

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
53rd LEGISLATURE - REGULAR SESSION**

COMMITTEE ON TAXATION

Call to Order: By **CHAIRMAN BOB GILBERT**, on February 11, 1993, at 8:15 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. Tom Nelson (R)
Rep. Scott Orr (R)
Rep. Bob Ream (D)
Rep. Rolph Tunby (R)

Members Excused: None

Members Absent: None

Staff Present: Lee Heiman, Legislative Council
Jill Rohyans, Committee Secretary
Louise Sullivan, Transcriber

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

Committee Business Summary:

Hearing: SB 175, SB 206, HB 421, HB 475 and
HB 490
Executive Action: HB 490, Do Pass As Amended
SB 175, Be Concurred In

CHAIRMAN GILBERT said the Department of Revenue (DOR) was present to discuss the two bills requested by the Committee.

Judy Rippingale, Deputy Director, Department of Revenue (DOR), explained the first bill requested by the Taxation Committee which would deal with accounting procedures to ensure everything is in accordance with Generally Accepted Accounting Principles (GAP), which means accrued taxes must be distributed in the same way they are accrued. She said the Department of Administration (DOA) and John Northey from the Legislative Auditor's Office were also present. She pointed out different words in the tax laws that can have different meanings when used in accounting, i.e., pay, disburse, distribute, etc. She said the bill is a technical accounting issue. Tax laws must be stated consistently and GAP must be applied consistently.

Questions From Committee Members and Responses:

In answer to a question by **REP. FOSTER**, **Ms. Rippingale** replied that GAP would be applied to all revenue collections.

Ms. Rippingale explained the second issue and distributed a handout on Taxation of Railroad Car Companies. **EXHIBIT 1** She said during the July, 1992, Special Session, the Legislature passed a bill which took the freightline tax off railcar companies and put railcar companies on a property tax base because the companies filed suit against the state which the DOR attorneys felt they would lose. They also believed they would lose all the revenue if they did not change the tax laws. In that change, the average mill levy for all properties was said to be the mill levy that would apply to railcar companies. Under the 4R's Act it is more appropriate to apply the statewide commercial and industrial property mill levy because under federal law Montana cannot discriminate against railcar companies versus commercial and industrial properties. The companies were aware of this and brought it to DOR's attention. They also told the state they may file suit against Montana for retroactive application of the law. She said DOR would like to clean up the law before a lawsuit is filed so the suit could focus on the mill levy which does raise a discrimination question under the 4R's Act and is a complication the state does not need. By changing the mill levy from all property to commercial and industrial, the state would lose approximately \$300,000 in revenue per year. She said under the freightline tax Montana was collecting approximately \$1.2-\$1.3 million per year from the railcar companies. The revenue will almost double under the property tax application. If the state loses the lawsuit Montana stands to lose \$6 million. She asked the Committee to sponsor a bill to make the tax commercially based and the industrial property average mill levy applied to railcar companies.

Questions From Committee Members and Responses:

REP. HARPER asked if the lawsuit had been filed or did they think it might be filed. **Ms. Rippingale** said the Legislature changed the law in the special session as a result of a lawsuit. The railcar companies have told DOR they expect to file another lawsuit challenging at least the retroactive application of that new law. The rules have not been put in final form and DOR has not yet been sued.

REP. HARPER asked why the bill was not in the correct form when it was passed. Was the legislature given the wrong advice or didn't they know what they were doing? **Ms. Rippingale** said there is a statewide average used for trucks and there was an attempt to make railcar companies equivalent to trucks. That was the mill levy that was used but when DOR got further into it they could see it should be related to the 4R's rather than the trucking industry.

CHAIRMAN GILBERT clarified that the trucking industry does qualify under the 4R's Act, but in Montana they have never insisted on it so they are assessed a higher rate. The railcar companies want the tax to be the rate the 4R's are assessed.

REP. HARPER said he understands if this Legislature doesn't act, and if a court case is filed and lost, the state would be subject to losing the entire amount, opposed to losing \$300,000 if it is addressed now. **Ms. Rippingale** answered that is correct, although there was no guarantee the state would win.

John Northey, Legislative Auditor's Office, spoke on the accounting issue. He used the coal tax revenues as an example and said the taxes are collected on a quarterly basis due on June 30 but not received until July. The question then becomes, if the distribution is to be made when the taxes are due, are they due on June 30, even though there is a grace period for payment. Every session, distribution of the coal tax revenues has been changed and it makes a significant difference in the millions of dollars as to which fund is going to receive the money, depending on whether it is due on June 30 or due to be received in July. He said they are asking that the law be clarified. He said there are number of areas where it needs to be changed.

Questions From Committee Members and Responses:

REP. FOSTER asked **Mr. Northey** how GAP applies to the accounting issue. **Mr. Northey** said if the revenues are subject to approval, then they should be reported in the year that they are approved and distributed under the law in effect at the time of approval. He said they have taken the position in their audits that the coal taxes are due on June 30 and accrued on June 30, because they are subject to reasonable estimate which is a criteria for

approval. If they are due on June 30, they should be distributed under the law in effect on June 30, not on July 1. If the Legislature says they should be distributed when received, that would make it clear.

REP. RANEY asked **Ms. Rippingale** how this would impact the affected programs. **Ms. Rippingale** said the way the law is currently written, according to the Attorney General's opinion, the bill draft would not change the existing interpretation of how the coal tax should be handled. It would have to be so stated if it is to be changed.

EXECUTIVE ACTION ON PROPOSAL #1

Motion/Vote: **REP. FOSTER** MOVED THAT A COMMITTEE BILL BE DRAFTED ENDORSING THE GAP PROPOSAL AS PRESENTED BY THE DEPARTMENT OF REVENUE. Motion carried unanimously.

EXECUTIVE ACTION ON PROPOSAL #2

Motion: **REP. FOSTER** MOVED THAT A COMMITTEE BILL BE DRAFTED ADDRESSING THE RAILCAR ISSUE AS PRESENTED BY THE DEPARTMENT OF REVENUE.

Discussion: **REP. HARPER** said keeping the railroads on the basis of trucks is fair. He believed it was a little late to introduce a bill such as this and he opposed the motion.

Vote: Motion carried with **REP. HARPER** voting no.

CHAIRMAN GILBERT said the bills would come to the Committee in draft form and they would have the opportunity to look them over and offer any changes.

HEARING ON SB 206

Opening Statement By Sponsor:

SEN. BETTY BRUSKI-MAUS, Senate District 12, **Wibaux**, said SB 206 would clarify that stripper gas wells were inadvertently omitted from the 7% surtax charge. **EXHIBIT 2** She said indicated the fiscal note was inaccurate by \$6000. **EXHIBIT 3**

Proponents' Testimony:

Doug Abelin, Northern Montana Oil and Gas Association, said this is a clarification bill resulting from legislation passed in the last special session. Dennis Adams notified him in August, 1992, that there had been a technical error. This bill corrects that error.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. ELLIOTT asked if this would affect the deficit. REP. FELAND said it would represent a deficit but the money shouldn't have been there in the first place.

Closing Statement by Sponsor:

SEN. BRUSKI-MAUS closed.

HEARING ON HB 490Opening Statement by Sponsor:

REP. SCOTT ORR, House District 2, Libby, said the bill is the fourth dealing with motor fuel tax evasion. He said it is incredible that it is possible to bring in tanker loads of fuel and not pay any state tax. The state's accounting procedures do not mesh with federal procedures. There is no tracking in any of the 50 states to find out where the fuel has gone in order to make sure the states get their tax. The bill simply addresses gasoline imported into the state. There was no fiscal note because DOR does not know the extent of the problem, but it is definitely a revenue bill.

Proponents' Testimony:

William Salisbury, Administrator, Administration Division, Department of Transportation (DOT), presented written testimony and proposed amendments. EXHIBIT 4

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. HIBBARD asked Mr. Salisbury how this would affect aviation gasoline dealers. Mr. Salisbury said this is also covered under current law, therefore, it needs to be included.

REP. ELLIOTT asked how this would affect aviation fuel coming into Montana. Cindy Anders, Department of Transportation, said they have not discovered any tax evasion on aviation fuel coming into Montana, but should that happen, this bill would correct the problem.

Closing Statement by Sponsor:

REP. ORR closed.

HEARING ON HB 421

Opening Statement by Sponsor:

REP. BILL STRIZICH, House District 41, Great Falls, said HB 421 would authorize establishment of a property tax for public safety purposes. The tax would be used to support funding for all current services provided through sheriffs' departments, which are presently funded out of the general fund. This would be a stand-alone public safety levy and it would no longer have to compete for general fund monies. In comparison to other budgets funded out of the general fund, the public safety budget constitutes 37% of the total budget. A budget of that size deserves to stand alone and should have fund authority. The bill recognizes the property tax freeze under I-105 and it would not constitute additional tax dollars.

Proponents' Testimony:

Gordon Morris, Executive Director, Montana Association of Counties (MACO), expressed support for HB 421. He distributed a handout pertaining to budgetary, accounting and reporting systems for Montana cities and counties. EXHIBIT 5

Bill Slaughter, Sheriff, Gallatin County, Bozeman, said the safety fund currently has to compete with all other county funds and it is not a position they like to be in. He said they have no idea what percentage of the general fund public safety would require from year to year. Emergency services must depend on a zero based budget and he has no basis on which to set priorities. He said even in tight budget times the safety net for emergency services must be maintained and asked for a do pass on the bill.

Barry Michelotti, Sheriff of Cascade County and President of the Montana Sheriffs and Peace Officers Association, said the sheriff's office provides a multitude of public safety activities for citizens, including law enforcement patrol, investigation, district court bailiff, search and rescue, etc. This bill would allow the citizens of the county the opportunity to know what is being spent in their county on public safety issues. It would also ensure law enforcement agencies would not have to compete with other county functions for dollars.

Mike Mathew, Yellowstone County Commissioner, Billings, said in Yellowstone County public safety represents 52% of the general fund. He said there are about five other officials, besides the Commissioners, operating out of the general fund. The demands on public safety warrant a separate levy and fund. He said it needs to be very clearly stated that this does not circumvent I-105. Most people do not want to give money to general government for a spending increase. By separating the fund, the voters would have an opportunity to make a decision based solely on public safety.

Howard Gipe, Flathead County Commissioner, Kalispell, said because of the high increase in population during the summer season, which places extra demands on this area of county services, they need a safety levy. It would assist the Commissioners in separating the costs. He urged a do pass on the bill.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. McCAFFREE referred to **Mr. Morris'** exhibit and asked for further information. **Mr. Morris** said they hoped the public safety levy would be like the cooperative extension levy; a permissive levy without a maximum cap and it would be subject to Commissioner determination as to what level they would tax.

REP. McCAFFREE asked if this would reduce the money to other programs in the county. **Mr. Morris** said that was possible but it would have to be done within the tax liability limits determined for the county general fund and they could not exceed those limits. It is much more difficult to budget effectively when there is a fixed amount of money.

In answer to a question from **REP. DRISCOLL** regarding "build and maintain county detention centers," **Mr. Mathews** said the bond issue for the Yellowstone County detention center was a voted bond issue. Any voted bond issue would automatically be outside this levy. It would be a separate levy for that bond issue and voted bond issues are always outside the levy.

Mr. Morris said the debt service limitation for voted bond issues are already at the maximum \$500,000. A jail could not be built anywhere in the state for that amount. It would be impossible to build a jail under that provision of the law. If this language causes concern he said he would be agreeable to striking "build" and leave "maintain". He assured **REP. DRISCOLL** that a jail would never be built under the public safety levy.

REP. REAM asked **Mr. Mathews** if other elements of local government were included in their questionnaire regarding public safety. **Mr. Mathews** said there was not a question about general government services, but they did include parks and economic development along with public safety. The people indicated they would pay additional taxes for those three areas.

Closing Statement By Sponsor:

REP. STRIZICH said this is an area of government that people feel is important and placing a priority on public safety would be in keeping with public sentiment. He said there is not a county general fund with revenue available to build a new jail, and said if that was troublesome to some, the Committee might want to delete that from the bill.

HEARING ON SB 175

Opening Statement By Sponsor:

SEN. DEL GAGE, Senate District 5, Cut Bank, said the bill was the result of a business in Montana that produces travertine for a number of years not understanding that they were supposed to be paying net proceeds tax. They suddenly received a large bill from the Department of Revenue (DOR) for back net proceeds taxes. In the last special session the Legislature suspended the tax laws on them for a two-year period. **SEN. GAGE** said he had volunteered to work during the interim to propose a bill this session. He said the indication was they usually sell around 300 ton and it was very difficult for them to determine net proceeds because they have production other than travertine. The travertine has to be put into condition for sale and the net proceeds tax is based upon the product that comes out of the ground. He thought the best way to handle this was to include an exemption in the law for the first 1,000 tons of travertine. If, at some time in the future, someone gets to the point of being a sizeable producer, they would then have to determine the net proceeds and be taxed. He said it was a small nuisance tax with regard to this business and only affects one taxpayer.

Proponents' Testimony: None.

Opponents' Testimony: None.

Questions From Committee Members and Responses:

REP. FOSTER asked why the Legislature doesn't just completely exempt this producer as they only produce about 1,000 tons per year. He asked **SEN. GAGE** if he had any information about the likelihood of another travertine producer beginning operation in

the state. **SEN. GAGE** said he knew of none. Finding the travertine is one of the problems. He didn't know if there were any other deposits or if anyone was interested in producing it. He said to his knowledge this producer had never been approached about having to pay a tax on production.

REP. DRISCOLL asked if moss rock would be taxable under existing law. **Mr. Hoffman** said in the 1991 session, building stone and travertine were given a temporary exemption so under current law moss rock would be taxable. It is difficult to enforce because people take the rock home in a pickup. DOR would consider them taxable under the RITT, but, essentially, it is an enforcement problem.

Closing Statement by Sponsor:

SEN. GAGE said the Legislature could remove the sunset provision and exempt them completely. At some time in the future if the operation becomes larger, DOR could revisit the issue.

HEARING ON HB 475

Opening Statement by Sponsor:

REP. VIVIAN BROOKE, House District 56, Missoula, said the bill was introduced last session as part of a larger bill. The bill would increase the fee for certified copies of birth certificates to \$25 and the fee would be deposited to the child abuse prevention fund known as The Childrens' Trust Fund. This would increase the fund approximately \$181,000 in 1994 and \$183,000 in 1995. This would only be a one-time fee for the first copy and would only apply to those persons born on or after October 1, 1993. She said **Lee Heiman** drafted amendments to the bill.

EXHIBIT 6

Proponents' Testimony:

Jeanne Kemmis, Montana Council for Families, Missoula, said there is a need to direct more services to strengthening families. In the last decade, more and more families have been buckling under social and economic stress and more children are going into foster homes. She said we need to offer assistance to these high risk families. She provided a handout to committee members.

EXHIBIT 7

Kathy Paterni, Director, Missoula Child and Family Resource Council, said their purpose is to treat abused and neglected children and to strengthen families. They provide a wide variety of services in the Missoula area. She said their most important program is the nurturing program for families early in the parent/child relationship which prevents child neglect. She said

they have been overwhelmed with applicants. The applicants are primarily low-income families, and there are 50 families on the waiting list. The Childrens' Trust Fund is only able to provide them with \$2,000 each year. She requested a do pass on HB 475.

Paulette Coleman, Executive Director, Montana Council for Maternal and Child Health, said the Childrens' Trust Fund operates in all 50 states and is funded with seed money from the federal government. Montana's allotment has just increased to \$36,000. The rest of the fund relies entirely on donations and an income tax checkoff which brings in about \$20,000. She said they are operating on \$76,000 and the total budget is expended each year. This would enable the Childrens' Trust Fund to have some real funds which would positively impact deserving programs.

Opponents' Testimony:

Don Byrd, representing the Montana Association of County Clerks and Recorders, assured the Committee that the Association was not against child abuse prevention programs. The previous testimony did not address the concerns they have with the bill. The bill represents is an expansion of state government at a time when the state is under a deficit of over \$200 million. He said they opposed HB 475 because it was a new program looking for additional permit funding. This bill would increase the birth certificate fee by 500%. It hurts the working poor and the unemployed, the least able to pay. He pointed out various areas which would require proof of birth, e.g., social service programs, general assistance, AFDC, food stamps, student loans, etc. The County Clerk and Recorder, who must forward the \$25 fee to the state, will be on the receiving end of citizens' complaints. He suggested increasing fees on those who commit child abuse and use that as a funding source, not those who need the certificate and are non-abusers.

Joan Pierce, Clerk and Recorder, Teton County, agreed with previous testimony. She thought **REP. BROOKE** had an excellent idea but the bill does not state the fee is only attached to the original birth certificate. People may have to apply for six or seven copies during their lifetime and would have to go back to the county in which they were born or where the certificate was filed. People can't afford \$30. Sometimes that \$30 is a day's wage for someone who needs the birth certificate. She requested a do not pass on the bill.

Clara Henderson, Clerk and Recorder, Glacier County, was opposed to the additional fee for the birth certificate. She said the Blackfeet Reservation, which is a very depressed area, is in Glacier County and they need an original certificate for each child born in order to enroll them in the tribe. She said it was a bad bill for her county. An amendment stating it only applied to the original birth certificate would be of some help but as

the years go on, the same people are going to need the certificate. She said the Clerks and Recorders would be collecting revenue for the state which is not their job.

Diane E. Mellem,, Hill County Clerk and Recorder submitted written testimony. **EXHIBIT 8**

Questions From Committee Members and Responses:

REP. DOLEZAL asked how the fee would apply to low income persons. **REP. BROOKE** said the fee would be waived for medicaid applicants. There would have to be amendments proposed for additional waivers.

Ann Gilkey, Chief Legal Counsel, Department of Family Services (DFS), said they asked **REP. BROOKE** to propose an amendment for a waiver for DFS.

REP. ORR asked how long it had been since the fee was increased.

Ms. Henderson said in July, 1992, it increased from \$3.00 to \$5.00.

REP. REAM said he was confused as to the original certificate vs. copies of the birth certificate and asked what was intended. **REP. BROOKE** said the intent was to charge \$25 for the first certified copy of the birth certificate. She said **Sam Sperry of the Department of Health and Environmental Sciences (DHES)** could also answer questions.

Sam Sperry, Bureau Chief, Vital Statistics, DHES, said the original birth certificate filled out by a hospital is forwarded to DHES and is on record forever. The copy that parents receive from the hospital is not an official copy. A copy is sent from the state to the County Clerk and Recorder. Both the state and the county can issue certified copies of birth certificates. Under this law the parents would have to pay \$30 for a certified copy. Certified means it is a true and legal copy of the original.

REP. REAM asked where the additional \$2 from last year's increase had gone. **Mr. Byrd** said he believed the money stayed within the counties' general funds.

REP. REAM asked why the fee was increased in 1992. **Ms. Pierce** said she did not recall the sponsor or the bill but they tried to bring it in line with the state fee, however, the counties increased to \$5 and the state increased to \$10.

REP. TUNBY asked if the person gets to keep that certificate to use more than once. Ms. Pierce said some schools keep the certificate, social security retains it, and certain life insurance companies want a certified copy of it is mailed with a passport application and you never see it again.

REP. DOLEZAL requested that a lady in the room be allowed to give informational testimony.

Informational Testimony:

Jean-Marie Funifreddo, private citizen, said she was currently on assistance, has had to apply for social security and was in the high risk category for child abuse. She felt it was an investment to pay for her child's birth certificate in order that she could take advantage of the programs to become a better parent. She said she had never had to give up the copy when she applied for any program.

Closing Statement by Sponsor:

REP. BROOKE said she realized this was a controversial proposal. She said we have to look at it as legislators who are here to try to create programs to make Montana healthier. She said we are once again asking public employees to do more for the state with less funds. This would only generate about \$182,000 which is a great deal more than the Childrens' Trust Fund currently has in its budget. She said it was her intention that this would be a one time fee of \$30 for a copy of the birth certificate. She said she was willing to work on the bill.

EXECUTIVE ACTION ON HB 490

Motion: REP. ORR MOVED HB 490 DO PASS.

Motion/Vote: REP. ANDERSON MOVED ADOPTION OF THE AMENDMENTS REQUESTED BY THE DEPARTMENT OF TRANSPORTATION. Motion carried unanimously.

Motion/Vote: REP. ELLIOTT MOVED HB 490 DO PASS AS AMENDED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 175

Motion/Vote: REP. McCARTHY MOVED SB 175 BE CONCURRED IN. Motion carried unanimously.

ADJOURNMENT

Adjournment: The meeting adjourned at 11:05 a.m.


BOB GILBERT, Chairman


JILL ROHYANS, Secretary

The minutes were written by Louise Sullivan and proofed for content by Jill Rohyans.

BG/jdr/ls

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

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Mr. Speaker: We, the committee on Taxation report that House Bill 490 (first reading copy -- white) do pass as amended.

Signed: Bob Gilbert
Bob Gilbert, Chair

And, that such amendments read:

1. Title, line 7.

Following: "MONTANA;"

Insert: "DEFINING "IMPORTER";"

Following: "SECTIONS"

Insert: "15-70-201,"

2. Page 1.

Following: line 10

Insert: "Section 1. Section 15-70-201, MCA, is amended to read:

"15-70-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source of earned income is from the business of farming or ranching.

(2) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline, either from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as herein provided for.

(3) "Aviation gasoline" means gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(4) "Bulk delivery" means placing gasoline in storage or containers. The term does not mean gasoline delivered into the supply tank of a motor vehicle.

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall be deemed to be "distributed", for the purpose of this part. at

Committee Vote:

the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery, or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

(b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be "distributed" after it has arrived in and is brought to rest in this state.

(6) "Distributor" means:

(a) any person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline for sale, use, or distribution;

(b) any person who imports gasoline for sale, use, or distribution;

(c) any person who engages in the wholesale distribution of gasoline in this state and chooses to become licensed to assume the Montana state gasoline tax liability;

(d) any exporter as defined in subsection (8);

(e) any dealer licensed as of January 1, 1969, except a dealer at an established airport;

(f) any person in Montana who blends alcohol with gasoline.

(7) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal within Montana;

(8) "Exporter" means any person who transports, other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption beyond the boundaries of this state.

(9) "Gasoline" includes all products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation gasoline, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Gasoline does not include special fuels as defined in 15-70-301.

(10) "Import" includes and means to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of any gasoline shipped or transported into this state from point of origin without this state other than in the fuel supply tank of a motor vehicle.

(11) "Importer" means a person who transports or arranges for the transportation of gasoline into Montana for sale, use or distribution in this state.

~~(11)~~ (12) "Motor vehicle" means all vehicles operated or

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propelled upon the public highways or streets of this state in whole or in part by the combustion of gasoline.

~~(12)~~ (13) "Person" means any person, firm, association, joint-stock company, syndicate, or corporation.

~~(13)~~ (14) "Use" includes and means the operation of motor vehicles upon the public roads or highways of the state or of any political subdivision thereof."

Renumber: subsequent sections

-END-

HOUSE STANDING COMMITTEE REPORT

February 11, 1993

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Mr. Speaker: We, the committee on Taxation report that Senate Bill 175 (third reading copy -- blue) be concurred in.

Signed: Bob Gilbert
Bob Gilbert, Chair

Carried by: Rep. Anderson

TAXATION OF RAILROAD CAR COMPANIES

Legislation during the July 1992 Special Session repealed the freight line license tax and implemented an ad valorem tax on railroad car companies operating in Montana. The tax is retroactive for tax years 1991 and 1992. The statute requires the Department of Revenue to use the prior year's statewide average mill as calculated in 15-24-103 when computing taxes for the car companies.

Railroad car companies are federally protected under the 4R Act. The Act prohibits taxation of property of the protected class of taxpayers at rates higher than the property of other commercial and industrial properties.

Representatives of some of the car companies indicated to the Department that the average mill as calculated in 15-23-103 might be higher than the statewide average mill of other commercial and industrial property. Subsequent research indicates that the statewide average mill for commercial and industrial properties for 1990 and 1991 is lower than the mill as calculated in 15-23-103.

Statewide Average Mills
(from prior year)

	<u>Commercial & Industrial Properties</u>	
<u>All Properties (15-23-104, MCA)</u>		
1991	326.56	292.99
1992	339.47	301.38

The estimated tax liability for the railroad car companies would decrease utilizing the statewide average mill for commercial and industrial properties only.

EXHIBIT 1
DATE 2/11/93
*Information
Taxation of Rail
Car Companies*

	Total Estimated Taxes	
1991	\$2,998,000	\$2,692,000
1992	\$3,310,000	\$2,938,000

Northern Montana Oil & Gas Association

P.O. Box 621
Shelby, Montana 59474
Phone 434-5401

EXHIBIT 2
DATE 2/11/93
~~FB~~ 206

SB 206
INFORMATION ON 7% SURTAX BILL;
SPONSOR: SEN. BETTY BRUSKI MAUS
MONDAY: JANUARY 25th 1993

7% SURTAX BILL:

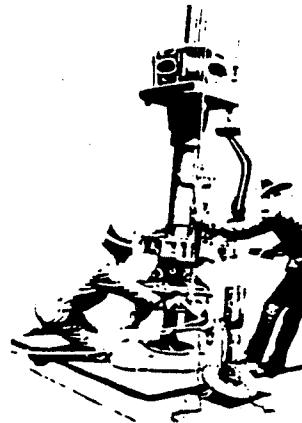
AN ACT CLARIFYING THAT AVERAGE daily production of 60,000 cubic feet or less from a natural gas well is exempt from the 7 percent severance tax surtax; amending section 15-36-126, MCA; and providing an immediate effective date and a retroactive applicability date.

All production other than "stripper" wells, 10 Barrels per day or less, or 60,000 cubic feet or less of natural gas per day, are defined, and are meant to be exempt from the 7% surtax.

When the original bill was passed the legislature intended to exempt "STRIPPER" production from the 7% surtax. But after the session, Revenue determined that the definition for "STRIPPER", gas was not actually properly defined, and therefore it was disallowed.

This bill now identifies "STRIPPER" gas, refers to it properly in the code and allows for a retroactive applicability. The act is effective on passage and approval and applies retroactively, within the meaning of 1-2-109, to natural gas production occurring after June 30, 1992.

As State Severance, & Local Government Severance tax have different dates for applicability, it also allows for the method of payment, and directs it to be deposited to the credit of the state general fund.





TERESA OLCOTT COHEA
LEGISLATIVE FISCAL ANALYST

STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

EXHIBIT 3
DATE 2/11/93
SB 206

January 29, 1993

TO: Dave Lewis, Director
Office of Budget and Program Planning

FROM: Teresa Olcott Cohea
Legislative Fiscal Analyst

RE: Fiscal Note on SB206

In reviewing the 1/22/93 fiscal note on SB206, my staff has calculated that the impact on the general fund is a loss of revenue of \$91,000 in fiscal 1994 and \$91,000 in fiscal 1995, based on the statutory distribution formula for LGST tax collections.

A revised fiscal note would assist the legislature as it considers the bill.

Please call Terry Johnson if your staff has questions concerning our calculation.
Thank you.

cc:Senator Bruski-Maus
TOC3J:lt:dl1-29.mem

EXHIBIT 4
DATE 2/11/93
HB 490

February 11, 1993

Subject: Amendments to House Bill 490
Submitted by: William Salisbury, Administrator
Administration Division
Department of Transportation

Montana Department of Transportation amendments to House Bill 420 are as follows:

(1) AMEND TITLE

P.1, line 7 following "INTO MONTANA"
insert: "DEFINING IMPORTER"
following "SECTIONS"
insert: "15-70-201,"

(2) NEW SECTION

P. __, line __ section 15-70-201, MCA is amended
to read:

15-70-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

- (1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source of earned income is from the business of farming or ranching.
- (2) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline, either from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as herein provided for.
- (3) "Aviation gasoline" means gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(4) "Bulk delivery" means placing gasoline in storage or containers. The term does not mean gasoline delivered into the supply tank of a motor vehicle.

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall be deemed to be "distributed", for the purpose of this part, at the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery, or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license. (b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be "distributed" after it has arrived in and is brought to rest in this state.

(6) "Distributor" means: (a) any person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline for sale, use, or distribution; (b) any person who imports gasoline for sale, use, or distribution; (c) any person who engages in the wholesale distribution of gasoline in this state and chooses to become licensed to assume the Montana state gasoline tax liability; (d) any exporter as defined in subsection (8); (e) any dealer licensed as of January 1, 1969, except a dealer at an established airport; (f) any person in Montana who blends alcohol with gasoline.

(7) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal

EXHIBIT #4
DATE 2-11-93
HB-490

within Montana.

(8) "Exporter" means any person who transports, other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption beyond the boundaries of this state.

(9) "Gasoline" includes all products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation gasoline, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Gasoline does not include special fuels as defined in 15-70-301.

(10) "Import" includes and means to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of any gasoline shipped or transported into this state from point of origin without this state other than in the fuel supply tank of a motor vehicle.

(11) "Importer" means a person who transports or arranges for the transportation of gasoline into Montana for sale, use or distribution in this state.

~~(11)~~ (12) "Motor vehicle" means all vehicles operated or propelled upon the public highways or streets of this state in whole or in part by the combustion of gasoline.

~~(12)~~ (13) "Person" means any person, firm, association, joint-stock company, syndicate, or corporation.

~~(13)~~ (14) "Use" includes and means the operation of motor vehicles upon the public roads or highways of the state or of any political subdivision thereof.

Amendments to House Bill No. 490
First Reading Copy

EXHIBIT 4
DATE 2/11/93
HB 490

Requested by Dept. of Transportation
For the Committee on Taxation

Prepared by Lee Heiman
February 10, 1993

1. Title, line 7.

Following: "MONTANA;"

Insert: "DEFINING "IMPORTER";"

Following: "SECTIONS"

Insert: "15-70-201,"

2. Page 1.

Following: line 10

Insert: "Section 1. Section 15-70-201, MCA, is amended to read:

"15-70-201. Definitions. As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Agricultural use" means use of gasoline by a person whose major endeavor and primary source of earned income is from the business of farming or ranching.

(2) "Aviation dealer" means any person in this state engaged in the business of selling aviation gasoline, either from a wholesale or retail outlet, on which the license tax has been paid to a licensed distributor as herein provided for.

(3) "Aviation gasoline" means gasoline or any other liquid fuel by whatsoever name such liquid fuel may be known or sold, compounded for use in and sold for use in aircraft, including but not limited to any and all such gasoline or liquid fuel meeting or exceeding the minimum specifications prescribed by the United States for use by its military forces in aircraft.

(4) "Bulk delivery" means placing gasoline in storage or containers. The term does not mean gasoline delivered into the supply tank of a motor vehicle.

(5) (a) Gasoline refined, produced, manufactured, or compounded in this state and placed in tanks thereat or gasoline transferred from a refinery or pipeline terminal in this state and placed in tanks thereat or gasoline imported into this state and placed in storage at refineries or pipeline terminals shall be deemed to be "distributed", for the purpose of this part, at the time the gasoline is withdrawn from such tanks, refinery, or terminal storage for sale or use in this state or for the transportation to destinations in this state other than by pipeline to another refinery or pipeline terminal in this state. When withdrawn from such tanks, refinery, or terminal, such gasoline may be distributed only by a person who is the holder of a valid distributor's license.

(b) Gasoline imported into this state, other than that gasoline placed in storage at refineries or pipeline terminals, shall be deemed to be "distributed" after it has arrived in and is brought to rest in this state.

(6) "Distributor" means:

(a) any person who engages in the business in this state of producing, refining, manufacturing, or compounding gasoline for sale, use, or distribution;

(b) any person who imports gasoline for sale, use, or distribution;

(c) any person who engages in the wholesale distribution of gasoline in this state and chooses to become licensed to assume the Montana state gasoline tax liability;

(d) any exporter as defined in subsection (8);

(e) any dealer licensed as of January 1, 1969, except a dealer at an established airport;

(f) any person in Montana who blends alcohol with gasoline.

(7) "Export" means to transport out of Montana, by any means other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal within Montana.

(8) "Exporter" means any person who transports, other than in the fuel supply tank of a motor vehicle, gasoline received from a refinery or pipeline terminal in Montana to a destination outside Montana for sale, use, or consumption beyond the boundaries of this state.

(9) "Gasoline" includes all products commonly or commercially known or sold as gasolines, including casinghead gasoline, natural gasoline, aviation gasoline, and all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating internal combustion engines. Gasoline does not include special fuels as defined in 15-70-301.

(10) "Import" includes and means to receive into any person's possession or custody first after its arrival and coming to rest at destination within the state of any gasoline shipped or transported into this state from point of origin without this state other than in the fuel supply tank of a motor vehicle.

(11) "Importer" means a person who transports or arranges for the transportation of gasoline into Montana for sale, use or distribution in this state.

~~(11)~~ (12) "Motor vehicle" means all vehicles operated or propelled upon the public highways or streets of this state in whole or in part by the combustion of gasoline.

~~(12)~~ (13) "Person" means any person, firm, association, joint-stock company, syndicate, or corporation.

~~(13)~~ (14) "Use" includes and means the operation of motor vehicles upon the public roads or highways of the state or of any political subdivision thereof."

{Internal References to 15-70-201:

7-14-301x	15-70-121x	15-70-202 (2)x	15-70-225x
15-70-503x	30-14-803x	75-11-302 (2)x}	

Renumber: subsequent sections

EXHIBIT 1

BUDGETARY, ACCOUNTING AND REPORTING SYSTEM (BARS)
 FOR MONTANA CITIES AND COUNTIES

FUND CLASSIFICATION

Fund Code

1000 General Fund - This fund accounts for all financial transactions not properly accounted for in another fund. The general fund is created and maintained to finance the general, overall functions of a governmental unit, such as the general government operations, law enforcement, fire protection, public works, administrative and financial support services, and judicial activities.

2000 *Special Revenue Funds - The funds are established to account for resources allocated by law, contractual agreement, or administrative regulations for specific purposes or activities. A special revenue fund normally derives its revenue from general property taxes, grants, or shared revenue from another government.

It should be pointed out that as a general rule, if most of the revenues of a program are generated by property or non-property tax revenues, then the program should be accounted for as a Special Revenue Fund. Should the program be financed predominantly or entirely by user charges, the accounting treatment would indicate the use of an Enterprise Fund.

In the absence of legal provisions to the contrary, Special Revenue Funds are to use the same basis of accounting as is used in the General Fund. For example, if the modified accrual basis is used for the General Fund, then it should also be used in all Special Revenue Funds. Examples of revenues and expenditures normally accounted for in Special Revenue Funds are Revenue Sharing, Gas Tax Apportionment, B.O.R., and Crime Control.

2100 Local Sources

2110	Road	2210	Parks
2120	Poor	2220	Library
2130	Bridge	2230	Ambulance
2140	Weed Control	2240	Cemetery
2150	Predatory Animal Control	2250	Planning
2160	County Fair	2260	Open
2170	Airport	2655	Local Govt Study Comm.
2180	District Court	2270	Health

2170	Airport	2655	Local Govt Study Comm.
2180	District Court	2270	Health
2190	Open	2275	Hard Rock Mining Impact
2200	Mosquito Control	2280	Senior Citizen
2290	Extension Services	2360	Museum
2300	SID Revolving	2370	Employer Contributions
2310	Solid Conservation	2380	Policy Training
2320	Open	2381	Drug Forfeiture
2330	Rodents	2382	Search and Rescue
2340	Judgments	2383	Absentee Election
2350	Alcohol Rehabilitation		

* NOTE Counties have the option of using a 55-mill all-purpose levy. The all-purpose levy may not exceed the lesser of 55 mills or the total number of mills levied in the prior year, as certified by the Department of Revenue. Establishes permissible use of such revenue. A county may adopt such a levy by resolution, which shall be in effect for the ensuing fiscal year; the county may abandon the method in succeeding fiscal years. Any statutory levy not included in the 55-mill levy may be levied in addition to this levy. Levies included in the 55-mill levy are the general fund, bridge fund, recreation (7-16-101), fair, weed, insect/pest, poor and developmental disabilities (6-6-2521 through 6-6-2525 MCA.)

Amendments to House Bill No. 475
First Reading Copy

EXHIBIT 6
DATE 2/11/93
HB 475

Requested by Rep. Brooke
For the Committee on Taxation

Prepared by Jeff Martin
February 10, 1993

1. Title, line 6.
Strike: "AND"

2. Title, line 7.
Following: "NEGLECT"
Insert: "; AND PROVIDING AN APPLICABILITY DATE"

3. Page 1.

Following: line 24

Insert: "NEW SECTION. Section 2. Additional fee for certified copies of birth certificates. (1) The department shall charge \$25 for providing a certified copy of a birth certificate. This fee is in addition to the fee imposed under 50-15-111.

(2) Fees received for a certified birth certificate under this section must be deposited in the state special revenue account established in 41-3-702 for funding services under and administrative costs of the child abuse and neglect prevention program.

(3) The fee imposed under this section is waived for a person obtaining a birth certificate for the purposes of receiving medicaid under Title 53, chapter 6, part 1."

Renumber: subsequent section

4. Page 1, line 25.

Following: "instruction."

Insert: "(1)"

5. Page 2.

Following: line 3

Insert: "(2) [Section 2] is intended to be codified as an integral part of Title 50, chapter 15, part 1, and the provisions of Title 50, chapter 15, part 1, apply to [section 2].

NEW SECTION. Section 4. Applicability. [This act] applies to birth certificates filed for persons born on or after October 1, 1993."

MONTANT COUNCIL FOR FAMILIES

HANDOUT # 1

EXHIBIT 7
DATE 2/11/93
HB 475

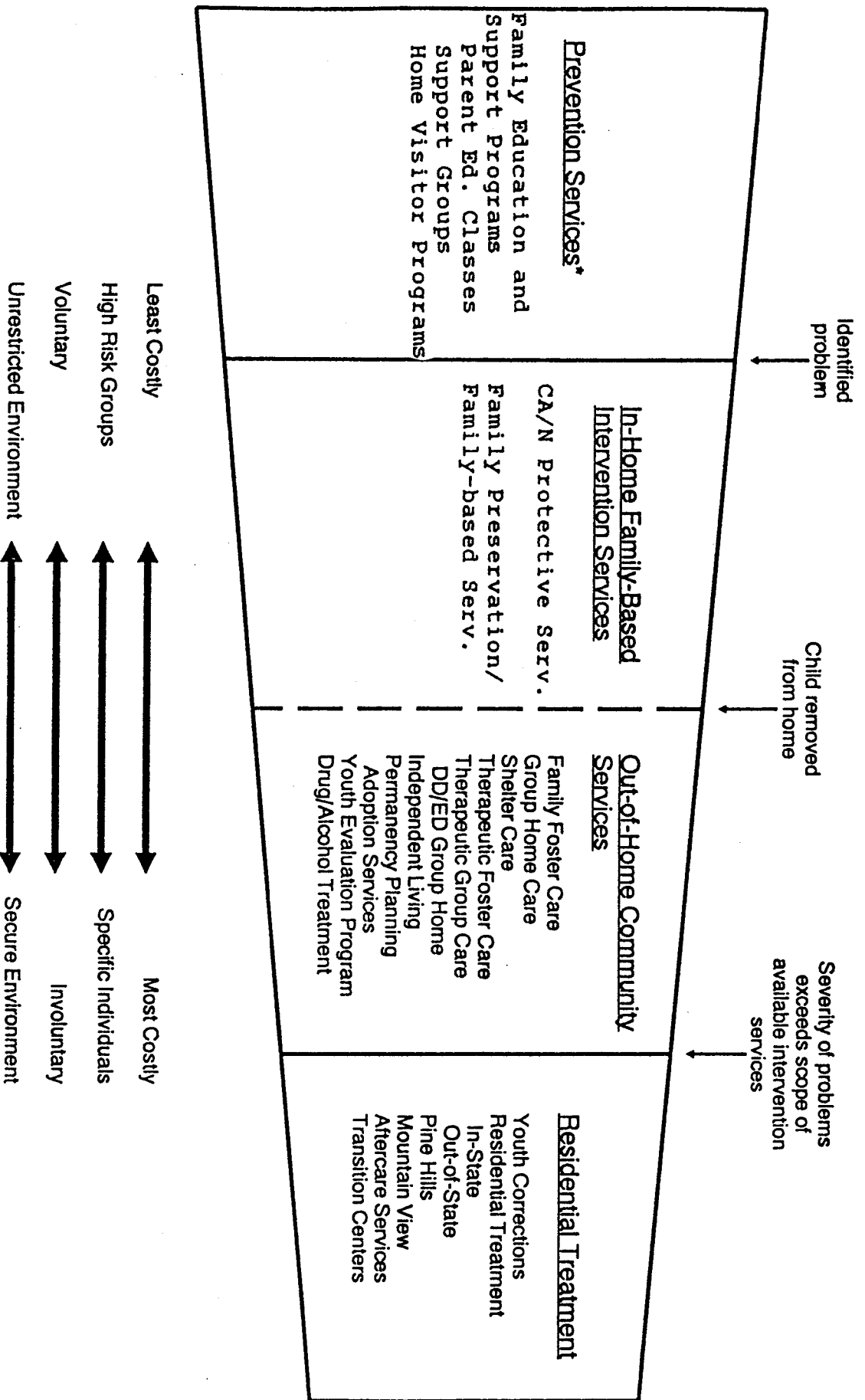
Governor Racicot's

Plan to Spur Montana Welfare Reform

"National research shows that the single most effective strategy for preventing child abuse is to provide parents with education and support at birth and infancy. A study conducted in 1985-1988 shows home based intervention with at-risk families as identified at the hospital at the time of birth -- was effective in preventing abuse in 99.8 percent of the families.

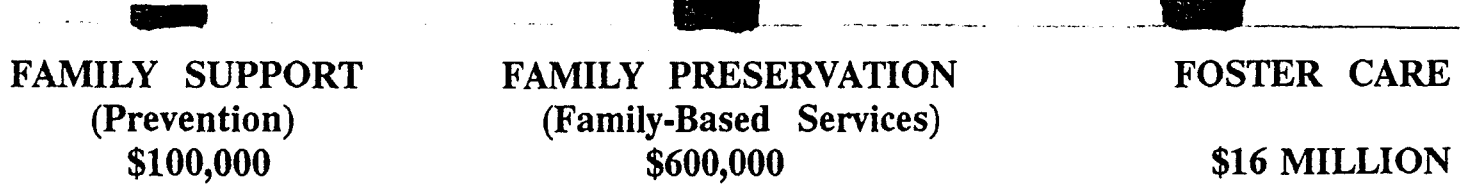
The cost of such intervention is \$3,000 per family as opposed to \$40,000 to \$50,000 for each out-of-state child placement. Research also shows that abuse occurs in 20 percent of the at-risk families who do not receive services." (Emphasis added)

CONTINUUM OF STATE SERVICES FOR CHILDREN AND FAMILIES



* Areas targeted for study under HJR 54

MONTANA SPENDING ON CHILD ABUSE AND NEGLECT



County of Hill

OFFICE OF THE CLERK AND RECORDER
HILL COUNTY COURTHOUSE
HAVRE, MONTANA 59501

EXHIBIT 8
DATE 2/11/93
HB 475

Clerk and Recorder Diane E. Mellen
Deputy Carolyn Patrick
Deputy E. A. 'Betty' Williams
Deputy

9 February, 1993

House Taxation Committee
Montana State House of Representatives
Capitol Building
Helena, Montana 59620

Dear Members of the Committee:

I URGE and IMPLORE you to vote "ABSOLUTELY NO" on HB 475 which would increase fees for birth certificates in the Counties to \$30.00 per birth certificate. Although the intent of the additional \$25.00 per certificate is honorable and well intentioned, it is not reasonable to place such a burden upon the obtaining of a birth record. The two most susceptible groups who will be affected are young parents, and the elderly getting ready for retirement purposes. Birth certificates are now necessary for social security, employment, school, sports, passport, in fact almost every phase of our lives, and it is not fair to place this type of monetary burden on the ability to obtain such a mandated item.

Although \$30.00 per certificate may not sound extreme in some circles, I guarantee you that it is extreme to the family with three, four, five, or more children, and sadly enough, extreme in todays economy to many of those with only one child, particularly the single parent situation.

I am also curious why the \$25.00 additional charge is only applied at the County level with no mention of it on certificates obtained at the state level. The state already charges \$10.00 per certificate, and a reasonable person would assume the state would add the \$25.00 to their costs also. Or, is this another way of trying to force people to pay more for services at the state level by passing a law that suddenly gives them a bargain? In other words, if you buy from the state it's only \$10.00 (and child abuse doesn't happen so there's no additional fee). And if this scenerio develops, activity in the state office will get extremely accelerated, along with accelerated FTE's and expenses. Please beware of these subtle cmissions; they are the groundwork for more state growth, more state deficit.

Please be responsive and responsible to the needs and the pocketbook of the people of Montana. VOTE "NO" on HB 475.

Thank you for this opportunity to comment.

Sincerely yours,
Diane E. Mellen
Diane E. Mellen

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

SB 179
SB 206
HB 421
HB 475
HB 490
~~HB 421~~

General Taxation COMMITTEE BILL NO. 421
DATE 2/11/03 SPONSOR(S) GAGE, BRUSKI-MAUS, STRIZICH, BROOKE, OKT

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Gordon Morris	MA Co	HB 421	
Barry Michelotti	Montana Sheriff's and Peace Officers Assoc	HB 421	
Bill Slaughter	Mont. Sheriff's Peace Officers Assoc	HB/421	
Doca ABELIN	N. MONTANA OIL & GAS ASSOC	SB/206	
Don Byrd	MT. Assoc of County Clerk & Records		H.B. 475
Cindy Anders	MDT	HB 490	
Mike Mathew	Yellowstone Co	HB 421	
Kathy Paterni	Missoula Child & Family Res. C.	HB 475	
Doc			
Howard Sher	Flathead Communion	HB 421	
Cell Poble	mt assessors' Ass -		
Shirley-maid L. Fairfield	Self	HB 475	
Jeanne Kemmis	MT Council for Families	"	
Stan Hudson	Clark & Peoria Gas Co.	HB 475	

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