

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 53rd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on February 9, 1993, at 8:00 A.M.

ROLL CALL

Members Present:

Rep. Bob Gilbert, Chairman (R)
Rep. Mike Foster, Vice Chairman (R)
Rep. Dan Harrington, Minority Vice Chairman (D)
Rep. Shiell Anderson (R)
Rep. John Bohlinger (R)
Rep. Ed Dolezal (D)
Rep. Jerry Driscoll (D)
Rep. Jim Elliott (D)
Rep. Gary Feland (R)
Rep. Marian Hanson (R)
Rep. Hal Harper (D)
Rep. Chase Hibbard (R)
Rep. Vern Keller (R)
Rep. Ed McCaffree (D)
Rep. Bea McCarthy (D)
Rep. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Raney (D)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Claudia Johnson, Transcriber

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

Committee Business Summary:

Hearing: SB 183, HB 413, HB 400, HB 505, & HB 268
Executive Action:

HB 268 Do Pass As Amended
HB 397 Do Pass As Amended
HB 382 Do Pass
HB 437 Do Pass
HB 452 No Final Action
SB 183 Be Concurred In

HEARING ON SB 183

Opening Statement by Sponsor:

SEN. STEVE DOHERTY, Senate District 20, Great Falls, said SB 183 was introduced at the request of the Department of Revenue (DOR). SB 183 provides that property owned by a tax-exempt or taxable entity and used for both tax-exempt and taxable purposes be assessed and taxed based upon the apportioned ownership or use of the property.

Proponents' Testimony:

Judy Rippingale, Deputy Director, Department of Revenue, said DOR requested the bill to reduce the confusion regarding ownership of property by tax exempt organizations. It would clarify taxable use and tax procedures regarding such property. She said SB 183 will cut down on problems they have had based on unfair taxation.

Opponents' Testimony: None

Questions From Committee Members and Responses: None

Closing by Sponsor:

SEN. DOHERTY closed.

HEARING ON HB 413

Opening Statement by Sponsor:

REP. JOE QUILICI, House District 71, Butte, said HB 413 was introduced at the request of the Department of Revenue (DOR). HB 413 clarifies the DOR method of determining the Public Service Commission (PSC) fee and Consumer Counsel.

Proponents' Testimony:

Brian Smith, DOR, distributed and explained amendments prepared by DOR. EXHIBIT 1

Bob Anderson, Chairman, Public Service Commission (PSC), said the PSC supports HB 413. It clarifies the method of determining the PSC fee. He distributed information and written testimony.
EXHIBIT 2

John Alke, Montana Dakota Utilities (MDU), said MDU supports HB 413 and the amendments proposed by DOR. He presented amendments proposed by MDU. EXHIBIT 3

Kendra Kawaguchi, Pacific Power & Light Company, said the Pacific Power & Light Company supports HB 413 with the proposed amendments.

Mike Harrington, Montana Power Company (MPC), said MPC supports HB 413 and the amendments. He urged the Committee to pass the bill.

Opponents' Testimony: None

Questions From Committee Members and Responses:

REP. FOSTER asked **Bob Anderson** to confirm that the budget would not be changed by this bill; and also if the Appropriations Committee would consider the fee recommendations in the PSC budget deliberations. **Mr. Anderson** replied affirmatively.

Closing by Sponsor:

REP. QUILICI closed stating the bill not affect the budget process. Once the Appropriations Committee and the Legislature adopt the budget, the Consumer Counsel and the PSC will have to live by it.

HEARING ON HB 400

Opening Statement by Sponsor:

REP. DAVID WANZENRIED, House District 7, Kalispell, said HB 400 will grant rulemaking authority to the Department of Health and Environmental Sciences (DHES) to establish fees to pay for certain radiological services. It will establish a radiation services account in the state special revenue fund and provides an effective date.

Proponents' Testimony:

Ray Hoffman, Administrator of Centralized Services Division, DHES, wanted the Committee to be aware that HB 400 is an administration bill and is supported by Governor Racicot. He said HB 400 is a result of a bill which passed in the 1992 Special Session of the Legislature. It mandated a 5% reduction in agencies' general fund appropriations. Fees for radiation control services will be increased in order to help offset DHES budget reductions. He noted the fee increases must be approved by the Appropriations Committee before they are adopted.

Adrian Howe, Chief, Occupational and Radiological Health Bureau, DHES, presented written testimony in support of HB 400. **EXHIBIT 4**

Greg Bahny, operator of a company that distributes x-ray equipment and supplies to hospitals, Kalispell, said he supports

the proposed inspection fee. He said DHES has a radiation safety program that follows guidelines for radiation equipment compliance and beam output. DHES also monitors radiation leakage in exam rooms, adjacent rooms and hallways, ensuring the safety of hospital and clinic staff. DHES offers educational programs to help staff learn more about specific areas of quality control and radiation safety. He said DHES also monitors the service industry. His company is looking at several options in regard to radiation safety in Montana: 1) imposition of a fee for service as opposed to HB 400; 2) contract with outside inspectors and monitor them with state department personnel; and 3) abolishing the current state program and allowing the federal government to intervene because lack of funds to maintain and control the program. He felt DHES provides an unbiased inspection of equipment and radiation safety compliance and has no self-serving interest other than insuring quality examinations and public safety. He said if the program is abolished, federal guidelines will be imposed and an average inspection will become extremely expensive and borne by the clinician and hospitals. The inspection fee in HB 400 will ensure quality radiation services in Montana.

John Shontz, Counsel, Montana Dental Hygienist Association, said the fiscal note indicates there will be virtually no funding for x-ray inspections and, therefore, for radiation control, if the bill does not pass. He encouraged the Committee to pass the bill.

Barbara Booher, Executive Director, Montana Nurses Association, said the Association supports HB 400. She said the state is statutorily mandated to conduct the inspections and is liable for damages if those inspection are delayed or not performed. She said the Association does not support additional provider fees as they will not solve the health care problems or create health care reform. She understood, if the federal government takes over, inspections will only be conducted on the 45 mammography x-ray machines in the state. She asked the Committee to support this legislation.

Mike Harrington, Montana Power Company, said MPC supports HB 400 only if there is no duplication of fees currently paid to federal agencies. MPC favors primacy and state versus federal regulation. He said MPC has three measuring instruments in Coal Strip, the Corette plant in Billings, and the environmental department at Montana Power in Butte, that use radioactive materials to measure the quantity, density, and content of various substances. MPC pays an annual fee to the nuclear regulatory commission of almost \$2,500 for each instrument. He has been assured by Adrian Howe that this fee will not be duplicated.

Ron Gammill, Medical Electrical Service, Billings, said his company repairs x-ray systems. He is fearful of the erosion of the inspections program. He said if the program deteriorates

much more fees for professional inspections for businesses will far exceed the fees the state is proposing. These inspections are used as data in lawsuits to prove the equipment has been inspected.

Opponents' Testimony:

Mary McHugh, Montana Dental Association (MDA), said the Association supports the regulatory function, but opposes the fee. If Montana considers this an important regulatory function, the inspections should be supported by general fund dollars. She presented testimony in opposition TO he bill from the Montana Medical Association. **EXHIBIT 5**

Steve Browning, representing Montana Hospital Association (MHA), said the Association supports the concept of regulating the state's radiation program. He said "adequate control" is nebulous and open to many interpretations.

Bonnie Tippy, representing the Montana Chiropractor Association, said HB 400 will establish a special revenue account. If the fees are statutorily imposed, they should be subject to review every session. The Association disagrees with the user fee concept and asked that HB 400 do not pass.

Questions From Committee Members and Responses:

REP. DRISCOLL asked **Mary McHugh** if the state is liable if x-ray equipment malfunctions following a statewide mandated inspection. **Ms. McHugh** said the potential exists but the primary liability rests with the owner of the equipment who should carry liability insurance.

REP. FOSTER asked **Barbara Booher** if there any private sector inspection services. **Ms. Booher** said contracting for inspection services is an option. She knew of no federally qualified inspectors.

REP. RANEY asked if the Legislature could mandate inspection without a fee assessment which would allow for utilization of the optional private enterprise inspection. **REP. WANZENRIED** said that is an option although private sector services cost more. He would not oppose using that option as long as a state standard was mandated.

REP. RANEY asked if the state would still be liable if something went wrong after a private sector inspection had been used. **REP. WANZENRIED** said that is a valid concern and thought if the statutes were repealed it might eliminate the state liability risk.

Closing by Sponsor:

REP. WANZENRIED asked the Committee to pass HB 400 a do pass so it can go be referred to the Appropriations Committee for consideration as part of the budget package.

HEARING ON HB 505**Opening Statement by Sponsor:**

REP. VICKI COCCHIARELLA, House District 59, Missoula, said HB 505 is a small business support bill. The small businesses referred to in HB 505 are the 1,500 to 2,000 day-care providers, group day-care homes, and day-care homes in Montana. HB 505 is good for economical development, employers, and politicians. She said one of the greatest problems in Montana is finding good quality day care. There are currently 20,000 children in licensed day-care facilities in the state. If the parents do not make more than \$18,000 per year, they are entitled to a deduction from the state's income tax. The people who provide these services do not have this option as working people. The day care can only have six children, but if the provider has children of her/his own, they are included in this total, and the parents penalized for caring for their own children. REP. COCCHIARELLA distributed information on the proposed day-care provider child care tax deduction, MCA definitions, and the Montana deduction for child care expenses. EXHIBITS 6, 7, & 8

Proponents' Testimony:

REP. TED SCHYE, House District 18, Glasgow, said all of the day-care providers in his area asked him to support the bill. He the Committee to pass the bill.

Diane Sands, Executive Director, Montana Womens Lobby, said the organization supports small business equity. She urged the Committee's support for HB 505.

Opponents' Testimony: None**Questions From Committee Members and Responses:**

REP. ELLIOTT asked about the fiscal impact of the bill. REP. COCCHIARELLA said the fiscal note is being printed. The fiscal impact would be \$7000 in 1994, and \$6000 in 1995, if every provider had one child and used the itemized system to file taxes. She said this is a large assumption close to double what the actual impact would be.

Closing by Sponsor:

REP. COCCHIARELLA said she would like to see an amendment which would allow single as well as married people be entitled to the deduction. With the \$18,000 gross income level qualifier, fewer people are eligible for the deduction.

EXECUTIVE ACTION ON HB 268

Motion: REP. HARPER MOVED HB 268 DO PASS.

Discussion: REP. HARPER moved to adopt the amendments. He said the amendments address the concerns expressed by REP. RANEY and Bill Verwolf, Helena City Manager. EXHIBIT 9

CHAIRMAN GILBERT asked if the fees would increase the maintenance costs of the buildings and then be passed on to the taxpayer. Mr. Verwolf said every property owner in the fire service area pays his share for fire protection. In the case of government buildings, the cost would be added to property tax assessments.

REP. HARPER expressed concern about constitutionality issues

CHAIRMAN GILBERT asked if all cities fund fire protection out of general fund monies, and if so, how would reduced assessments be returned to the taxpayers. Mr. Verwolf answered that most cities do fund fire protection with general fund money. HB 268 provisions would allow cities to calculate the fire protection costs, divide the cost by the value of the mills, and reduce the mills by the resultant amount. CHAIRMAN GILBERT said the language in the addresses "mills levied".

REP. HARPER asked if Mr. Heiman could draft amendments to address reductions in mills levied for fire services.

Motion/Vote: REP. ELLIOTT MOVED TO AMEND THE BILL AS PER AMENDMENTS PREPARED BY MR. HEIMAN RE MILLS LEVIED FOR FIRE SERVICES. Motion carried unanimously. EXHIBIT 10

Motion/Vote: REP. HARPER MOVED HB 268 DO PASS AS AMENDED. Motion carried 16 - 4 with REPS. ANDERSON, HANSON, KELLER AND ORR voting no.

EXECUTIVE ACTION ON HB 397

Motion: REP. REAM MOVED HB 397 DO PASS.

Discussion: REP. MCCULLOCH presented proposed amendments to the fiscal note (EXHIBIT 11) which lessen the general fund impact.

He also presented proposed amendments limiting the information that can be contained in the magnetic stripe. **EXHIBIT 12**

Motion: REP. ELLIOTT moved to strike the fee for the duplicate license.

Mr. Heiman said since that is the only substantive provision of that section, the entire section should be deleted from the bill.

Motion/Vote: REP. ELLIOTT moved to delete section 1 of HB 397, and renumber subsequent sections. Motion carried unanimously.

Motion: REP. REAM moved to adopt the amendment limiting information placed on the magnetic stripe as per **EXHIBIT 12**

Discussion: REP. ORR said the stripe would still be there and information could be added at a later date. He preferred to eliminate the stripe entirely.

Vote: Motion to amend carried 19 - 1 with REP. ORR voting no.

Motion/Vote: REP. ELLIOTT moved to adopt an amendment on page 4, line 13, striking the "addition of a magnetic reader stripe" and inserting "containing only the information shown on the face of the driver's license or identification card". Motion failed 4 - 16. **EXHIBIT 13**

Motion: REP. HARPER moved to adopt an amendment to strike lines 23 and 24 on page 2.

Discussion: REP. MCCULLOCH said this amendment was originally put in because of changes at the federal level re the National Driver Register (NDR).

Vote: Motion to amend carried unanimously.

Motion/Vote: REP. FOSTER moved to amend page 4, line 1, by striking \$8 and inserting \$4 Motion failed 8 - 12 on a roll call vote. **EXHIBIT 14**

Motion/Vote: REP. DRISCOLL moved to amend page 2, line 22, by striking \$4 and inserting \$5. Motion failed 2 - 18 with REPS. DRISCOLL AND ORR voting aye.

Motion: REP. FOSTER moved to amend the bill to allow Montana handicapped persons and residents 65 years or older to obtain a free identification card. **EXHIBIT 15**

REP. FOSTER withdrew his motion. It was the consensus of the Committee that most senior citizens can afford the \$8 fee if they need an ID card.

Motion/Vote: REP. REAM MOVED HB 397 DO PASS AS AMENDED. **EXHIBIT 16.** Motion carried 15 - 5 on a roll call vote. **EXHIBIT 17**

EXECUTIVE ACTION ON HB 382

Motion: REP. FOSTER MOVED HB 382 DO PASS.

Discussion: REP. FOSTER said Continental Lime had suggested the bill because they have been paying taxes on a miscalculated basis. they feel this is a fair rate and in the public interest.

REP. ELLIOTT asked if the taxable valuation of Broadwater county would be affected.

REP. FOSTER said the County Commissioners said the county taxable value would drop.

REP. MCCARTHY said the county would lose approximately \$7000 and would change to a Class 5 county. It does not affect taxable value as it is a severance tax.

Vote: Motion that HB 382 Do Pass carried 19 - 1 with REP. REAM voting no.

EXECUTIVE ACTION ON HB 437

Motion: REP. HARRINGTON MOVED HB 437 DO PASS.

Discussion: REP. HARRINGTON said this is the low-income property tax and is a fairness issue.

CHAIRMAN GILBERT asked if the bill would have a negative impact on people who are now filing Subchapter S. Ms. Rippingale replied it could possibly have a negative effect but DOR would expect it to be very nominal.

Vote: HB 437 DO PASS. Motion carried 19 - 1 with CHAIRMAN GILBERT voting no.

EXECUTIVE ACTION ON HB 452

Motion: REP. HARRINGTON MOVED HB 452 DO PASS.

Discussion: REP. HARRINGTON said it is important that the Legislature have the settlement information so that estimates of fiscal impacts can be anticipated and used in budget adjustments.

REP. ELLIOTT expressed some concern about the dissemination of confidential tax information. REP. HARRINGTON said the Legislature should be informed if there are big tax settlements pending.

REP. ELLIOTT asked if there would be an impact on the DOR's ability to negotiate a settlement if all settlements were public knowledge? Ms. Rippingale said she was not familiar with the bill.

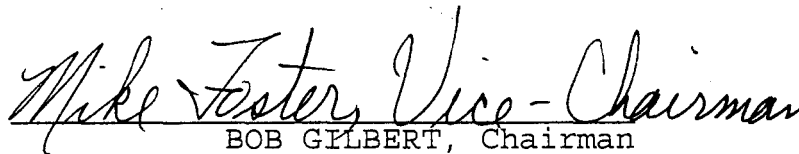
CHAIRMAN GILBERT said the Committee will delay further action until it receives further information from DOR.

EXECUTIVE ACTION ON SB 183

Motion: REP. McCARTHY MOVED SB 183 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: 12:00 p.m.


BOB GILBERT, Chairman


JILL ROHYANS, Secretary

These minutes were written by Claudia Johnson and proofed for content by Jill Rohyans.

BG/jdr/cj

HOUSE OF REPRESENTATIVES

TAXATION

COMMITTEE

ROLL CALL

DATE

2/9/93

NAME	PRESENT	ABSENT	EXCUSED
REP. GILBERT, CHAIRMAN	✓		
REP. FOSTER	✓		
REP. HARRINGTON	✓		
REP. ANDERSON	✓		
REP. BOHLINGER	✓		
REP. DOLEZAL	✓		
REP. DRISCOLL	✓		
REP. ELLIOTT	✓		
REP. FELAND	✓		
REP. HANSON	✓		
REP. HARPER	✓		
REP. HIBBARD	✓		
REP. KELLER	✓		
REP. McCAFFREE	✓		
REP. MCCARTHY	✓		
REP. NELSON	✓		
REP. ORR	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. TUNBY	✓		

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 2

Mr. Speaker: We, the committee on Taxation report that House Bill 268 (first reading copy -- white) do pass as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 4.

Strike: "AND"

Insert: ", "

2. Title, line 5.

Following: "TOWNS"

Insert: ", AND CONSOLIDATED CITY-COUNTY GOVERNMENTS"

3. Title, line 6.

Following: "AREAS"

Insert: "; AND PROVIDING FOR PROPERTY TAX LIMITATION"

4. Page 1, line 10.

Following: "(1)"

Insert: "(a)"

5. Page 1.

Following: line 15

Insert: "(b) The governing body of a consolidated city-county may establish a fire service area to provide the services and equipment set forth in [section 2] in areas of the city-county that are not part of a fire protection service district, rural fire district, or fire service area."

6. Page 4.

Following: line 1

Insert: "NEW SECTION. Section 5. Property tax limitation. In a city or town that funds fire services through a fire service area, the amount of property taxes allowed to be levied under the provisions of Title 15, chapter 10, part 4, must be reduced by the number of mills levied for fire services in the year prior to the establishment of the fire service area. If fire services are financed from the general fund or by a combination of general fund and mill levies, the

February 9, 1993
Page 2 of 2

reduction in the number of mills is the number of mills that would have been necessary to generate the fire service funding in the previous year."

Renumber: subsequent section

7. Page 4, line 3.

Page 4, line 5.

Strike: "4"

Insert: "5"

-END-

R. 4715 4/20

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 397 (first reading copy -- white) do pass as amended .

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 6.

Strike: "DUPLICATE DRIVER'S LICENSES AND INSTRUCTION PERMITS AND FOR"

2. Title, lines 7 and 8.

Strike: "ESTABLISHING A FEE FOR NATIONAL DRIVER REGISTER INQUIRIES;"

3. Title, line 12.

Following: "LICENSES;"

Insert: "LIMITING INFORMATION THAT MAY PLACED ON A DRIVER'S LICENSE MAGNETIC STRIPE;"

4. Title, line 13.

Strike: "61-5-114,"

5. Page 1, lines 17 through 24.

Strike: section 1 in its entirety

Renumber: subsequent sections

6. Page 2, lines 23 and 24.

Strike: "A fee of \$3 must be paid for each national driver register (NDR) inquiry."

7. Page 4, line 13.

Following: "stripe"

Insert: "containing only the information shown on the face of the driver's license or identification card"

-END-

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 437 (first reading copy -- white) do pass.

Signed: Bob Gilbert
Bob Gilbert, Chair

Committee Vote:

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that House Bill 382 (first reading copy -- white) do pass.

Signed: Bob Gilbert
Bob Gilbert, Chair

Committee Vote:
Yes / 4 . No / .

321435BC.Hpf

HOUSE STANDING COMMITTEE REPORT

February 9, 1993

Page 1 of 1

Mr. Speaker: We, the committee on Taxation report that Senate Bill 183 (third reading copy -- blue) be concurred in.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Driscoll

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

SB 183

HB 413

HB 505

House Taxation

COMMITTEE

BILL NO.

HB 400

DATE 7/9/93

SPONSOR(S) Roberts, Quilley, Christopher, Cushman

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Greg Bahny Kalispell, MT		X	
Betsy Lovitt Idaho	Art. Medical Assoc.		X
Ray Hoffman	DHES	X	
Mary McCue	MT. Dental Ass'n		HB 400 X
Betsy Becker	MT. Nurses Assoc	HB 400 X	
Laura L. Berger	PP&L		
Don Keough	Great Falls Mt.		X
Bob Anderson	PSC		
Adrian Howe	DHES	HB 400 X	
Michael H. Haggard As			
John Shantz	Montana Dental Hygienist As	HB 400 X	
Mike Harrigan	MPC	HB 400 (Amended) HB 413 (Amended)	
John Allen	MOG	HB 413	
Brian Smith	MDOR	HB 413	

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

Steve Browning
Ron Gammill

MHA
Medical Elect. Service

HB 400 X
X

EXHIBIT 13
DATE 2-9-93
HB 397

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 2/9/93 BILL NO. 397 NUMBER

MOTION: by Rep. Elliott to amend by striking
p. 4, line 14 & new amendment

NAME	AYE	NO
REP. FOSTER		X
REP. HARRINGTON		X
REP. ANDERSON		X
REP. BOHLINGER		X
REP. DOLEZAL		X
REP. DRISCOLL	X	
REP. ELLIOTT	X	
REP. FELAND		X
REP. HANSON		X
REP. HARPER		X
REP. HIBBARD		X
REP. KELLER		X
REP. McCAFFREE		X
REP. MCCARTHY		X
REP. NELSON		X
REP. ORR	X	
REP. RANEY		X
REP. REAM		X
REP. TUNBY		X
REP. GILBERT	X	
	4	16

EXHIBIT 14
DATE 2-9-93
HB 397

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 2-9-93 BILL NO. 397 NUMBER

MOTION: #4 amended Rep Foster

Moved to strike #8 and reinstate #4

NAME	AYE	NO
REP. FOSTER	x	
REP. HARRINGTON		x
REP. ANDERSON		x
REP. BOHLINGER		x
REP. DOLEZAL		x
REP. DRISCOLL	x	
REP. ELLIOTT	x	
REP. FELAND	x	
REP. HANSON	x	
REP. HARPER		x
REP. HIBBARD		x
REP. KELLER	x	
REP. McCAFFREE		x
REP. MCCARTHY		x
REP. NELSON		x
REP. ORR	x	
REP. RANEY		x
REP. REAM		x
REP. TUNBY		x
REP. GILBERT	x	
	8	12

EXHIBIT 16
DATE 2/9/93
HB 397

HOUSE OF REPRESENTATIVES

TAXATION COMMITTEE

ROLL CALL VOTE

DATE 2/9/93 BILL NO. HB 397 NUMBER

MOTION: Sup Rep. Ream that HB 397
Do Pass As Amended

NAME	AYE	NO
REP. FOSTER	X	
REP. HARRINGTON	X	
REP. ANDERSON	X	
REP. BOHLINGER	X	
REP. DOLEZAL	X	
REP. DRISCOLL		X
REP. ELLIOTT		X
REP. FELAND	X	
REP. HANSON		X
REP. HARPER	X	
REP. HIBBARD	X	
REP. KELLER	X	
REP. McCAFFREE	X	
REP. MCCARTHY	X	
REP. NELSON	X	
REP. ORR		X
REP. RANEY	X	
REP. REAM	X	
REP. TUNBY	X	
REP. GILBERT		X

Amendments to House Bill 413
First Reading Copy

Prepared by Department of Revenue
(2/8/93)

1. Title, line 7.
Following: "REVENUE"
Strike: "AND"
2. Title, line 9.
Following: "MCA"
Insert: "; AND PROVIDING A RETROACTIVE APPLICABILITY AND AN IMMEDIATE EFFECTIVE DATE"
3. Page 2, line 14.
Following: "appropriated,"
Insert: "except as provided in 69-1-224(1)(c),"
4. Page 6, line 3.
Following: "appropriated,"
Insert: "except as provided in 69-1-224(1)(c),"
5. Page 7, line 10.
Following: "part."
Insert: "NEW SECTION. Section 5. Retroactive applicability. [This act] applies retroactively, within the meaning of 1-2-109, to revenue generated by regulated activity beginning after April 1, 1993.

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

Reason for Amendments:

1. The first and second amendments to the title reflect subsequent amendments to the parts of the bill.
2. The third and fourth amendments specify that the prohibition against the increase in the amount appropriated does not prevent the department from making the adjustments specified in § 69-1-224(1)(c).
3. The fifth amendment clarifies the applicability and effective date of the bill. An April 1, 1993 effective date is preferred because it will enable the bill to apply to fiscal year 1994. As written it would not come into effect until fiscal year 1995.



EXHIBIT 2
DATE 2-9-93
HB 413

PUBLIC SERVICE COMMISSION

1701 Prospect Avenue • PO Box 202601
Helena, Montana 59620-2601
Telephone: (406) 444-6199
FAX #: (406) 444-7618

Bob Anderson, Chairman
Bob Rowe, Vice Chairman
Dave Fisher
Nancy McCaffree
Danny Oberg

February 9, 1993

Testimony of
Bob Anderson, Chairman, Public Service Commission

The PSC supports HB 413, a bill to clarify the method for determining the PSC fee.

Introduction

The PSC is funded by a tax on regulated utilities. Based on the PSC appropriation and utility revenues, the tax is paid by ratepayers and amounts to about \$3.40 per year per household. Utilities collect the tax and pay it to the Dept. of Revenue which places it in the general fund.

If utility sales are higher than projected, the DOR adjusts the tax rate downward. If utility revenues are lower than anticipated, the tax rate is adjusted upward. In theory, because of the adjusting mechanism, there is no effect on the general fund.

The problem

Utility revenues are always different from projections, because of changes in the weather and the economy. The utility tax has swung from overcollection for a few years to undercollection for a few years. When collections are too great, there is a subsidy from ratepayers to the general fund. When collections are less, there is a subsidy from the general fund to ratepayers, thereby creating a deficit.

Under the current mechanism, the tax is adjusted quarterly, after quarterly revenue reports by the utilities. Adjustments, therefore, lag collections by at least six months.

Because of these swings and lags, at times the general fund subsidizes the PSC. Other times, ratepayers subsidize the general fund.

The solution

HB 413, requested by the Department of Revenue, would correct these problems in two ways.

First, swings and lags would be reduced by allowing the DOR to adjust the utility tax 30 days after the utilities' quarterly revenue reports.

Second, the PSC budget would be placed in an account in the special revenue fund (like the Consumer Counsel's). This change would protect the general fund from undercollections of the utility tax. It would also help clarify how the PSC is funded and enable the budget subcommittee to better track general fund revenues and expenses.

There would be no effect on the PSC's budget or the budgeting process. The PSC's budget would not be influenced by the illusion that it would affect the general fund. Rather, it could be based on the legislature's mandate to the PSC, the agency's needs, and any other policy considerations important to the legislature.

AMENDMENTS TO HB 413

1. Page 5, In 2-9

Strike:

Insert:

In their entirety

"(4) In the event the fee charged in one year is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required to be raised by the fee for the next year before the determination required by subsection (1) is made. Money remaining unspent at the close of a fiscal year shall be used to reduce the percentage calculated in 69-1-224 in the subsequent fiscal year."

Testimony Before the House Taxation Committee on HB400

Presented by

Adrian C. Howe, Chief

Occupational and Radiological Health Bureau

Montana Department of Health and Environmental Sciences

House Bill 400, before you today is intended to provide, by amending Section 75-3-201, MCA, the Department of Health and Environmental Sciences (DHES) with rulemaking authority to establish fees for registration of X-ray sources, licensing of facilities possessing radioactive materials, and providing of certain radiological health services. This bill also establishes a special revenue account for deposit of fees for the use of the radiation control program.

With his discovery of X-rays in 1895, German physicist Wilhelm Roentgen set the stage for the atomic era. Since then, mankind has developed many other sources of radiation and has recognized their enormous benefits in medicine, industry, and science. But, as with other technological advances, we have also realized that radiation can cause harm when used unwisely. A multitude of radiation sources exist in every state. These sources include X-ray machines, accelerators, and radioactive materials, and are used in medical settings, industrial settings, educational settings and other areas. Patients, workers, students, the general public, and the environment are all exposed to these sources of radiation. Implementation of standards for protection from radiation is largely a state responsibility, except for nuclear power and a few other radiation hazards that are assigned by congress to the federal agencies. Implementation of the standards requires enforcement, and that in turn implies effective inspection by disinterested state authorities. While the federal government has some programs to control some aspects of a very limited number of these sources, no level of government, or any other entity, has programs that deal with all the aspects of exposure to these sources except states through the broad authority of their radiation control programs. In essence, state radiation control programs currently provide the only comprehensive regulatory presence for sources of radiation not regulated by the U. S. Nuclear Regulatory Commission (NRC).

The Montana Radiation Control Section provides a program to reduce or eliminate unnecessary exposures to ionizing radiation which might result in injuries, death, or cause health risks such as increased susceptibility to cancer or genetic mutations and to provide for control of radioactive materials to preclude or minimize damage to, or loss of property resulting from contamination by radioactive materials. This is achieved through X-ray facility inspections, minimum shielding calculations for new facilities, emergency response to incidents involving loss of

control of radioactive materials, limited environmental surveillance, and providing information, assistance, or training regarding radiation. The primary emphasis is on X-ray facility inspections. This includes X-ray units utilized in hospitals, physician's offices, clinics, dental offices, chiropractic offices, veterinary facilities, industrial settings, research facilities, and even the local airport. The X-ray inspections examine the entire X-ray chain in an attempt to evaluate exposure to patients, employees, and the general public. Besides the normal evaluation of machine performance, personnel protection, and protective shielding, the procedures for processing of films and film quality are also evaluated to determine the effect on patient exposure and diagnostic quality of films. The reasons for this emphasis on X-ray inspections will be made abundantly clear in my presentation.

The National Council on Radiation Protection (NCRP), a division of the National Research Council, in its Report No. 93 found that exposure of the public from the medical use of X-rays was 43 times that received from the entire nuclear fuel cycle and in conjunction with nuclear medicine uses in the healing arts represented approximately 83% of the total man-made radiation exposure to the U. S. population. In addition, the NCRP found in its Report No. 100 that the use of medical and dental diagnostic X-ray examinations has increased substantially since 1970, even excluding podiatric and chiropractic examinations. During the period between 1970 and 1980 medical radiographic examinations in hospitals increased by 62% and total examinations by an estimated 38%, while the total United States population increased by only 11%. The number of dental radiographic examinations increased 51% during the same period. As of 1980, there were about 180 million medical diagnostic X-ray procedures and 101 million dental X-ray procedures being performed annually, for a total of 281 million annual procedures, or about 1.23 procedures for each person in the United States. The health risk from this collective dose to the U. S. population from medical X-ray procedures is estimated to be approximately 6,200 fatal cancers and 3,100 non-fatal cancers. Based on historical trends regarding increasing numbers of medical examinations, these risks can be expected to be at least 33% higher today, thus involving 8,246 fatal and 4,123 non-fatal cancers nationwide. These estimates do not include contribution from computerized tomography (CT) scans and presumes "good technique" in all cases. Consequently, according to NCRP Reports #100 and #93 the actual population dose may be as much as 44% higher than these estimates. The risk estimates do not even consider other stochastic effects such as genetic mutations which could manifest themselves in ensuing generations or non-stochastic effects such as cataract induction, skin damage, hemato-logical deficiencies, and impairment of fertility. Please bear in mind that these estimates are only for medical X-ray examinations and not for the many other X-ray uses and other sources of radiation. These estimates also do not attempt to calculate the cost to society of cancer treatment or the long-term healthcare for genetic defects. Not only is diagnostic X-ray by far the single largest source of exposure to man-made radiation, it is also the source for which the greatest

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dose reduction gains can occur without having a negative impact on the public benefits. In other words, the greatest source of "unnecessary risk to human health" are in diagnostic medical X-ray.

The Montana Radiation Control Section is currently staffed at the same level as FY72, with 1.0 FTE for X-ray inspections, and yet has experienced significant workload increases as illustrated by Figure 1 and Figure 2. This one FTE is responsible for inspection of approximately 2,119 registered X-ray units in approximately 1,000 facilities throughout the state in addition to providing information, assistance and training to reduce radiation exposures. This increased workload has resulted in an overall erosion in the inspection frequency for X-ray facilities as is illustrated by Figure 3. In Figure 3, the smaller bars represent the maximum recommended number of years between inspections for various facilities and the larger bars represent the current average number of years between inspections in Montana. As a result of this eroded inspection frequency, a review of the facilities inspected in the last two years reveals that 75% of the facilities had one or more discrepancies that contributed to unnecessary overexposure to X-radiation to patients, employees, the general public or any combination of these groups. To put this in perspective during the mid-70's when the one FTE could maintain a better inspection frequency, the non-compliance rate was approximately 25%. In 1982, the position had been vacant for nearly two years and subsequent inspections revealed that the non-compliance rate was approximately 95%. In 1982, we were still able to inspect hospital facilities every two years. Experience has indicated that all too often and X-ray unit only receives maintenance following an inspection or when it completely breaks down and ceases to function. In addition, not all of the problems are in older equipment, many times new units have been installed or newly calibrated that were out of calibration by as much as 90%. A recent graduate student study of the Tennessee Radiation Control Program and it's inspections of dental X-ray facilities concluded that the state's dental X-ray exposures were 55% below the national average, that those facilities inspected the most had lower exposures and that the exposure decreased as inspections increased. The Tennessee program has one inspector for every 666 X-ray units in the state.

To illustrate some of the discrepancies found through the Montana program and that the discrepancies are not limited to small rural facilities or any particular healing arts practice, the following are some examples of the discrepancies found.

1. A shielded door was removed to be refinished in one of the state's largest hospitals. The door was adjacent to a common public hallway. Examinations continued for six weeks until discovered by state radiation control staff.

2. Recently four facilities were discovered to have had collimators on machines rendered inoperable. A collimator is a device designed to limit the X-ray beam to the body area of interest. Many times these devices become inaccurate and in need of calibration.

3. Two physicians offices directing the primary beam toward the wall for chest X-rays. The walls involved were adjacent to the patient waiting room.

4. A pediatric dentist had removed the aluminum filters from the primary beam, thinking that they were spacers. The filters reduce low energy radiation which never reaches the film and thus reduces exposure. The patient's exposures were two times what it should have been.

5. A physicians machine on which the exposure timer was inoperable. The machine would produce X-rays as long as the operator held a finger on the switch.

6. Numerous rural and urban clinics and hospitals where the maximum fluoroscopic output exceeded maximum allowable by two to eight times.

7. A rural hospital with a mammographic unit which was missing the operator's protective barrier. Upon further investigation, it was discovered that the barrier, a 3' x 6' piece of leaded glass had been taken to the administrator's home and made into a coffee table.

8. Numerous cases in all facilities where the films were being underprocessed requiring overexposure to get an adequate density on the film.

Just as significant as the unnecessary radiation exposure is the diagnostic quality of the film. Many of the discrepancies contributing to unnecessary radiation exposure also degrade the diagnostic quality of the film, resulting in repeat exams or sometimes misdiagnosis. This is especially critical in exams for soft tissue where the practitioner is trying to see minute early stage tissue abnormalities, such as in mammography. Any degradation in diagnostic quality in these cases can be a death sentence. Recent inspection of mammography facilities indicate significant problems in those facilities which affect patient exposure and diagnostic quality of the films. It is interesting to note that the typical jury award for a misdiagnosis in a mammography lawsuit exceeds the projected cost of the X-ray inspection program for one year with 3.0 FTEs. The projected cost of the fees would in most cases be covered by the charges to the first 1-3 patients examined with each machine.

Since DHES first proposed this bill, we have talked to many people involved in the industry and you will probably hear from some of those people today. In those discussions, not one person has ever indicated that this is a bad program or is not needed. Quite the contrary, most indicated that this is a very important program and needed additional resources, but that there was a philosophical opposition to funding the program with fees. However, none of these individuals has provided a viable alternative to this proposal. These facilities generate revenue, a great deal of

revenue. Attempts to estimate the annual gross revenue from medical X-ray units in Montana alone, indicate that the annual gross revenue is probably somewhere between \$200,000,000 and \$500,000,000. The projected program cost (cost of fees) proposed in HB400 is less than 1% of the low range estimate. Revenue associated with industrial, research, and airport units is not as readily estimated as that of medical X-ray.

Fee support for radiation control programs is not a new concept, and in fact is recommended in the Suggested State Legislation, 1983, Volume 42, a publication of the Council of State Governments. Currently, approximately 29 other states fund some portion of their radiation control program with fees. Additional support for the need for fee authority is contained in the Mammography Quality Standards Act of 1992, which was signed by the President in October 1992. This federal law will require annual inspection of all mammography facilities and provides for fees to fund the inspections. The state radiation control program may inspect these facilities if it has adequate resources and qualified inspectors to do so. If the state program does not have adequate resources, a federal agency will conduct the inspections and charge the fees. It is estimated that the typical federal inspection fee would be approximately \$1,500 per mammography unit. Currently, with one inspector in Montana these inspections would require 50% of the inspector's time for less than 2% of the units registered in the state. If the program is appropriated the additional resources requested in a budget proposal which anticipates fee funding, it is anticipated that these inspections would be conducted for less than \$200 per unit.

Besides improving the X-ray inspection frequency, HB400 would provide the authority necessary to seek primacy for licensure of those radioactive materials currently regulated by the NRC and other radioactive materials not currently regulated in Montana. The primacy issue is estimated to result in a 50% savings to Montana licensees. The non-regulated materials are known as naturally occurring and accelerator produced radioactive materials (NARM). Currently anyone capable of filling out an order form can purchase such materials and do whatever they please with such materials in Montana. I have included copies of letters from industry in support of seeking the primacy from the NRC, which is also known as "agreement state status", and a letter from a medical practitioner who was very pleased that the X-ray program limited his liability. In addition, I have included a copy of a 1985 Wall Street Journal article which outlines some problems with medical X-ray very well. The situation has not improved very much in Montana, due to the increased workload and the subsequent erosion of inspection frequency.

The Executive budget recommends switching \$70,000 of general fund, currently committed to X-ray inspections, to fees and adding 2.0 additional FTE and necessary support of \$121,322 in FY94 and \$127,185 in FY95. In the absence of any general fund support and if HB400 should fail, there would be virtually no radiation control in

the State of Montana. Besides the obvious lack of X-ray inspections, information, assistance, and emergency response regarding radiation would be severely limited and in some instances completely unavailable by qualified personnel. The failure to provide protection of public health and safety as provided for by statute would leave the state with a considerable liability.

Protecting the public and worker from unnecessary radiation exposure, and protecting the environment from radioactive contamination, involves a complex and highly technical combination of personnel and monitoring equipment. Technological advances provide a constantly changing array of radiation sources which represent a potential for exposure of people and/or the contamination of the environment. The citizens of Montana expect and deserve a program protecting them from unnecessary radiation exposure. In addition, Montana medical consumers deserve the peace of mind associated with knowing that their children's dental films and their mother's or wife's mammogram was of the best diagnostic quality with a minimum amount of radiation exposure possible.

I encourage the committee to keep in mind that HB400 was introduced in the interest of the public health and safety, and in that spirit, I further encourage the committee to vote in favor of HB400.

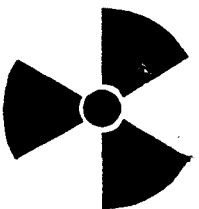
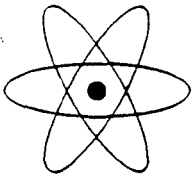


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REQUESTS
(Thousands)

REQUESTS FOR ASSISTANCE OR INFORMATION

RADIATION CONTROL SECTION

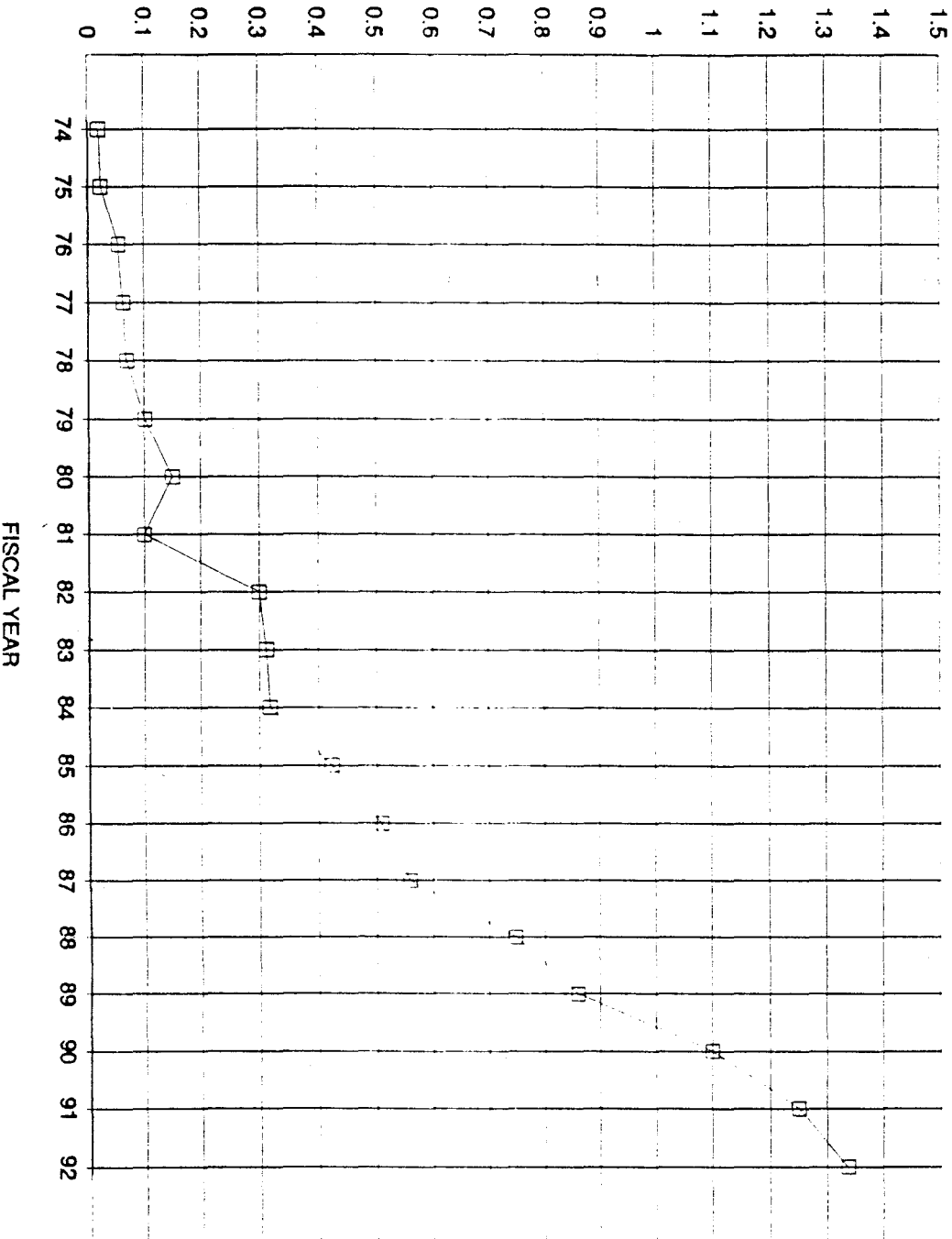
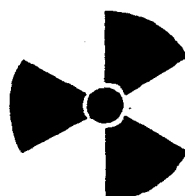
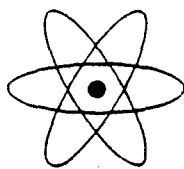


FIG. 1

Dept. of Health & Environmental Sciences
Occupational & Radiological Health Bureau



REGISTERED XRAY UNITS
IN MONTANA

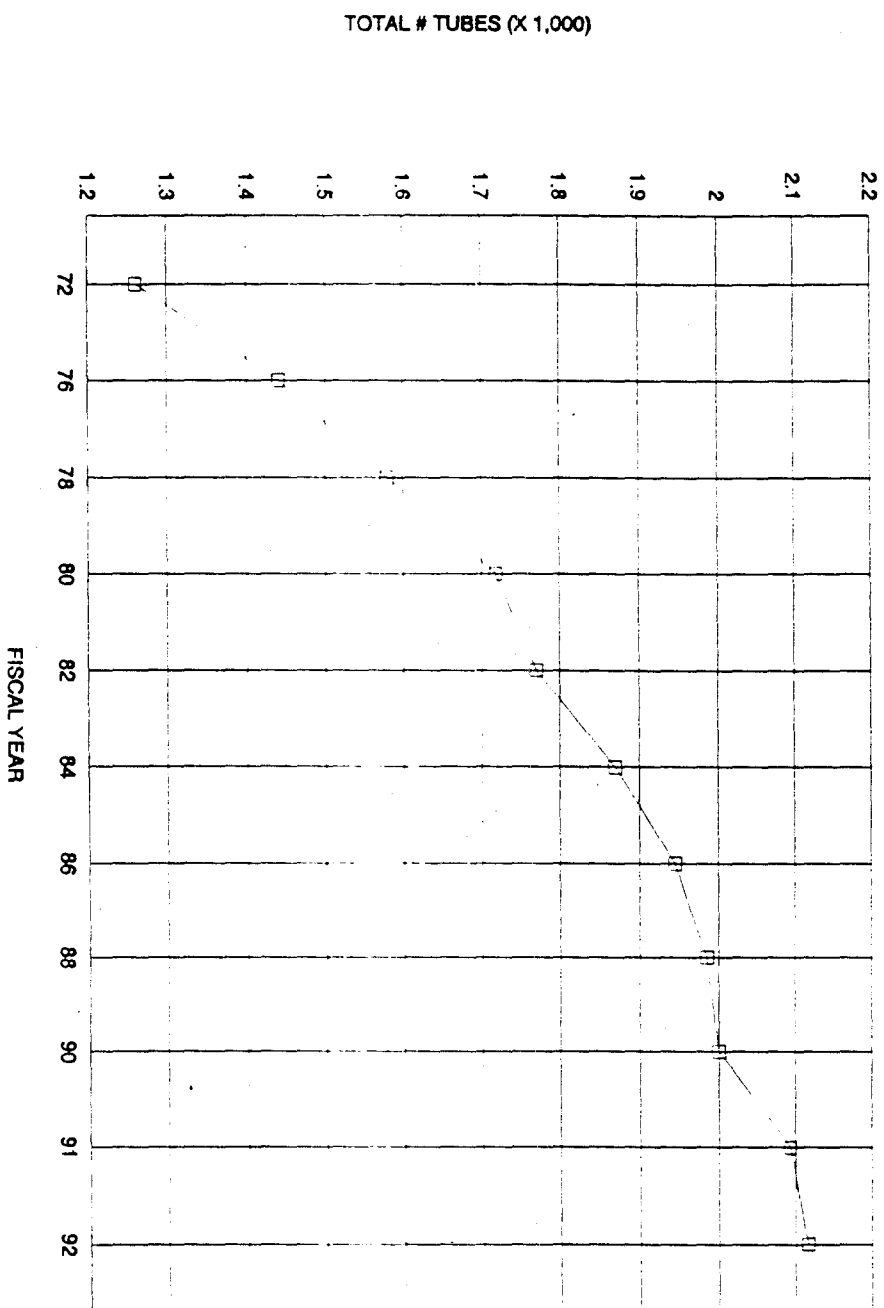
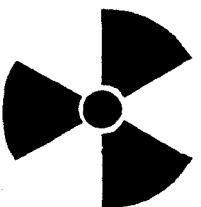
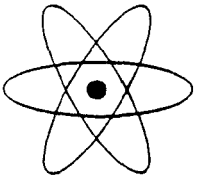


FIG. 2



NEEDED VS. ACTUAL INSPECTION FREQUENCY

RADIATION CONTROL

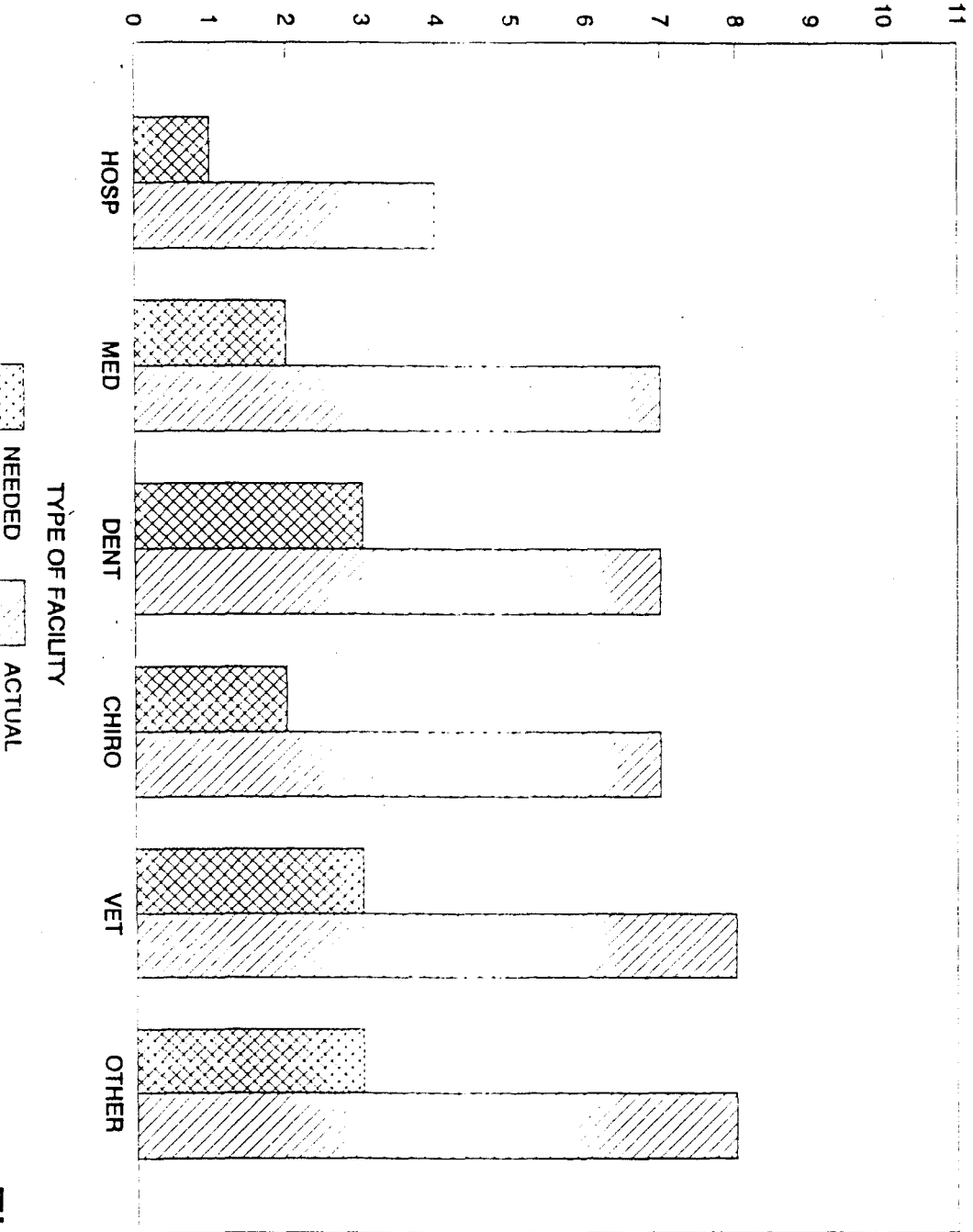


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FIG. 3

THE WALT STREET JOURNAL

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WEDNESDAY, DECEMBER 11, 1985

DENVER, COLORADO

Penetrating Issue

Faulty X-Ray Devices, Untrained Operators Overdose U.S. Patients

Radiation Level Disparities Alarm Safety Inspectors, But Dangers Are Disputed

Old, Unserved Equipment

By JENNIFER BINGHAM HILL

Staff Reporter of The Walt Street Journal

Each year, millions of Americans are getting more radiation—often far more—than they should from medical and dental X-rays.

Studies by the federal Food and Drug Administration show that the amount of radiation from a chest X-ray varies more than 100-fold, depending on where one goes to get it. Though some of the variance results from legitimate differences in X-ray technique, much of it comes from badly maintained equipment and poorly trained operators.

Officials in various states estimate that anywhere from 15% to 50% of the machines inspected don't meet state patient-safety standards. Some 20% of the country's 165,000 X-ray operators don't have any formal training, according to the FDA.

While the causal link between cancer and radiation is clearly established, debate continues among scientists about the precise dangers from such relatively low-level radiation. It is agreed in the medical X-ray

'Death Warrant'

"Unnecessarily high diagnostic X-ray doses are signing a cancer death warrant for 750,000 people every 30 years," says John Gofman, a professor emeritus of medical physics at the University of California at Berkeley. Dr. Gofman, long a controversial figure among those concerned with radiation and health, says that his estimates are based on various studies of the health effects of radiation exposure and calculations he has made from those data.

Others are far less worried. "The idea that diagnostic levels of radiation could be harmful is purely hypothetical," says Charles Schoenfeld, a spokesman for the American Dental Association. "There aren't people out there getting more radiation than is needed," says Bruce Dan, senior editor of the Journal of the American Medical Association. "All the radiation given for diagnostic procedures is the minimum amount that can be given and still get a good picture."

A consensus does seem to exist that whatever the degree of risk, radiation exposures should be kept to a minimum. Besides, scientists over the years have steadily lowered the limits of what is considered acceptable exposure.

Besides overexposing patients, sloppy techniques and faulty machines produce films that are hard to read. That in its own way can be a health threat. "If you don't take a proper X-ray, you can miss a possible diagnosis," says John Cameron, a medical physicist at the University of Wisconsin at Madison.

The Relative Peril

These problems touch almost everyone. According to the FDA, seven out of 10 Americans get some kind of X-ray each year, with about 400 million dental and 260 million medical X-rays administered in the U.S. annually. Though nuclear-power-plant leaks grab headlines, they account for only 1% or less of the man-made radiation to which Americans are exposed. Medical and dental X-rays account for more than 99% of the FDA believes.

Yet almost anyone can push the button on an X-ray machine. Cosmetologists must be licensed in every state. But just 17 states have training requirements for X-ray machine operators, and these laws often make exemptions for dental assistants.

Large hospitals typically hire X-ray operators with credentials from a professional society after they complete a two-year training program. The X-ray operator in many private physicians' offices, however, is often a secretary or assistant taught to administer X-rays by the doctor.

Unqualified Workers

"A very large number of radiographs are taken in doctors' offices by people who, by and large, aren't qualified," says Irving Goldberger, a senior health physicist in California's radiation-control agency.

California is one of two states that require doctors to demonstrate competence in X-ray safety techniques. Elsewhere, all they need do to shoot X-rays is to buy a machine. Medical schools emphasize reading X-rays. "Medical schools aren't giving doctors any training at all in how to operate X-ray equipment," says Ray McCandless, the director of Vermont's radiation health program. In contrast, radiologists, who specialize in diagnosis and treatment of disease through the use of radiation, have a four-year residency.

Last year, Vermont passed competence requirements to take effect in 1986 for physicians operating X-ray machines. A state investigation had found widespread problems involving overexposure. Many doctors weren't even using lead aprons to protect patients' reproductive organs from radiation.

Operators of X-ray machines from the Minneapolis-St. Paul area who attended a series of training courses run by professional societies in the state were unfamiliar with basic X-ray terminology. "You would ask them what KVP they used for a lumbar spine exam and they would say

Penetrating Issue: Bad Machines, Poor Training Cause Some Patients to Be Overexposed to X-Rays

Continued From First Page

"What do you mean? I just set the dial on a or b," says Joel Gray, a medical physicist at the Mayo Clinic in Rochester, Minn., who participated in the sessions. KVP, or peak kilovoltage, helps determine how penetrating X-rays are. Setting KVP too low means more radiation exposure must be given to patients in order to get an acceptable image on the X-ray film.

Collimation is another important term many operators don't understand. Collimators limit X-ray beams to the area to be photographed, producing better-quality X-rays and reducing exposure. Without collimation, radiation scatters to parts of the body beyond the region of clinical interest. Robert Quillin, the director of Ohio's radiological health program, says it isn't unusual to find collimators on X-ray machines wide open. "That means you are getting X-rays from your knees to the top of your head," he says.

Many operators also sight-develop film; that is, they pull it out of the developer when it looks done. Instead of using a time-temperature method. "In most facilities, they aren't leaving film in the developing solution long enough," says Kathleen Kaufman, a state inspector in Los Angeles. "To compensate, they give the film and the patient too much radiation."

Medical physicists say that X-ray machines should be checked annually. While large hospitals generally do that, inspectors say machines in doctors' offices tend to be serviced only when something goes wrong. And although new equipment is available that reduces radiation dose, "a lot of doctors that went into business 20 years ago are using the same stuff," says Albert Ferguson, the head of radiation management for Los Angeles County.

A state inspector who visited Chicago dentist Hugo Elias in January, for instance, found the timer on the dentist's X-ray machine broken. As a result, radiation doses for patients receiving bite-wing

Never Serviced

Dr. Elias says he didn't know the timer was broken until the inspection. The last time the state had checked the machine was 1978, a state official says. In the 15 years the dentist has operated the machine, nobody else has ever checked or serviced it, he says. According to an Illinois inspector's notes, the machine was made about 35 years ago.

The dentist says he stopped using the X-ray machine last January, after the state sent him a cease and desist order. In an interview last month, Dr. Elias said he had started to use his machine again, after buying a new timer. However, he still didn't know how much radiation patients were receiving. "I don't have any instrument to find out," he said.

At that time, Dr. Elias said he was still sight-developing film, despite the state's order that he use a time-temperature method. "I don't understand what is the

danger for me or anybody else," he said.

But a state inspector who went back to the dentist's office on November 12 found him in compliance with state regulations. The new timer had reduced patient exposure, and Dr. Elias had purchased a new X-ray machine. He was also properly developing his film, the inspector says.

A California inspector who visited Beverly Hills orthopedist Gerald Greenspan in March 1984 found patient exposures on spinal X-rays more than four times the national median, as measured in federal government surveys.

Inspection Results

According to inspection reports, Dr. Greenspan's assistant, Alma North, wasn't collimating correctly. The X-ray machine wasn't properly calibrated and was equipped with outdated screens. Screens absorb X-rays, converting them into light that exposes the film. More radiation dose must be given to the patient to get a good X-ray film when old screens are employed.

Shielding devices weren't available for male patients in Dr. Greenspan's office, and the only protection Ms. North had was a homemade wood screen draped with a lead apron. Film badges worn by Ms. North to record the amount of radiation she was receiving showed that she had been getting radiation doses above state limits for two years. X-ray films produced in the office looked "crummy," says Ms. Kaufman, who made the inspection.

A state cease-and-desist order issued to Dr. Greenspan was lifted on April 27, 1984, after a reinspection disclosed substantial improvements. The physician had updated his screens, bought shields and had his machine calibrated. Ms. North was properly collimating films. The radiation dose for a spinal exam was reduced to about one-fifth of its previous level.

Dr. Greenspan attributes the earlier problems to poor technique and lack of awareness. "I guess all of us get to be a little remiss," he says. Like some 7,000 other California physicians, the 74-year-old doctor was grandfathered in, he says, when the state put into effect competence requirements in 1971 for doctors who operate X-ray equipment.

A Trained Technician

Ms. North, who was licensed by the state and who has formal training as a technician, says that she was collimating films properly before the state inspection.

Ignorance of simple X-ray safety techniques is raising the risk of breast cancer for women with scoliosis.

Scoliosis, a curvature of the spine, is usually monitored with X-rays. The most frequent victims are adolescent females; about 80,000 female scoliosis patients are monitored with X-rays each year.

Those exams have traditionally been taken from the front, giving the greatest radiation exposure to the breasts. Radiation-induced breast cancer has been docu-

mented. Furthermore, "female breast tissue in puberty is nearly twice as sensitive to radiation as later on," says Charles Showalter, the director of the division of technical development at the FDA.

In 1979, researchers at Case Western Reserve University in Cleveland found that taking these X-rays from the front was more than doubling patients' risks of developing breast cancer. By shooting from the back, researchers have been able to significantly reduce radiation exposure to the breasts. Special shields and filters further reduce the dose.

A Great Range

Yet these simple practices aren't being used. A recent survey by the FDA of 256 X-ray units found just 7% using breast shields and only 11% shooting from the back. The FDA found a more than 200-fold range in radiation dose.

Some blame ignorance, even among radiologists. "These doctors just don't know about this. They're not aware," says Priscilla Butler, a medical physicist at George Washington University Medical Center who worked on the FDA scoliosis study.

The problem of diagnostic X-rays is also easy to ignore. "It isn't dramatic," explains Mr. Goldberg of California's radiation-control program. "Nobody is dying in the streets."

State X-ray inspection programs are understaffed and burdened with other responsibilities such as regulation of nuclear power plants. Many are years behind on X-ray machine inspections.

Limited Resources

Pennsylvania aims to inspect dentists' offices once every 10 years, but "some don't even get inspected that often," says Donald McDonald, the chief of the state's division of radiation control. Ohio only has enough staff at present to respond to emergencies. "We are trying to put out fires, and we aren't even doing that very well," says Mr. Quillin, the state program director.

With limited resources, regulators focus on high-use facilities, such as radiologists' offices and hospitals. The offices of non-radiologist practitioners, where problems most often occur, are checked the least. California's inspection schedule, for instance, calls for checking hospitals every 3 1/2 years. Physicians' offices are inspected once every five years. The state is at least a year behind on this schedule.

Most states also lack the enforcement power to make operators reduce radiation dose. "They may have a facility giving 10 times the exposure that is necessary, but they can't do anything," says Maury Neuweg, the manager of Illinois' radiation-safety program.

Illinois and Vermont have set maximum exposure levels for X-ray exams. Mr. Neuweg says the rules have helped cut radiation exposure in dental exams dramatically. Still, the state issues cease-and-desist orders to X-ray operators at the rate of only about one a month.

Federal involvement is limited. The

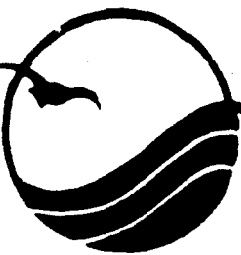
FDA has cut staff and financing for X-ray programs 20% in the past five years. The Consumer-Patient Radiation Health and Safety Act passed by Congress in 1981 required the Department of Health and Human Services to develop standards for certification of X-ray operators and accreditation of their educational programs by 1982, as well as a model state licensing statute for operators. Neither final regulations nor a model state law was issued.

Departing HHS Secretary Margaret Heckler asked Congress to repeal the requirements last July. "What the FDA and the states are doing to regulate equipment already protects health and safety," says an HHS spokesman.

Congress ignored the secretary's request, and in August the American Society

of Radiologic Technologists sued Mrs. Heckler and her department, demanding publication of the standards. Under a settlement of the suit, the department has agreed to issue them by next Monday. A department official says the standards are expected to be published in the Federal Register today.

However, states won't be required to adopt the standards, which specifically exclude physicians anyway. The HHS has also interpreted the standards to exempt part-time X-ray operators such as secretaries. Yet "these are the people of concern because they have no training at all, not even responsible on-the-job training," says Dennis Hahn of Michigan's division of radiological health.



Pardis Chiropractic Clinic

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DATE 2-9-93
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W. PAT PARDIS, D.C.
606 PRAIRIE DOG LANE
BELGRADE, MT 59714
(406) 388-4068

2-5-93

Mr. George Eicholtz
Health Physicist
Department of Health and Environmental Sciences
Cogswell Building
Helena, Mt 59620

Dear Mr. Eicholtz,

Thank you for your visit the other day and testing for secondary radiation beneath my X-ray room. I'm sure that you shared my concern in this matter and I was very happy to find that we did not have a problem. Thank you also for your professionalism.

I would appreciate it if you would send me a report of your findings for my files. You can understand the situation that I could potentially have with liability and I would very much appreciate having something for my files.

I thank you in advance, and look forward to seeing you again when you next make a trip to the Bozeman area.

Sincerely,

W. Pat Pardis, D.C.

PHYSICIANS' LABORATORY SERVICE

D.C. LEHFELDT, M.D. Pathologist

JULY 27, 1992

TO: ADRIAN HOWE, CHIEF
OCCUPATIONAL AND RADIOLOGICAL HEALTH BUREAU
DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES
COGSWELL BUILDING
HELENA, MONTANA 59620

FROM: DARWIN C. LEHFELDT, M.D.,
RADIATION SAFETY OFFICER
BOZEMAN DEACONESS HOSPITAL
915 HIGHLAND BOULEVARD
BOZEMAN, MONTANA 59715

DEAR SIR:

I strongly support the proposal that Montana become an NRC agreement state. I am certain that it can provide better and more timely service.

SINCERELY YOURS,


D.C. LEHFELDT, M.D.

DCL/kje

University of Montana

EXHIBIT # 4
DATE 2-9-93
HB-400

Environmental Health Officer
University of Montana
Missoula, Montana 59812-1387
(406) 243-2881, FAX (406) 243-2335

RECEIVED

JUL 21 1992

July 20, 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

Adrian Howe
Occupational and Radiological Health Bureau
Cogswell Building
Helena, MT 59620


Adrian:

I am writing in response to your June 24, 1992 memo. On behalf of The University of Montana, I want to convey our support for the establishment of agreement state status between Montana and the Nuclear Regulatory Commission. This support is conditional on the continuance of our fee exempt status as it currently exists.

While the Nuclear Regulatory Commission has been excellent to work with in the past, there are a number of advantages to your agency administering the rules and I would look forward to working with you in the future.

As the legislative session nears, please let me know if I can provide any additional support.

Sincerely,



Danny W. Corti
Radiation Safety Officer



July 17, 1992

RECEIVED

JUL 20 1992

Adrian Howe, Chief
Occupational and Radiological Health Bureau
Dept. of Health and Environmental Sciences
Cogswell Building
Helena, MT 59620

MDHES
OCCUPATIONAL HEALTH BUREAU

Re: Radiation Control Program Support

Dear Adrian:

Our recent nuclear license fee increase of \$1500 came as an unpleasant surprise to say the least. If the State of Montana can administer the radiation control program for significantly less than the federal government and reduce license fees, I support you 100%.

Sincerely,

A handwritten signature in cursive script that reads "Jim Pierce".

Jim Pierce
Radiation Safety Officer
City of Great Falls, MT

Read File

EXHIBIT #4
DATE 2-9-93
HB-400

CARVER ENGINEERING, INC.

Consulting Engineers
1995 Third Avenue East
Kalispell, Montana 59901
Phone (406) 257-6202

RECEIVED

Civil
Structural
Environmental

July 2, 1992

JUL 13 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

Adrian Howe, Chief
Occupational and Radiological Health Bureau
MDHES
Cogswell Building
Helena, MT 59620

RE: Radiation Control Program Planning and Support

Dear Mr. Howe:

Carver Engineering would be supportive of the proposal for Montana to establish Agreement State status and to obtain primacy for the regulations of by product materials if this would reduce our operating fees one third to one half of the current NRC fee.

Respectfully,

CARVER ENGINEERING, INC.

Tina L. Malkuch
Tina L. Malkuch / KT

TLM:kt



CARROLL COLLEGE

Department of Health and Environmental Sciences
Occupational Health Bureau
Cogswell Building
Helena, MT 59620

RECEIVED

JUL 6 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

July 1, 1992

To Whomever It May Concern:

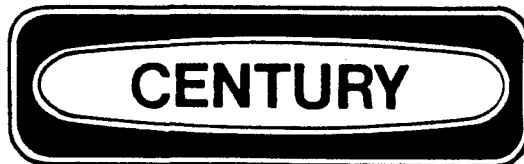
This is written in support of the proposal for Montana to provide statutory authority to establish and collect fees and to include revisions to render the Montana rules regarding radiation control compatible with those of the U.S. Nuclear Regulatory Commission.

If we can be of any help in the updating process, please contact me.

Sincerely Yours,

(Rev.) Joseph D. Harrington, Ph.D.
Professor of Biology
Radiation Safety Officer

JDH/jh



CENTURY
CONSTRUCTION COMPANY, INC.
Asphalt Paving Contractors

EXHIBIT #4
DATE 2-9-93
BY HB-400

July 8, 1992

Adrian Howe, Chief
Occupational & Radiological Health Bureau
Cogswell Building
Helena, MT 59620

RE: Your Memorandum of 6-24-92

Dear Chief;

We here at Century Construction are very much in support of your proposal of a state program for Radiation Control. We have a Troxler Moisture/Density Gauge. The fee increase from the NRC for this past year was outrageous! We would like to see a state program that would save us money.

Sincerely yours,

CENTURY CONSTRUCTION CO., INC.

Tom Evans (RH)

Tom Evans
Radiation Safety Officer





DELTA ENGINEERING P.C.

CONSULTING ENGINEERS
2701-16TH ST. N.E.
P.O. BOX 1481
GREAT FALLS, MT 59403
(406) 727-3687

RECEIVED
JUL 2 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

June 30, 1992

Adrian Howe, Chief
Occupational & Radiological Health Bureau
Dept. of Health & Environmental Sciences
Cogswell Building
Helena, MT 59620

Dear Ms. Howe:

I have read your Memorandum dated June 24, 1992 regarding the plan for Montana to receive status as an Agreement State for radiation control and by-product materials.

Please consider this letter as an indication of our support and encouragement to proceed.

Yours very truly,

DELTA ENGINEERING, P.C.

Gary L. Knudson, P.E.
President

GLK/lh

Hydrometrics, Inc.



2727 Airport Road • Helena, Montana 59601 • (406) 443-4150 • FAX (406) 443-4155

EXHIBIT # 4

DATE 2-9-93

A HB-400

RECEIVED

JUN 1 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

June 29, 1992

Adrian Howe, Chief
Occupational and Radiological Health Bureau
Montana Department of Health and
Environmental Sciences
Cogswell Building
Helena, Montana 59620

RE: Radiation Control Program

Dear Adrian,

I am writing in regard to your letter concerning Montana's proposed Radiation Control Program. Because of the NRC's recent fee increases, Hydrometrics is currently evaluating the value of keeping our nuclear densometer.

If the MDHES can operate a radiation control program that requires one third to one half the current NRC license fee, then Hydrometrics would welcome and support the MDHES' proposed program.

Sincerely,

Michael R. Wignot, P.E.
Engineering and Environmental Services Manager

MRW:ls



June 29, 1992
S92-171

RECEIVED
JUN 30 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

Adrian Howe, Chief
Occupational & Radiological Health Bureau
Cogswell Building
Helena, MT 59620

Dear Adrian:

The cost of the fee for our instrument was such that we had to sell it. We no longer have an instrument for measuring compaction and we now have to contract for the service.

We support the lower fee, if this will indeed happen.

If you have any questions, please call me at 721-5700 extension 3225.

Sincerely,

Horace S. Brown
County Surveyor

HSB/jn



PROFESSIONAL CONSULTANTS INCORPORATED

RECEIVED

JUN 30 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

4
2-9-93
HB-400
3115 RUSSELL ST.
P.O. BOX 3416
MISSOULA, MONTANA
406/728-1880 59806

June 29, 1992

Mr. Adrian Howe
Occupational and Radiological Health Bureau
DHES, Cogswell Building
Helena, Montana 59620

RE: Radiation Control Program

Dear Mr. Howe;

As a user of a small amount of radioactive material in our Troxler 3411B Density Testing Gauge, we are very interested in seeing the NRC Licensing and Inspection fees decrease. I would like to see more specifics as to which of the NRC fees you would be replacing and how you will perform these services at less cost.

I believe that some other states that have had primacy, are now trying to give it back to the NRC. If that is so, what problems did they run into?

In any event, I do support Montana achieving primacy as long as costs can be kept lower than NRC.

Sincerely;

PROFESSIONAL CONSULTANTS, INC.

Thomas M. Hanson

NRC-1/PRM3



DAMSCHEN & ASSOCIATES, INC.

CONSULTING ENGINEERS

2030 11TH AVENUE • SUITE 11
P.O. BOX 4817 • HELENA, MT 59604

TELEPHONE (406) 449-8627
FAX (406) 449-8631

June 27, 1992

Adrian Howe, Chief
Occupational and Radiological Health Bureau
Cogswell Building
Helena, MT 59620

RE: Radiation Control

Dear Mr. Howe:

This letter is to offer support from our Firm for Montana to seek agreement state status and obtain primacy for the regulation of byproduct materials. We recognize that such a move would benefit our Firm from an economic standpoint, as well as an improvement in service.

Yours very truly,

DAMSCHEN & ASSOCIATES, INC.

Daniel M. McCauley, P.E.
Vice President

DMM/jmr

RECEIVED
JUN 29 1992
MDHES
OCCUPATIONAL HEALTH BUREAU



FRANCES MAHON DEACONESS HOSPITAL

June 26, 1992

EXHIBIT # 4
DATE 2-9-93
FILE H.B. 400

621 3rd St. South
Glasgow, MT 59230
406-228-4351

Adrian Howe, Chief
Occupational and Radiological Health Bureau
Department of Health and Environmental Sciences
State of Montana
Cogswell Building
Helena, MT 59620

RECEIVED

JUL 7 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

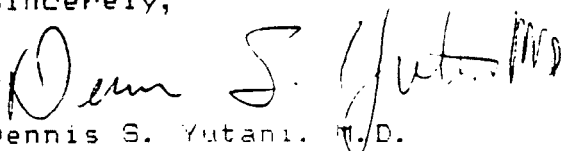
Dear Mr. Howe:

I have received your letter of June 24, 1992, regarding Nuclear Regulatory Commission licensees in Montana. I have reviewed the letter and have discussed it with hospital personnel. My status is that of the Radiation Safety Officer for Frances Mahon Deaconess Hospital, and I am the radiologist for the hospital. Although I do not have board certification in nuclear medicine, nor I am listed under the category of a radiologist with extended training in nuclear medicine, I do perform nuclear medicine procedures here and have had extensive clinical experience of over 14 years, and have attended specialized training in various facets of nuclear medicine. I have been hoping that an action such as outlined by your letter would occur for the state of Montana.

Based on your informative letter and my discussions with the hospital administration, we wholeheartedly support the proposal that Montana become an NRC agreement state. Even if the Montana state fee were to remain stable by the time we become an NRC agreement state in three years, we would not object to that fee schedule chiefly because of the expectation of better and more timely service. We have undertaken a commitment toward always providing the best health care quality to our patients, and we view this direction and proposal to be a positive aspect of improving patient quality care.

If we can be of any help in supporting your proposal, please do not hesitate to contact myself or Mr. Kyle Hopstad, Administrator, Frances Mahon Deaconess Hospital. Our address is listed above.

Sincerely,


Dennis S. Yutani, M.D.

DSY/rjh
6/26/92/6/26/92



**Columbus
Hospital**

Established in 1892 by Sisters of Providence

500 15TH AVENUE SOUTH · P.O. BOX 5013
GREAT FALLS, MONTANA 59403 (406) 727-3333

#4
DATE 2-9-93
HB-400

RECEIVED

JUL 15 1992

MDHES
OCCUPATIONAL HEALTH BUREAU

July 13, 1992

Adrian Howe
Chief
Occupational and Radiological Health Bureau
Department of Health & Environmental Sciences
Cogswell Building
Helena, MT 59620

Dear Mr. Howe:

The Radiation Safety Committee of Columbus Hospital at their meeting on July 8, 1992, concurs that Montana establish an Agreement State status with the Nuclear Regulatory Commission. The committee feels it is in the best interest for the State of Montana while maintaining the usual high standards of radiation safety protection for the residents and employees of the State of Montana.

Sincerely,

Rod Wimmer, Ph.D.
Physicist and Chairman
Radiation Safety Committee

RW/hv

EXHIBIT 5
DATE 2-9-93
HB 400

MONTANA

**MEDICAL
ASSOCIATION**

2021 Eleventh Avenue • Helena, Montana 59601-4890
Telephone (406)443-4000 or In-State 1-800-MMA-WATS (662-9287)
FAX (406)443-4042

February 8, 1993
Monday

TO: HOUSE TAXATION COMMITTEE
FROM: MONTANA MEDICAL ASSOCIATION

RE: HB 400

Dear Representatives:

The Montana Medical Association applauds Representative Wanzenried's recognition of the need for inspection of certain radiological services in the interest of protection of the public.

However, the Montana Medical Association is opposed to an additional provider tax. Representative Wanzenried's bill requires that the funding source is fees placed upon the provider and these provider taxes only add to the spiraling health care costs we are experiencing in Montana.

We urge the committee to recommend a do not pass.

All best wishes to you.

BL:dh



PROPOSED DAYCARE PROVIDER CHILD CARE TAX DEDUCTION



1) MONTANA WORKERS DEPEND ON CHILD CARE

Montana's economy depends on the hard work of a group of self-employed small businesses: licensed and registered daycare providers.

2) DAYCARE PROVIDERS MAKE BELOW POVERTY WAGES

They care for 64% of our preschoolers, and without them many of our workers would be absent from their jobs. The average child care wage is only \$5.35/hour, with no benefits.

3) PARENTS WORKING AS DAYCARE PROVIDERS DON'T HAVE THE SAME TAX SUPPORT AS OTHER WORKING PARENTS

Currently, daycare providers must pay someone else to care for their own children in order to take advantage of state or federal dependent care tax credits. This policy is contradictory to the view that parents should be supported in their decision to care for their own children.

4) GIVE THEM A BREAK...THE SAME BREAK THAT OTHER WORKING PARENTS GET!

We ask the state of Montana to extend the Montana Child Care Tax Deduction to the licensed or registered provider who cares for his/her own child under the age of six as part of his/her regulated roster of children.

5) AN INVESTMENT IN STABLE, QUALITY CHILD CARE FOR EVERY MONTANA COMMUNITY

This additional income will have a significant impact on the availability of child care in Montana communities, and on the longevity of these small businesses.

6) IMPROVE THE FINANCIAL CONDITION OF MONTANA'S DAYCARE PROVIDERS AND LOWER THEIR HIGH RATE OF TURNOVER

The turnover rate of child care workers presently approaches 59% annually. This additional income will help lower turnover.

7) THE NEED FOR STABLE, QUALITY CHILD CARE IMPACTS MONTANA FAMILIES FROM ALL SOCIAL, POLITICAL AND ECONOMIC BACKGROUNDS—AND THEIR EMPLOYERS

Montana families and businesses will be supported in their child care needs when the state's day care providers are entitled to the same child care tax deduction that other working parents claim.

.....

CURRENT MONTANA CHILD & DEPENDENT CARE DEDUCTION

ELIGIBILITY REQUIREMENTS:

- Adjusted gross income must be less than \$22,800 if one child, \$25,200 if two children, or \$27,600 if three or more children;
- Care expenses for children under age 15 are included;
- If adjusted gross income is more than \$18,000, eligible expenses are reduced

MAXIMUM DEDUCTION AVAILABLE:

- \$432

THIS DEDUCTION IS NOT REFUNDABLE!

Part 6 reserved

Part 7

Child Care

Part Cross-References

Authorization to levy tax and establish fund for establishment and maintenance of day-care facilities, 7-16-4114.

Preschool pupil immunization requirements, Title 20, ch. 5, part 4.

52-2-701. Short title. This part may be cited as the "Montana Child Care Act".

History: En. Sec. 1, Ch. 692, L. 1989.

52-2-702. Purpose — findings. (1) The purpose of this part is to assure that children requiring day care be provided such food, shelter, security and safety, guidance and direction, nurture and comfort, and learning experiences commensurate to their ages and capabilities so as to safeguard the growth and development of such children, thereby facilitating their proper physical and emotional maturation.

(2) (a) The legislature finds that the number of children living in homes where both parents work or in homes with a single parent who works has increased dramatically over the last decade.

(b) The legislature finds that the availability of quality child care is critical to the self-sufficiency and independence of Montana families, including the growing number of mothers who have young children and who work out of economic necessity.

(c) The legislature further finds that the number of quality child-care arrangements falls far short of the number required for children in need of child-care services.

(d) It is the intent of the legislature that the state promote day care for the purposes of:

- (i) improving the quality of, and coordination among, child-care programs and providing additional resources for child-care services;
- (ii) promoting the availability and diversity of quality child-care services for all children and families that need such services;
- (iii) providing assistance to families whose financial resources are not sufficient to enable them to pay the full costs of necessary child-care services;
- (iv) ensuring that parents are not forced by lack of available programs or financial resources to place a child in an unsafe or unhealthy child-care facility; and
- (v) assisting people in finding and maintaining employment by lessening the stress related to the lack of adequate child care.

History: (1) En. Sec. 1, Ch. 606, L. 1981; amd. Sec. 92, Ch. 609, L. 1987; amd. Sec. 8, Ch. 692, L. 1989; Sec. 53-4-501(1), MCA 1987; redes. 52-2-702(1) by Code Commissioner, 1989; (2) En. Sec. 2, Ch. 692, L. 1989.

52-2-703. Definitions. In this part, the following definitions apply:

(1) "Child" means a person under 13 years of age.

(2) "Day-care facility" means a person, association, or place, incorporated or unincorporated, that provides day care on a regular basis. It includes a family day-care home, a day-care center, or a group day-care home. The term does not include:

(a) a person who limits care to children who are related to him by blood or marriage or under his legal guardianship; or

(b) any group facility established chiefly for educational purposes that limits its services to children who are 3 years of age or older.

(3) "Day-care center" means a place in which day care is provided to 13 or more children on a regular basis.

(4) "Department" means the department of family services provided for in 2-15-2401.

(5) "Day care" or "child care" means less-than-24-hour out-of-home care for children, whether that care is for daytime or nighttime hours.

(6) "Regular basis" means providing day care to children of separate families for any daily periods of less than 24 hours and within 3 or more consecutive weeks.

(7) "Family day-care home" means a private residence in which day care is provided to three to six children from separate families on a regular basis.

(8) "Group day-care home" means a private residence in which day care is provided to 7 to 12 children on a regular basis.

(9) "Registration" means the process whereby the department maintains a record of all family day-care homes and group day-care homes, prescribes standards, promulgates rules, and requires the operator of a family day-care home or a group day-care home to certify that he has complied with the prescribed standards and promulgated rules.

(10) "Registrant" means the holder of a registration certificate issued by the department in accordance with the provisions of this part.

(11) "Registration certificate" means a written instrument issued by the department to publicly document that the certificate holder has, in writing, certified to the department his compliance with this part and the applicable standards for family day-care homes and group day-care homes.

(12) "License" means a written document issued by the department that the license holder has complied with this part and the applicable standards and rules for day-care centers.

(13) "Licensee" means the holder of a license issued by the department in accordance with the provisions of this part.

(14) (a) "Related by blood or marriage" means the status of a child who is the son, daughter, brother, sister, first cousin, nephew, niece, or grandchild of a person providing child care.

(b) The term includes the status of a child described in subsection (14)(a) in a step or adoptive relationship.

History: En. Sec. 1, Ch. 247, L. 1965; amd. Sec. 2, Ch. 121, L. 1974; R.C.M. 1947, 10-801; amd. Sec. 7, Ch. 38, L. 1979; amd. Sec. 2, Ch. 608, L. 1981; amd. Sec. 92, Ch. 609, L. 1987; amd. Sec. 8, Ch. 692, L. 1989; Sec. 53-4-501(2), MCA 1987; redes. 52-2-703 by Code Commissioner, 1989; amd. Sec. 1, Ch. 404, L. 1991.

Montana
DEDUCTION FOR CHILD AND
DEPENDENT CARE EXPENSES

	Your First Name & Middle Initial	Your Social Security No.
if Different	Spouse's First Name & Initial	Spouse's Social Security No.

qualifying persons cared for (see D below) 1. 1
Enter actual amount paid during year not to exceed limitations below 2. 2400
Limitation: \$2,400 for one person
more than \$3,600 for two persons
\$4,800 for three or more persons

Enter in columns A & B from line 35, Form 2, Page 2 3. 22,000
If line 3 is less than \$18,000 STOP HERE. Enter amount from line 2 above on line 81, Form
Schedule I. Married couples filing separate on same form enter 1/2 of Line 2 in each
column.

OR

If line 3 is over \$18,000 continue below
Enter amount 4. 18,000
Subtract \$18,000 from line 3 5. 3000
Multiply line 5 by .50 6. 1500
Subtract line 6 from Line 2 (If zero or less no deduction allowed) 7. 900
Enter amount from Line 7 on Line 81, Form 2A, Schedule I.

Married couples filing separate on same form enter 1/2 of Line 7 in each column.

INSTRUCTIONS

This Deduction—If you maintain a household member, one or more qualifying individuals (See instructions for related expenses PAID during the taxable year).

Qualifying individuals as maintaining a household for any year only if the cost of maintaining the household for that year, you and your spouse must provide more than half the cost for that year.

Qualifying individuals maintaining a household include property taxes, rent, utility charges, upkeep and repairs, property insurance, medical treatment, vacations, life insurance.

How to take the child care deduction while filing separately. The deduction must be divided equally between you and your spouse. You may not claim the deduction if you are married and filing separately (filing status 4).

Qualifying individuals must meet the following requirements—If you are married for any period during the year, take into account employment-related expenses for any month of that year only if:

- both you and your spouse are gainfully employed on a full-time or part-time basis, or actually seeking employment, or
 - one of you is physically or mentally incapable of self-care.
- Employment must be considered gainful employment for the purpose of the deduction.

C. Child Care Deduction vs. Medical Expenses Deduction—If an expense qualifies as both employment-related and medical, you may treat it either way, as long as you do not deduct it twice.

If you treat the expense as medical, then the part of it that is not deductible because of the 7 1/2% medical deduction limitation cannot be used as part of your employment-related expenses.

Specific Instructions

D. Enter the number of qualifying persons cared for during the year. A qualifying person must be:

- (a) a dependent under age 15 for whom an exemption may be claimed;
- (b) a dependent who, regardless of age, is unable to care for himself or herself because of a physical or mental illness; or
- (c) a spouse who is unable to care for himself or herself because of a physical or mental illness.

EXHIBIT 9
DATE 2-9-93
HB 268

PROPOSED AMENDMENTS TO HB 268

Insert on Page 4, Line 2

NEW SECTION. Section 5. Property tax limitation. In a city or town funding fire services through this fire service area authorization, the amount of property taxes allowed to be levied under the provisions of M.C.A. 15-10-401--412 will be reduced by the amount of mills levied for fire services in the year prior to the establishment of the fire service area.

(Renumber subsequent section.)

Amendments to House Bill No. 268
First Reading Copy

For the Committee on Taxation

Prepared by Lee Heiman
February 9, 1993

1. Title, line 4.

Strike: "AND"

Insert: ", "

2. Title, line 5.

Following: "TOWNS"

Insert: ", AND CONSOLIDATED CITY-COUNTY GOVERNMENTS"

3. Title, line 6.

Following: "AREAS"

Insert: "; AND PROVIDING FOR PROPERTY TAX LIMITATION"

4. Page 1, line 10.

Following: "(1)"

Insert: "(a)"

5. Page 1.

Following: line 15

Insert: "(b) The governing body of a consolidated city-county may establish a fire service area to provide the services and equipment set forth in [section 2] in areas of the city-county that are not part of a fire protection service district, rural fire district, or fire service area."

6. Page 4.

Following: line 1

Insert: "NEW SECTION. Section 5. Property tax limitation. In a city or town that funds fire services through a fire service area, the amount of property taxes allowed to be levied under the provisions of Title 15, chapter 10, part 4, must be reduced by the number of mills levied for fire services in the year prior to the establishment of the fire service area. If fire services are financed from the general fund or by a combination of general fund and mill levies, the reduction in the number of mills is the number of mills that would have been necessary to generate the fire service funding in the previous year."

Renumber: subsequent section

7. Page 4, line 3.

Page 4, line 5.

Strike: "4"

Insert: "5"

In compliance with a written request, there is hereby submitted a Fiscal Note for HB0397, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION: An act increasing the fees for duplicate driver's licenses and instruction permits and for copies of Montana driving records; establishing a fee for national driver register inquiries; providing for the issuance of an identification card to any applicant; increasing the fee for identification cards.

ASSUMPTIONS:

1. 12,450 duplicate driver licenses were issued in calendar 1991. The same number will be issued in FY94 and FY95. The bill would raise fees for issuance of duplicate driver licenses from \$5 to \$8.
2. 385,000 Montana driving records were requested and issued in FY92. The same volume will be issued in FY94 and FY95. The bill would raise the fee for these requests from \$3 to \$4.
3. A National Driver Register (NDR) inquiry will be made for 30% of federal employees in the state each year and there are currently 20,000 federal employees in Montana. The estimated annual revenue from imposition of a \$3 fee for each inquiry is \$18,000 (6,000 x \$3).
4. It is assumed that 5% of all licensed drivers (5% x 680,000) will purchase an identification (ID) card in addition to the driver's license at time of license renewal. Therefore, 8,500 (680,000 X 5% / 4) will buy ID cards each year, plus 2,500 that are purchased annually under current law. Current law limits the issuance of these cards to those who do not hold a valid driver's license or whose license is suspended. The bill would raise the ID card fee from \$1 to \$8.
5. The following expenses are estimated to be necessary to provide security and imaging to the driver's license: operating expenses of postage for ID cards: \$2,300; computer network charges for new on-line driver services access for 42 counties: \$20,200; additional contract fees for imaging: \$138,700; estimated growth in the number of licenses processed (FY95): \$16,800; and data processing equipment each year: \$17,000.
6. Although the executive budget recommends funding the Motor Vehicle Division with highways state special revenue, funding for the Driver Services Bureau is shown as general fund on this fiscal note to be consistent with the action of the General Government and Transportation Appropriations Subcommittee on January 22, 1993, to reject the funding switch.

FISCAL IMPACT: Department of Justice-Driver Services Bureau:

Expenditures:	FY '94			FY '95		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
FTE	108.25	108.25	0.00	108.25	108.25	0.00
Personal Services	2,704,300	2,704,300	0	2,711,600	2,711,600	0
Operating	978,700	1,139,900	161,200	990,200	1,168,200	178,000
Equipment	124,400	141,400	17,000	129,100	146,100	17,000
Debt Service	131,500	131,500	0	131,500	131,500	0
Total	3,938,900	4,117,100	178,200	3,962,400	4,157,400	195,000
Funding:						
General Fund	3,924,400	4,102,600	178,200	3,949,900	4,144,900	195,000
Federal Special Revenue	14,500	14,500	0	12,500	12,500	0
Total	3,938,900	4,117,100	178,200	3,962,400	4,157,400	195,000

(continued)

Dave Lewis 2-5-93
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

Scott T. McCulloch 2-9-93
SCOTT MCCULLOCH, PRIMARY SPONSOR DATE

Fiscal Note for HB0397, as introduced

EXHIBIT 11
DATE 2-9-93
15B 397

Revenues:

	FY '94	
	<u>Current Law</u>	<u>Difference</u>
Duplicate Driver Lic. (General Fund)	62,250	37,350
Driving Record Report (General Fund)	1,155,000	385,000
NDR Inquiry (General Fund)	0	18,000
Identification Card (General Fund)	2,500	85,500
Total	1,219,750	525,850

Net General Fund Impact

347,650

	FY '95	
	<u>Current Law</u>	<u>Difference</u>
	62,250	99,600
	1,155,000	1,540,000
	0	18,000
	2,500	88,000
	1,219,750	1,745,600

330,850

329,650

11
2-9-93
HB-397

EXHIBIT 1A
DATE 2-9-93
HB 397

**Amendment to House Bill 397
First Reading Copy**

**Prepared by the Department of Justice
February 3, 1993**

1. The Title of the Bill, Page 1 , line 12

Following: "MONTANA DRIVER'S LICENSES;"

Add: "LIMITING INFORMATION PLACED ON MAGNETIC STRIPE;"

2. Page 4, line 13

Following: "a magnetic reader stripe,"

Add: "containing only the information shown on the face of the driver's license or identification card,"

EXHIBIT 10
DATE 2-9-93
HB 397

Amendment to House Bill 397
First Reading Copy

Prepared by the Department of Justice
February 3, 1993

1. Page 4, line 3

Following: "general fund."

Add: "HANDICAPPED PERSONS AS DEFINED IN 39-30-103, MCA, AND
MONTANA RESIDENTS 65 YEARS OR OLDER MAY OBTAIN A FREE
IDENTIFICATION CARD."

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Child Care Tax Deduction COMMITTEE BILL NO. HB 505
DATE 2/9/93 SPONSOR(S) Rep. Coschianella

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
<u>Diane Sands</u>	<u>Nat. Women Lobby</u>	<u>X</u>	

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