

## MINUTES

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

#### COMMITTEE ON STATE ADMINISTRATION

Call to Order: By DICK SIMPKINS, CHAIRMAN, on March 11, 1993, at  
9:07 a.m.

#### ROLL CALL

##### Members Present:

Rep. Dick Simpkins, Chairman (R)  
Rep. Wilbur Spring, Vice Chairman (R)  
Rep. Ervin Davis, Vice Chairman (D)  
Rep. Beverly Barnhart (D)  
Rep. Pat Galvin (D)  
Rep. Harriet Hayne (R)  
Rep. Gary Mason (R)  
Rep. Brad Molnar (R)  
Rep. Bill Rehbein (R)  
Rep. Sheila Rice (D)  
Rep. Sam Rose (R)  
Rep. Carolyn Squires (D)  
Rep. Jay Stovall (R)  
Rep. Norm Wallin (R)

Members Excused: Rep. Bob Gervais; Rep. Dore Schwinden

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Council  
Dorothy Poulsen, Committee Secretary

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

##### Committee Business Summary:

Hearing: SB 100; SB 213; SB 268; SB 384  
Executive Action: None.

#### HEARING ON SB 268

##### Opening Statement by Sponsor:

SEN. J. D. LYNCH, Senate District 35, Butte, introduced SB 268 which requires that voter registration forms be provided at the time of application for hunting and fishing licenses. He stated the bill had been changed in order to eliminate any burden on hunting and fishing license vendors.

Proponents' Testimony:

Joe Kerwin, Election Bureau Chief, Secretary of State's Office, suggested the bill made voter registration more accessible. He compared the proposal to a similar program, motor-voter registration, and reported 22,000 people had registered in the first year of the motor-voter program.

Tootie Welker, Montana Alliance for Progressive Policy (MAPP), stated MAPP had been very involved with voter registration since 1981. She pointed out that in order to have more people vote, they must first be registered. She viewed SB 268 as another avenue for reaching potential voters and urged support of the bill.

Amy Kelley, Executive Director, Montana Common Cause, supported the effort to encourage participation of citizens in the electoral process.

Opponents' Testimony: None.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. MOLNAR asked SEN. LYNCH to explain how the bill would work. SEN. LYNCH explained the voter would fill out the registration form and mail it to the county clerk and recorder; the vendor would not be involved in mailing or signing the form.

REP. STOVALL asked SEN. LYNCH whether the person selling licenses would be required to offer the voter registration forms to people. SEN. LYNCH responded the license vendor would have to have a stack of forms available for interested people.

REP. SPRING asked SEN. LYNCH to describe the Department of Fish, Wildlife, and Parks' objection to the bill. SEN. LYNCH said initially the department was under the impression that vendors would have to do more, and the department would need to compensate them. He said the department also had thought the bill required every hunting and fishing license to have a voter registration form attached.

REP. DAVIS asked whether the voter registration form had been modified to require a residential address. Mr. Kerwin stated the form asked for a residential and mailing address. REP. DAVIS suggested the residential address was optional rather than required. Mr. Kerwin replied the registrant was required to fill out the form completely. REP. DAVIS explained the problem was college students who reside in Bozeman and list a post office box in Polson. He asked Mr. Kerwin how a college student would fill out the form in order to vote in Polson while going to school and living in Bozeman. Mr. Kerwin said the student should not vote in Polson. REP. SIMPKINS disagreed stating students had every

right to not change their home residences to their school residences and could choose to vote in their hometown. He asked how the student would know he/she was required to list a home residential address rather than a post office box. Mr. Kerwin agreed some people might not realize a residential address was required on the form. REP. SIMPKINS recommended "required" be included on the next printing of the forms.

REP. ROSE asked Mr. Kerwin how a rural student would give a legal description for their residential address. Mr. Kerwin reported the forms would be changed to explain how to register and the information needed.

REP. SPRING asked Mr. Kerwin how the law would prevent fraudulent voting. Mr. Kerwin responded voters must vote where they reside. REP. SPRING asked Mr. Kerwin whether there was the possibility of abuse. Mr. Kerwin responded no. REP. SPRING reported he had constituents who felt otherwise. REP. SIMPKINS suggested to Mr. Kerwin that he had no way to verify whether a person was registered and voting in more than one county. Mr. Kerwin agreed.

REP. SIMPKINS asked Mr. Kerwin whether witnesses who did not understand the requirements of the law would be signing the registration forms. Mr. Kerwin agreed it was possible.

REP. BARNHART asked Mr. Kerwin whether the mail-in voter registration forms required a witness. Mr. Kerwin responded yes.

Closing by Sponsor:

SEN. LYNCH stated the bill would make it more convenient for people to register to vote and asked for the committee's approval.

HEARING ON SB 384

Opening Statement by Sponsor:

SEN. J. D. LYNCH, Senate District 35, Butte, introduced SB 384 on behalf of the Legislative Council. The bill revises the statutes governing reports to the legislature. He said the intent of the bill was to reduce the number of publications sent to members of the legislature. He said at one time standard practice in drafting bills was to require a report to the legislature; now legislators received numerous documents, many of which are unnecessary. He said the bill would streamline the process, reduce waste, and save money.

Proponents' Testimony: None.

Opponents' Testimony: None.

Informational Testimony:

Sheri Heffelfinger, Legislative Council, distributed a bill summary and a list of documents affected by the bill. EXHIBIT 1

Larry Finch, Office of Research and Information, Department of Revenue, proposed amendments to SB 384 to eliminate the requirement for the biennial report for improvements in the state tax system and for the revenue estimate report. EXHIBIT 2

Bob Person, Executive Director, Legislative Council, stated the Legislative Council had recommended SB 384. He stated the bill simplified and reduced the number of required reports to the legislature. He explained some reports were identified as obsolete and eliminated by the bill; other reports were made discretionary; only reports considered essential to the legislature were retained in the bill. He noted all reports were available, but the bill removed distribution requirements.

Questions From Committee Members and Responses:

REP. SIMPKINS asked Mr. Person whether amendments proposed by the Department of Revenue would inhibit the revenue-estimating process. Mr. Person responded the amendments would not inhibit the function.

REP. SIMPKINS asked Mr. Finch whether the governor's office had approved the amendments. Mr. Finch responded the Budget Office prepares the revenue estimate report, and the Department of Revenue would provide whatever information they needed for the report.

Closing by Sponsor:

SEN. LYNCH thanked the committee.

HEARING ON SB 100Opening Statement by Sponsor:

SEN. GARY FORRESTER, Senate District 49, Billings, introduced SB 100 by request of the Department of Administration to define the term "designated smoking area"; restrict all smoking in state buildings to designated smoking areas; change from mandatory to discretionary the establishment of designated smoking areas; and revise responsibility for designating smoking areas and placing signs.

Proponents' Testimony:

Deborah Fulton, Administrator, General Services Division, Department of Administration, stated the division was responsible for administering buildings in the Capitol complex and approving

leases for all state agencies. She provided written testimony in which she explained the confusion caused by current statutes related to smoking areas and described the provisions of SB 100. She proposed an amendment to remove an exception to areas in which smoking is prohibited. She also distributed information from the Department of Health and Environmental Sciences on the prevalence of cigarette smoking in Montana and the effects of smoking. **EXHIBITS 3, 4, 5**

**Brett Dahl, Administrator, Risk Management and Tort Defense Division, Department of Administration,** explained the division provides risk management services to 58 state agencies. He said one of the primary objectives of the program is to promote work place safety for state employees. He described SB 100 as an important state safety measure because it protects employees from the detrimental effects of second-hand smoke. He said there was some concern nationally among risk management professionals about the possibility of litigation because of exposure to cigarette smoke. He reported workers' compensation had not yet received a claim from a state employee alleging injury from smoke. He noted, however, the issue was becoming more visible, and lawsuits by individuals alleging injury from tobacco smoke were now pending before the U.S. Supreme Court. He stated fear of litigation was not a sufficient reason for supporting the bill. **Mr. Dahl** asked the committee to support SB 100 because it promotes work place safety and protects nonsmokers.

**Will Selser, Deputy Director, Lewis and Clark City-County Health Department, and representing local health officers,** supported SB 100 only as a stop-gap measure against SB 213. He stated health officers adamantly opposed smoking areas in all public buildings.

**Beda Lovitt, Montana Medical Association,** stated the Association's opposition to smoking because of its health-related effects and supported SB 100.

**David Evenson, Montana University System,** reminded the committee the university system has over 400 buildings throughout Montana ranging from residence halls to field houses. He said smoking issues in public buildings were difficult to resolve, and urged support of SB 100 because it was helpful.

**REP. SIMPKINS** introduced a letter from the Board of County Commissioners, Missoula County, asking SB 100 be amended to include local government buildings. **EXHIBIT 6**

#### Opponents' Testimony:

**Jerome Anderson, Tobacco Institute,** provided written testimony in opposition to SB 100 in which he stated the intent of the legislation was to allow an agency head to completely ban or prohibit smoking of any tobacco products in buildings maintained or occupied by the state. **EXHIBIT 7**

John Delano, Philip Morris Company, stated SB 100 was not necessary. He alleged the problem in most state buildings was the ventilation system and contended the Department of Administration should be addressing the air circulation systems. He distributed articles challenging the studies and conclusions of the Environmental Protection Agency (EPA) with regard to the hazards of cigarette smoke. **EXHIBIT 8**

**SEN. BOB PIPINICH**, Senate District 33, Missoula, stated his opposition to SB 100 and support of SB 213.

Informational Testimony:

Questions From Committee Members and Responses:

**REP. RICE** asked **Mr. Anderson** whether he had testified that tobacco smoke was not an air pollutant. **Mr. Anderson** responded he had stated there were many air pollutants including tobacco smoke.

**REP. SPRING** referred **SEN. FORRESTER** to lines 16-17, page 3, and asked what areas of the Capitol were not used by the legislature. **SEN. FORRESTER** responded the legislature could use any part of the Capitol it wished; he explained the section exempts the Capitol building from the provisions of the bill.

**REP. MOLNAR** asked **SEN. FORRESTER** to explain the reason for capitalizing "comfortable" in line 1, page 2, and to define "comfortable". **SEN. FORRESTER** said he was not sure whether "comfortable" was defined in statute. He explained the intent was to prevent the use of a punishment-type area, such as a closet with a wooden bench, as a designated smoking area.

**REP. MOLNAR** asked **SEN. FORRESTER** whether negative air pressure would be achieved by a fan in the room at the back of the House chamber. **SEN. FORRESTER** said he doubted using a fan would be considered maintaining negative air pressure. **REP. MOLNAR** asked **SEN. FORRESTER** to estimate the cost of achieving negative air pressure in state buildings. **SEN. FORRESTER** contended negative air pressure could be maintained in the room by closing the door. He said maintaining negative air pressure in the House chamber would be expensive.

**REP. RICE** stated current law requires designated smoking areas and SB 100 makes the areas optional and asked **Ms. Fulton** whether the bill was less expensive than current statute. **Ms. Fulton** responded if the interpretation of current statute is to require smoking areas, then SB 100 is less expensive.

**REP. SIMPKINS** asked **Ms. Fulton** whether the ideal solution was to declare smokers handicapped and require facilities to accommodate them. **Ms. Fulton** said she was not qualified to answer the question. **Ms. Lovitt** stated, as an attorney, she would consider the suggestion to be extreme.

REP. SIMPKINS asked Ms. Fulton whether negative air pressure precludes the use of sophisticated air filtration devices. Ms. Fulton agreed those systems were ineffective in protecting nonsmokers from the effects of second-hand smoke. She said negative air pressure was not as onerous as it sounded; she explained negative air pressure could be determined by watching the direction of a flame on a candle placed in front of the door to a room.

Closing by Sponsor:

SEN. FORRESTER responded to several of the points presented during testimony. He referred to Mr. Anderson's comparison of sick building syndrome and Class A carcinogens. He said the EPA has classified second-hand smoke as a Class A carcinogen, and he knew of no information to indicate that EPA would change their decision. He contended Montana Senators and Representatives could not ignore the liability issues and needed to protect state employees. He emphasized the bill did not ban the use of tobacco products. He agreed the main change in the bill to make the establishment of designated smoking areas discretionary. He pointed out, however that the Senate State Administration committee had amended the bill to require consultation with affected employees. He asked for the committee's concurrence.

HEARING ON SB 213

Opening Statement by Sponsor:

SEN. BOB PIPINICH, Senate District 33, Missoula, introduced SB 213 which provides that revenue from taxes on cigarettes and other tobacco products not be used to construct or maintain buildings unless a comfortable designated smoking area is provided. He described SB 213 as a fairness bill. He reported he had received 25 letters and phone calls in support of the bill from state employees who were afraid of losing their jobs by coming forward publicly. He recounted the electorate had voted not to increase tobacco taxes two years ago, and he read a quote from REP. TOM ZOOK lamenting the lack of smoking areas in the Capitol. He maintained the bill provided guidelines for the future.

Proponents' Testimony:

Jerome Anderson, Tobacco Institute, reported the tobacco industry had not requested SB 213. He said the use of tobacco products had produced \$288 million in tax revenues since 1965 which had been used for the long-range building program. He suggested that if the revenue was used for constructing and maintaining buildings, then in all fairness and equity some reasonable accommodation to smokers should be made. He urged support of the bill.

Rex Manuel, Philip Morris Company, commended SEN. PIPINICH for supporting smokers. He reported only 20 percent of Montana citizens still smoke. He noted that while many buildings would have plaques recognizing major donors, none would recognize smokers whose tobacco taxes had been used in constructing them.

Opponents' Testimony:

Deborah Fulton, Administrator, General Services Division, Department of Administration, provided written testimony in opposition to SB 213. She contended citizens pay many taxes without reciprocal rights of accommodation. She noted the difficulty in providing smoking areas in all public buildings, particularly in leased sites. She claimed the bill only applied to public employers because private employers, with more powerful lobbies, recognized the expense of the bill. She said the fiscal note properly concludes the bill would have no cost to the long-range building program, but she contended requiring smoking areas in every building will be expensive and will be paid from agency budgets. She reported state buildings did not suffer from sick building syndrome. She said employees who are affected by activities within a building, e.g., painting, are given administrative leave because the state would not be providing a safe environment. She said buildings are well-maintained and monitored for air quality by a private vendor. Ms. Fulton stated her goal was the same as SEN. PIPINICH: to separate smokers and nonsmokers. She said SB 100 truly separated them while SB 213 only put them in different rooms and allowed them to breathe the same air. EXHIBIT 9

Will Selser, representing local health officers, distributed testimony in opposition to SB 213. He congratulated the tobacco industry for connecting the tobacco tax with building construction and using the connection in arguing against restrictions on smoking. He said the argument was irrelevant to the issue of smoking and public health and asked the committee to ignore it in considering the bill. EXHIBIT 10

David Evenson, Montana University System, stated the bill assumed all state buildings were supported by tobacco taxes and reported that was not the case. He explained about 60 percent of the universities' buildings were state-funded; the rest of the buildings, such as the University Center at the University of Montana, are funded through student fees and revenues. He said the university system was requesting an amendment to exclude the Montana University System and vocational-technical centers from the bill because of the difficulty of providing smoking areas in all buildings. EXHIBIT 11

Beda Lovitt, Montana Medical Association, stated the issue with SB 213 was public health and not the funding of buildings. She said cigarette smoke costs the state a great deal of money because second-hand smoke kills people.



John McCarthy, Associated Students of the University of Montana, declared that in a time of deteriorating classroom infrastructure, smoking rooms should not take precedence over classroom facilities and laboratories.

Informational Testimony: None.

Questions From Committee Members and Responses:

REP. SIMPKINS asked Mr. Evenson whether any K-12 public schools buildings were funded with tobacco tax monies. Mr. Evenson responded public school buildings were funded through local taxpayers and school bonds. REP. SIMPKINS asserted the university system differed from other public schools in the use of tobacco taxes. Mr. Evenson agreed reporting that about 60 percent of the buildings were paid for with state funds. REP. SIMPKINS asked whether the university system could differentiate which buildings were maintained by tobacco taxes. Mr. Evenson replied the history of each building would need to be considered.

REP. SIMPKINS asked Ms. Fulton who paid for all the conversions to accommodate the handicapped. Ms. Fulton responded some conversions were made with appropriations through the long-range building program and used tobacco tax money; other conversions were funded by the Department of Administration budget which is derived from rental fees charged to agencies. She pointed out the bill is not limited to public buildings funded with tobacco tax money; she said it requires all public employers to provide smoking areas.

REP. SIMPKINS asked Ms. Fulton whether her primary objection to the bill was the cost of providing negative air pressure. Ms. Fulton responded her objection to SB 213 is that it maintains confusion currently in statute and that it requires all public employers to provide smoking areas in all buildings.

Closing by Sponsor:

SEN. PIPINICH stated the bill had been changed and no longer applied to all public employers including K-12 public schools and community colleges. He responded to comments from Mr. Selser and reported he had raised six children who were all alive. He denied the bill would affect all state buildings; he contended it would apply only to buildings receiving tobacco tax revenue. He concluded SB 213 was a fairness bill which separated smokers from nonsmokers and gave smokers a place to smoke.

HOUSE STATE ADMINISTRATION COMMITTEE

March 11, 1993

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ADJOURNMENT

Adjournment: 10:50 a.m.

  
DICK SIMPKINS, Chairman

  
DOROTHY POULSEN, Secretary

DS/DP

**HOUSE OF REPRESENTATIVES**  
**STATE ADMINISTRATION**

**COMMITTEE**

**ROLL CALL**

**DATE** 3/11/93

NAME	PRESENT	ABSENT	EXCUSED
REP. DICK SIMPKINS, CHAIR	✓		
REP. WILBUR SPRING, VICE CHAIR	✓		
REP. ERVIN DAVIS, VICE CHAIR	✓		
REP. BEVERLY BARNHART	✓		
REP. PAT GALVIN	✓		
REP. BOB GERVAIS			✓
REP. HARRIET HAYNE	✓		
REP. GARY MASON	✓		
REP. BRAD MOLNAR	✓		
REP. BILL REHBEIN	✓		
REP. SHEILA RICE	✓		
REP. SAM ROSE	✓		
REP. DORE SCHWINDEN			✓
REP. CAROLYN SQUIRES	✓		
REP. JAY STOVALL	✓		
REP. NORM WALLIN	✓		

# Senate Bill No. 384, as amended, Description of Sections

<u>Bill Section</u>	<u>Code Section</u>	<u>Action</u>	<u>Comments: Report Title; Disposition; etc.</u>
1	5-11-210	Amend	Revises Legislative Council report clearinghouse requirements. Reduces abstract to 100 words. Clarifies that reports are not from the Council. Simplifies other language.
2	1-11-204	Amend	Code Commissioner Report. Simplifies submission to Legislative Council only.
3	2-4-411	Amend	Administrative Code Committee Report. Makes reporting discretionary.
4	2-7-104	Amend	Clarifies that revenue estimates or tax policy reports prepared by the Department of Revenue are available to the legislature, committees, and members on request.
5	2-8-208	Amend	Sunrise report for functions instituted by initiative. Makes report available rather than requiring submission.
6	2-15-108	Amend	Gender equity report. Puts the report process under the clearinghouse.
7	2-15-2021	Amend	Removes requirement for Gaming Advisory Council biennial report to be submitted to the legislature.
8	2-18-209	Amend	Comparable Worth Report. Makes reporting discretionary.
9	2-18-301	Amend	Salary Survey. Puts report through the budget process*.
10	2-18-811	Amend	State Employee Group Benefits Plan Annual Report. Puts report through the budget process*.

11	2-18-1103	Amend	State Employee Incentive Awards Program Biennial Report. Puts report through the budget process*.
12	3-1-702	Amend	Judicial Report. Requires information to be provided on request.
13	5-7-207	Amend	Lobbyist Report. Eliminates requirement for distribution to all legislators; requires report to be available to all.
14	5-11-304	Amend	Composite audit report. This obsolete requirement is eliminated.
15	5-17-103	Amend	Capitol Building and Planning Report. Makes report discretionary. (Transferred to the Legislative Council by other legislation.)
16	10-4-102	Amend	9-1-1 report, which was incorporated into Information and Communications Technology Annual Report. Makes report discretionary.
17	13-37-120	Amend	Commissioner of Political Practices Report. Removes redundant financial reporting. Makes other reporting by the Commissioner discretionary.
18	15-1-205	Amend	Biennial Report of the Department of Revenue. Requires report availability rather than submission. Puts report through clearinghouse. Incorporates the inheritance tax report required by 72-16-202 in this report.
19	17-4-107	Amend	Write off report. Changes submission of report to budget director.
20	17-5-1650	Amend	Board of Investments Annual Report. Reports distributed to LFA, Legislative Council, and available to legislators on request.
21	17-6-305	Amend	Board of Investments investment in Montana Economy. Puts report through the budget process*.
22	17-7-123	Amend	Executive Budget. Eliminates requirement to print complete goals and objectives; grade change report; and other lengthy detail in the budget. (See Section 23 description.)

23	New		Makes all data submitted or compiled in preparation of the budget available on request. Information put through the budget process* by this bill as well as information formerly required to be printed in the budget is included.
24	Amend	18-7-303	State Publications Committee Report. Report is obsolete. Makes it discretionary.
25	Amend	19-4-201	Montana Teachers Retirement System Biennial Report. Puts information through the budget process*.
26	Amend	20-9-346	Biennial Report on School Equalization. Puts report through budget process*.
27	Amend	20-25-236	MSU Research and Extension Efforts in Sustainable Agriculture. Makes report discretionary.
28	Amend	20-25-301	Regents report on Bureau of Mines and Geology. This obsolete requirement is eliminated.
29	Amend	33-22-1513	Report on Premium Tax Offsets. Puts report through the budget process*.
30	Amend	37-1-106	Department of Commerce Licensing Board Biennial Report. Puts report through budget process*.
31	Amend	44-2-304	Report of the Criminal Justice Information Network. Puts report through the budget process*.
32	Amend	44-12-206	Drug Forfeiture Account Report. Report to LFA and Legislative Auditor.
33	Amend	44-13-103	Law Enforcement Assistance Account Report. Report to LFA and Legislative Auditor.
34	Amend	53-2-1107	Job Training Plan Annual Report. Report to Governor only.

35	53-6-110	Amend	Medicaid Funding Report to Legislature. Puts through budget process*.
36	53-20-104	Amend	Mental Disabilities Board of Visitors Report. Report to Governor only.
37	53-21-104	Amend	Same as section 36.
38	53-24-204	Amend	Biennial Update to Comprehensive Long-Term State Chemical Dependency Plan. Removes the requirement that this report go through the clearinghouse. Available on request.
39	53-30-133	Amend	Background Information for Prison Industries Training Program. Eliminates requirement for report.
40	72-16-202	Amend	Inheritance tax report. Moved to Department of Revenue Biennial Report. See Section 18.
41	75-1-203	Amend	Permit fee report. Requirement eliminated.
42	75-1-324	Amend	EQC Annual Environmental Quality Report. Obsolete requirement eliminated.
43	75-1-1101	Amend	Environmental Contingency Grant Account Report. Put through budget process*.
44	75-10-533	Amend	Junk Vehicle Program: Summary of Fees and Costs of Administration. Puts through budget process*.
45	75-10-704	Amend	Environmental Quality Protection Fund: Summary of Revenues, Expenditures, and Cash. Puts through budget process*.
46	76-11-203	Amend	Soil survey mapping report. Obsolete requirement for legislative report eliminated.
47	76-12-109	Amend	State Land Board Acquisition Report. Reporting made discretionary.

48	82-11-161	Amend	Oil and Gas Production Damage Mitigation Account Report. Report requirement eliminated.
49	85-1-621	Amend	Water Development Program Report. Provides report to Water Policy Committee only.
50	85-2-722	Amend	Mountain Sheep Auction Report. Puts through budget process*.
51	85-2-724	Amend	Shiras Moose Auction Report. Eliminates requirement.
52	90-3-203	Amend	Montana Science and Technology Alliance Annual Report. Report to the Governor only.
53	90-4-606	Amend	Energy Conservation Program Report. Puts through budget process*.
54	90-4-111	Amend	Alternate Energy Grant and Loan Program Report. Makes report to EQC discretionary.
55	90-6-304	Amend	Hard Rock Mining Expenditures. Eliminates separate report requirement.
56	53-24-210	Repeal	Report on Implementation of the Uniform Alcoholism and Intoxication Act.
	69-1-404	Repeal	Dept. of Public Service Regulation: Statutorily Required Budget Review.
	80-12-402	Repeal	Montana Agricultural Loan Authority Act Report
	80-12-403	Repeal	Obsolete section related to program
	87-5-123	Repeal	Nongame Wildlife Report
57		Codify	Puts new section 23 into budget statutes.



- Means that the bill requires the information in the report to be submitted to the Office of Budget and Program Planning with other information required in connection with the budget development process under section 17-7-111, MCA.

Amendments to Senate Bill No. 384  
Third Reading Copy

For the Committee on House State Administration

Prepared by Sheri S. Heffelfinger  
March 10, 1993

1. Title, line 20.  
Following: "SECTIONS"  
Insert: "2-7-104,"
2. Page 21, lines 18 through 21.  
Strike: ", with" on line 18 through "legislature" on line 21
3. Page 73, line 1.  
Following: "Sections"  
Insert: "2-7-104,"

## Department of Revenue Explanation

### Reason for Amendments:

The first amendment conforms the title with the third amendment.

The second amendment eliminates the requirement that the biennial report made by the Department of Revenue include recommendations for improvements in the state tax system. Recommendations for improvements in the state system of taxation are made by the Revenue Oversight Committee. The Department makes its recommendations to the Revenue Oversight Committee.

The third amendment avoids duplication, by eliminating the legal requirement that a revenue estimate report be made by the Department of Revenue. The revenue estimate report is currently, and has been historically, prepared by the Governor's Budget Office.

Staff comment: For the Committee's information, this is the section repealed by amendment 3:

2-7-104. Revenue estimate -- report to governor and legislature. The director of revenue shall prepare revenue estimates of state revenue from all sources and shall continuously study fiscal problems and tax structures of state and local governments and submit the studies to the governor and, as provided in 5-11-210, to the legislature.

TESTIMONY  
GENERAL SERVICES DIVISION  
SB 100

TITLE: "An act defining the term "designated smoking area"; restricting all smoking areas to designated smoking areas; changing from mandatory to discretionary the establishment of designated smoking areas; revising the responsibility for designated smoking areas and placing signs; and amending sections 50-40-203, 50-40-204, and 50-40-205, MCA."

The Department of Administration has requested this bill to ensure compliance with the public policy act adopted by the 1991 legislature regarding non-smokers' exposure to passive smoke inhalation. The existing statute has caused some confusion, and we believe that these amendments will clarify the direction of the statute, and ensure consistent application of the policy.

Section 1 of the bill defines "designated smoking area" as:

"... an enclosed area that maintains negative pressure in relation to surrounding areas and that exhausts all return air to the outside of the building."

When asked, this has been the department's response to agencies. Coincidentally, it is also the definition used in the 1992 publication from the RJ Reynolds Tobacco Company, DEVELOPING A SMOKING LOUNGE, Practical, Cost-Effective Ways to Accommodate Smokers. All this really means is that no smoke contaminated air should be able to filter back into the building from the designated smoking area, and that none of the air in the room should be recirculated by a central ventilating system.

Frequently, agency heads designate smoking areas without consulting the department. These designated areas seldom meet the technical requirements of the act. They result in segregating smokers, but not in protecting non-smokers. We believe this definition will give agency heads clear direction even in the absence of consultation with the department.

Section 2 of the act adds the phrase "or occupied" to the statute to clarify that all state offices are subject to the act. State employees in leased facilities are entitled to protection under the act as surly as those in state owned offices. It also changes the mandate to designate a smoking area to a discretionary action and removes areas that do not meet the technical definition of a "designated smoking area" from the list of those available to be designated.

Additionally, this section allows the legislature to designate its own smoking areas, irrespective of the public policy for state offices.

EXHIBIT 3  
DATE 3/11/93  
HB SB 100

Section 3 of the bill merely places responsibility for signage with the agency head responsible for the facility. The Department of Administration only has offices in Helena, and it is nearly impossible from a logistic and budgetary standpoint that us to be responsible for signage in all state offices.

The Department of Administration believes that these changes to statute will make the implementation of the act more compliant with the public policy statement, and more consistent in application in state facilities.

Amendment to Senate Bill No. 100

Requested by the Department of Administration

1. Page 2, line 13

Delete: "except as provided in subsections (2) and (4)"

EXHIBIT 4  
DATE 3/11/83  
HB SB100

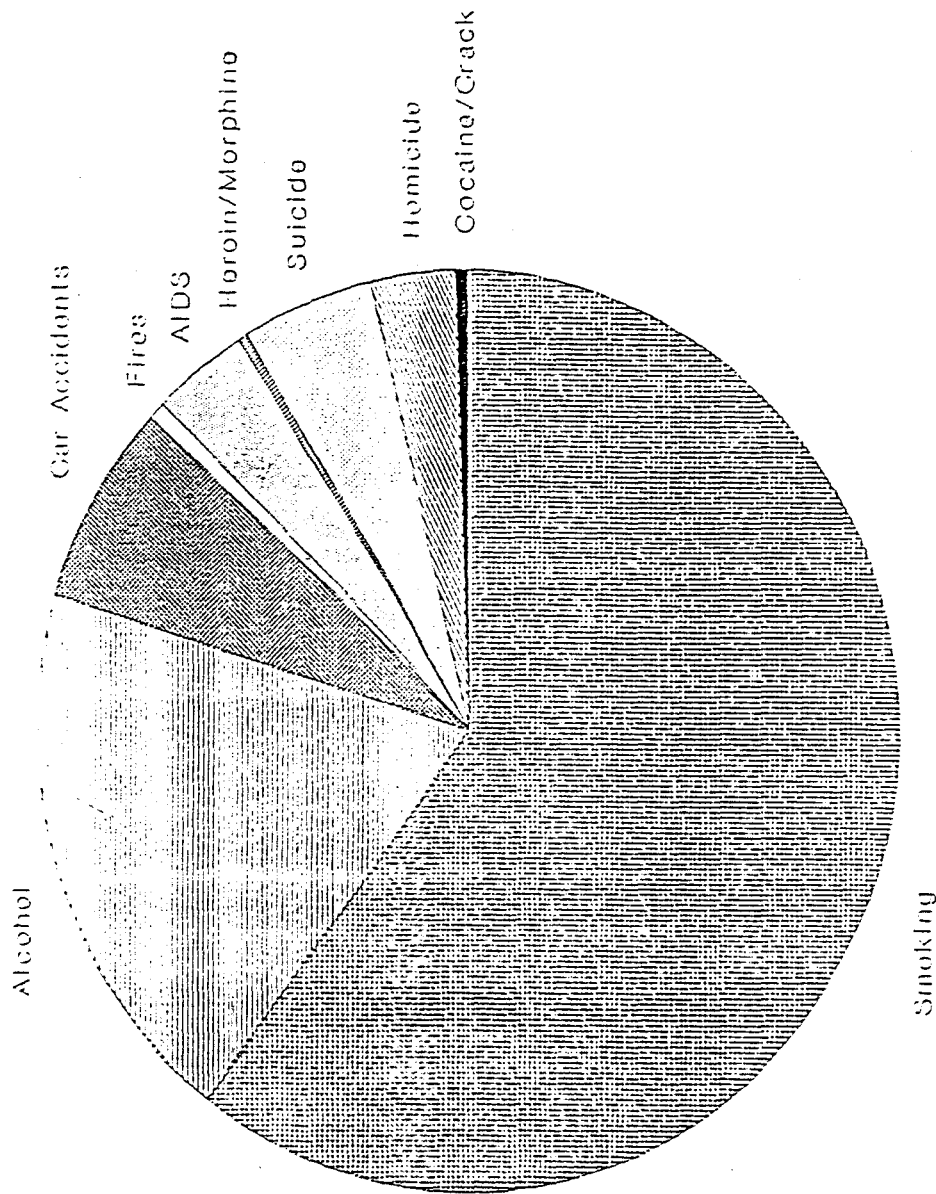
**Smoking Prevalence in Montana By Year - Adults Aged 18 & Over  
1984 - 1991**

The following data have been gathered through the use of the Behavioral Risk Factor Surveillance System (BRFSS). The BRFSS is a monthly, randomized telephone survey of 99 Montana adults operated by the Department of Health & Environmental Sciences in cooperation with the Centers for Disease Control, Atlanta, Georgia. Yearly survey results are tabulated from a total of 1188 responses. BRFSS data have been gathered since 1984 regarding the prevalence of cigarette smoking in Montana.

<u>YEAR</u>	<u>% MALE SMOKERS</u>	<u>% FEMALE SMOKERS</u>	<u>% OF TOTAL POPULATION</u>
1984	29.5%	28.2%	28.9%
1985	24.3%	24.8%	24.6%
1986	23.4%	22.6%	23.0%
1987	21.3%	23.2%	22.3%
1988	20.7%	18.7%	19.7%
1989	19.7%	19.2%	19.5%
1990	17.3%	21.4%	19.4%
1991	20.9%	21.0%	21.0%
1992	* Data have not been tabulated at this time		

EXHIBIT 5  
DATE 3/11/93  
HB SB 100

# Smoking Kills More Americans Annually Than All of These COMBINED



APPROXIMATE NUMBER OF DEATHS:

Smoking 390,000<sup>1</sup>

Alcohol (including drunk driving) 125,000<sup>2</sup>

Car Accidents (including drunk driving) 47,000<sup>3</sup>

Fires 4,000<sup>4</sup>

AIDS 21,000<sup>5</sup>

Heroin/Morphine 2,400<sup>5</sup>

Suicide 31,000<sup>5</sup>

Homicide 21,000<sup>5</sup>

Cocaine/Crack 3,300<sup>5</sup>

<sup>1</sup>1989 Surgeon General's Report, 1985 data

<sup>2</sup>Surgeon General's Office, 1985 data

<sup>3</sup>National Safety Council, 1989 data

<sup>4</sup>Centers for Disease Control, 1989 data

<sup>5</sup>National Center for Health Statistics, 1987 data



BCC-93-132  
March 4, 1993

(406) 721-5700

Representative Richard Simpkins  
Chair, House State Administration Committee  
State Capitol  
Helena, MT 59620

Dear Representative Simpkins,

We are writing to you and your committee relative to SB 100, which clarifies designated smoking areas in buildings maintained by the State. This bill is scheduled for a hearing before your committee on March 11.

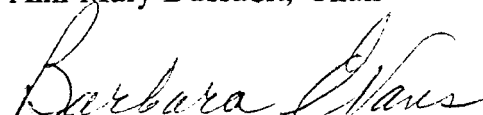
Missoula County would like to see the bill amended to include local government buildings (50-40-201). If this bill would include discretion by local government, we could make decisions on this subject with less apparent conflict between the statutes which require smoking areas and the statutes (MT Safety Act) and laws (ADA) and union agreements requiring us to provide a safe and healthy work environment.

The EPA report and other evidence suggests that there is a threat to the health of non-smokers who are subjected to environmental tobacco smoke. We have been wrestling with this issue for some time in Missoula County, and an amendment to this bill to include local government buildings would be very helpful.

Sincerely,

BOARD OF COUNTY COMMISSIONERS

  
Ann Mary Dussault, Chair

  
Barbara Evans, Commissioner

  
Fern Hart, Commissioner

BCC/SS:ss  
cc: Hal Luttschwager, Risk Manger

EXHIBIT 6  
DATE 3/11/93  
HB SB 100



## COMMENTS IN OPPOSITION TO SENATE BILL 100

The effect of Senate Bill 100 is to allow an agency head, on his own volition, to completely ban or prohibit smoking of any tobacco products in buildings maintained or occupied by the State.

Present law requires an agency head "to establish at least one 'designated smoking area' in each building . . . suited by architectural design and functional purpose to be used as a smoking area . . . ." (Section 50-40-204(2) MCA.)

Present law prohibits smoking in State buildings in the following areas:

- (a) General office space;
- (b) Auditoriums, classrooms, and conference rooms;
- (c) Elevators;
- (d) Corridors, lobbies, restrooms, and stairways, except that an agency head may designate a corridor, lobby, or restroom as a smoking area where it is not possible to designate another smoking area (Section 50-40-204(1), (2)(b) MCA).

Thus, smoking is now prohibited in virtually all areas of buildings maintained by the State, but the present law does make some provision for those who use tobacco products.

The Department of Administration argues that there are some buildings where separate smoking facilities cannot be established and thus, an agency head should have sole discretion as to the establishment of such areas.

This argument is a fallacy.

Present law only requires the establishment of separate smoking facilities in areas "suited by architectural design and functional purpose." Section 50-40-203(3) MCA.

Thus, if a building is not suited by design to accommodate a separate smoking area, the agency head is not required to establish such an area.

It is clear that the Department of Administration desires to ban smoking in all buildings maintained or occupied by the State of Montana and thus, to discriminate against the rights of a significant segment of State employees as well as the general public.

Concern has been evidenced about the effect of Environmental Tobacco Smoke.

Actually, public concern about proper ventilation in buildings has increased exponentially in the past few years. This concern not only reaches environmental tobacco smoke, but it also reaches the many other air pollutants found in indoor air. These pollutants are things such as:

- Formaldehyde from furniture and wallboards;
- Carbon monoxide and nitrogen dioxide from heating systems;
- Ozone from office copiers;
- Fungal and bacterial spores;
- Cotton fibers and fiberglass fragments.

EXHIBIT 7  
DATE 3/11/93  
HB SB100

These substances and others are allowed to accumulate because of inadequate or inadequately maintained ventilation systems and are far and away the predominate causes of the "sick building syndrome" which effect occupants of such buildings and is often wrongfully blamed upon environmental tobacco smoke.

The symptoms of the "sick building syndrome" which are experienced by occupants of such buildings are sore eyes, dry throats, nose irritation, fatigue, coughing, itching skin, nausea, headaches, and respiratory problems. If you give consideration to the ventilation conditions in the State Capitol building and how you feel when you are in this building, you have a substantial understanding of what the "sick building syndrome" constitutes.

The National Institute for Occupational Safety and Health in the United States says that only two percent of the buildings inspected in response to complaints about poor indoor air quality involved excessive levels of tobacco smoke. The principle pollutants which were causing the difficulties are pollutants such as those mentioned above.

When employees wake up and find out what health problems they face in State buildings because of inadequate ventilation and poor building maintenance, the State could face potential liability claims that are totally unrelated to environmental tobacco smoke. Thus, we suggest that the emphasis of the Department of Administration in Montana should be directed toward solving the ventilation problems in various State buildings rather than trying to seek out one element of its State employees and pointing the finger of blame upon them.

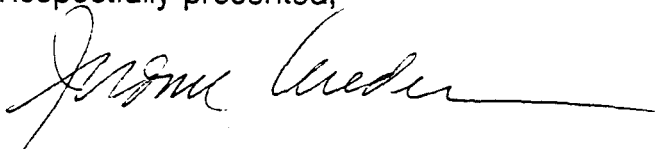
All we ask for is an accommodation for our tobacco users. Accommodations are prepared for others. Why not for a substantial percentage of the State work force as well as members of the public?

We build and maintain the involved State buildings. Since 1985, over \$288 million has been paid into the Long-Range Building Program by users of tobacco products for construction and maintenance of State buildings.

It is ridiculous and hypocritical to ban the use of a legal product within the very facilities that have been paid for by those who use the product.

**Please vote against Senate Bill 100.**

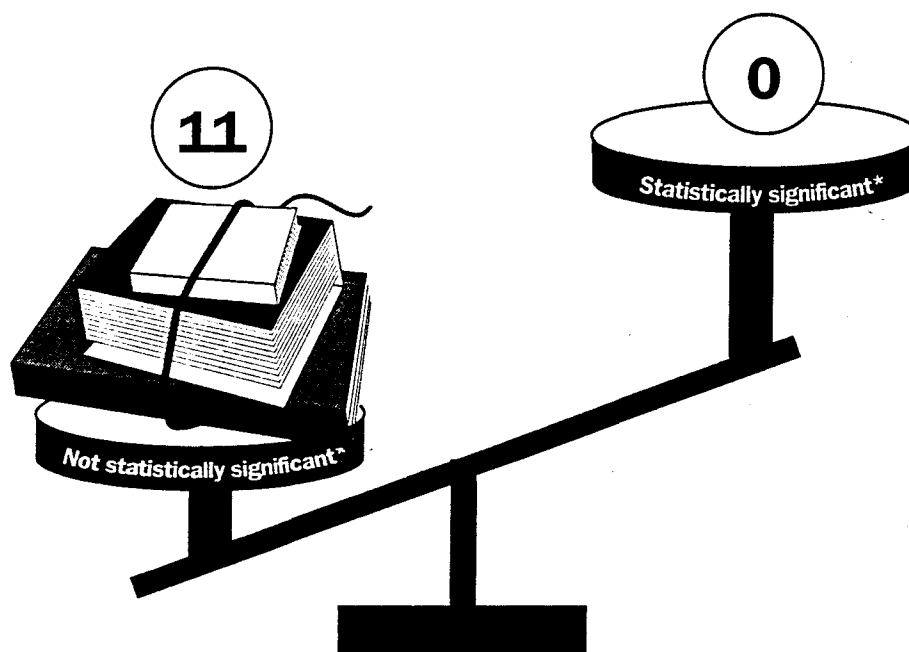
Respectfully presented,

A handwritten signature in black ink, appearing to read "Jerome Anderson", with a long horizontal flourish extending to the right.

Jerome Anderson  
Representative of the Tobacco Institute

## ***FAST*FACTS**

### **Weighing the Data on Environmental Tobacco Smoke (ETS)**



\*Of the 11 U.S. studies that the EPA combined to determine relative risk of exposure to ETS, not one originally reported an overall statistically significant increased risk of lung cancer.

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EXHIBIT 8  
DATE 3/11/93  
HB SB 100

## Blowing Smoke in the Face of Science

by Matthew C. Hoffman

On Jan. 7, 1993, the U.S. Environmental Protection Agency (EPA), announced the long-awaited results of its four-year study on the health effects of exposure to environmental tobacco smoke (ETS), better known as "secondhand smoke." With all the rhetoric that normally accompanies government pronouncements, the EPA called the results "absolutely unassailable from a scientific point of view." Not only does secondhand smoke cause cancer, proclaimed the EPA, it kills thousands every year.

Most Americans, including myself, don't smoke, and we tend to tolerate measures that limit smoking. But the EPA's peremptory attitude notwithstanding, its study is hardly "unassailable." In fact, it appears that the EPA lowered its scientific standards to reach a politically desirable conclusion. The implications for both smokers and nonsmokers could be devastating. Instead of collecting new data for its study, the EPA relied on "meta-analysis," a technique that is controversial among scientists because of its potential for abuse. A meta-analysis pools the data from many smaller studies and reanalyzes. Researchers who selectively incorporate studies or fail to account for differences among the studies will achieve biased results.

The studies that the EPA incorporated into its meta-analysis were not based on controlled, laboratory experiments. Instead, the studies used were surveys (some of them telephone polls) that asked general questions about exposure to ETS — sometimes requiring respondents to recall decades of experience. Significantly, two-thirds of the studies used by the EPA reported no connection between ETS exposure and lung cancer. Worse, the EPA weakened a crucial scientific standard when it lowered the "confidence interval" (which is used to interpret the results of a study) from 95 percent to 90 percent. If the EPA's analysis had employed a 95 percent confidence interval, as most of the studies it incorporated did, it would have found no overall statistically significant connection between ETS and lung cancer!

The EPA's disregard for scientific standards threatens to open up homes and offices to costly and intrusive regulations, and creates a precedent that might be used to indict other aspects of our living environment. For example, the EPA has investigated electromagnetic fields, which are produced by many household appliances, to determine if they cause cancer. Also under investigation is shower-taking; the EPA apparently fears that carcinogens are released by tap water. If such phenomena are classified as cancer-causing, Americans could find their personal lives and homes regulated by the EPA bureaucracy.

Unfortunately, few voices have risen to challenge the EPA. The tobacco industry's trade association, The Tobacco Institute, has been one of the few dissenting voices in the debate, and for obvious reasons, it has been ignored as a tool of financial interests. However, the EPA should not be treated as an impartial source of scientific truth. With every substance the EPA classifies as cancer-causing, the agency gains power and prestige and opens new possibilities for expanding its activities. If we allow government bureaucracies to distort science for political purposes, what's next on the list? ■

Matthew C. Hoffman is an adjunct policy analyst at the Competitive Enterprise

## EPA Under Scrutiny

Poorly managed data and too little research are among the problems facing the U.S. Environmental Protection Agency (EPA), according to a recent report by the U.S. Government Accounting Office (GAO).

The report, which was released in January as part of a series of transition audits produced by the GAO every four years, concluded that significant changes must be made at the EPA before the agency could be elevated to a Cabinet-level department. Among the GAO's recommendations:

- Program priorities should be based on the risk to public health and the environment. The GAO noted that setting priorities based on actual risk could be difficult "as long as public policy and, in particular, the budget allocation process are dominated by

public perceptions of risk rather than by scientific and expert judgment."

- The EPA should rely more on market-based incentives, rather than government regulations, to reduce the costs of complying with environmental standards.

- In order to assess environmental risks, better scientific data should be developed. According to the report, scientific data "often do not exist or, when they are available, are of poor quality or difficult to access and use."

- Alternative financing, technology and managerial approaches should be developed in order to help state and local governments bear the financial burdens placed on them by federal environmental requirements.

- Better accountability is needed to

correct the weaknesses that have "affected the efficiency and effectiveness of virtually all of EPA's programs." For example, the GAO reported that the EPA does not adequately monitor the costs associated with federal contractors.

The GAO found that mismanagement was not unique to the EPA, however. As a Jan. 8 *Newsday* story reported, another GAO study noted that the federal government wastes money in a variety of "big and small ways," ranging from the use of outdated computers — which kept the Internal Revenue Service from collecting up to \$111 billion in overdue taxes — to overpaying for supplies. ■

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## Border States Benefit

The recent increase in the consumer excise tax on cigarettes in Massachusetts is expected to mean millions of dollars for store owners and the government coffers — of neighboring New England states!

In November 1992, Massachusetts voters passed a referendum that raised the excise tax on cigarettes from 25 cents per pack to 51 cents per pack. The law, which took effect Jan. 1, 1993, gave Massachusetts the highest cigarette tax in the nation, and put the state at a competitive disadvantage, surrounded by states where cigarette taxes are lower. For example, a pack of premium cigarettes in Massachusetts now costs around \$3, compared to approximately \$2.10 in New Hampshire, according to a Jan. 4 Associated Press (AP) story.

Almost immediately, New Hampshire merchants reported an increase in business, as Massachusetts residents crossed the border to buy cigarettes. Said Plaistow, N.H., store owner John Dipietro in the AP story: "We saw a tremendous response even before the law took effect. On December 21st, we

Rick Christiana, an employee of a Salem, N.H., business establishment, noted, "People are coming in buying 10 to 20 cartons at a time."

Other New England states also hope to benefit from cross-border sales. In a Jan. 27 editorial in the *Providence (R.I.) Journal-Bulletin*, former Rhode Island state Rep. Raymond W. Fogarty observed, "Massachusetts' loss is Rhode Island's gain." According to Fogarty, a study by the accounting firm Peat, Marwick estimates Rhode Island will receive \$10.5 million per year in additional tax revenues thanks to the Massachusetts tax increase. This estimate, however, assumes no further increase in Rhode Island's current 37-cent-per-pack cigarette excise tax, a fact that Fogarty said "should remain foremost in the minds of [Rhode Island] Governor Sundlun and legislators contemplating the 1992-93 budget." And in Connecticut, two measures have been introduced in the state legislature that would lower the tax levied on cigarettes. Connecticut, at 45 cents per pack, has the second highest cigarette

The loss of business has not gone unnoticed by Massachusetts merchants. "We're the laughingstock of the country," said Princeton, Mass., business owner Kevin Gallant in a Jan. 2 (Worcester, Mass.) *Telegram & Gazette* article.

A study released in August 1992 by the American Legislative Exchange Council (ALEC) compared the economic effects of combined state sales and excise tax rates for the six New England states from 1987 to 1991. The study reported that Massachusetts, Connecticut and Maine were the tax revenue and job losers overall because of high cigarette tax rates, while New Hampshire, Rhode Island and Vermont were the overall winners because of lower rates. Combined, the losers suffered erosion of \$107.6 million in tax revenues and 3,037 jobs. The winners gained \$65.7 million in tax revenues and 3,247 jobs.

As ALEC Executive Director Samuel A. Brunelli observed, "States have a real opportunity to gain revenue, business and jobs by keeping these tax rates low." ■

TESTIMONY ON SB 213  
GENERAL SERVICES DIVISION  
DEPARTMENT OF ADMINISTRATION  
JANUARY 28, 1993

The Department of Administration opposes SB 213 for the very reasons it supports Senator Forrester's bill, SB 100.

This bill is a direct contradiction to the declared public policy of the State of Montana to protect nonsmokers from the increased health hazards of exposure to second hand smoke, and denies the purpose of the Montana Clean Indoor Air Act which is to protect the health of nonsmokers in public places, and to provide for reserved areas in some public places for those who choose to smoke.

The fiscal note to this bill properly concludes that there would be no cost to the long range building program for the implementation of this bill. It does not go on, however, to delineate the costs which individual agencies would occur in order to qualify their buildings for remodelling under the LRBP.

The bill also continues the confusion which exists in the implementation of current statute. While line 23 on page five appears to indicate that the areas listed in Section 1 cannot be designated as smoking areas, on page 6, line 7, some of those same areas are still allowed.

The facts remain:

- \* Second hand smoke has been classified a Class A carcinogen by the EPA
- \* 46,000 deaths/year are attributed to exposure to second hand smoke
- \* Knowingly exposing employees and patrons to a known carcinogen will result in liability for negative effects on their health.
- \* This bill results in increased costs to agencies at a time when budgets for essential services are being slashed.

The department respectfully requests that you not pass this bill out of committee.

EXHIBIT 9  
DATE 3/11/93  
HB SB 213



LEWIS AND CLARK

# CITY-COUNTY HEALTH DEPARTMENT

City-County Building  
316 North Park  
Box 1723  
Helena, Montana 59624  
Telephone 406 / 447-8200

## TESTIMONY ON SENATE BILL 213

It has been said that "no one can remove from a man's mind by reason what reason never put there in the first place". I believe that is certainly true in the case of the debate over smoker's "rights".

There are, however, certain untruths being spoken about this bill which need to be corrected.

\* Smokers are not a protected group. There is no law or constitutional amendment granting people the right to smoke. There is certainly no right granting smokers the right to subject non-smokers to a known human carcinogen.

\* As a result of EPA's decision to list second-hand smoke (ETS) as a known human carcinogen, there will soon be in place strict requirements related to what constitutes "adequate ventilation" in the workplace. A \$59 fan will not cut it, Senator Pipinich.

\* Senator Pipinich has stated several times that he does not want his children to smoke "like he does". Children are many times more likely to begin smoking if faced with a parent or sibling who smokes.

\* Every time Senator Pipinich lights up around his children, his children are forced to smoke right along with him. It is the height of hypocrisy and irrationality to state that smoking affects only the smoker.

\* SB213 is in direct conflict with the Constitution of the State of Montana. Section 3 grants all citizens the inalienable right to "a clean and healthful environment...".

Passing of this bill will subject the State of Montana to enormous liability and will encourage participation in the number one preventable cause of premature death in this country. It will help escalate the already runaway costs of our health care system.

*Will J. Selser*

EXHIBIT 10  
DATE 3/11/93  
HB SB 213

AMENDMENT

SB 213

Insert: Page 4, Section 3, line 23.

(6) Buildings in the Montana University System and the vocational-technical centers designated as smoke-free by the Board of Regents.

EXHIBIT 11  
DATE 3/11/93  
HB SB 213



HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

State Administration COMMITTEE

BILL NO. SB 100

3

E 3/11/93 SPONSOR(S) Sen. FORRESTER

SPONSOR(S) Sen. FORRESTER

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

State Administration COMMITTEE

BILL NO. SB 268

DATE \_\_\_\_\_ SPONSOR(S) Sen. Lynch

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Marine Morehouse	Capital Sports & Western		✓
Tooth Welker	MAPP	✓	
Joe Kerwin	SOS	✓	

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HOUSE OF REPRESENTATIVES  
VISITOR'S REGISTER

State Administration COMMITTEE BILL NO. SB384  
DATE 3/11/93 SPONSOR(S) Sen. Lynch  
PLEASE PRINT PLEASE PRINT PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE

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