency rating, factors such as flue gas heat losses, cycling losses caused by oversizing, blower fan electrical usage, etc., must be included.

Ground-source heat pumps have efficiencies rated according to their coefficient of performance or COP. It's a scientific way of determining how much energy the system produces versus how much it uses.

Most ground-source heat pump systems have COPs of 3.0-4.1. That means for every one unit of energy used to power the system, three to four units are supplied as heat. Where a fossil fuel furnace may be 50-90 percent efficient, a ground-source heat pump is about 350 percent efficient.

**Q: Will open or closed-loop be best for you?**

**A:** That depends on several factors, as stated earlier. We will be willing to install what's best for you and not for us.

**Q: What does a system like this cost?**

**A:** A system for the typical home will cost more than if you bought a separate forced air furnace. But you wouldn't be comparing apples to apples. To get an accurate comparison of costs you need to consider the following: 1) Payback, or how long it takes to recover the difference in costs between the two systems using energy savings. Payback for most ground-source heat pump systems runs two to seven years. 2) Energy efficiency of the two systems. To get an accurate picture, make sure efficiency claims are substantiated. Your lifestyle and how well your home is insulated affect how economical a system will be. 3) Total operating savings from heating, cooling and domestic hot water must be combined to get an accurate picture of total energy savings. 4) Energy costs and availability, both present and future. 5) Maintenance costs and system reliability. 6) System lifespan.

**Q: How do I figure the payback period for a ground-source heat pump?**

**A:** To figure this accurately, you must know how much per year you'll save in energy costs with a ground-source system and the difference in costs between it and a conventional heating system and central air conditioner. When a free energy audit is performed by Energy-Re/Con, this information will be supplied along with the type of unit, system, cost of installation and recommendations pertaining to energy savings.

**Q: How clean is the system?**

**A:** Since there is no combustion necessary with a ground-source heat pump; the system will not emit particles that will pollute the living area of your home.

**Q: Can I add an air cleaner or humidifier to the system if so desired?**

**A:** Yes. An electrostatic or ionizing air cleaner can be adapted to the system with ease. The humidifier will also adapt to the system with relative ease.

**Q: If a home has ceiling cable heat or baseboard heat, do air ducts need to be installed?**

**A:** Not always. It may be desirable to install ground-source heat pump room units. For some small homes, one room unit would provide most of the heating and cooling needs. Ceiling cable or baseboard units could then be used for supplemental heat.

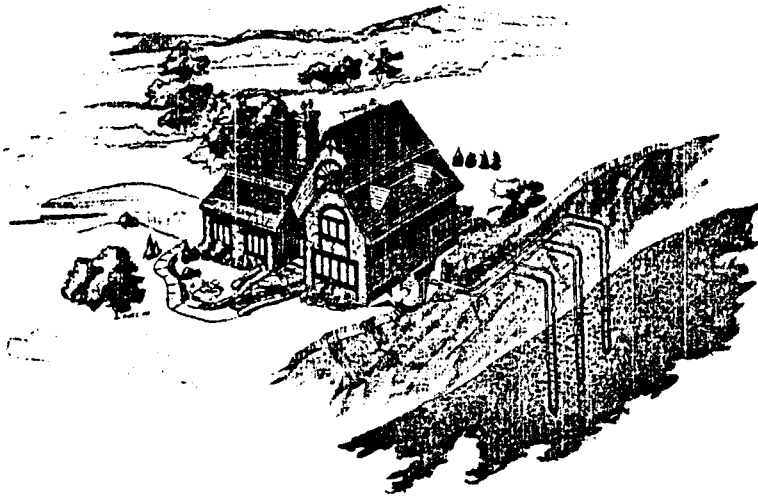
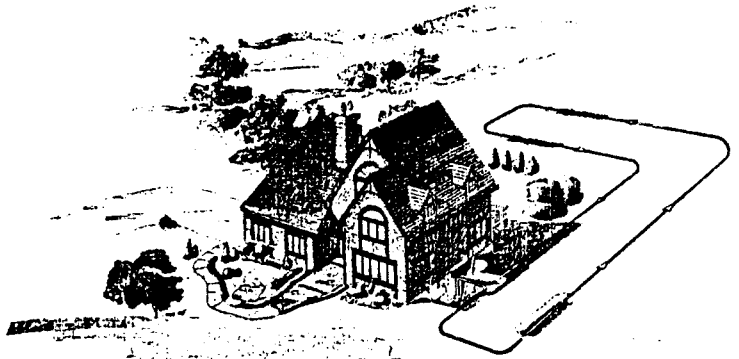
**Q: If I want to know more about ground-source heat pump systems, whom should I contact?**

- A:**
- 1) Russ Kearns, Tony Smith or Kelly Goosey at Energy-Re/Con  
961-3583
  - 2) Rudy Kratofill at Ravalli County Electric Co-op  
961-3001
  - 3) Bob Touse at Missoula County Electric Co-op  
1-800-352-5200  
721-4433

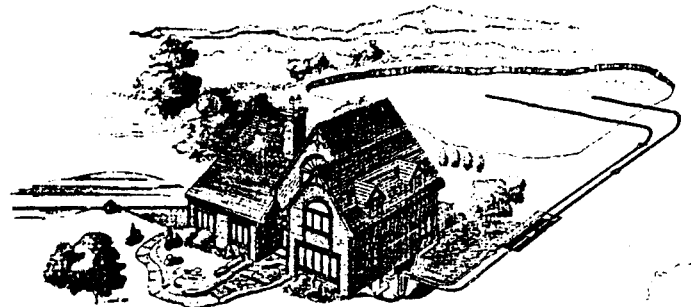
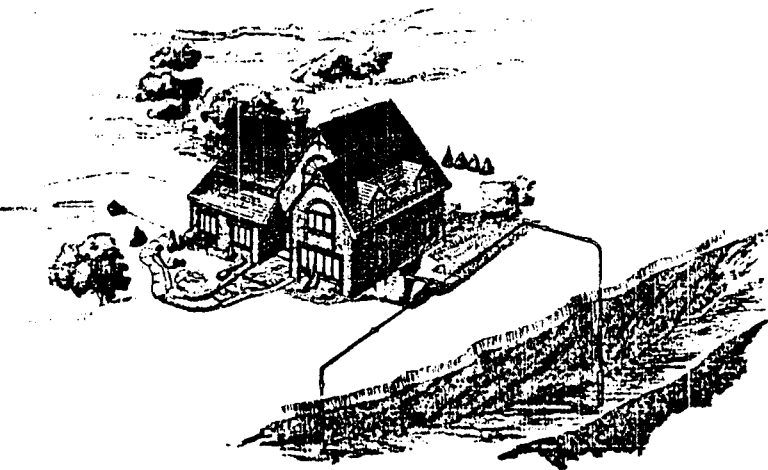
EXHIBIT 6  
DATE 4/10/91  
HB SB 4/10

## Choose From Two Efficient, Proven Systems

Outside your home, two types of Geo-Thermal Heat Pump systems are available. Each uses the same principle of drawing energy from the earth to provide ideal indoor temperatures at a far lower cost than typical heating/cooling equipment. Both offer the advantages of total heating, cooling, air circulation, air filtration and dehumidification for your home.



**Closed Loop System.** To capture the constant temperatures stored below the earth's surface, water (sometimes treated with a non-freezing solution) is recirculated through special pipe installed in the ground, using the warmer earth temperature during the winter, and transferring heat to the cooler earth temperature in the summer.



**Ground Water System.** To retrieve the even temperatures stored in the earth, ground water is pumped to the Geo-Thermal Heat Pump. In the winter, the water supplies a constant heat source much higher than low temperature outdoor air. In the summer, the same temperature water is much cooler than the air on hot days, providing for more efficient removal of heat.

EXHIBIT 7

4/10/91

SB 428

AMENDMENT TO SENATE BILL NO. 428  
Third Reading (Blue Copy)

Prepared by the Department of Revenue

The amendment makes it clear that the amount of revenue received by the tribe is based on the agreement.

Page 3, line 8.

Following: "the"

Strike: "remaining amount"

Insert: "money as provided for in the agreement entered into pursuant to  
[section 1]"

SENATE BILL NO. 436  
INTRODUCED BY B. BROWN

AMENDMENTS OF STILLWATER MINING CO.

APRIL 10, 1991

EXHIBIT 8  
DATE 4/10/91  
HB SB 436

1. Title, line 8  
Following: "property;"  
Strike: " ELIMINATING CLASS EIGHTEEN (NONPRODUCTIVE MINING CLAIMS)"
2. Page 5, line 3  
Following: "property."  
Insert:

**Section 3.** Section 15-6-133, MCA, is amended to read:

**"15-6-133. Class three property -- description --**  
**taxable percentage. (1) Class three property includes:**

**(a) agricultural land as defined in 15-7-202;**

**(b) nonproductive patented mining claims outside the limits of an incorporated city or town held by an owner for the ultimate purpose of developing the mineral interests on the property. For the purposes of this subsection (1)(b), the following provisions apply:**

**(i) The claim may not include any property that is used for residential purposes, recreational purposes as described in 70-16-301, or commercial purposes as defined in 15-1-101 or any property the surface of which is being used for other than mining purposes or has a separate and independent value for such other purposes.**

**(ii) Improvements to the property that would not disqualify the parcel are taxed as otherwise provided in this title, including that portion of the land upon which such improvements are located and that is reasonably**

**required for the use of the improvements.**

**(iii) Nonproductive patented mining claim property must be valued as if the land were devoted to agricultural grazing use.**



Ex. 8  
4/10/91  
SB 436

(2) Class three property is taxed at the taxable percentage rate "P" of its productive capacity.

(3) Until July 1, 1986, the taxable percentage rate "P" for class three property is 30%.

(4) Prior to July 1, 1986, the department of revenue shall determine the taxable percentage rate "P" applicable to class three property for the revaluation cycle beginning January 1, 1986, as follows:

(a) The director of the department of revenue shall certify to the governor before July 1, 1986, the percentage by which the appraised value of all property in the state classified under class three as of January 1, 1986, has increased due to the revaluation conducted under 15-7-111. This figure is the "certified statewide percentage increase".

(b) The taxable value of property in class three is determined as a function of the certified statewide percentage increase in accordance with the table shown below.

(c) This table limits the statewide increase in taxable valuation resulting from reappraisal to 0%. In calculating the percentage increase, the department may not consider agricultural use changes during calendar year 1985.

(d) The taxable percentage must be calculated by interpolation to coincide with the nearest whole number certified statewide percentage increase from the following table:

Certified Statewide Percentage Increase	Class Three Taxable Percentage "P"
0	30.00
10	27.27
20	25.00
30	23.08
40	21.43
50	20.00

(5) After July 1, 1986, no adjustment may be made by the department to the taxable percentage rate "P" until a

Ex. 10  
4/10/91  
SB 445

0 The advantages for the Department are:

- (1) There will be one system that applies to all taxes except property taxes and inheritance taxes;
- (2) It guarantees consistent treatment of taxpayers and issues; and
- (3) It will give the Department a better opportunity to resolve issues before they reach STAB or the courts.

## Closing Agreements

- 0 These are simply the agreements which the Department and a taxpayer sign when an issue has been resolved.
- 0 Although the Department has entered into them for all of the different taxes, specific authority only exists for income and corporation taxes.
- 0 Subsection eight of section one provides this authority for all taxes administered by the Department.

EXHIBIT 11  
4/10/91  
SB 445

AMENDMENTS TO SB 445  
3rd reading copy (blue)

Prepared by the Department of Revenue

These amendments correct errors in the Senate amendments to this bill. The amendments were suggested by the state bar to clarify the procedure for reviewing tax assessments and refund claims within the Department of Revenue.

1. Page 5, line 12  
**Following:** "notice"  
**Insert:** "referred to in subsection (4) (a)"
2. Page 6, line 16  
**Following:** "reasonable"  
**Insert:** "not to exceed 90 days except upon the mutual consent of both parties"
3. Page 6, line 25  
**Following:** "Procedure"  
**Insert:** "including additional time for mailing"
4. Page 7, line 3  
**Following:** "requests,"  
**Strike:** ", NOT TO EXCEED 90 DAYS EXCEPT UPON THE  
MUTUAL CONSENT OF BOTH PARTIES,"

# SB 445

EXHIBIT 10  
4/10/91  
SB445

BY REQUEST OF THE DEPARTMENT OF REVENUE  
Third Reading (blue copy)

## Purpose

- 0 The purpose of this bill is to provide a simple, inexpensive, and effective method for taxpayers to have audit issues reviewed within the Department.
- 0 It also clarifies the Department's authority to enter into closing agreements.

## Applicability

- 0 The proposed process does not apply to property taxes (with the exception of revised assessments of centrally assessed property) or inheritance taxes.
- 0 The normal property tax appeal process is not effected. Taxpayers will still appeal to the county board and the state tax appeal board as they do now.
- 0 In the case of inheritance tax cases, appeals will remain in the District Court.

## Current Procedures

- 0 Currently there are a variety of review procedures which apply depending on the tax which is at issue.
- 0 For individual income tax there is a lengthy process of appeals within the Department. It is governed by the Montana Administrative Procedures Act. At the conclusion of the process the Director makes a final decision which may be appealed to the State Tax Appeal Board.
- 0 In the corporation and natural resource tax area there is a more informal process which is not governed by the Montana Administrative Procedures Act. However, there is no guarantee of a review by the Director's office.
- 0 In other tax areas no particular procedure is set forth and no one review process applies.

## Proposed Review Procedure

- 0 The proposed review procedure is in section one of the bill.
- 0 It combines parts of the current procedures for different taxes into one standard procedure for all of these taxes.
- 0 A taxpayer will be able to be heard at the Division Administrator level and the Director's level with a minimum of effort and expense.
- 0 It is not formal or governed by the Montana Administrative Procedure Act rules but guarantees access to the Director's office.
- 0 The taxpayer is simply required to notify the Department in writing that he disagrees with the Department's action.
- 0 The taxpayer can present his arguments to the Division Administrator by telephone, by letter, or at an informal conference.
- 0 The same opportunity is available at the Director's office level.
- 0 The taxpayer can then appeal to the State Tax Appeal Board where a more formal hearing will take place.
- 0 Section one requires the Department to give full notice of the appeal process when an assessment is sent out or a refund is denied.

## Advantages

- 0 The advantages of this process for the taxpayer are:
  - (1) It is simple and inexpensive for the taxpayer;
  - (2) It guarantees the taxpayer will be notified of his appeal rights and the consequences of not appealing;
  - (3) It guarantees the taxpayer that management level employees of the Department will review the auditor's decision; and
  - (4) It sets time limits for decisions by the Department so the process will be completed in a timely manner.

EXHIBIT 9  
4/10/91  
SB445

CROWLEY, HAUGHEY, HANSON, TOOLE & DIETRICH

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ARTHUR F. LAMEY, JR.  
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ROBERT EDD LEE  
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DIRECT DIAL NUMBER

March 12, 1991

Mr. David W. Woodgerd  
Chief Legal Counsel  
Office of Legal Affairs  
Department of Revenue  
Mitchell Building  
Helena, MT 59620-2720

RECEIVED

MAR 13 1991

OFFICE OF LEGAL  
AFFAIRS

Re: S.B. 445

Dear Dave:

The purpose of this letter is to memorialize the agreement which was reached yesterday between yourself, acting on behalf of the Department of Revenue, and Kristen Juras and myself, acting on behalf of the Council of the Montana State Bar Section on Taxation and Probate Law, relating to S.B. 445.

We agreed that:

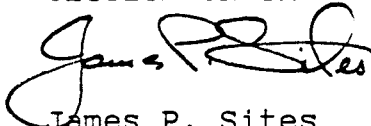
- (1) The Department of Revenue will request the Sponsors of S.B. 445 to strike from the bill all of the provisions relating to the revision of the declaratory judgment procedures now codified at MCA §15-1-406, et seq., other than the revision found on line 5 of page 14 of S.B. 445.
- (2) The Council of the Montana State Bar Section on Taxation and Probate Law will not object to the other provisions of the bill, as modified to take into account the proposed changes which you, Kristen and I discussed yesterday.
- (3) The Council of the Montana State Bar Section on Taxation and Probate Law will support a future joint effort between the Department of Revenue and the Council to discuss possible changes to MCA §15-1-406. We look forward to meeting with you about this matter already this fall.

Mr. David W. Woodgerd  
March 12, 1991  
Page 2

We understand that you will make the necessary changes to S.B. 445 to implement this agreement and will do your best to fax the amendments to Kristen and me by 5:00 o'clock p.m. on Tuesday, March 12, 1991.

Sincerely,

FOR THE COUNCIL OF THE MONTANA STATE BAR  
SECTION ON TAXATION AND PROBATE LAW



James P. Sites  
Vice Chair

cc: Senator Brown  
Senator Doherty  
Senator Eck  
Senator Gage  
Senator Halligan  
Senator Harp  
Senator Koehnke  
Senator Mazurek  
Senator Thayer  
Senator Towe  
Senator Van Valkenburg  
Senator Yellowtail

Mr. Denis Adams  
Mr. Rick Bartos  
Mr. George Bennett  
Mr. Gary Bjelland  
Mr. Terry Cosgrove  
Mr. William Driscoll  
Mr. Robert Goff  
Ms. Kristen Juras  
Mr. Louis Moore  
Mr. John McNaught  
Mr. Ward Shanahan  
Mr. Peter Stanley

## Proposed Review Procedure

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## Advantages

- 0 The advantages of this process for the taxpayer are:
  - (1) It is simple and inexpensive for the taxpayer;
  - (2) It guarantees the taxpayer will be notified of his appeal rights and the consequences of not appealing;
  - (3) It guarantees the taxpayer that management level employees of the Department will review the auditor's decision; and
  - (4) It sets time limits for decisions by the Department so the process will be completed in a timely manner.



Ex. 12  
4/10/91  
SB 445

0 The advantages for the Department are:

- (1) There will be one system that applies to all taxes except property taxes and inheritance taxes;
- (2) It guarantees consistent treatment of taxpayers and issues; and
- (3) It will give the Department a better opportunity to resolve issues before they reach STAB or the courts.

## Closing Agreements

- 0 These are simply the agreements which the Department and a taxpayer sign when an issue has been resolved.
- 0 Although the Department has entered into them for all of the different taxes, specific authority only exists for income and corporation taxes.
- 0 Subsection eight of section one provides this authority for all taxes administered by the Department.

## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB411  
 DATE 4/10/91 SPONSOR(S) FRITZ

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Jennifer Jeffries Thompson	Mt. Historical Society			
Brian Lockard	MHS			✓
Wanda Sommer	Mt. Historical Society			X
Keith Colbo	Tourism Coalition		X	
VERN SITTER	MT. LAKEPORE ASSN		X	
Ray Foster	Billings Chamber			X
Gloria Hermanson	MT Cultural Alliance 411			X

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

HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

TAXATION

COMMITTEE

BILL NO. SB416

DATE 4/10/91

SPONSOR(S) WILLIAMS

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Wilbur Anderson	Vigilante Electric Co-op	✓	
Richard J. Brown	Ravalli County Electric Co-op	✓	
Jim DOWNEN	META	✓	
Gene Phillips	Pacific Power & Light	X	
Glen Jensen	MEIC	✓	
Doug Hardy	PARK ELECTRIC	✓	

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# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 428  
 DATE 4/10/91 SPONSOR(S) NATHE

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
MERLE R LUCAS	FORT PEAK TRIBES	428		✓
JAMES DYLDHOUSE	FORT BELKNAP TRIBES	428		✓
ALLEN A. STIFFANO	FORT BELKNAP TRIBES	428		✓

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## HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 461  
DATE 4/10/91 SPONSOR(S) WATERMAN

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
JACK NOBLE	MONT. UNIVERSITY SYS			✓
Erin Owen	MEA			≡

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 436  
 DATE 4/10/91 SPONSOR(S) B. BROWN

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Kay Foster	Billings Chamber	SB436		X Amended
Dan Hight for Wainwright	Stillwater Mining Co	SB436		Amended
Brendan Beatty	MT Assoc Regs	SB436	X	

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# HOUSE OF REPRESENTATIVES

## VISITOR'S REGISTER

TAXATION COMMITTEE BILL NO. SB 445  
 DATE 4/10/91 SPONSOR(S) DOHERTY

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Steve Doherty	SD# 20	445		<input checked="" type="checkbox"/>

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