MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Mike Halligan, Chairman, on April 10, 1991, at 7:00 a.m.

ROLL CALL

Members Present:
Mike Halligan, Chairman (D)
Dorothy Eck, Vice Chairman (D)
Robert Brown (R)
Steve Doherty (D)
Delwyn Gage (R)
John Harp (R)
Francis Koehnke (D)
Gene Thayer (R)
Thomas Towe (D)
Van Valkenburg (D)
Bill Yellowtail (D)

Members Excused: None

Staff Present: Jeff Martin (Legislative Council).

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

Announcements/Discussion: None

HEARING ON HOUSE BILL 795

Presentation and Opening Statement by Sponsor:

Rep. Harper, District 44, said this bill addresses the infrastructure needs of the state. He said everyone agrees with the Governor that there are tremendous infrastructure needs in the state. His testimony is contained in Exhibit #1. Rep. Harper also presented proposed amendments as per Exhibit #2. he noted a 3/4 vote is not necessary because the bill only directs the spending of interest rather than the coal trust fund principal. He said this approach is fiscally conservative and responsible. As supporting material, Rep. Harper presented a spread sheet from the Office of Budget and Program Planning (Exhibit #3).

Proponents' Testimony:

Senator Towe, District 46, presented his testimony in support of the bill as per Exhibits #4, #5, #6, and #7.

Rep. Bachini, presented proposed amendments (Exhibit #8).

Jim Richard, submitted the report he authored, "Affordability of Major Wastewater Systems Improvements for Small Montana Communities" for the committee's consideration (Exhibit #9). He reviewed Exhibit #10 re infrastructure affordability.

Alec Hanson, League of Cities and Towns, submitted the MSU study of infrastructure financing (Exhibit #11). He noted the federal government keeps sending mandates for cities and counties to meet. The needs are expensive and on-going and the longer they are put off, the more expensive they are. He said he supports the grant program in the bill as some small cities cannot afford loans.

Dennis Taylor, Chief Administrative Officer, Missoula, said he agreed with Mr. Hanson's testimony. Missoula currently needs over $17 million in sewer construction now. There are very serious needs across the state in financing public works.

Chuck Brook, Director, Department of Revenue, presented a comparison document of the three infrastructure bills (Exhibit #12) and the executive section of Mr. Richards' report on wastewater system affordability (Exhibits #13, #14, and #15). He noted the buying down of interest rates makes loans more affordable for smaller communities. He added he would like to see gap financing included in the bill. He presented a spread sheet on the provisions of HB 795 assuming constant coal tax revenues (Exhibit #16).

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Thayer asked if the bill could be amended to include gap financing and money for immediate expenditures.

Rep. Harper replied there is $225,000 available for immediate expenditure for up-front planning and engineering studies. More could be put in the bill, he felt, but he said he would want some solid planning and research before the gap financing was included.

Senator Thayer asked who would make the decision to grant and to which project. Is this a legislative or Department of Commerce decision.

Rep. Harper said it should be decided by both. The legislature should be involved and he said that is addressed in the material he presented at the opening of the hearing.

Senator Gage asked if there would be an exemption from I105 granted for bond repayment.

Rep. Harper replied that is a problem all over the state. He didn't think it was addressed in the Governor's bill either. He was concerned about where to obtain the matching money.

Closing by Sponsor:

Rep. Harper closed by saying it is good to see there is a degree of trust and confidence in the bureaucracy. He said he didn't feel ready to turn over this large amount of money to any department of state government without legislative oversight. The bill is focused on specific needs with a specific plan for action which is conservative and responsible.

Senator Halligan said he will assign HB 795 to a subcommittee for further study.

HEARING ON HOUSE BILL 973

Presentation and Opening Statement by Sponsor:

Rep. Stang, District 52, said the bill creates a small petroleum tank release clean-up fund. He presented data on storage tanks for the committee's consideration (Exhibits #17 and #18). He warned against combining this fund the already established large tank clean-up fund as EPA funding would probably be discontinued. He said the people who oppose the bill are getting a free ride in the large tank fund. He urged the committee to adopt the bill as it will protect the environment and drinking water.

Proponents' Testimony:

Fred Maker, Superintendent of the Superior School District, told of the major leak in one of the school tanks which released 12-13,000 gallons of heating oil. They had to hire very high priced consultants to clean it up. The cost of materials was very high and the school district had absolutely no control over the prices and what had to be done in the clean-up process. With

450 mills in taxes for schools and county expenses and a 13% unemployment rate, more expense just cannot be assumed. He noted if Rep. Stang, Mr. Wittich, and the Governor had not helped, the school district staff would have been cut by 50% due to the extremely high cost of clean-up. He said Ekalaka has the same problem on a county level with no access to an emergency levy such as the schools can use.

Steve Visocan, Past President, Petroleum Marketers Association, said he was involved with the previous tank legislation. It has worked very well and he would be happy to answer any questions the committee might have.

Gordon Morris, Montana Association of Counties, expressed support for the bill.

Wendy Oberg, Montana Solid Waste Contractors, expressed support for the bill.

Jean Riley, Executive Director, Petroleum Tank Release Compensation Board, presented her testimony in support of the bill (Exhibit #19).

Christine Kaufman, Environmental Information Center, said the existing clean-up fund is for both gasoline and diesel tanks over 1100 gallons which is funded by gas revenue only. It provides protection mainly for gas stations. The average cost for a leak is $140,000. It only takes a gallon of diesel or gasoline to contaminate 1 million gallons of drinking water.

Opponents' Testimony:

Ben Havdahl, Montana Motor Carriers, presented his testimony in opposition to the bill (Exhibit #20).

Lorna Frank, Montana Farm Bureau, said the bill should be reviewed on page 13, line 25, and page 14, lines line 5-13 for language changes without which the bill may be discriminatory. She was concerned that the one cent fee on taxes from gas or diesel fuel should go to the highway reconstruction fund.

Bob Stevens, Montana Graingrowers and Wife, questioned why railroads are excluded. He said the agriculture economy is in trouble and yet ag tanks are excluded.

Questions From Committee Members:

Senator Towe said the concern of the opponents makes it clear that the old fund cannot be used for the new fund.

Senator Thayer asked how much money is in the old fund.

Jean Riley said there is $6.5 million in the old fund. The fee collection goes off in October and will off until the balance drops below $4 million. The EPA will not allow anything else to be attached to the old fund due to the unknown amount of tanks that may need to be covered.

Senator Doherty asked what tanks are covered under this bill.

Rep. Stang said it should cover all the tanks in the state, especially for farms, ranches and small businesses. The owners cannot sell property if there is a leak and it is not fixed.

Senator Towe said the railroad exclusion is a valid concern.

Rep. Stang replied, "if we included railroads the fund would be broke tomorrow". There is just no way to afford to clean up their spills.

Mr. Havdahl felt there would be no problem with including them if they are taxed.

Senator Towe said what they contributed in taxes would be a lot less than what they would take out.

Havdahl doesn't know how much diesel the railroads purchase in the state.

Closing by Sponsor:

Rep. Stang closed.

HEARING ON HOUSE BILL 1012

Presentation and Opening Statement by Sponsor:

Rep. Elliott, District 51, said cigarettes in Montana are sold to members of Indian tribes tax free. In Montana there is a significant loss of tax revenue because of sales to non-tribal members. Since 1979 the sale of tax free cigarettes has gone from 4% of total cigarettes sold to 29%. He said he is not trying to contest federal statutes or opinions that tribal members cannot be taxed. The issue is recovering the tax that is avoided by in state and out of state purchasers of non-tax cigarettes. We are losing tax revenue because a misdemeanor is being committed when cigarettes which are not stamped are purchased by non-tribal members . Of the 29% of the tax free cigarettes sold in Montana which amounts to 23.5 million packs, 83% are sold on the Flathead Indian reservation. This would amount to 4,582 packs per tribal member. Even the tourist

traffic can't account for sales of that magnitude. Washington state has found there has been extensive smuggling activity (in cigarettes) into the state from Montana and Idaho. If the bill is enacted, there will be a loss in revenue to people who sell cigarettes and the leakage will stop. There will still be enough taxed cigarettes sold to garner over $2.5 million in the next biennium. The bill requires that all cigarettes sold in the state bear a stamp stating that the tax has been paid (except for military reservations). It collects the tax from wholesalers, provides a tax free allocation of cigarettes to people doing business on the reservations, and provides for wholesaler rebate if the wholesaler passes the rebate on to the retailer. The bill is effective on passage and approval and the applicability date is July 1 of the fiscal year. It sunsets July 1, 1993 and provides for a penalty for sale of unstamped cigarettes.

Proponents' Testimony:

Rep. Stang presented a letter from Ole's Country Store in support of the bill (Exhibit 21). He said he had helped write the argument against the increase in cigarette taxes last election. He said as taxes go up, there will be increased sales on the reservations.

Jeff Miller, Administrator, Income and Miscellaneous Tax Division, Department of Revenue, said cigarette tax evasion is a significant problem in Montana. The bill addresses the "casual smuggling" problem. Mr. Miller reviewed Exhibit # 22 with the committee. He said the tribes and DOR must work out the allocation details probably by multiplying the population of the tribe x the average consumption and then negotiating the distribution. There are no new regulations for documentation of sales for wholesalers. He said DOR would try to do refunds by wire transfer to keep refund delay to a minimum. The penalty would be $250 for the first pact and $10 a pack thereafter. He noted only 7 wholesalers currently supply all the reservations in the state at present. He said there is sufficient leakage off the three reservations to merit this bill.

Bill Steven, Montana Food Distributors Association, said they supported this legislation in the previous session and will continue to do so with this bill.

Opponents' Testimony:

Ken Kratz, Joe's Smoke Ring, presented his testimony in opposition to the bill (Exhibit #23). He also presented other letters in opposition to the bill (Exhibits #24, #25, and #26).

Dave Hardin, Sheehan Majestic, Missoula, presented his testimony in opposition to the bill (Exhibit #27).

Al Burgess, Sidney, expressed opposition to the bill.

Frank Smith, Poplar, presented his testimony in opposition to the bill (Exhibit #28).

Jay Bennett, Sheehan Majestic, Missoula, presented his testimony in opposition to the bill (Exhibit #29).

Jerry Stinson, Big Sky Brokerage, Great Falls, presented her testimony in opposition to the bill (Exhibit #30).

Bob Noble, non-tribal member living on the reservation, said he felt major adjustments need to be made in the bill. He urged the committee to give the bill a do not pass recommendation. There should be caution and negotiation, not legislation.

Eric Kaplan, Attorney, Columbia Falls, presented his testimony in opposition to the bill (Exhibit #31).

Evelyn Stevenson, Tribal Attorney, Confederated Salish and Kootenai Tribes, submitted her testimony in opposition to the bill (Exhibit #32).

Larry Akey, Montana Tobacco Distributors, presented letters in opposition to the bill from several individuals (Exhibits #33 -38 and a petition Exhibit #39).

Questions From Committee Members:

Senator Harp felt the effective date should be July 1, 1993, in order to allow DOR time to negotiate with the tribes. He felt the termination date is not needed as some tribes are not getting the benefits they should be getting.

Jeff Miller replied DOR feels the situation has been studied enough and there is no reason to delay implementation and enforcement.

Senator Harp said two months is not enough time to fairly negotiate the provisions of this bill.

Mr. Miller said the only issue to negotiate is the distribution of the allocation.

Senator Towe questioned Mr. Kaplan about the Supreme Court decision re Oklahoma vs Citizen Band Potawatomi Indian Tribe of Oklahoma.

Mr. Kaplan presented a copy of the decision to the committee (Exhibit #40).

Closing by Sponsor:

Rep. Elliott closed by saying if your business predicates its profit making on an activity which is statutorily illegal, it is a bad business practice. He felt the unconstitutionality issue is addressed in the Supreme Court case. This is tax on non-indians, not tribal members, he emphasized. It is time to stop the shipment of non-taxed cigarettes out of the state.

HEARING ON HOUSE BILL 321

Presentation and Opening Statement by Sponsor:

Rep. Ream, District 54, said this is a simple bill and is just a matter of public policy. Interest and penalties collected from corporate and individual income taxes will go into the general fund rather than being portioned out on the same basis that the tax itself is portioned out.

Proponents' Testimony:

There were no proponents.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

There were no questions.

Closing by Sponsor:

Rep. Ream closed.

EXECUTIVE ACTION ON HOUSE BILL 321

Recommendation and Vote:

Senator Brown moved HB 321 Be Concurred In.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 340

Presentation and Opening Statement by Sponsor:

Rep. Ream, District 54, said the bill was introduced at the request of Revenue Oversight Committee and the Subcommittee on Forest and Timber Land. Timber taxation has been based on the standing inventory method of taxation until this time. The older the stand of trees the more valuable it is which is an incentive to cut the timber in order to cut taxes. This is certainly not an incentive to good forest management.

Rep. Ream said in order to fairly tax it is important to have a current inventory system in place. This bill is modeled after the Idaho system and was drafted by Mr. Martin. It converts the Montana timber tax to productivity basis. There will be a one time analysis of productivity which will entail a cost. Faculty members from the University of Montana presented a proposal to the Revenue Oversight Committee on productivity based taxation which was an outstanding piece of work (Exhibit #41). The ROC adopted the report which became the basis for this bill. They will provide a computer model for DOR to use to base their calculations on which is very accurate. It will take three years to get it in place - two years for the productivity data to be gathered and one year to superimpose the land ownership maps on the data base. He noted there will be many applications the data can be used for such as game management and natural resources information. The cost of the project will be $350,000 a year for the next two years financed by a 10 cents an acre fee on timber.

Proponents' Testimony:

Jim Jensen, Environmental Information Center, said the policy to date has been plant a tree, plant a tax, cut a tree, cut a tax. He said this bill is definitely the right course to take both from an environmental standpoint as well as a tax base.

Don Allen, Montana Wood Products Association, said his organization's tax committee has worked on this for the past two years in anticipation of the standing inventory tax expiring. He said they support this approach very strongly as it provides predictability and stability. He said they are not too happy with the 10 cent fee as recent administrations and legislatures have totally ignored the expiration date. He said it does not seem right to tax an industry in order to implement a tax on that same industry. However, since the legislature is unlikely to fund the imposition of the tax his organization will absorb the 10 cents an acre fee for 2 years because it is so important to implement the tax and they do not want to jeopardize the bill.

Rep. Cohen, District 3, said it was his idea to have ROC address this issue. He felt the provisions in the bill are well developed and the right course to take. The productivity tax is fair and provides the incentive for forest development and growth.

Janet Ellis, Montana Audubon Legislative Fund, presented her testimony in support of the bill (Exhibit #42).

Al Kington, professional forester and land consultant, representing the Montana Tree Farmers, said this is fair legislation. It does not discriminate against or benefit anyone in particular. He does not like the 10 cent fee, but agreed to support it at the 3.84% level rather than 4%

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Due to time constraints, there were no questions.

Closing by Sponsor:

Rep. Ream closed by saying he would like to keep the 10 cent an acre fee in place for two years and put it into the general fund the third year. He said the bill presents a reasonable approach to accomplishing the goal of tax reform for the forestry industry.

EXECUTIVE ACTION ON HOUSE BILL 340

Recommendation and Vote:

Senator Eck moved HB 340 Be Concurred In.

The motion CARRIED unanimously.

HEARING ON HOUSE BILL 976

Presentation and Opening Statement by Sponsor:

Representative Swysgood, District 73, said this is the same bill as the talc bill of the 1989 session. He said there is no vermiculite mined in the state at this time, however production

is anticipated in the Beaverhead County area relatively soon. The bill establishes the value of vermiculite for net proceeds and RITT purposes and ties the net proceeds tax to the consumer price index. He said he would propose a one word amendment on page 17, line 6, to strike "tax year" and insert "production year beginning".

Proponents' Testimony:

Dennis Burr, Montana Taxpayers Association, said the talc bill is working well. He urged the committee to support this bill also. It is a good bill for the state and industry. It allows business to anticipate their tax and stops litigation between state and industry.

Earl Lovick, W.R. Grace Co., Libby, said this is a good bill. He said his company will be the largest net proceeds taxpayer in the state until 1993. He said the amendment proposed by Rep. Swysgood is important and he urged the committee to support the bill.

Koehler Stout, Mineral Products, Inc., said the provisions of the bill will allow companies to predict their tax which is a large expense of mining.

Don Chance, Beaverhead County Commissioners, and the Rosebud Planning Director, said the potential vermiculite mine in Beaverhead County is a very important part of the effort to stem the economic reverses of the last two years. He urged the committee to pass the bill.

Opponents' Testimony:

There were no opponents.

Questions From Committee Members:

Senator Gage wondered if anyone had thought about the flat tax on production if there is a need to know what the tax load would be.

Mr. Colin responded he had visited with DOR and Dennis Burr and they all agreed the talc bill provisions fit better than any other approach.

Senator Gage asked if there was any kind of index for mines other than the consumer price index.

Mr. Colin said there is really not anything else to use. Production is sold on the market value. He said they are comfortable with this provision.

Closing by Sponsor:

Rep. Swysgood closed said it would be good to review the bill in regard to tying it to the consumer price index in two years. He said it is a good bill which will benefit the mines and the state. He urged its passage.

EXECUTIVE ACTION ON HOUSE BILL 976

Amendments, Discussion, and Votes:

Senator Thayer moved to amend the bill on page 17 as proposed by the sponsor (see attached standing committee report for final form).

The motion CARRIED unanimously.

Recommendation and Vote:

Senator Towe moved HB 976 Be Concurred In As Amended.

The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 11:00 a.m.

SENATOR MIKE HALLIGAN, Chairman

JILL D. ROHYANS, Secretary

MH/jdr

ROLL CALL

SENATE TAXATION COMMITTEE

DATE 4/10/91

52nd LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
SEN. HALLIGAN	X		
SEN. ECK	X		
SEN. BROWN	X		
SEN. DOHERTY	X		
SEN. GAGE	X		
SEN. HARP	X		
SEN. KOEHNKE	X		
SEN. THAYER	X		
SEN. TOWE	X		
SEN. VAN VALKENBURG	X		
SEN. YELLOWTAIL	X		

Each day attach to minutes.

DATE April 10, 1991

COMMITTEE ON Senate Taxation

HB 795 1012 973 321 340 976

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Bob Stephens	Mt Grain Growers Ass'n	973		X
Evelyn Stevenson	CS&K Tribes	1012		X
DARYL REED	OLYMPUS ENVIRONMENTAL	973	X	
Jean Riley	Petroleum Tank Release Compensation Board	973	X	
Cindy Anderes	Dept of Rev Motor Fuels Tax	973		
Dorothy Clankenbeard	Joe's Smoke King	1012		X
Bob Noble	Self	1012		X
Jay Bennett	Sheehan Majestic	1012		X
Jim Richards		795	X	
Dave Hardin	Sheehan Majestic	1012		X
Frank J Smith	H&S Vending	1012		X
Al Burgess	East-Mont Whole	1012		X
JAMES TUTWILER	MT Chamber	HB 795	✓	
Gordon Morris	MACo	HB973	✓	
Stephen D. Visocan	WPMT	HB973	✓	
Jerry Stinson	Big Sky Brokerage	HB1012		✓
Anna M. Miller	DNRC	HB795		
John Tubbs	DNRC	HB795		
Charles Brooke	Conrene	HB795		
Rep Bob Backman	Self	HB795	✓	
Lorna Frank	Farm Bureau	HB973		X
Don Allen	Mt. Wood Products Assn	HB340	✓	
Denis M. Taylor	City of Missoula	HB795	✓	
Alec Hansen	MLCT	HB795	✓	
Jeff Miller	Department of Revenue	HB1012	✓	
F.L. Mahn	Sup Superior Sch Dist	973		

(Please leave prepared statement with Secretary)

DATE 4/10

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
Koelles Stout	Mineral Products Inc	976	✓	
A. Nadine Oberg	Montana Solid Waste Contractors	973	✓	
Janet Ellis	MT Audubon	HB 340	✓	
R. Clifton Caughron	Mt. Dept of Revenue	1012	✓	
Ben Hardaml	MT Motor Carriers Assn	973		X
ERIC KAPLAN	Indian Retailers	1012		X
Stuart Doggett	MT Mining Assoc.	HB976	X	
Christine Kaufmann	MEIC	HB973	✓	
Bill Stevens	Mt Food Dist Assn	1012.	✓	
Peggy Egan	Self			✓
Al Kington	Mt Tree Farm Com	HB 340	✓	
Earl D. Lovick	W. R. Grace & Co.	HB976	✓	
Jim Jensen	MEIC	HB340	X	
Stan Bradshaw	MT. T.U.	HB340	✓	
~~[illegible]~~				

(Please leave prepared statement with Secretary)

SENATE TAXATION
EXHIBIT NO. 1
DATE 4/10/91
BILL NO. HB 795

The Montana Community Infrastructure Act

Putting Montana's Coal Tax Into Infrastructure For Montana's 2nd Century

MAJOR POINTS

- Allocates coal tax revenues to assist in infrastructure development -- major change in state policy.
- Uses local government bonding wherever possible; state bonding only where necessary; preserving the state's bonding capacity.
- Uses interest from coal tax infrastructure fund to subsidize infrastructure project costs at both State and Local levels.
- Allocates up to $10 Million Dollars per year in interest from Coal Trust for infrastructure projects.
- Can result in over $435 Million Dollars in infrastructure repair\construction projects over the next 11 years.

CAPITAL AVAILABILITY

- Communities which can access capital handle their own debt. The state participates through an interest subsidy to these projects.

- Communities which cannot access capital can participate in state bonding program (expanded water bond approach). The state can provide an interest/principal subsidy to these projects

CAPITAL AFFORDABILITY

- The State provides interest subsidies to communities which have issued bonds, lowering the cost of acquiring capital.

- The State also provides interest/principal subsidies to communities which are participating in state bonding program, lowering the cost of their capital.

INFRASTRUCTURE TARGETS

- Drinking Water Systems
- Sanitary and Storm Sewer Systems
- Solid Waste Collection and Disposal Systems
- Bridges

DECISION MAKING PROCESS RE: STATE BONDING PROGRAM

1) Department of Commerce Receives Proposals

2) If it is established that local government can not access debt market, Commerce handles proposal under state bond program.

3) Commerce & Local Governments Prepare Cost Estimates and Negotiate Interest/Principal Subsidies

4) Commerce Brings Recommendations to the Governor

5) The Governor Prioritizes Infrastructure Projects With Water Projects and Submits Recommendations to the Legislature

6) Legislature, By 2/3 Vote, Approves Projects

7) Governor May Veto or Amend by Amendatory Veto Process

SENATE TAXATION
EXHIBIT NO. 2
DATE 4/10/91
BILL NO. HB795

Amendments to House Bill No. 795
Corrected Second Reading Copy

Requested by Representative Harper
For the Committee of the Whole

Prepared by Greg Petesch
April 2, 1991

1. Title, line 10.
Following: line 9
Insert: "CREATING A SPECIAL REVENUE ACCOUNT FOR INTEREST EARNED ON THE COAL SEVERANCE TAX INFRASTRUCTURE FUND; MAKING INTEREST IN THE SPECIAL REVENUE ACCOUNT AVAILABLE FOR SUBSIDIES TO LOCAL INFRASTRUCTURE PROJECTS;"
Following: "AUTHORIZING"
Strike: "THE CREATION OF A STATE DEBT THROUGH"

2. Page 1, line 23.
Insert: "

STATEMENT OF INTENT

A statement of intent is required for this bill because [section 1] delegates rulemaking authority to the department of commerce to administer the Montana Community Infrastructure Act. This bill is intended to provide local governments with two cost-effective alternative methods of financing infrastructure projects that enhance the quality of life and protect the health, safety, and welfare of Montana's citizens and that support long-term, stable economic growth and job creation by keeping Montana competitive with nearby states by providing for the public infrastructure necessary for economic growth."

3. Page 1, line 25.
Following: line 24
Insert: "

NEW SECTION. **Section 1. Montana Community Infrastructure Act -- powers and duties of department.** (1) This section and [sections 7 through 11] may be cited as the "Montana Community Infrastructure Act".

(2) The Montana Community Infrastructure Act must be administered by the department of commerce. The department shall adopt rules to administer [sections 7 through 11]. The rules must include but not be limited to establishing criteria and procedures for:

(a) determining the eligibility of local government entities for the community infrastructure program;

(b) determining the eligibility of specific projects;

(c) ensuring that local governments fund their infrastructure projects by local debt when possible;

(d) determining the amount of principal and interest payments available for infrastructure projects funded through loans from the coal severance tax bond fund program; and

(e) determining the amount of interest subsidy available

for local infrastructure projects funded by bonds issued pursuant to Title 17, chapter 5, part 16."
Renumber: subsequent sections

4. Page 2, line 25.
Following: "fund"
Insert: "necessary to meet the obligations provided for in [section 9(3)]"

5. Page 3, line 1.
Following: "."
Insert: "Any remaining interest must be deposited in the coal severance tax infrastructure fund until the fund generates at least $10 million in interest annually."

6. Page 3, line 2.
Following: "available"
Insert: "from the special revenue account"

7. Page 3, line 4.
Following: "AND"
Insert: "interest payments on"

8. Page 4, line 4.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

9. Page 5, line 1.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

10. Page 5, line 18.
Strike: "$450"
Insert: "$250"

11. Page 7, lines 1 and 2.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

12. Page 7, line 18.
Strike: "7(1)"
Insert: "8(1)"

13. Page 7, line 23.
Following: "governor"
Insert: ", prioritized pursuant to subsection (2)"
Following: "."
Insert: "The governor shall review the projects recommended by the department of commerce under this section and the

projects recommended by the department of natural resources and conservation under Title 85, chapter 1, part 6, and shall submit a list of recommended projects to the legislature."

14. Page 7, line 25.
Strike: "BY"
Insert: "be"

15. Page 8, line 2.
Following: "."
Insert: "A local government entity infrastructure project may not be funded through the issuance of coal severance tax bonds unless the local government entity cannot fund the project through bonds issued pursuant to Title 17, chapter 5, part 16."

16. Page 8, line 12.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

17. Page 9, line 10.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

18. Page 9, line 18.
Strike: "6"
Insert: "7"
Strike: "10"
Insert: "11"

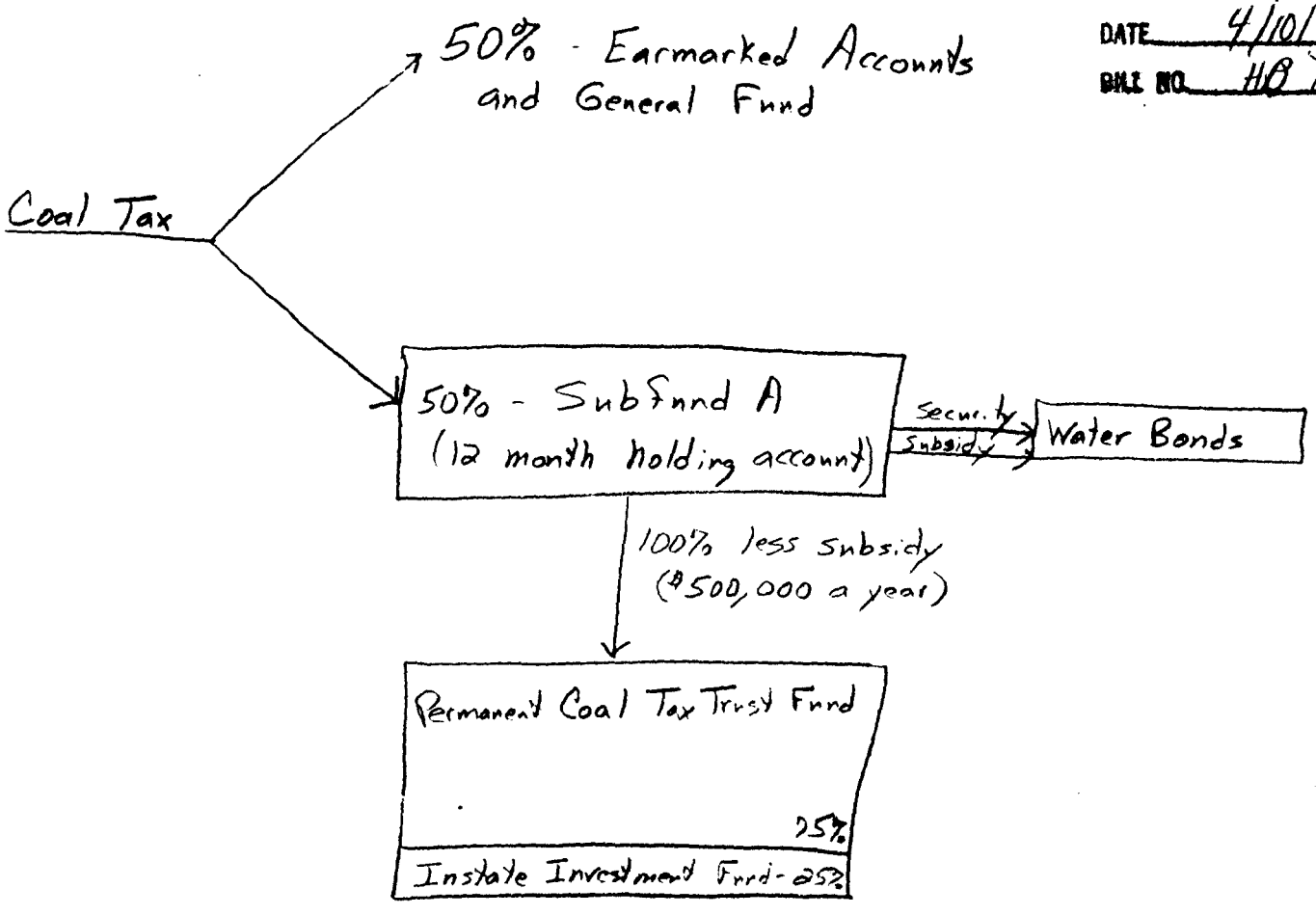
19. Page 23, line 10.
Strike: "7"
Insert: "8"

20. Page 23, lines 11 through 15.
Strike: section 13 in its entirety
Renumber: subsequent section

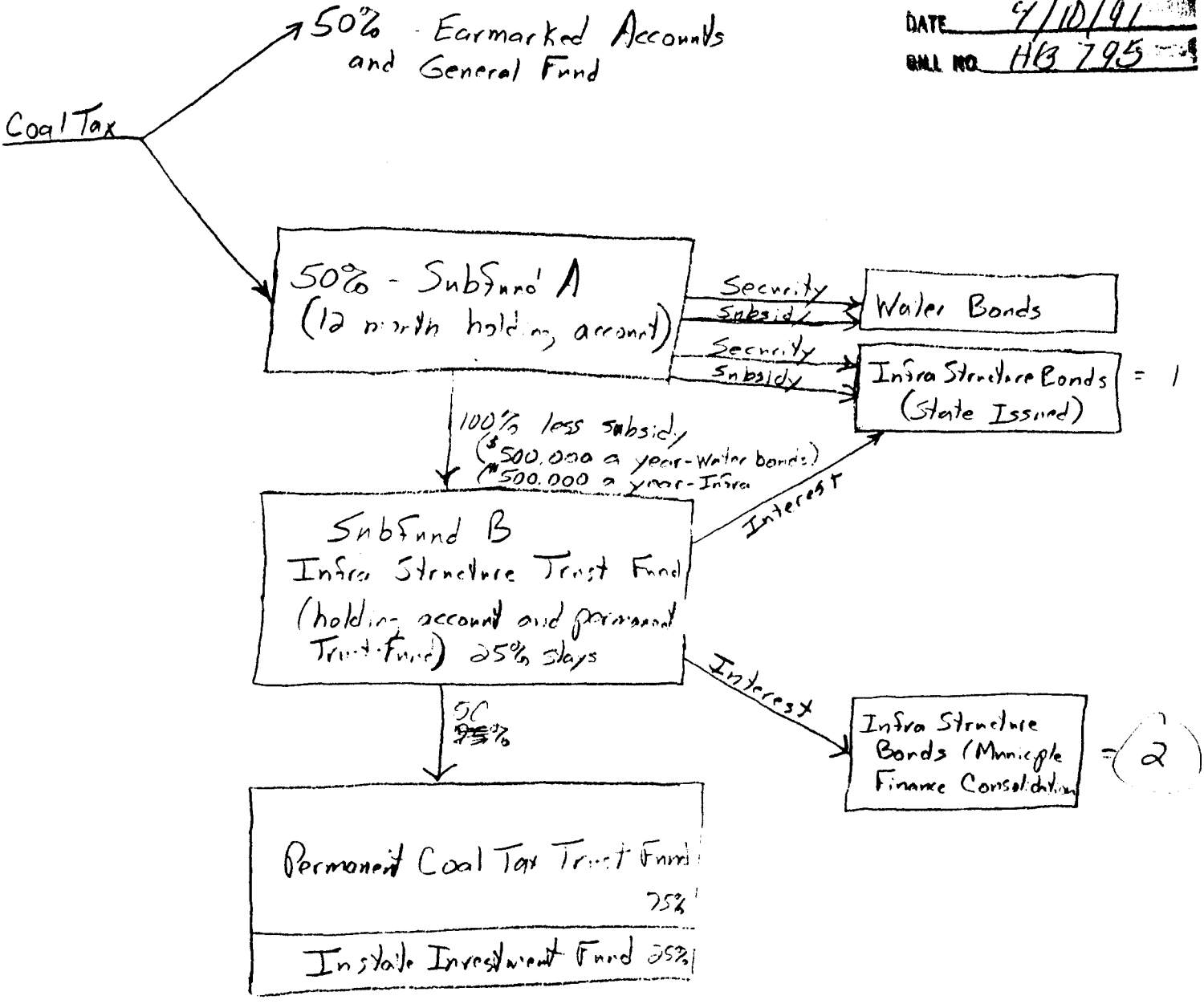
SENATE TAXATION
EXHIBIT NO. 3
DATE 4/10/91
BILL NO. HB 795

1996	1997	1998	1999	2000	2001	2002	2003
17,550,000	17,550,000	17,550,000	17,550,000	17,550,000	17,550,000	17,550,000	17,550,000
4,191,524	5,087,452	5,983,379	6,879,307	7,775,234	8,671,162	9,567,089	10,463,017
895,928	895,928	895,928	895,928	895,928	895,928	895,928	895,928
174,414,284	211,694,889	248,975,494	286,256,099	323,536,704	360,817,309	398,097,914	435,378,519
37,280,605	37,280,605	37,280,605	37,280,605	37,280,605	37,280,605	37,280,605	37,280,605

SENATE TAXATION
EXHIBIT NO. 4
DATE 4/10/91
BILL NO. HB 795

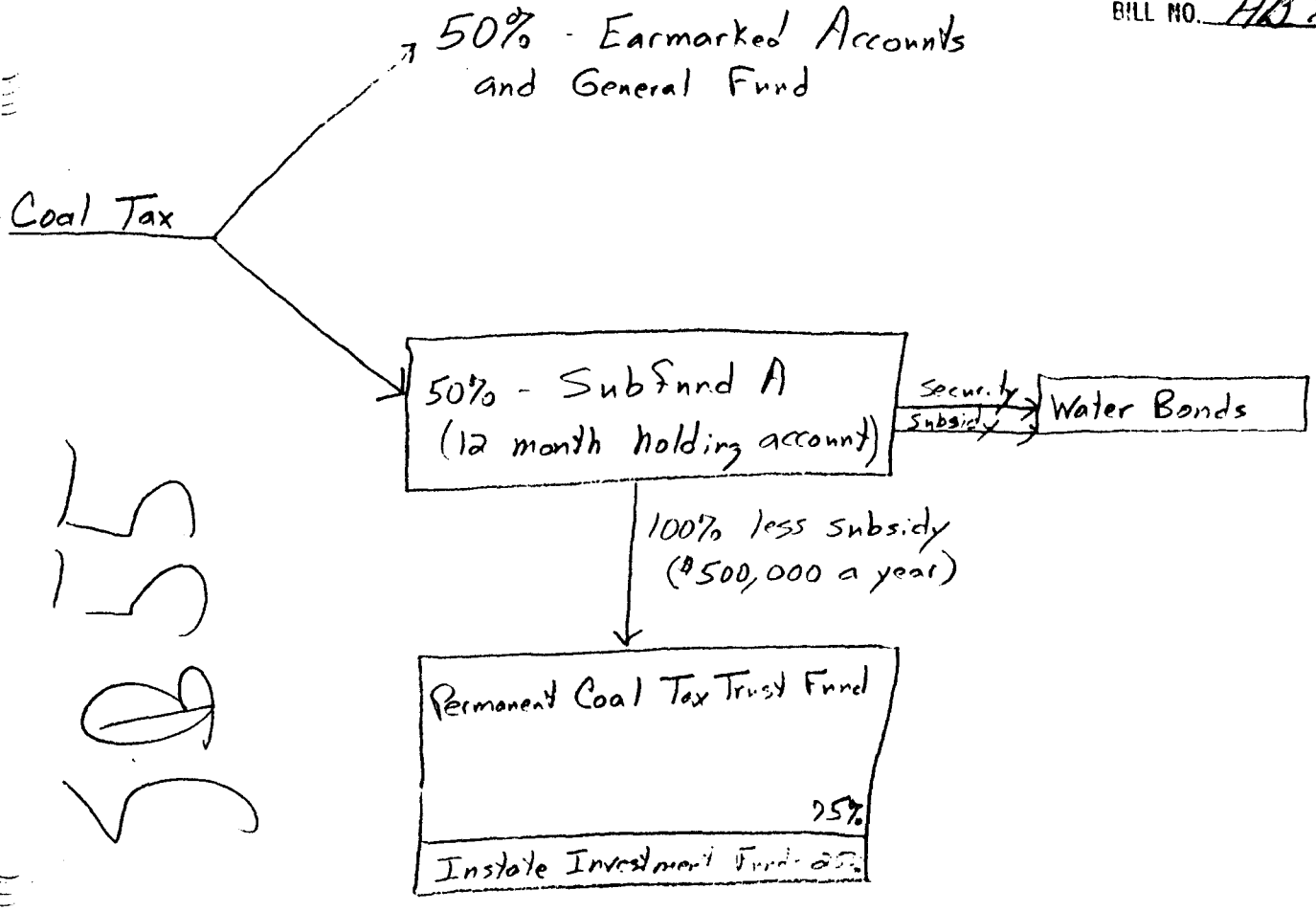


SENATE TAXATION
EXHIBIT NO. 5
DATE 4/10/91
BILL NO. HB 795



SENATE TAXATION
EXHIBIT NO. 6
DATE 4/10/91
BILL NO. HB 795

Current Law

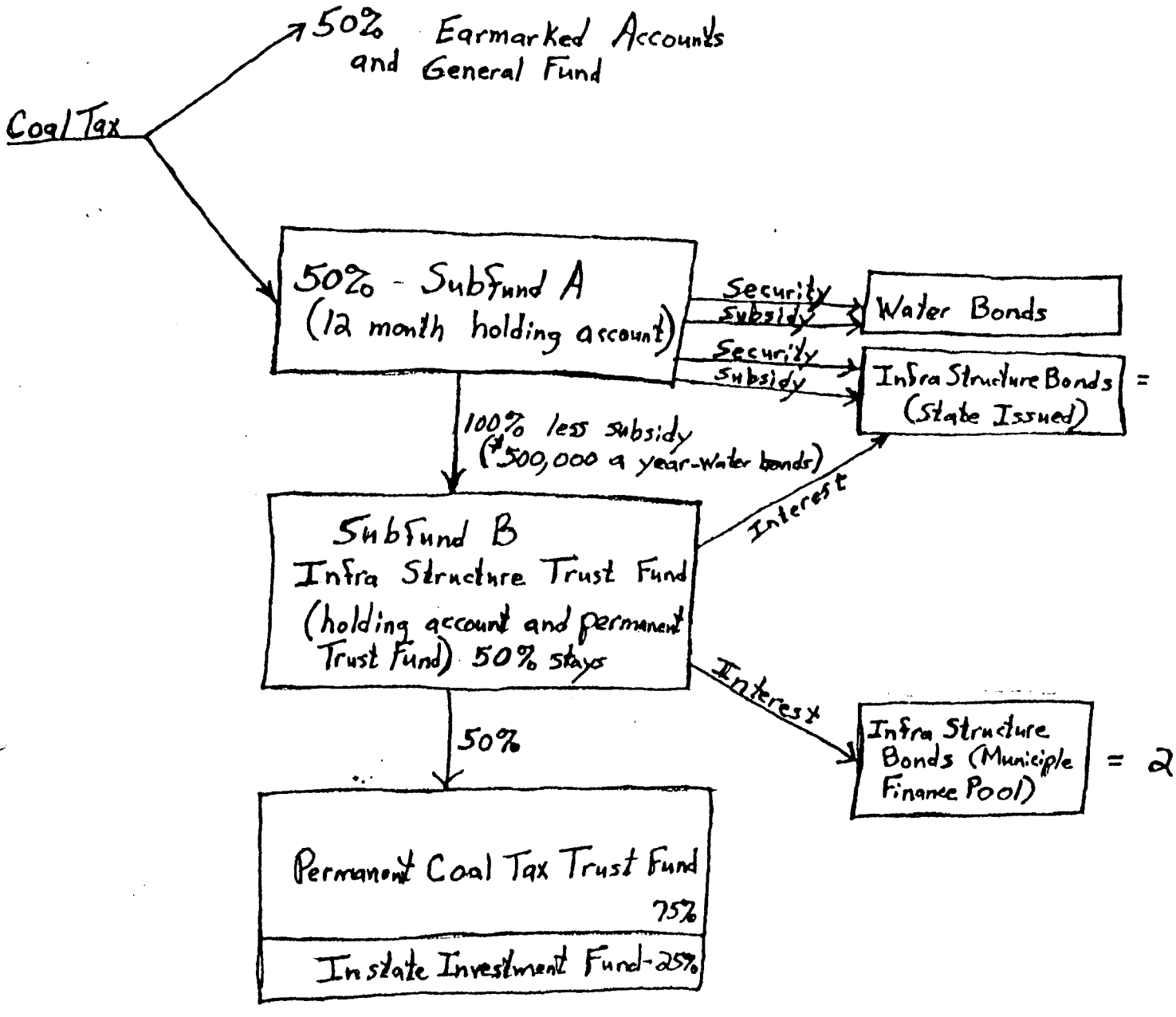


SB 55

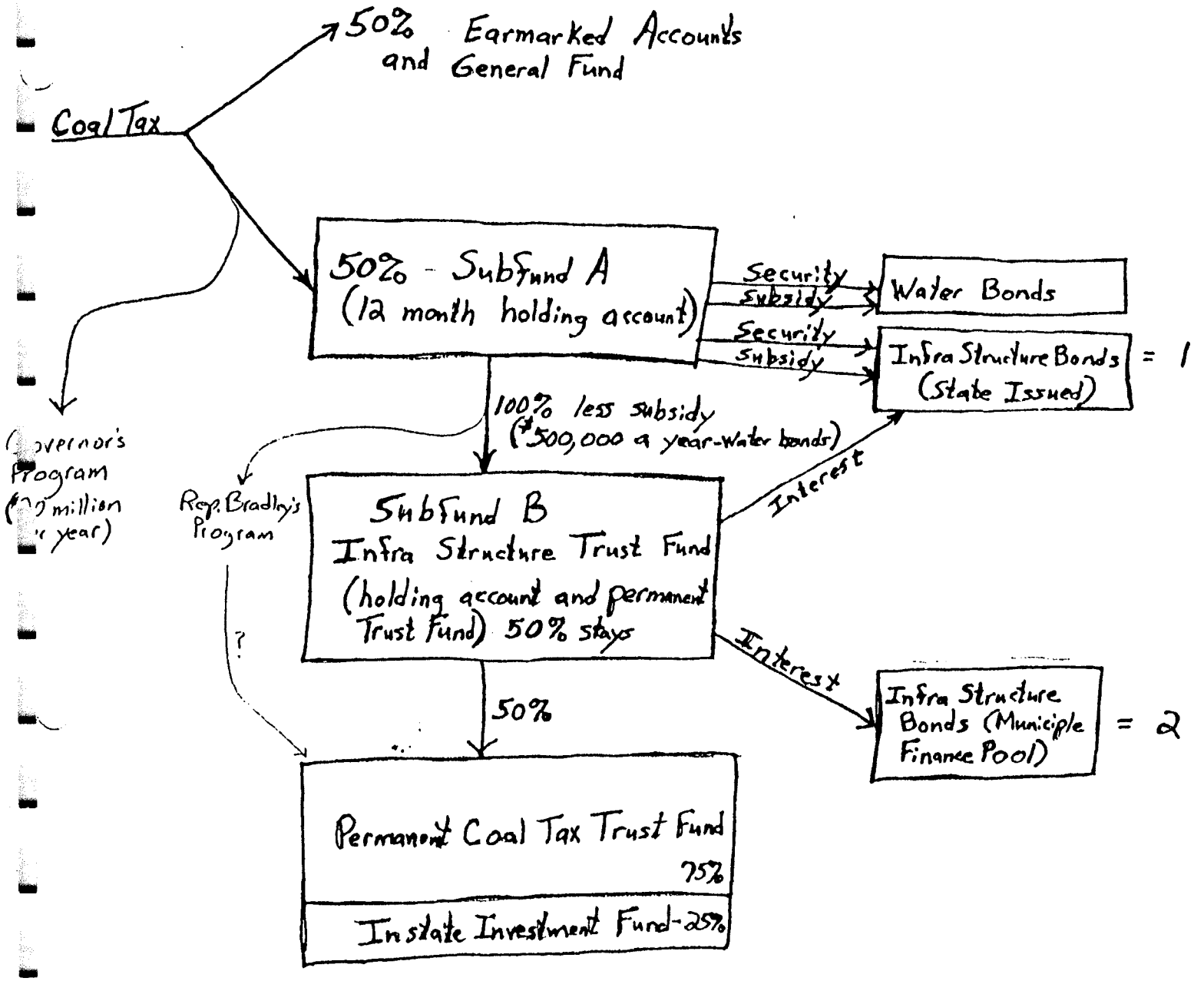
OK MAZUREK

HB 795 Thomas E. Cook

House Bill 795



Comparison of all 3 bills



INFRA STRUCTURE TRUST FUND

Date	Principle	Interest	Amount of Bonds at 3.5% Subdisy	Infra Structure Bonds; Waterbond Program
July 1, 1991	10,000,000	950,000	27,143,000	12-25 mill
July 1, 1992	19,500,000	1,852,500	52,925,500	12-25 mill
July 1, 1993	29,000,000	2,755,000	78,714,000	12-50 mill
July 1, 1994	38,500,000	3,657,500	104,500,000	12-50 mill
July 1, 1995	48,000,000	4,560,000	130,286,000	12-50 mill
July 1, 1996	57,500,000	5,462,500	156,071,000	12-50 mill
July 1, 1997	67,000,000	6,365,000	181,429,000	12-50 mill
July 1, 1998	76,500,000	7,267,500	207,643,000	12-50 mill
July 1, 1999	86,000,000	8,170,000	233,429,000	12-50 mill
July 1, 2000	95,500,000	9,072,500	259,214,000	12-50 mill
July 1, 2001	105,000,000	9,975,000	285,000,000	12-50 mill
July 1, 2002	114,500,000	10,877,500	310,786,000	12-50 mill
July 1, 2003	124,000,000	11,780,000	336,571,000	53 mill
July 1, 2004	133,500,000	12,682,500	362,357,000	53 mill
July 1, 2005	143,000,000	13,585,000	388,143,000	60 mill
July 1, 2006	152,500,000	14,487,500	413,929,000	60 mill
July 1, 2007	162,000,000	15,390,000	439,714,000	80 mill
July 1, 2008	171,500,000	16,292,500	465,500,000	80 mill
July 1, 2009	181,000,000	17,195,000	491,286,000	90 mill
July 1, 2010	190,500,000	18,097,500	517,071,000	100 mill
July 1, 2011	200,000,000	19,000,000	542,857,000	100 mill

BIG SKY DIVIDEND - AND ALTERNATIVES

Senate Bill 55 - Governor Stephens Big Sky Dividend . (Crippen, sponsor). (HB 374 is the companion bill that appropriates money from the Coal Tax Trust)(J. Rice, sponsor).

- Up to $20 million each year from the Coal Tax Trust.
- Grant program only.
- To local governments for infrastructure projects - water and sewer systems, solid waste disposals, transportation systems, telecommunications and other public works.
- Administered by Department of Commerce - based on a list of piorities set forth in section 9 of the bill.
- 50% local match required.
- Big Sky Dividend Advisory Council created.

House Bill 905 - Dorothy Bradley's New Century Fund.

- $20 million each year from the Coal Tax Trust.
- Contemplates floating a bond issue and part of the money is used to pay off the bond issue, thus substantially increasing the initial sum available.
- Grant and loan program.
- To local governments and private non profit corporations. For Infrastructure (same definition and list of priorities as the governor's program) from the sale of Bonds just like the water bond program now (supported by the coal tax trust).
- To the capital construction program for the inprovement, expansion, reconstruction, and construction of state buildings, including University buildings.
- To the Department of Fish, Wildlife and Parks for improvement and construction of facilities at park and recreation areas.
- Individual approval on a project by project basis by a 3/4ths vote of the legislature.

HOUSE BILL 795 - The Montana Community Infrastructure Act: Harper and Towe.

- Loan program only. No grants.
- Special fund within the Coal Tax Trust created, called the Infrastructure Trust Fund.
- Bonding program parallel to the Water Bond Program now in existence (secured by the coal tax trust funds flowing into the coal tax trust). Some subsidy of interest is available.
- To local governments for infrastructure (same priorities as the governor's program).
- In addition, the interest from the Infrastructure Trust Fund will be available permanently to further subsidize interest rates and maybe even some principle if necessary.
- A permanent Trust Fund dedicated to Infrastructure. $10 million initially set aside for this Trust Fund plus 50% of the future flow into the Coal Tax Trust Fund would be set aside as the Infrastructure Trust Fund. In many ways this is a more significant commitment to infrastructure than either the Governor's or Representative Bradley's program. In 10 years, this Fund would contain $100 million.
- The loss to the General Fund would be less than one half of either the Governor's proposal or Representative Bradley's proposal. $2.8 million this biennium and $6.3 million next biennium.

SENATE TAXATION
EXHIBIT NO. 7
DATE 4/10/91
BILL NO. HB 795

PREFERRED ALTERNATIVE TO BIG SKY DIVIDEND

The Governor's Big Sky Dividend program has been introduced as SB 55 by Senator Crippen. A companion bill that appropriates the money from the Coal Tax Trust has been introduced as HB 374 by Representative Jim Rice. It is a plan to spend Coal Tax Trust moneys for assisting local governments on infrastructure programs (water and sewer and other local service improvements).

Representative Dorothy Bradley has a similar plan which she calls the New Century Fund. Her bill, HB 905, would also use Coal Tax Trust moneys for local government infrastructure programs. This plan expands the use of the Coal Tax Trust moneys to include construction, reconstruction, and repair of public buildings and park and recreation facilities. Unlike the Governor's program, it would allow for bonding with the Coal Tax Revenues as the source of repayment, thus greatly increasing the initial amounts available. It provides for both loans and grants.

I submit that neither program is acceptable because they both spend Coal Tax Trust Fund monies. Also, both programs are open to a serious charge of Pork Barrel spending - the local governments with the most political clout will receive most of the grants.

There is a third alternative which represents a more serious commitment to infrastructure without "spending" the Coal Tax Trust Fund monies. This is HB 795, sponsored by Speaker Hal Harper, myself, and most of the Democratic leadership in the Legislature.

The Coal Tax Trust Fund was established to make up, in part, for the loss of a valuable resource. Once the coal is mined and shipped out of state, a part of the Treasure of the Treasure State will be gone forever. To assure future generations that we did not spend or squander this Treasure, we set aside 50% of all the coal tax collected into a permanent trust fund.

Although the interest income from the Coal Tax Trust Fund is available for general use by the legislature each year, the principle of the Fund cannot be used without a three fourths vote of each House of the Legislature. This limitation was adopted by the people when the Constitution was amended to make this Trust Fund Permanent.

Both the Governor's plan and Representative Bradley's plan hope to use the principle by obtaining a three fourths vote of each House of the Legislature.

To spend that Coal Tax Trust Fund would be like spending

SENATE TAXATION
EXHIBIT NO. 8
DATE 4/10/91
BILL NO. HB795

Amendments to House Bill No. 795
Third Reading Copy

Requested by Representative Bachini
For the Committee on Taxation

Prepared by Greg Petesch
April 9, 1991

1. Title, line 15.
Following: ";"
Insert: "PROVIDING FOR GRANTS FROM THE COAL SEVERANCE TAX INFRASTRUCTURE FUND FOR PUBLIC BUILDINGS;"

2. Page 3, line 7.
Following: line 6
Insert: "(4) The state treasurer shall transfer money from the coal severance tax infrastructure fund to the department in the amount authorized by the legislature to carry out each grant for a public building project as provided in [section 7(3)]. The funding for the grant must be approved by a three-fourths vote of each house of the legislature."

3. Page 7, line 9.
Strike: "OR"

4. Page 7, line 14.
Following: "BRIDGES" on line 14
Insert: "; or
(e) public buildings, as defined in 37-65-102.
(3) A local government, referred to in subsection (1), or state government, including the university system, may apply for a grant for a public building project as provided in subsection (2)(e)"

5. Page 10, line 12.
Following: line 11
Insert: "NEW SECTION. Section 12. **State building projects.** (1) The department of administration shall assess the current use and condition of state buildings and develop a plan for the improvement and construction of public buildings for state government, including the university system. The plan must emphasize capital improvement and the expansion of existing buildings and must be designed to provide for the longest and best use of existing buildings. The construction of new buildings must receive a lower priority than improvement of existing buildings.
(2) The plan must identify improvement or expansion projects on a project-by-project basis and must include the estimated cost of each project. The department shall prioritize the projects according to the buildings most in need of improvement or expansion. A list of the projects proposed for funding must be presented to each regular

hb079510.agp

session of the legislature, and funding must be approved by a three-fourths vote of each house of the legislature.

(3) The state treasurer shall transfer money from the coal severance tax infrastructure fund to the department of administration to carry out each project in the amount authorized by the legislature."

Renumber: subsequent sections

SENATE TAXATION
EXHIBIT NO. 9
DATE 4/10/91
BILL NO. HB 79

A SPECIAL REPORT:

AFFORDABILITY OF MAJOR WASTEWATER SYSTEMS IMPROVEMENTS FOR SMALL MONTANA COMMUNITIES

October, 1990

MONTANA DEPARTMENT OF COMMERCE
Local Government Assistance Division
Community Technical Assistance Program

SENATE TAXATION
EXHIBIT NO. 10
DATE 4/10/91
BILL NO. HB 795

Information from Jim Richard
House Bill 795; Senate Taxation Committee

SUMMARY: DERIVATIONS OF AFFORDABILITY STANDARDS7

The following summarizes several approaches to derive an "affordability" definition to use in administering a state public facilities program:

	FmHA Criteria	State Averages	State "Highs"
Annual water user fee:	$ 270*	$192**	$300***
Annual sewer user fee:	$ 270*	$108**	$300***
Annual solid waste fee:	$ 100	$120	$140
Total user fees:	**$ 640**	**$420**	**$740**
Total mills:	364#	364 #	364 #
x Tax.Val.:	$1,540	$1,680 ##	$1,680 ##
= Tax payment:	**$ 460**	**$612**	**$612**
TOTAL ANNUAL FEES & TAXES:	**$1,100**	**$1,032**	**$1,352**
Total fees & taxes **$15,420** =	8.2%	6.7%	8.7%

* Derived from the FmHA criterion that a utility's annual debt service exceeds 1% of median household income; $10/month per household is added to pay for operation and maintenance of the utility (annual debt service of $154 + annual O&M of $120 = $270). That annual user fee is equivalent to $22.50 per month.

** Average water and sewer rates statewide.

*** Based on water and sewer rates of $25 per month for each utility.

\# Average total school district, county, municipal, school equalization mill levy in Montana.

Based on average appraised value of residential property in Montana.

SUGGESTED CRITERIA FOR RANKING PUBLIC FACILITIES APPLICATIONS

1. NEED FOR, AND BENEFIT OF, PROJECT

   a. Severity of Deficiencies
      - *The appropriate state agency would rank applications on a scale of 0 -100 (This would compare hospitals to hospitals, bridges to bridges, etc.)*
      - *An outline of state agencies and available priority or deficiency lists is shown on the following page.*

   b. Public Health or Safety Threatened
      - *This criterion could give weight toward water, sewer, landfills, crowded classrooms, asbestos, dangerous curves or intersections, environmental clean-up (where a local responsibility)*

   c. Number of Long Term Jobs Created

2. PROJECT IS A HIGH PRIORITY WITHIN COMMUNITY

   a. A joint Facilities Needs Plan (FNP) was prepared by all local governments in community; project is a community priority
      - *This would weight toward communities where all jurisdictions got together to jointly derive overall community facilities needs and priorities*
      - *If local jurisdictions cannot develop joint FNP on their own, DOC encourages a community to bring a consultant/facilitator to help*

   b. If an single-entity FNP is necessary, process includes public involvement, planning, thoughtful development

3. LOCAL CONTRIBUTION

   a. Local funds toward project, ranked:
      - General funds or cash: as % of local government's taxable valuation
      - G.O. bonds: as % of local government's taxable valuation
      - Revenue bonds: as % of community's median household income

   b. Total mills and assessments: as % of acommunity's median household income

4. LEVERAGE

   a. Other grant funds are brought into the project

SENATE TAXATION
EXHIBIT NO. 11
DATE 4/10/91
BILL NO. HB 795

Table 2

DEBT SERVICE ON $1 MILLION FOR 20 YEARS FOR MONTANA MUNICIPALITIES

Annual Payment Per Household

1990 ESTIMATED POPULATION	7.5% Interest Rate	3.5% Interest Rate	0.0% Interest Rate
Less Than 250	$2,744	$1,968	$1,399
200 to 499	$823	$590	$419
500 to 999	$382	$274	$196
1,000 to 2,499	$189	$136	$96
2,500 or More	$55	$40	$28

Payment as Percent of Average Annual Household Income

1990 ESTIMATED POPULATION	7.5% Interest Rate	3.5% Interest Rate	0.0% Interest Rate
Less Than 250	11.0%	7.9%	5.6%
200 to 499	3.4%	2.4%	1.7%
500 to 999	1.7%	1.2%	0.8%
1,000 to 2,499	0.8%	0.5%	0.4%
2,500 or More	0.2%	0.1%	0.1%

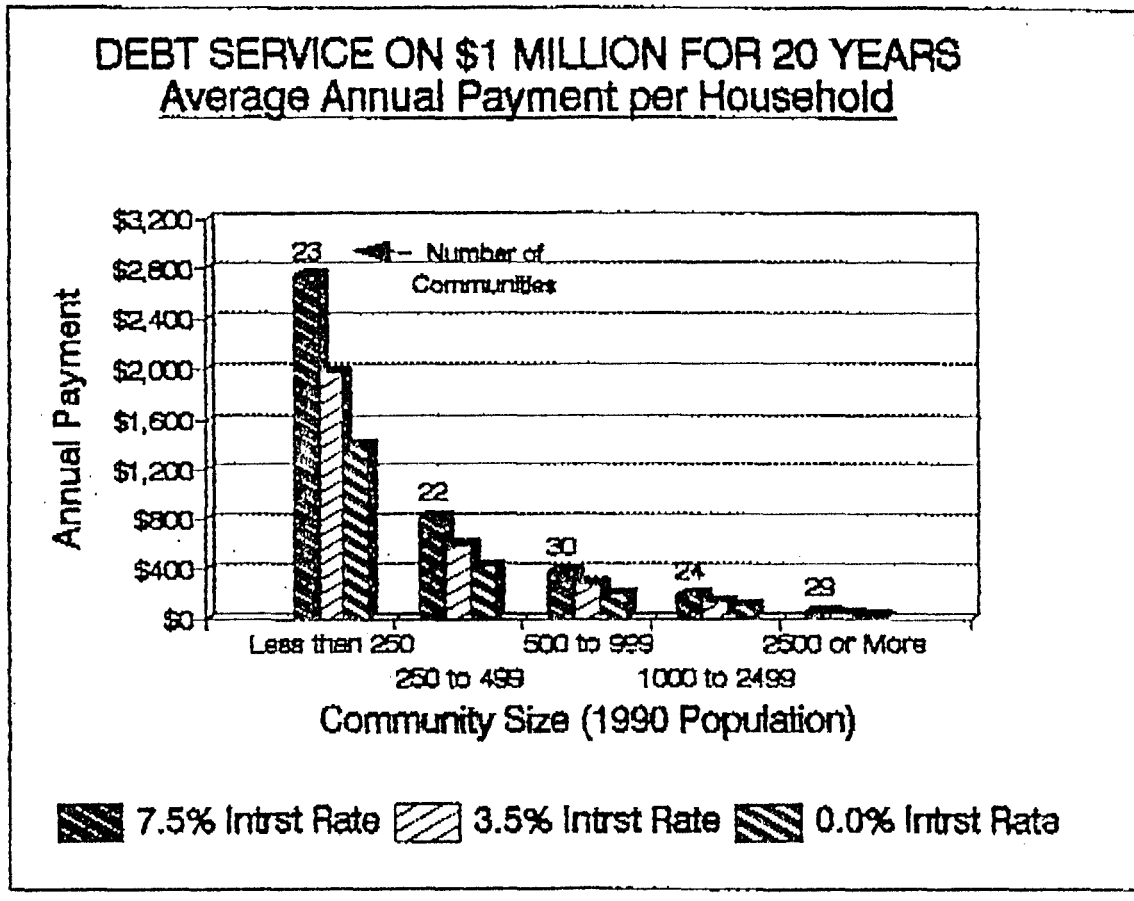


Figure 1

year bond. Payment schedules were calculated for each of three interest rate scenarios; 7.5%, 3.5% and 0.0%

It is evident that, on the average, households in the twenty-three smallest incorporated communities (listed in Table 1, pages 9 and 10) will bear a debt service burden on the water or wastewater treatment facility ranging between $1,400 and $2,750 (see Table 2, page 11), an amount that exceeds typical annual property tax levies for towns of this size by 300 to 700 percent, whatever the interest rate paid. No matter the level of income or wealth in these communities, public acceptance of such an obligation, even apart from financial capacity, is difficult to conceive.

For the next largest group of communities, twenty-two towns with populations from 250 to 499, the estimated average annual debt service per household, from roughly $400 to $800 under the three interest rate scenarios, is at least at the same scale as typical property tax levels. Though it is not likely that most residents of these communities will find doubling of the total cost of municipal public services acceptable, it does appear that in those towns

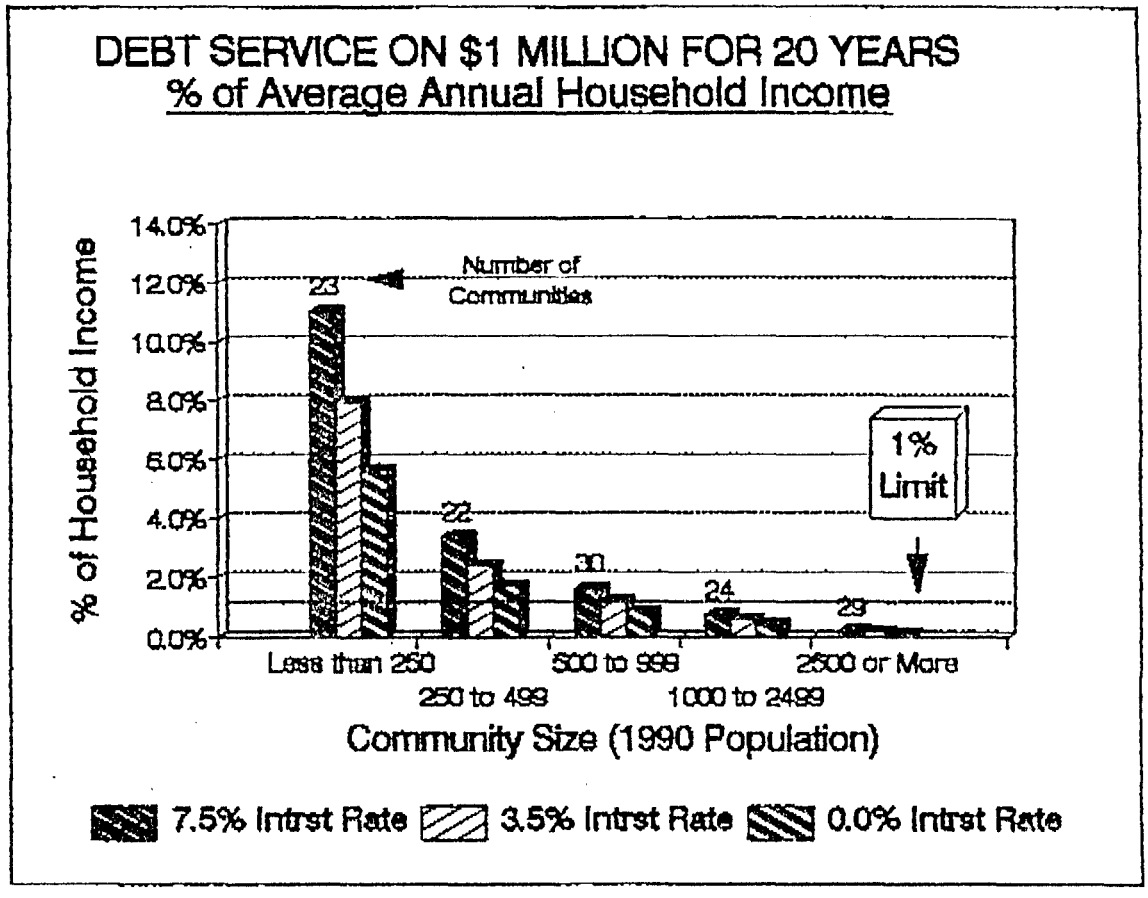


Figure 2

dramatically with increases in community population size to a point at which interest rates are more a matter of managerial than of public concern.

Roughly one-third of the state's incorporated communities, especially those with 500 residents or less, will not be benefitted by an interest rate subsidy program. This is in line with the Montana Department of Commerce's summary findings that communities of less than 200 households, or roughly 500 population, cannot afford to pay for sewer system improvements.

Discussion

Both this report and the analysis performed by the Montana Department of Commerce support the position that a policy of making low, or no interest borrowing capacity available for communities attempting to bring their water or wastewater treatment facility up to contemporary performance standards will be of little assistance to small town officials. The state report notes, however, that a policy decision to extend the term of bonds

SENATE TAXATION
EXHIBIT NO. 13
DATE 4/18/91
BILL NO. HB 795

REVISED 4/2/91

CONTENT & EFFECT COMPARISON: SB55 TO HB795 (As Amended) AND HB905

	SB55	HB795 (As Amended)	HB905
1. Purpose		Identical	Only for state buildings and parks rehabilitation.
2. Eligible Projects		Limited to drinking water, sewer, and solid waste systems and bridges. *Adds engineering planning up front.	Only for state buildings and parks rehabilitation. NO LOCAL INFRASTRUCTURE.
3. Priorities for Funding		Identical	State buildings have priorit over parks for funding
4. Eligible Applicants	Limits eligible applicants to general purpose local governments (cities, towns and counties).	Adds special purpose districts as eligible applicants.	Adds special purpose distric and private nonprofit corporations that provide public services as eligible applicants. Also adds stat and fish and game as eligib applicants.
5. Funding Levels	Provides grants of nearly $20 million to local projects annually. $40 million may be dispersed for construction projects by 6/30/93.	Provides infrastructure assistance of approximately $.5 million the 1st year and $1.3 million the 2nd year. No construction dollars would be released by 6/30/93.	Provides grants of approximately $4 million annually to state agencies parks is available.

	SB55	HB795 (As Amended)	HB905
6. Program Management/ DOC Responsibilities	Defines DOC's administrative responsibilities and sets out authority for DOC to publicly adopt rules necessary to implement the program for issues such as establishing application requirements, procedures and criteria for the ranking of applicants, minimum standards for local government financial contributions to infrastructure projects, and requirements governing local project administration.	The DOC administrative duties are only to "prepare and submit a list of recommended projects to the Governor," to "administer the loan program," and to "service loan made or contract and pay for the servicing of loans." Adds grants of $225,000 for engineering studies.	None - Will be Department of Administration and Fish, Wildlife and Parks.
7. DOC Administrative Funding	Administrative and operating expenses of DOC would be paid from the local government infrastructure grant account.	No provision is made for funding DOC administration.	No administrative funding prescribed for either Department of Administratior or for Department of Fish, Wildlife and Parks.
8. Citizen Participation	Would assure public involvement in the development of the general policies, ranking criteria, and procedures which would govern the BSD program by the administrative rules requirements, public hearings, and by establishing a nine-member advisory council, appointed by the Governor, including the House and Senate minority and majority leaders plus five citizen members.	Would not require public hearings and rules or establish an advisory council to advise DOC on the coal severance tax infrastructure program.	Would not establish an advisory council to advise t coal severance tax building program.

#12

#12

	SB55	HB795 (As Amended)	HB905
9. Project Awards Process	Provides for quarterly award of BSD grants by DOC, based on adopted ranking criteria.	Involves the Department to the Governor recommending projects for legislative approval for the new DOC coal severance tax infrastructure program. Projects would be approved biennially by the Legislature with a two-thirds vote of each house required for each project approval. There is no provision for the use of publicly adopted ranking criteria to recommend projects for funding.	Involves the Department to t Governor recommending projec for legislative approval for the new coal severance tax building program. Projects would be approved biennially by the Legislature with a three fourths vote of each house required for each project approval.
10. Grants vs. Loans	Provides for only grants to local governments with the requirement that applicants provide 50% of the cost of the proposed project from other sources.	Provides loans and grants under the DOC coal severance tax infrastructure program. Loans would be permitted for up to a thirty-year term. Interest rates must be sufficient to cover bond debt service for a loan.	No infrastructure projects f local governments. Grants available to state agencies and the park system. Grants would continue under DNRC's Water Development Program.

	SB55	HB795 (As Amended)	HB905
11. Relationship to Other State Infrastructure Programs	Designed to operate in coordination with existing federal and state grant and loan programs, as well as the private bond market, to provide grant funds, when necessary, to make infrastructure projects affordable for local citizens.	Proposed coal severance tax infrastructure loan program would functionally duplicate two other state infrastructure financing programs: the DNRC Water Development Program, which provides below market rate loans (approximately 7%) for water and sewer projects, and the State Revolving Fund (SRF) which will be established this year. The SRF will make low interest (approximately 4%) loans for improvements to sewer systems. Does not prescribe local affordability considerations.	NONE FOR LOCAL GOVERNMENTS.
12. Potential for Leveraging Other Funds	Maximizes the leverage of BSD funds with other public and private infrastructure financing sources. Under SB55 higher local participation is encouraged procedurally by a rewarding ranking criteria and by inviting funding applications on a quarterly basis.	Proposes a biennial funding cycle, and has no mission for rewarding increased local participation. The timely and effective combination of these proposed state infrastructure loans with federally funded infrastructure programs such as FmHA or CDBG would be limited. Appropriated accumulated funds for engineering studies (new Section 12).	NONE FOR LOCAL GOVERNMENTS.

#12

	SB55	HB795 (As Amended)	HB905
13. State Financial Impact	Diverts $20 million of the "new" coal severance tax revenues to an infrastructure grant account for the prescribed awarding of funds to local projects. The loss of revenue to the state is the loss of the interest to the general fund of a growing principle in the trust account. This loss is equal to approximately$2.8 million per year of operation.	It increases the top limit of coal severance tax bonds that can be issued from $250 million to $450 million and authorizes their issuance for loans to "local government infrastructure projects and activities." This change has no effect on the ability of the state to sell more bonds. Has a $2 million cost to the state general fund in lost interest.	Would cost the state genera fund $2 million lost intere in 1993 biennium.
14. Local Financial Impact	Grants would generally limit local costs of infrastructure projects to their 50% participation. Grants of $20 million per year.	Loans would generally require local taxpayers/ratepayers to cover 100% of all infrastructure project costs. Proposes loan subsidies that would take 20 years to accumulate a fund of $20 million.	NONE.

#12

SENATE TAXATION
EXHIBIT NO. 13
DATE 4/10/91
BILL NO. HB 795

AFFORDABILITY OF MAJOR WASTEWATER SYSTEMS IMPROVEMENTS FOR SMALL MONTANA COMMUNITIES

Prepared by:

Jim E. Richard, Consultant

Published by:

MONTANA DEPARTMENT OF COMMERCE

Local Government Assistance Division

Community Technical Assistance Program

Funded by:

Montana Community Technical Assistance Program

Montana Department of Health and Environmental Sciences

U.S. Environmental Protection Agency

Office of Municipal Pollution Control, SCORE Grant #T-901808-01-0

Helena, Montana

October 1990

SENATE TAXATION
EXHIBIT NO. 14
DATE 9/10/91
BILL NO. HB 795

LOCAL GOVERNMENT POLICY SERIES

The Impact of Interest Rates on the Affordability of Water and Wastewater System Improvements in Small Montana Municipalities

by

Dr. Richard L. Haines

Local Government Policy Study No. 1991-002

Sponsored by

MONTANA LOCAL GOVERNMENT POLICY COUNCIL
AND
LOCAL GOVERNMENT POLICY CENTER
MONTANA STATE UNIVERSITY

SENATE TAXATION
EXHIBIT NO. 15
DATE 4/10/91
BILL NO. HB 795

APPLICATION OF PROPOSED HB 795 TO A REAL LIFE SITUATION:

ST. REGIS, MONTANA

St. Regis, Montana (in Mineral County) is an unincorporated community of 300 persons. The community badly needs a central sewage treatment system; currently the 150 homes and businesses are served by individual septic tanks on small lots. Many septic systems have failed and cannot be repaired. This situation threatens to pollute local drinking water wells and the nearby Clark Fork River. Raw sewage, with its potential for causing disease, has already reached the ground surface. The estimated cost of constructing a new sewage collection and treatment system is $3 million, based upon preliminary engineering estimates.

With Conventional Private Financing:

Financing this sewer project with a conventional revenue bond at 7.5% interest for 20 years would result in a monthly per household cost of $180 per month, including $16 per month operation and maintenance (O & M) costs. A sewer charge of this magnitude would be clearly unaffordable for the residents of St. Regis.

With Best Case Existing Public Financing:

Assuming St. Regis could obtain a grant for $100,000 under the current DNRC Water Development Grant Program, a 4% loan under the DHES Water Quality Bureau's newly created, federally funded State Revolving Fund (SRF), and a $350,000 grant from the DOC Community Development Block Grant (CDBG) Program, the project would be financially structured as follows:

DNRC Grant	$ 100,000	
DOC CDBG Grant	350,000	
SRF Loan	2,550,000	(4% at 20 years)
	$3,000,000	Total

Monthly sewer charges per household, including $16 per month for O & M, would be $120 per month a cost that would still be beyond the financial means of most families.

With HB 795 Assistance:

By taking the same financing package as described above and adding loan assistance as proposed in HB 795, the project could be structured as follows:

DNRC Grant	$ 100,000	
DOC CDBG Grant	350,000	
HB 795 Loan	2,550,000	(4% at 30 years)
	$3,000,000	Total

Under this financing plan, St. Regis families would expect to pay a total monthly sewer fee of $98 per month, including $16 per month for O & M. A

#15

monthly fee of this magnitude still constitutes a very high monthly sewer rate compared to other Montana communities and would likely be unaffordable for the residents of St. Regis.

Conclusion:

- With conventional financing, St. Regis residents would expect to pay $180 per month for total sewer charges.

- With the best possible combination of existing public financing programs, total sewer rates would be $120 per month.

- With a loan of $2,550,000 under the terms of proposed HB 795, combined with DNRC and CDBG grants, total sewer fees would be $98 per month. A fee of this magnitude constitutes a very high monthly sewer rate compared to other Montana communities.

CFILE: bsdstr795

16

Exp 1

EXHIBIT NO. 16
DATE 4/10/91
BILL NO. HB795

HB795 Assuming constant coal tax revenues

Base Scenario for FY92 and FY93
(Assumes 1 % Annual Increase in CST Revenues, 9% Rate of Return)

Year	1992	1993	1994	1995	1996	
Coal severance tax (CST) proceeds	38,400,000	37,100,000	37,471,000	37,845,710	38,224,167	3
Coal trust deposits (50% proceeds)	19,200,000	18,550,000	18,735,500	18,922,855	19,112,084	1
CST Bond Fund						
a) Water development subsidy	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	
b) Next 12 months security	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	
c) New CST bond coverage	4,100,000					
Infrastructure Fund						
a) Infrastructure fund holdings	14,100,000	17,550,000	17,735,500	17,922,855	18,112,084	1
b) Special revenue fund deposits	555,188	1,325,531	2,122,585	2,928,060	3,742,039	
c) Total bonding capibilty (@3.5%)	23,102,010	55,156,926	88,323,290	121,840,043	155,710,688	18
CST trust						
a) 25% instate investment fund	1,322,000	2,086,000	2,211,000	2,235,000	2,258,000	
b) 50% to the trust	3,966,000	6,258,000	6,633,000	6,704,000	6,774,000	
c) Total Flow to trust	5,288,000	8,344,000	8,844,000	8,939,000	9,032,000	
Investment fund						
a) 85% general fund	36,173,075	36,761,886	37,435,835	38,116,905	38,805,168	3
b) 15% Scool Foundation Program	6,383,484	6,487,392	6,606,324	6,726,513	6,847,971	
Interest Calculation						
% held in infrastructure account	50.00%					
1st qtr. infrastructure fund	3,525,000	11,437,500	20,258,875	29,173,464	38,182,198	4
2nd qtr. infrastructure fund	5,287,500	13,631,250	22,475,813	31,413,821	40,446,209	4
3rd qtr. infrastructure fund	7,050,000	15,825,000	24,692,750	33,654,178	42,710,219	5
4th qtr. infrastructure fund	8,812,500	18,018,750	26,909,688	35,894,534	44,974,230	5
Average Annual Rate of Return	9.00%					
1st qtr. special revenue account	79,313	257,344	455,825	656,403	859,099	
2nd qtr. special revenue account	118,969	306,703	505,706	706,811	910,040	
3rd qtr. special revenue account	158,625	356,063	555,587	757,219	960,980	
4th qtr. special revenue account	198,281	405,422	605,468	807,627	1,011,920	
Annual special rev. acct. deposits	555,188	1,325,531	2,122,585	2,928,060	3,742,039	
1st qtr. flow to trust	0	1,762,500	2,193,750	2,216,938	2,240,357	
2nd qtr. flow to trust	1,762,500	2,193,750	2,216,938	2,240,357	2,264,010	
3rd qtr. flow to trust	1,762,500	2,193,750	2,216,938	2,240,357	2,264,010	
4th qtr. flow to trust	1,762,500	2,193,750	2,216,938	2,240,357	2,264,010	
Annual Flow to trust	5,287,500	8,343,750	8,844,563	8,938,008	9,032,388	
Beginning Coal Trust Balance	470,206,908					
1st quarter trust balance	470,206,908	477,256,908	486,031,908	494,899,658	503,861,086	512
2nd quarter trust balance	471,969,408	479,450,658	488,248,846	497,140,015	506,125,096	515
3rd quarter trust balance	473,731,908	481,644,408	490,465,783	499,380,372	508,389,106	517
4th quarter trust balance	475,494,408	483,838,158	492,682,721	501,620,729	510,653,117	519
Average Annual Rate of Return	9.00%					
1st qtr. interest on trust	10,579,655	10,738,280	10,935,718	11,135,242	11,336,874	11
2nd qtr. interest on trust	10,619,312	10,787,640	10,985,599	11,185,650	11,387,815	11
3rd qtr. interest on trust	10,658,968	10,836,999	11,035,480	11,236,058	11,438,755	11
4th qtr. interest on trust	10,698,624	10,886,359	11,085,361	11,286,466	11,489,695	11
Annual Interest	42,556,559	43,249,278	44,042,158	44,843,417	45,653,139	46

#16

Ep 2

1997	1998	1999	2000	2001	2002	2003	2004	2005
38,606,409	38,992,473	39,382,398	39,776,222	40,173,984	40,575,724	40,981,481	41,391,296	41,805,209
19,303,204	19,496,236	19,691,199	19,888,111	20,086,992	20,287,862	20,490,740	20,695,648	20,902,604
1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000
18,303,204	18,496,236	18,691,199	18,888,111	19,086,992	19,287,862	19,490,740	19,695,648	19,902,604
4,564,608	5,395,853	6,235,861	7,084,718	7,942,514	8,809,338	9,685,280	10,570,431	11,464,884
89,938,765	224,527,848							
2,282,000	2,306,000	2,330,000	2,355,000	2,380,000	2,405,000	2,430,000	2,456,000	2,481,000
6,846,000	6,918,000	6,991,000	7,065,000	7,139,000	7,214,000	7,290,000	7,367,000	7,444,000
9,128,000	9,224,000	9,321,000	9,420,000	9,519,000	9,619,000	9,720,000	9,823,000	9,925,000
39,500,697	40,203,563	40,913,841	41,631,604	42,356,926	43,089,885	43,830,556	44,579,016	45,335,343
6,970,711	7,094,746	7,220,090	7,346,754	7,474,752	7,604,097	7,734,804	7,866,885	8,000,355
47,286,020	56,485,881	65,782,739	75,177,567	84,671,342	94,265,056	103,959,706	113,756,303	123,655,867
49,573,921	58,797,910	68,119,139	77,538,581	87,057,216	96,676,039	106,396,049	116,218,259	126,143,692
51,861,821	61,109,940	70,455,539	79,899,594	89,443,090	99,087,021	108,832,392	118,680,215	128,631,518
54,149,722	63,421,969	72,791,939	82,260,608	91,828,964	101,498,004	111,268,734	121,142,171	131,119,343
1,063,935	1,270,932	1,480,112	1,691,495	1,905,105	2,120,964	2,339,093	2,559,517	2,782,257
1,115,413	1,322,953	1,532,681	1,744,618	1,958,787	2,175,211	2,393,911	2,614,911	2,838,233
1,166,891	1,374,974	1,585,250	1,797,741	2,012,470	2,229,458	2,448,729	2,670,305	2,894,209
1,218,369	1,426,994	1,637,819	1,850,864	2,066,152	2,283,705	2,503,547	2,725,699	2,950,185
4,564,608	5,395,853	6,235,861	7,084,718	7,942,514	8,809,338	9,685,280	10,570,431	11,464,884
2,264,010	2,287,901	2,312,030	2,336,400	2,361,014	2,385,874	2,410,983	2,436,343	2,461,956
2,287,901	2,312,030	2,336,400	2,361,014	2,385,874	2,410,983	2,436,343	2,461,956	2,487,826
2,287,901	2,312,030	2,336,400	2,361,014	2,385,874	2,410,983	2,436,343	2,461,956	2,487,826
2,287,901	2,312,030	2,336,400	2,361,014	2,385,874	2,410,983	2,436,343	2,461,956	2,487,826
9,127,712	9,223,989	9,321,229	9,419,441	9,518,636	9,618,822	9,720,010	9,822,210	9,925,433
12,917,127	522,068,729	531,316,848	540,662,447	550,106,502	559,649,998	569,293,929	579,039,300	588,887,123
15,205,028	524,380,759	533,653,248	543,023,461	552,492,376	562,060,981	571,730,272	581,501,256	591,374,949
17,492,928	526,692,789	535,989,647	545,384,475	554,878,250	564,471,964	574,166,614	583,963,211	593,862,775
19,780,829	529,004,818	538,326,047	547,745,489	557,264,124	566,882,947	576,602,957	586,425,167	596,350,600
11,540,635	11,746,546	11,954,629	12,164,905	12,377,396	12,592,125	12,809,113	13,028,384	13,249,960
11,592,113	11,798,567	12,007,198	12,218,028	12,431,078	12,646,372	12,863,931	13,083,778	13,305,936
11,643,591	11,850,588	12,059,767	12,271,151	12,484,761	12,700,619	12,918,749	13,139,172	13,361,912
11,695,069	11,902,608	12,112,336	12,324,273	12,538,443	12,754,866	12,973,567	13,194,566	13,417,889
46,471,408	47,298,310	48,133,930	48,978,357	49,831,678	50,693,983	51,565,360	52,445,901	53,335,698

#16

Ep3

005	2006	2007	2008	2009	2010	2011	2012	2013	20
209	42,223,261	42,645,493	43,071,948	43,502,668	43,937,694	44,377,071	44,820,842	45,269,050	45,721,
504	21,111,630	21,322,747	21,535,974	21,751,334	21,968,847	22,188,536	22,410,421	22,634,525	22,860,
000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,
000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,
04	20,111,630	20,322,747	20,535,974	20,751,334	20,968,847	21,188,536	21,410,421	21,634,525	21,860,
84	12,368,732	13,282,068	14,204,988	15,137,586	16,079,961	17,032,209	17,994,430	18,966,723	19,949,
00	2,507,000	2,534,000	2,560,000	2,587,000	2,614,000	2,642,000	2,669,000	2,697,000	2,726,
00	7,522,000	7,601,000	7,681,000	7,762,000	7,843,000	7,925,000	8,008,000	8,092,000	8,177,
00	10,029,000	10,135,000	10,241,000	10,349,000	10,457,000	10,567,000	10,677,000	10,789,000	10,903,
43	46,099,616	46,871,914	47,652,317	48,440,907	49,237,766	50,042,975	50,856,620	51,678,783	52,509,
55	8,135,226	8,271,514	8,409,232	8,548,395	8,689,018	8,831,113	8,974,698	9,119,785	9,266,
67	133,659,425	143,768,019	153,982,700	164,304,527	174,734,572	185,273,918	195,923,657	206,684,893	217,558,
92	136,173,379	146,308,363	156,549,696	166,898,443	177,355,678	187,922,485	198,599,959	209,389,209	220,291,
18	138,687,333	148,848,706	159,116,693	169,492,360	179,976,784	190,571,052	201,276,262	212,093,525	223,023,
43	141,201,287	151,389,049	161,683,690	172,086,277	182,597,890	193,219,618	203,952,565	214,797,840	225,756,
57	3,007,337	3,234,780	3,464,611	3,696,852	3,931,528	4,168,663	4,408,282	4,650,410	4,895,
33	3,063,901	3,291,938	3,522,368	3,755,215	3,990,503	4,228,256	4,468,499	4,711,257	4,956,
09	3,120,465	3,349,096	3,580,126	3,813,578	4,049,478	4,287,849	4,528,716	4,772,104	5,018,
85	3,177,029	3,406,254	3,637,883	3,871,941	4,108,453	4,347,441	4,588,933	4,832,951	5,079,
84	12,368,732	13,282,068	14,204,988	15,137,586	16,079,961	17,032,209	17,994,430	18,966,723	19,949,
56	2,487,826	2,513,954	2,540,343	2,566,997	2,593,917	2,621,106	2,648,567	2,676,303	2,704,
26	2,513,954	2,540,343	2,566,997	2,593,917	2,621,106	2,648,567	2,676,303	2,704,316	2,732,
26	2,513,954	2,540,343	2,566,997	2,593,917	2,621,106	2,648,567	2,676,303	2,704,316	2,732,
26	2,513,954	2,540,343	2,566,997	2,593,917	2,621,106	2,648,567	2,676,303	2,704,316	2,732,
33	10,029,687	10,134,984	10,241,334	10,348,747	10,457,234	10,566,807	10,677,475	10,789,250	10,902,
23	598,838,426	608,894,241	619,055,614	629,323,601	639,699,268	650,183,692	660,777,960	671,483,170	682,300,
49	601,352,379	611,434,584	621,622,611	631,917,518	642,320,374	652,832,259	663,454,262	674,187,486	685,033,
75	603,866,333	613,974,927	624,189,608	634,511,435	644,941,480	655,480,826	666,130,565	676,891,801	687,765,
00	606,380,287	616,515,271	626,756,604	637,105,351	647,562,586	658,129,393	668,806,867	679,596,117	690,498,
60	13,473,865	13,700,120	13,928,751	14,159,781	14,393,234	14,629,133	14,867,504	15,108,371	15,351,
36	13,530,429	13,757,278	13,986,509	14,218,144	14,452,208	14,688,726	14,927,721	15,169,218	15,413,
12	13,586,992	13,814,436	14,044,266	14,276,507	14,511,183	14,748,319	14,987,938	15,230,066	15,474,
89	13,643,556	13,871,594	14,102,024	14,334,870	14,570,158	14,807,911	15,048,155	15,290,913	15,536,
98	54,234,842	55,143,428	56,061,550	56,989,303	57,926,783	58,874,089	59,831,317	60,798,568	61,775,

#16 Ep4

2011	2012	2013	2014	2015	2016
44,377,071	44,820,842	45,269,050	45,721,741	46,178,958	46,640,748
22,188,536	22,410,421	22,634,525	22,860,870	23,089,479	23,320,374
1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
5,200,000	5,200,000	5,200,000	5,200,000	5,200,000	5,200,000
21,188,536	21,410,421	21,634,525	21,860,870	22,089,479	22,320,374
17,032,209	17,994,430	18,966,723	19,949,189	20,941,930	21,945,048
2,642,000	2,669,000	2,697,000	2,726,000	2,754,000	2,783,000
7,925,000	8,008,000	8,092,000	8,177,000	8,262,000	8,348,000
10,567,000	10,677,000	10,789,000	10,903,000	11,016,000	11,131,000
50,042,975	50,856,620	51,678,783	52,509,550	53,349,007	54,197,242
8,831,113	8,974,698	9,119,785	9,266,391	9,414,531	9,564,219
35,273,918	195,923,657	206,684,893	217,558,742	228,546,330	239,648,793
37,922,485	198,599,959	209,389,209	220,291,351	231,307,515	242,438,840
90,571,052	201,276,262	212,093,525	223,023,960	234,068,700	245,228,887
93,219,618	203,952,565	214,797,840	225,756,569	236,829,884	248,018,933
4,168,663	4,408,282	4,650,410	4,895,072	5,142,292	5,392,098
4,228,256	4,468,499	4,711,257	4,956,555	5,204,419	5,454,874
4,287,849	4,528,716	4,772,104	5,018,039	5,266,546	5,517,650
4,347,441	4,588,933	4,832,951	5,079,523	5,328,672	5,580,426
17,032,209	17,994,430	18,966,723	19,949,189	20,941,930	21,945,048
2,621,106	2,648,567	2,676,303	2,704,316	2,732,609	2,761,185
2,648,567	2,676,303	2,704,316	2,732,609	2,761,185	2,790,047
2,648,567	2,676,303	2,704,316	2,732,609	2,761,185	2,790,047
2,648,567	2,676,303	2,704,316	2,732,609	2,761,185	2,790,047
10,566,807	10,677,475	10,789,250	10,902,142	11,016,164	11,131,325
650,183,692	660,777,960	671,483,170	682,300,433	693,230,868	704,275,608
652,832,259	663,454,262	674,187,486	685,033,041	695,992,053	707,065,654
655,480,826	666,130,565	676,891,801	687,765,650	698,753,238	709,855,701
658,129,393	668,806,867	679,596,117	690,498,259	701,514,423	712,645,748
14,629,133	14,867,504	15,108,371	15,351,760	15,597,695	15,846,201
14,688,726	14,927,721	15,169,218	15,413,243	15,659,821	15,908,977
14,748,319	14,987,938	15,230,066	15,474,727	15,721,948	15,971,753
14,807,911	15,048,155	15,290,913	15,536,211	15,784,075	16,034,529
58,874,089	59,831,317	60,798,568	61,775,941	62,763,538	63,761,461

EXHIBIT 17
DATE 2/10/91
BILL NO HB 973

Number of Underground Storage Tanks by Age and by Substance

Age (Years)	Gasoline	Diesel	Gasohol	Kerosene	Heating Oil	Used Oil	Hazardous	Mixture	Other	Total	Percentage
00 - 04	559	290	0	10	53	22	8	1	69	1,013	4.8%
05 - 09	1,851	882	0	36	184	102	34	5	119	3,154	14.8%
10 - 14	2,911	1,613	2	62	259	145	65	1	172	5,231	24.6%
15 - 19	2,276	1,247	0	42	253	102	20	1	154	4,095	19.7%
20 - 24	1,622	898	1	30	307	127	18	0	125	3,128	14.7%
25 - 29	739	522	0	17	162	67	9	0	107	1,624	7.6%
30 - 34	547	515	0	20	159	61	13	0	75	1,390	6.5%
35 - 39	305	199	0	22	90	22	5	0	84	718	3.4%
40 - 44	194	177	0	8	69	8	4	2	53	514	2.4%
45 - 49	52	23	0	3	22	6	5	0	22	133	0.6%
50 - 54	46	27	0	1	10	2	3	0	15	104	0.5%
55 - 59	17	2	0	0	4	0	0	0	4	27	0.1%
60 - 64	16	11	0	1	2	0	0	0	1	31	0.1%
65 - 69	0	2	0	0	0	0	0	0	0	2	0.0%
70 - 74	6	1	0	1	1	0	0	0	1	10	0.0%
75 - 79	5	0	0	0	0	0	0	0	1	6	0.0%
80 - 84	4	0	0	0	0	0	0	0	0	4	0.0%
85 - 89	0	0	0	0	1	1	0	0	1	3	0.0%
90 - 94	0	1	0	0	0	0	0	0	1	2	0.0%
95 - 99+	0	1	0	0	0	1	0	0	1	3	0.0%
Total	11,150	6,411	3	253	1,605	668	183	11	1,008	21,292	100.0%
Percentage	52.4%	30.1%	0.0%	1.2%	7.5%	3.1%	0.9%	0.1%	4.7%	100.0%	

Number of Underground Storage Tanks by Capacity and by Substance

Gallons	Gasoline	Diesel	Gasohol	Kerosene	Heating Oil	Used Oil	Hazardous	Mixture	Other	Total	Percentage
0 - 1,099	6,311	3,942	2	150	1,633	577	84	1	590	13,270	60.0%
1,100 - 4,999	2,272	1,223	0	35	78	60	33	1	138	3,840	17.4%
5,000 - 9,999	1,317	487	0	18	41	28	24	3	130	2,048	9.3%
10,000 - 29,999	1,480	885	1	35	44	28	38	3	173	2,687	12.1%
30,000 - 49,999	3	21	0	6	0	1	0	0	6	37	0.2%
50,000 and over	88	62	0	15	1	0	5	3	56	230	1.0%
Total	11,471	6,620	3	259	1,797	694	184	11	1,093	22,132	100.0%
Percentage	51.8%	29.9%	0.0%	1.2%	8.1%	3.1%	0.8%	0.0%	4.9%	100.0%	

SENATE TAXATION
EXHIBIT NO. 18
DATE 4/10/91
BILL NO. HB 923

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

school	age	capacity up to 1,100	capacity 1,101 to 4,999	capacity 5,000 to 9,999	capacity 10,000 and up	TOTAL capacity
Arlee H.S.	24	0	0	0	10,000	10,000
St. Labre Indian School	24	0	0	0	10,000	10,000
	20	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000
	20	0	0	0	10,000	10,000
Bainville Public School	19	0	0	0	10,000	10,000
Belt Public Schools Dist.#29	16	1,000	0	0	0	1,000
Belt--Church St. location	29	500	0	0	0	500
Pioneer Sch Dist. #41-Blngs	21	1,000	0	0	0	1,000
	21	300	0	0	0	300
Rocky Boy Elementary	16	0	0	0	10,000	10,000
Box Elder	26	unkno	0	0	0	unknown
Malmborg Sch Dis #47-Bozeman	19	560	0	0	0	560
Cottonwood Sch Dist #22 Bzmn.	26	1,000	0	0	0	1,000
Anderson Sch Dist #41-Bzmn.	20	400	0	0	0	400
Brady Public School	29	0	0	8,600	0	8,600
Powder River Co. HS--Broadus	33	1,000	0	0	0	1,000
Broadus Elem. Dist #79J	26	0	0	7,500	0	7,500
Browning Middle School	17	300	0	0	0	300
Busby School	30	0	0	8,000	0	8,000
	30	0	0	8,000	0	8,000
	26	0	0	8,500	0	8,500
	20	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000
	26	0	3,000	0	0	3,000
Silver Bow Sch Dist #1-Butte	19	0	4,000	0	0	4,000
Cascade Public Schools	24	0	0	0	10,000	10,000
	24	0	0	5,000	0	5,000
Charlo School Dist 7J	39	0	0	0	10,000	10,000
Culbertson School Dist 17	32	0	0	0	10,000	10,000
Culbertson School--Armory	31	650	0	0	0	650
Darby School Dist. #9	16	0	0	5,100	0	5,100
	36	0	0	7,700	0	7,700
Beaverhead Co. H.S.--Dillon	16	0	0	8,000	0	8,000
Lincoln Co H.S.--Eureka	18	0	0	0	12,000	12,000
Sch Dist #7 & H.S. #3 Flaxvil	31	0	0	8,000	0	8,000
Florence-Carlton School Dist.	52	400	0	0	0	400
Frenchtown School Dist. 40	47	0	0	8,000	0	8,000
	37	0	0	8,000	0	8,000
Geyser School Dist # 58	24	0	0	8,500	0	8,500
MT School for Deaf/Blind--GF	17	560	0	0	0	560
Hay High School--Hays	20	0	0	5,000	0	5,000
Lodgepole Elem. Sch.	20	0	2,500	0	0	2,500
Sch. Dist. #28--Highwood	19	300	0	0	0	300
Hobson Public School	23	0	0	0	10,000	10,000
Hot Springs School Dist.	29	0	0	0	10,000	10,000
(continued next page)	14	1,000	0	0	0	1,000

#18

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

school	age	capacity up to 1,100	capacity 1,101 to 4,999	capacity 5,000 to 9,999	capacity 10,000 and up	TOTAL capacity
West Valley Sch. Dist. #1-Kal.	28	1,000	0	0	0	1,000
Kila School	34	500	0	0	0	500
Central School--Libby	21	1,000	0	0	0	1,000
Asa Wood School--Libby	24	0	0	0	10,000	10,000
McGrade School--Libby	24	0	0	0	10,000	10,000
Plummer School--Libby	24	0	0	0	10,000	10,000
Libby Sr. H.S.	20	0	0	0	10,000	10,000
Lima Public Schools	23	0	0	0	10,000	10,000
Medicine Lake Public Schools	19	0	0	0	10,600	10,600
Sch. Dist. #5--Melrose	unk	0	0	8,000	0	8,000
Moore Pub Sch Housing Unit #1	34	200	0	0	0	200
Moore Pub Sch Housing Unit #2	24	200	0	0	0	200
Noxon School Dist. #10	19	1,000	0	0	0	1,000
Outlook School Dist. #29	24	0	0	0	10,000	10,000
North of Pablo School	24	0	0	8,000	0	8,000
School Dist #1--Plains	24	0	0	0	10,000	10,000
Polson Middle School	23	0	0	8,000	0	8,000
East of Ronan Middle School	34	0	0	0	10,000	10,000
	16	0	4,000	0	0	4,000
	16	0	4,000	0	0	4,000
Ryegate Public School	16	0	4,000	0	0	4,000
Seeley-Swan High School	26	0	0	0	10,000	10,000
Somers School Dist. 29	27	0	0	0	10,000	10,000
St. Regis Public Schools	29	0	0	7,500	0	7,500
Sch. Dist. #12--Stanford	19	0	0	0	10,000	10,000
Superior School Dist. #3	24	0	0	8,500	0	8,500
	19	0	0	6,500	0	6,500
	34	0	0	6,500	0	6,500
	19	0	0	8,500	0	8,500
School Dist #73--Swan Lake	19	100	0	0	0	100
Elem. School--Thompson Falls	39	0	0	0	12,000	12,000
School Dist #13--Toston	24	500	0	0	0	500
Trout Creek Sch. Dist #6	19	1,000	0	0	0	1,000
Two Dot School Dist #15	34	1,000	0	0	0	1,000
Ulm Public School	29	500	0	0	0	500
	24	500	0	0	0	500
Vida Elem. School yard	24	1,000	0	0	0	1,000
	20	1,000	0	0	0	1,000

(continued next page)

#18

SCHOOL HEATING OIL TANKS OVER 15 YEARS OF AGE

school	age	capacity up to 1,100	capacity 1,101 to 4,999	capacity 5,000 to 9,999	capacity 10,000 and up	TOTAL capacity
School Dist #69-W.Yellowstone	21	0	0	5,000	0	5,000
	21	0	0	0	10,000	10,000
	21	0	0	0	10,000	10,000
Wilsall Consolidated Schools	24	0	0	0	10,000	10,000
Winnett Sch. Dist #1 & 159	16	1,000	0	0	0	1,000
	38	0	2,000	0	0	2,000
Schl. Dist. #16--Wisdom	34	1,000	0	0	0	1,000
Craig School Dist. #25	24	500	0	0	0	500
School Dist. #24--Worden	22	0	0	7,500	0	7,500
	24	0	0	6,000	0	6,000
	34	0	0	9,000	0	9,000
	24	0	0	6,000	0	6,000
TOTALS	97	24,970	23,500	198,900	274,600	521,970

Information Compiled Dec. 28, 1990

#18

SCHOOL HEATING OIL TANKS FIFTEEN YRS. OF AGE AND LESS

school	age	capacity to 1,100	capacity 1,101-4,999	capacity 5,000-9,999	capacity 10,000 & up	capacity
Belt Pub.Sch.Dist #29--Church	4	0	0	0	10,000	10,000
Belt Pub.Sch.Dist #29--Park	15	275	0	0	0	275
Skyview H.S.--Billings	3	0	0	5,000	0	5,000
Castle Rock Jr.H.S.--Billings	12	0	0	5,000	0	5,000
Knees School--Brady	3	1,000	0	0	0	1,000
Bridger School Dist. #2	14	1,000	0	0	0	1,000
Broadus Elem. Dist 79J	10	0	0	5,700	0	5,700
Bus Garage/Tran.Dept-Browning	1	0	0	6,000	0	6,000
Charlo School Dist. 7J	6	1,000	0	0	0	1,000
	14	1,000	0	0	0	1,000
	13	0	0	0	15,000	15,000
Colstrip Public Schools	13	0	0	0	10,000	10,000
Swan Valley Elem.Sch.--Condon	3	1,000	0	0	0	1,000
School Dist. #49--Dagmar	14	500	0	0	0	500
Beaverhead Co. H.S.--Dillon	6	1,000	0	0	0	1,000
Divide School-Sch. Dist #4	4	1,000	0	0	0	1,000
Dutton Public Schools	1	0	0	0	10,000	10,000
Carter Co. H.S.--Ekalaka	10	500	0	0	0	500
Golden Ridge Sch.--Fairfield	10	300	0	0	0	300
Chouteau Co.Dist.1--Ft.Benton	9	0	2,000	0	0	2,000
Lustre Grade School--Frazer	5	1,000	0	0	0	1,000
Frenchtown Sch. Dist. 40	11	1,000	0	0	0	1,000
Gardiner Pub.Sch.Dist #7 & 4	3	0	0	8,000	0	8,000
School Dist. #1--Glendive	0	1,000	0	0	0	1,000
Havre School Bus Garage	4	0	0	0	12,000	12,000
Hot Springs School Dist.	14	300	0	0	0	300
	14	1,000	0	0	0	1,000
Brooks Elem. Sch.--Lewistown	14	500	0	0	0	500
Libby Sr. H.S.	0	0	2,000	0	0	2,000
	0	0	2,000	0	0	2,000
St. John Lutheran Sch.--Libby	0	1,000	0	0	0	1,000
School Bus Stop--Livingston	8	0	0	8,000	0	8,000
Lodge Grass Public Schools	10	0	0	0	10,000	10,000
	5	0	0	0	10,000	10,000
Pine Hills Sch.--Miles City	14	0	0	8,000	0	8,000
Paradise Grade School	4	1,000	0	0	0	1,000
Cherry Valley Sch.--Polson	0	0	4,000	0	0	4,000
Potomac School Dist. 11	14	1,000	0	0	0	1,000
Pryor Public Schools	14	500	0	0	0	500
Centerville Sch.--Sand Coulee	4	0	0	0	10,000	10,000
Sunburst School Dist. 2	4	1,000	0	0	0	1,000
Broadwater Co. H.S.--Townsend	0	0	0	0	10,000	10,000
Troy High School	4	0	0	0	10,000	10,000
	4	0	0	0	10,000	10,000
Troy Elem. School	4	0	0	0	10,000	10,000
White Sulphur Springs Dist#209	8	0	0	0	10,000	10,000
	8	0	0	0	10,000	10,000
TOTALS	47	17,875	10,000	45,700	147,000	220,575

TOTAL CAPACITY OF ALL TANKS--220,575

INFORMATION COMPILED--DECEMBER 28, 1990

#18

CONFIRMED RELEASES OF FARM AND RESIDENTIAL TANKS AFTER APRIL 13, 1989

FACILITY ID #	FACILITY NAME	TOWN	CONFIRMED RELEASE DATE	TANK SIZE (GALLONS)	CONTENTS	COSTS
25-03651	CHEVALLIER RANCH	CANYON CREEK	90/02/05	500	GASOLINE	
26-10699	LYBECK, CLIFFORD	CHESTER	91/01/11	1000	DIESEL	
50-01227	ANDERSON, RAYMOND	CHOTEAU	90/01/24	215	GASOLINE	
22-03897	WING, J.A.	CLANCY	90/06/25	560	GASOLINE	
48-05244	12 MILES N. OF TOWN	COLUMBUS	90/12/04	1000	GASOLINE	
18-01962	GLACIER FARMS	CUT BANK	90/10/26	1000	GASOLINE	
39-11319	B.P.O.E.	DEER LODGE	90/06/22	500	GASOLINE	
01-04480	MATADOR CATTLE	DILLION	90/12/14	500	GASOLINE	
01-07061	PFIZER INC.	DILLION	90/07/09	1000	GASOLINE	
01-01596	PFIZER INC.	DILLION	90/03/23	500	GASOLINE	
21-05225	SANDS RANCH AIRPORT	HAVRE	90/08/24	300	GASOLINE	
25-00346	ROGERS, NORMAN	HELENA	91/01/03	1000	GASOLINE	
23-10683	HENKE, RICHARD	HOBSON	90/03/30	500	GASOLINE	
26-00805	MAY FARMS	JOPLIN	91/01/11	1000	GASOLINE	
15-03078	BRENNEMAN FARM	KALLISPELL	89/12/12	1000	GASOLINE	
11-03935	D.H. RANCH	LAMBERT	90/06/20	550	GASOLINE	
56-04577	LOEWEN, DAVID	LAUREL	90/05/09	1000	GASOLINE	
14-04865	HWY 87, WEST OF TOWN	LEWISTOWN	90/12/11	1000	GASOLINE	
11-08239	DEMPEWOLF	LINDSAY	91/02/20	500	GASOLINE	
34-11238	QUISEL, TODD	LIVINGSTON	90/05/29	500	DIESEL	
08-00868	WORRALL, JAY	LOMA	91/01/10	1000	DIESEL	
45-02758	BRAS, LANDO	LONEPINE	90/04/25	500	GASOLINE	
05-07901	T6S R18E SEC23	LUTHER	90/11/13	500	GASOLINE	
10-03178	DANELSON, STANTEN	SCOBEY	90/12/03	1000	GASOLINE	
51-01236	ZELL, RAWLIN	SHELBY	90/10/24	500	GASOLINE	
42-02987	DIGE, ARNOLD	SIDNEY	90/12/21	560	DIESEL	
42-04826	SOUTH OF SIDNEY	SIDNEY	90/12/27	560	GASOLINE	
07-08054	KOHUT	STOCKETT	90/11/19	500	DIESEL	
16-05726	SMITH, WALTER	THREE FORKS	90/10/03	575	GASOLINE	
37-04296	CRAWFORD AND ADAMS INC.	VALIER	90/07/20	500	GASOLINE	
15-03707	U TRIANGLE RANCH	WHITEFISH	90/09/28	500	GASOLINE	
22-04807	FARM TANKS IN TOWN	WHITEHALL	90/12/28	500	GASOLINE	
16-05578	HENDRICKSON, HENRY	WILSALL	90/05/15	500	GASOLINE	

TOTAL NUMBER OF TANKS 33

ESTIMATED NUMBER 50

#18

CONFIRMED RELEASES OF HEATING OIL TANKS

After April 13, 1989

FACILITY ID #	FACILITY NAME	TOWN	CONFIRMED RELEASE DATE	CLEANUP INITIATED X	UNDER CONTROL X	GROUND WATER IMPACT	DATE CLEANUP COMPLETED	TANK SIZE (GALLONS)	CONTENTS	COSTS
50-03600	DUTTON PUBLIC SCHOOLS	DUTTON	89/05/08	X	X		11-7-90	8300	HEAT OIL	N/A
	BROWNING SCHOOL	BROWNING	89/07/17	X	X			N/A	HEAT OIL	UNKNOWN
31-03620	JOINT SCHOOL DISTRICT #2	ALBERTON	89/08/22	X	X		12-13-89	8000	HEAT OIL	N/A
02-02156	U.S. POST OFFICE	LODGE GRASS	89/08/28	X	X	X		1000	HEAT OIL	UNKNOWN
51-01699	SHELBY SCHOOL DIST.	SHELBY	89/08/89	X	X			1000	HEAT OIL	UNKNOWN
56-01187	CORETTE PLANT	BILLINGS	89/10/13	X	X	X		8000	HEAT OIL	N/A
24-05316	HARBOUR PHARMACY	POLSON	89/12/08	X	X			550	HEAT OIL	UNKNOWN
18-08076	PIEGAN BORDER STATION	BABB	89/12/21	X	X		5-15-90	4000	HEAT OIL	N/A
23-05904	HOBSON SCHOOLS	HOBSON	90/01/31	X	X	X		10000	HEAT OIL	N/A
07-11375	KEIN RADIO	GREAT FALLS	90/02/02	X	X	X	1-2-91	560	HEAT OIL	UNKNOWN
24-02867	CHERRY VALLEY SCHOOL	POLSON	90/02/02	X	X		11-20-90	4000	HEAT OIL	N/A
44-00701	ST. LABRE INDIAN SCHOOL	ASHLAND	90/02/07	X	X			550	HEAT OIL	UNKNOWN
07-11399	JANETSKI, LEE	GREAT FALLS	90/03/02	X	X			500	HEAT OIL	UNKNOWN
31-01518	SUPERIOR HIGH SCHOOL	SUPERIOR	90/03/15	X	X	X		10000	HEAT OIL	$43856 EST
56-08299	KEMBEL, REINHOLD	BILLINGS	90/04/12	X	X	X		560	HEAT OIL	UNKNOWN
07-11290	BUILDING 2040	GREAT FALLS	90/04/23	X	X	X		550	HEAT OIL	UNKNOWN
46-01238	PETERSON'S READY TO WEAR	PLENTYWOOD	90/04/24	X	X		5-9-90	1000	HEAT OIL	UNKNOWN
08-10764	WELTY, W.A.	FORT BENTON	90/05/10	X	X		5-16-90	560	HEAT OIL	UNKNOWN
10-01250	PIONEER INN	SCOBEY	90/06/04	X	X	X		12000	HEAT OIL	N/A
24-06496	ST. JOSEPH CONVALESCENT	POLSON	90/06/16	X	X			1500	HEAT OIL	N/A
04-00335	AMERICAN FEDERAL SAVINGS	TOWNSEND	90/06/19	X	X			550	HEAT OIL	UNKNOWN
32-09923	SUN MOUNTAIN SPORTS	MISSOULA	90/07/03	X	X		8-10-90	1000	HEAT OIL	UNKNOWN
01-05876	CORR, JAMES	DILLION	90/07/16	X	X			300	HEAT OIL	UNKNOWN
46-00157	OUTLOOK SCHOOL	OUTLOOK	90/07/17	X	X	X		10000	HEAT OIL	N/A
46-00646	FULKERSON, DAVID	PLENTYWOOD	90/08/10	X	X			500	HEAT OIL	UNKNOWN
04-03309	BROADWATER CTY. HIGH	TOWNSEND	90/08/22	X	X	X		10000	HEAT OIL	N/A
16-03726	DE JONG, JAMES	MANHATTAN	90/08/30	X	X			500	HEAT OIL	UNKNOWN
14-11588	KNOX, DONALD	LEWISTOWN	90/09/11	X	X		1-21-91	500	HEAT OIL	UNKNOWN
28-07067	FISH HATCHERY	ENNIS	90/09/19	X	X		11-19-90	560	HEAT OIL	UNKNOWN
15-09431	BIG CREEK WORK CENTER	COLUMBIA FALLS	90/09/28	X	X			700	HEAT OIL	UNKNOWN
32-11230	KAMMERER, W.	CLINTON	90/09/30	X	X	X		550	HEAT OIL	UNKNOWN
07-08054	KOHUT AND SONS	STOCKETT	90/10/16	X	X			500	HEAT OIL	UNKNOWN
07-08958	BUILDING 1089	GREAT FALLS	90/10/18	X	X			2000	HEAT OIL	N/A
51-01236	ZELL, R.	SHELBY	90/10/23	X	X		1-10-90	500	HEAT OIL	UNKNOWN
07-08786	VAUGHN JUNCT. RADIO BLDG.	VAUGHN	90/10/31	X	X			1000	HEAT OIL	UNKNOWN
09-00256	HOLY ROSARY HOSPITAL	MILES CITY	90/11/05	X	X			12000	HEAT OIL	N/A
25-00043	BUREAU OF RECLAMATION	HELENA	90/11/07	X	X			500	HEAT OIL	UNKNOWN
32-12066	FRONT STREET VENTURES	MISSOULA	90/11/07	X	X			1000	HEAT OIL	UNKNOWN
56-04326	SCHOOL DISTRICT #24	WORDEN	90/11/12	X	X	X		9000	HEAT OIL	N/A
40-03735	TIBBETTS, R.L.	TERRY	90/11/21	X	X			500	HEAT OIL	UNKNOWN
22-06917	HAMIL, JOHN	CLANCY	90/12/03	X	X		12-3-90	500	HEAT OIL	UNKNOWN
31-01518	SUPERIOR ELEM. SCHOOL	SUPERIOR	90/12/03	X	X			10000	HEAT OIL	N/A
48-05244	12MILES N OF TOWN	COLUMBUS	90/12/04	X	X		1-9-91	1000	HEAT OIL	UNKNOWN
47-10132	ST. JAMES COMMUNITY HOSP.	BUTTE	90/12/10	X	X			3000	HEAT OIL	N/A
93-11987	LOHSE, RONALD	FORT BENTON	90/12/10	X	X		12-28-90		HEAT OIL	UNKNOWN
15-11778	ARMY RESERVE	KALISPELL	90/12/11	X	X			1500	HEAT OIL	N/A
21-00034	ROCKY BOY SCHOOL	BOX ELDER	90/12/14	X	X	X		10000	HEAT OIL	N/A
01-11237	BEAVERHEAD CTY. MUSEUM	DILLION	90/12/21	X	X			300	HEAT OIL	UNKNOWN
38-02465	VALLEY MOTOR SUPPLY	BROADUS	90/7/30	X	X			1000	HEAT OIL	UNKNOWN
06-00863	HOSPITAL, COURTHOUSE	EKALAKA	91/01/03	X	X			300	HEAT OIL	UNKNOWN
32-06383	FRENCHTOWN	FRENCHTOWN	91/01/07	X	X			8000	HEAT OIL	N/A
08-00868	WORRALL, JAY	LOMA	91/01/10	X	X			1000	HEAT OIL	UNKNOWN

TOTAL NUMBER= 52

SENATE TAXATION
EXHIBIT NO. 19
DATE 4/10/91
BILL NO. HB 973

Testimony House Bill 973
Petroleum Tank Release Compensation Board
By: Jean Riley, Executive Director

The Petroleum Tank Release Compensation Board (Board) realizes the need for House Bill 973. The Board has, in the past, received several requests from heating oil tank owners for reimbursement from the Petroleum Tank Release Cleanup Fund. The present statute does not allow owners of heating oil tanks or small farm or residential tanks to receive reimbursement. The Board has assisted Representative Stang on the drafting of House Bill 973 and feels that this would be a viable mechanism to help the heating oil and small farm or residential tank owner with the cleanup costs associated with a release from a petroleum storage tank. The Board feels that if these tanks were to be covered, then they should be required to pay into a fund similar to the present Petroleum Tank Release Cleanup Fund. The Small Petroleum Tank Release Cleanup Fund would be set up similar to the present fund and similarly administered.

The reasoning behind the two funds is that the present fund has been approved by the Federal EPA as a financial assurance mechanism of commercial tank owners. I have talked to EPA concerning the merging of the two funds and their statement was that the increased number of tanks could jeopardize the EPA approval of the present fund. This would leave the commercial tank owners without the financial assurance that is required by the Federal EPA. However, EPA feels that after a period of time the two funds may be combined. Therefore, the amendment concerning the consolidation of the two funds is not a concern.

The Board also assisted Representative Stang with the other incorporated amendments to House Bill 973 and are in full agreement with these amendments. I would like to again state that the Petroleum Tank Release Compensation Board realizes the need for House Bill 973 as presented and feels that this is a viable mechanism to assist small petroleum tank and heating oil tank owners with the costs associated with cleanup of releases and third party damages for property damage or bodily injury.

The Department of Health and Environmental Sciences Underground Storage Tank Program staff are available to answer questions concerning releases from these types of tanks.

SENATE TAXATION
EXHIBIT NO. 20
DATE 4/10/91
BILL NO. HB 973

Date submitted: 4/10/91
HB 973 - Senate Taxation Committee
Ben Havdahl, Montana Motor Carriers

Mr. Chairman, members of the Committee. For the record I am Ben Havdahl representing the Montana Motor Carriers. MMCA is opposed to the increase in the diesel fuel tax by one cent per gallon proposed in HB 973 to finance a small petroleum tank release cleanup fund.

MMCA represents some 300 plus motor carriers ranging in size from one truck operators to carriers with fleets of 400 plus trucks. Also MMCA has a log truckers conference with about 200 log truck members most of whom are single truck owner operators.

A large percentage, probably over half, of those carriers purchase their fuel at the pump and do not have underground or above ground storage tanks. The other half have fuel storage tanks. The proposed tax increase in the bill will be assessed on all the carriers regardless of whether they are a potential contributor to a diesel fuel tank leak or not. That is unfair.

The bill assess a one cent diesel fuel tax on all diesel fuel sold, including both highway and non highway diesel fuel, except diesel sold to railroads and the federal government. Highway diesel fuel accounts for about 35 to 40 percent of the fuel sold and non-highway diesel fuel about 60 to 65 percent.

Truckers will pay about $1 million in taxes annually for each penny per gallon of highway diesel fuel tax and non-highway users will pay about $1.8 million per penny of diesel fuel tax under the bill.

Diesel fuel taxes are a major source of highway revenue in Montana. It has been pointed out by the Department of Highways that the Reconstruction Trust Fund will see a $45 million deficit by 1995 and the 1993 Legislature will likely have to consider major increases in all highway user taxes including diesel fuel. In addition if federal allocation of highway funds are reduced, the problem of highway funding will be further compounded.

I would point out that diesel fuel taxes in Montana have almost doubled since 1982, from 11 cents per gallon to 20 cents today. Federal diesel taxes have also increased during that period at an even faster rate rising from four cents per gallon in 1982 to 20 cents today, an increase of 500%.

Total state and federal diesel fuel taxes paid by motor carriers at a rate of 40 cents per gallon exceeds 50% of the price of diesel fuel at the pump. (1.18 price of diesel minus .40 tax = .78, the selling price of which the .40 tax is 51%)

The highway-user principle of taxation is a method of raising the money necessary to build and maintain roads in Montana----and only that. It has nothing to do with "social costs", however worthwhile, such as pollution and environmental damages as proposed in HB 973.

#20

MMCA's policy has been supportive of reasonable fuel tax increases for highway purposes. I see no reason for that to change.

We would strongly question the use of diesel fuel taxes under HB 973, for a non highway use. Its use to fund the petroleum tank release clean up fund is, in our view, a violation of Section 6, the anti-diversion amendment in the Montana Constitution. Even if presumably a three fifths vote can be achieved, we question the wisdom of adopting such a policy for the proposed funding at the expense of the highway program in the State.

If this bill is passed by the Senate with less than a three fifths vote, then the entire burden for funding the small petroleum tank release cleanup fund under HB 973 will be borne by the non-highway user of diesel fuel including farmers, ranchers, contractors, loggers and others.

On a final point, Section 8 of the bill specifically exempts from the one cent per gallon diesel fuel tax, diesel fuels sold to a railroad. MMCA has a problem with this exemption.

The non highway tax increase on truckers, discriminates against the only competitive mode of transportation the rails have in Montana. Motor carrier rates for a particular item of freight form a cap on rail rates for that freight.

To the extent motor carriers costs are raised, their rates are effected. Rails can raise rates in a similar proportion without any increase in cost or efficiency. Any cost increase to truckers transforms to increase profits to the rail roads where competition exists.

Secondly, diesel fuel spills from railroad tanks contaminate the environment just as much as diesel leaks from truckers' storage tanks.

Notwithstanding these last two points, MMCA opposes the one cent per gallon diesel fuel tax increase and the diversion for non-highway use. Thank you.

SENATE TAXATION
EXHIBIT NO. 21
DATE 7/10/91
BILL NO. HB 1012

Phone 721-2170
2501 Catlin, Suite 207
P.O. Box 3356
Missoula, MT 59806

Representative Barry Stang
Members of Senate Taxation Committee
Montana State Legislature
Helena, Montana

Honorable Representative Stang and Committee Members

I am writing to express my full support, and that of the indepent operators of 13 Ole's Country Stores in Western Montana for H.B. 1012.

We have been trying to find a solution to an unfair situation that has existed in the state of Montana concerning the Illegal sale of non-taxed cigarettes to non-tribal members for over fifteen years, and feel that H.B. 1012 is the answer. Many of our stores are located close to the reservation and we have seen a steady loss of sales of taxed cigarettes to reservation outlets as excise taxes have increased throughout the years.

H.B. 1012 offers a fairly simple method of control that will allow tribal members to purchase cigarettes un-taxed, yet prevent the majority of the smoke shop sales of untaxed cigarettes to non-members, as originally intended by the legislature. We are unable to compete fairly under the present situation. It not only costs us profits, store traffic, and jobs that previously existed but the big loser is the state of Montana. Efforts to increase state excise taxes to make up for declining revenues by increasing excise taxes will only encourage more non-members to buy cigarettes on the reservation.

During the last legislative session H.B. 440 was killed in committee due mainly to the tribes testimony that it will cost jobs on the reservation. I hate to think that allowing an Illegal activity is justified because it provides tribal members with a job.

We not only pay license fees to sell cigarettes, but collect excise taxes at our own expense, not to mention the state income tax we and our employees pay.

We urge you to put us back in a competitive situation with all cigarette retailers in the state. It is the only equitable solution, and, it is the best situation for the state of Montana.

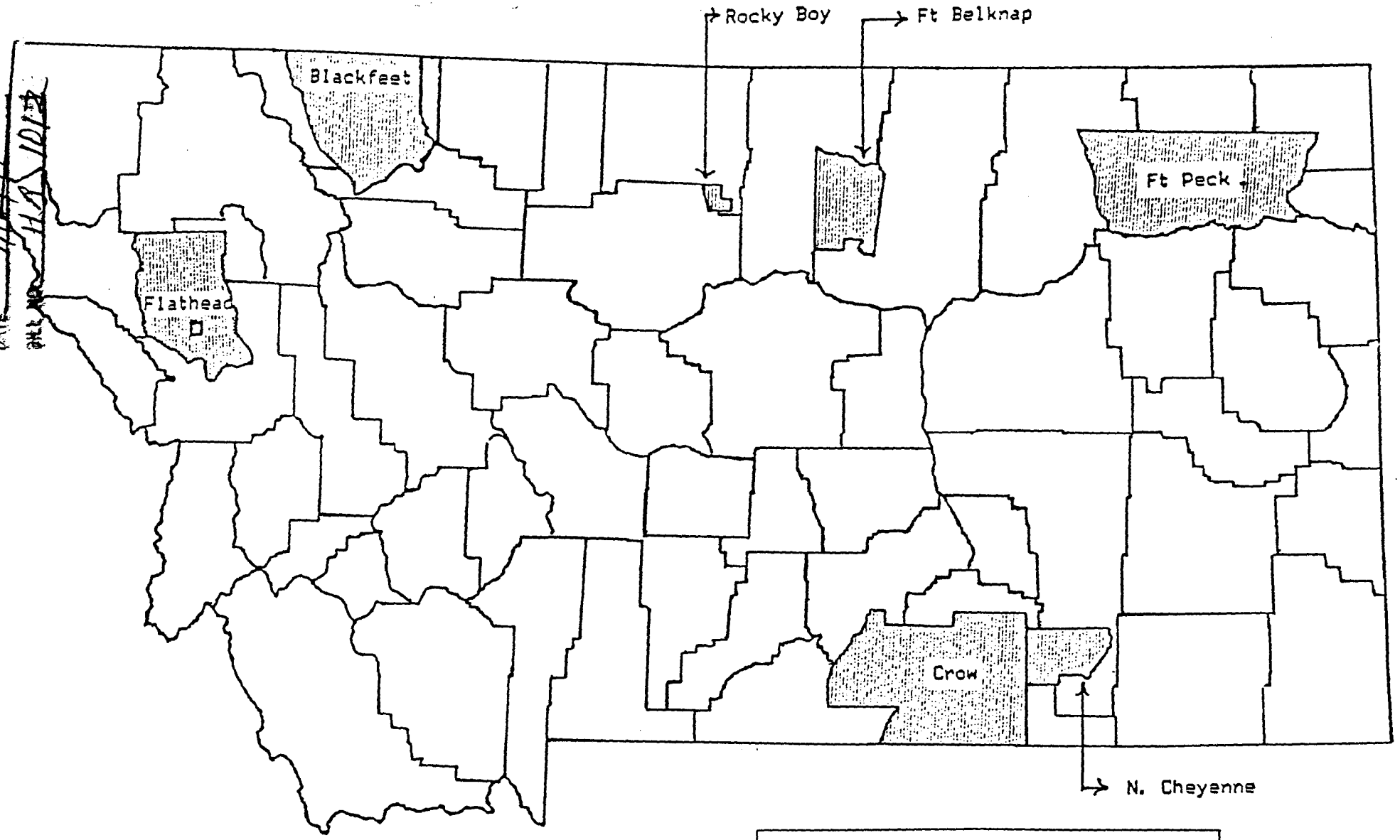
Please pass H.B. 1012.

Thank You,

Mark R. Olson

Mark Olson
President
Ole's Country Stores

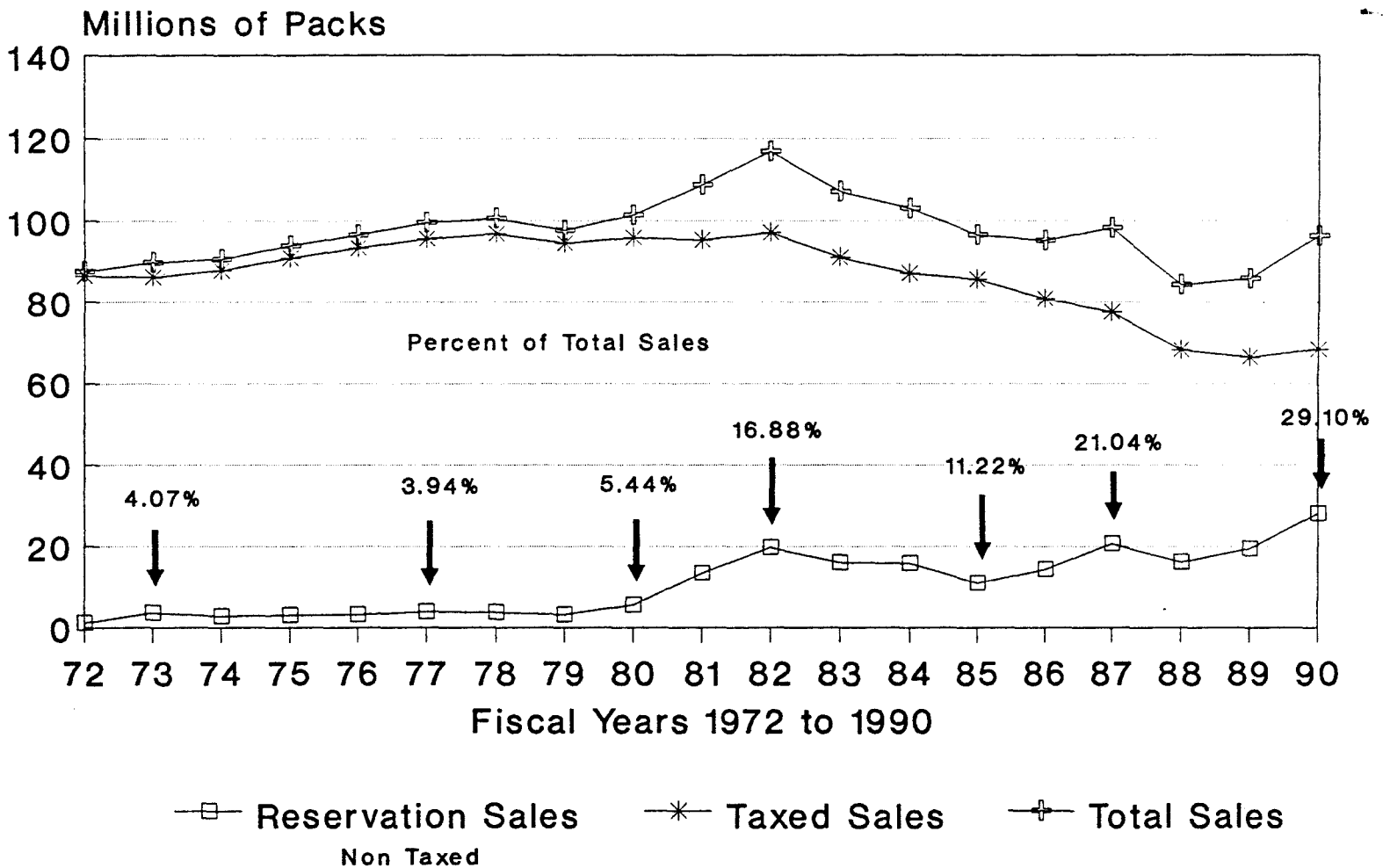
SENATE TAXATION
EXHIBIT NO. 22
DATE 4/8/91
BILL NO. HB 1012



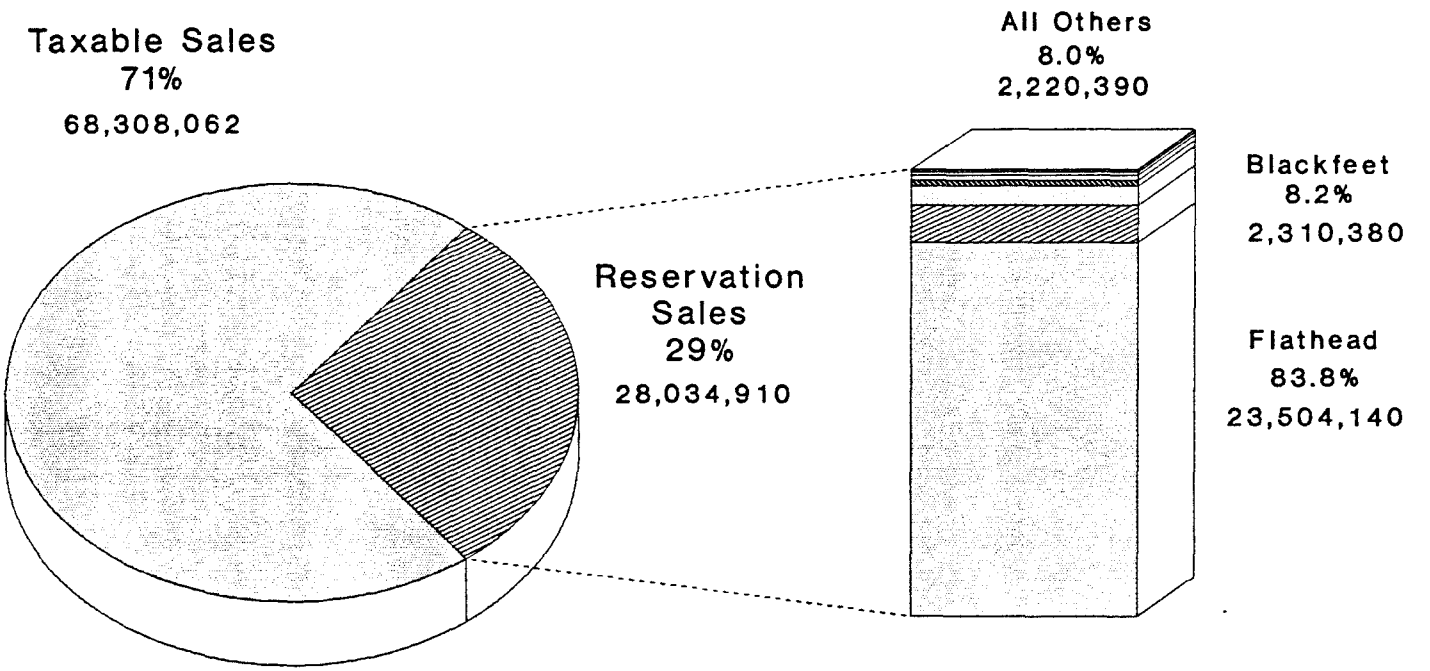
STATE OF MONTANA
INDIAN RESERVATIONS

#10R

Total Cigarette Sales
Taxed and Untaxed



1990 Distribution of Cigarette Sales
Total Packs Sold

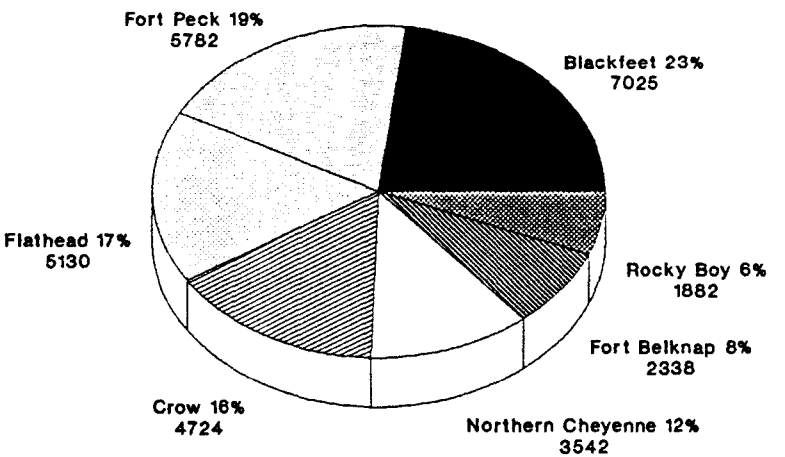


Sales Breakdown To Reservations

Total Sales
96,343,530

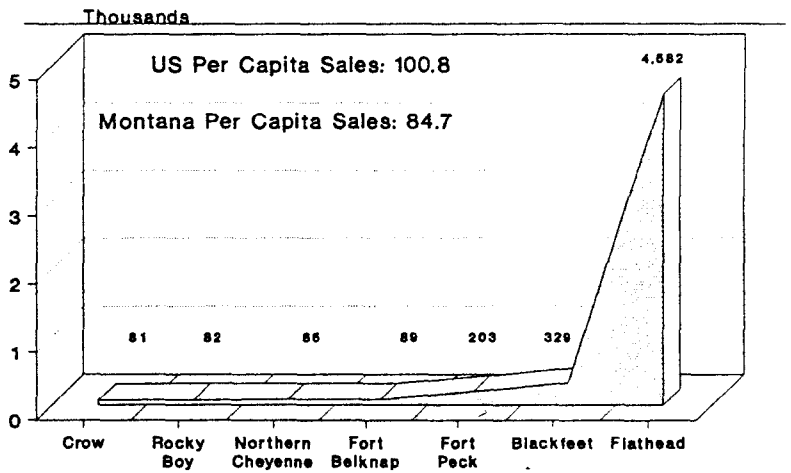
#10/2

Reservation Population
Source: US Census



3

Reservation Per Capita Consumption
Packages of Cigarettes Per Person



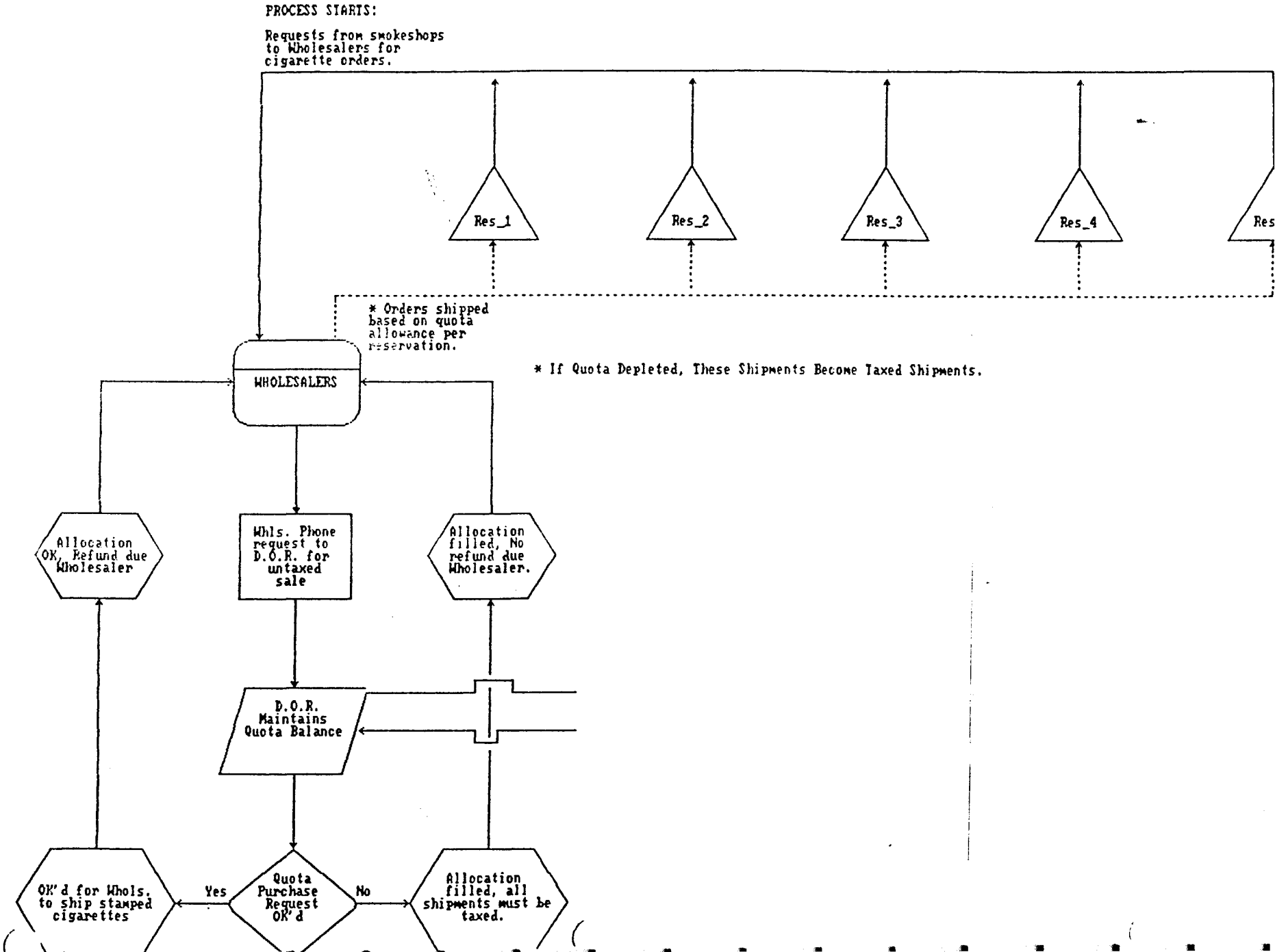
4

#10/2

Additional Cigarette Tax Collections
Resulting From Per Capita Allocations

FY90 Total Sales To Reservations:	28,034,910
Less - Estimated Out-of-State Exports:	17,280,000
Less - Per Capita Allocation:	2,738,070
Total Additional Taxable Packages:	8,016,840
Effective Tax Rate: 17.3214%	
Additional Cigarette Tax Collections:	$1,389,000

CIGARETTE TAX QUOTA SYSTEM CHART



#12

SENATE TAXATION
EXHIBIT NO. 23
DATE 4/10/91
BILL NO. HB 1012

TESTIMONY OF KEN KRANTZ
GENERAL MANAGER OF JOE'S SMOKE RING
ON HOUSE BILL 1012
BEFORE THE SENATE TAXATION COMMITTEE
ON APRIL 10, 1991

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE. MY NAME IS KEN KRANTZ. I AM THE GENERAL MANAGER OF JOE'S SMOKE RING WITH RETAIL BUSINESS LOCATED IN EVARO AND ARLEE, MONTANA.

AT THESE RETAIL OUTLETS, WE SELL GASOLINE, FAST FOOD, GENERAL MERCHANDISE AND, OF COURSE, OUR SUBJECT TODAY, CIGARETTES. JOE'S SMOKE RING HAS 37 FULL TIME EMPLOYEES AND THAT'S RIGHT NOW WHEN WE ARE AT THE LOW EBB OF OUR OPERATION. THIS FIGURE GOES UP TO 60 EMPLOYEES DURING OUR PEAK SEASON OF APRIL THROUGH THE END OF HUNTING SEASON IN NOVEMBER. OUR TOTAL YEARLY PAYROLL IS OVER $500,000.

WE HAVE BEEN IN BUSINESS FOR OVER 19 YEARS. AS THE MANAGER OF THESE BUSINESSES FOR THE PAST 9 YEARS, I CAN TELL YOU TODAY THAT OVER 75% OF THE CIGARETTES WE SELL ARE TO OUT-OF-STATE TOURIST TRAFFIC. IN FACT, DURING OUR OFF-SEASON, OUR SALES PERCENTAGES ARE 50% TO IN-STATE RESIDENTS - 50% TO OUT-OF-STATE, BUT DURING OUR PEAK SEASON, THE PERCENTAGES ARE DRASTICALLY REVERSED AND WE SELL 80% OF OUR CIGARETTES TO OUT-OF-STATE BUYERS. WHAT IS THE EFFECT OF THIS AND WHAT IS THE RELEVANCE TO HOUSE BILL 1012? OF THAT 80% OF OUT-OF-STATE BUYERS, AT LEAST HALF BUY IN VOLUME. WE HAVE CUSTOMERS WHO HAVE BEEN WITH US FOR YEARS WHO BUY 30-100 CARTONS AT A TIME AND IN FACT CALL AHEAD TO SEE IF WE ARE STOCKED TO SATISFY THEIR NEEDS. PRIMARILY, THESE PEOPLE CONSIST OF OUT-OF-

STATE TRUCKERS, SALES PEOPLE AND OTHER REGULAR OUT-OF-STATE VISITORS. COMPARED TO THESE CUSTOMERS, THE IN-STATE DRIVER WHO COMES TO THE RESERVATION TO GET TAX-EXEMPT CIGARETTES IS A VERY SMALL PART OF OUR BUSINESS.

THE TRUTH OF THE MATTER IS THESE CUSTOMERS ARE PEOPLE WHO FOR THE MOST PART WOULD NOT BUY CIGARETTES IN THE STATE OF MONTANA WERE IT NOT FOR THE DISCOUNT PRICE AND WERE IT NOT FOR THE RELATIONSHIP THAT THEY HAD BUILT UP OVER THE YEARS WITH JOE'S SMOKE RING. THE FISCAL NOTES ESTIMATION OF A MILLION OR MORE DOLLARS IN ADDED REVENUES TO THE STATE OF MONTANA WILL SIMPLY NOT HOLD UP. THE FACT IS THAT IT WILL BE A FRACTION OF THIS BECAUSE THE CIGARETTE SALES THAT ARE SUPPOSED TO GENERATE THIS TAX REVENUE WILL SIMPLY NOT OCCUR.

ON THE OTHER HAND, WHAT WILL HAPPEN AND IS REAL IS THE EFFECT THIS WILL HAVE ON MINE AND OTHER BUSINESSES LIKE MINE. I'LL GIVE YOU STRAIGHT FACTS. I'LL GIVE YOU FACTS THAT WILL HOLD UP. I'VE MADE THE MOST CONSERVATIVE ESTIMATE THAT I CAN OF THE EFFECTS OF THE PASSAGE OF THIS BILL. I ESTIMATE THAT WE WOULD IMMEDIATELY LOSE 10 FULL TIME PAYING JOBS, RANGING IN SALARY FROM $28,000 PER YEAR FOR MYSELF TO DOWN TO $22,000 PER YEAR FOR ONE OF OUR STAFF. 10 PEOPLE WOULD LOSE A COMBINED YEARLY WAGE OF $115,176 AND THAT'S BEFORE YOU USE THE MULTIPLIER OF WHAT THOSE $115,000 WOULD DO IN THE COMMUNITY, WHICH YOU KNOW IS 4. SO RIGHT OFF THE TOP WE'VE LOST ALMOST A HALF A MILLION DOLLARS IN SALARY. IN ADDITION, THOSE 10 FAMILIES, A NUMBER OF WHICH ARE SINGLE PARENT FAMILIES, HAVE A TOTAL NUMBER OF DEPENDENTS OF 47. THIS IS MY MOST CONSERVATIVE ESTIMATE. A MORE REALISTIC ESTIMATE IS THAT 15 TO 20 OF THE FULL

SENATE TAXATION
EXHIBIT NO. 24
DATE 4/10/91
BILL NO. HB1012

CROW TRIBAL COUNCIL

P.O. Box 159
Crow Agency, MT 59022
(406) 638-2601

Clara Nomee, Madame Chairman
Joseph Pickett, Vice-Chairman
Blaine Small, Secretary
Sylvester Goes Ahead, Vice-Secretary

Crow Country

April 9, 1991

Montana Senate Taxation Committee
Attn: Senators Yellow Tail and Towe
Capitol Station
Helena, Montana 59620

RE: HB 1012 - Applying State Cigarette Sales Tax on Indian Reservations

Senators:

The Crow Tribe of Indians strongly opposes the above proposed bill.

Businesses operating on Indian Reservations which sell cigarettes at discounted prices provide some employment opportunities for tribal members, while in a small way contributing to the local economy. Our unemployment rate hovers around 80%. There are other, more technical and legal, reasons why we oppose HB 1012, but the employment factor should suffice in our view.

Thank you for your time, consideration, and support for the position of the Crow Tribe of Indians on this important matter.

Sincerely,

Clara White Hip Nomee

CLARA WHITE HIP NOMEE
Madam Chairman, Crow Tribe

SENATE TAXATION
EXHIBIT NO. 25
DATE 4/8/91
BILL NO. HB 1012

April 08, 1991

To Whom It May Concern:

I am writing this letter in opposition to HB 1012.

As a small Business located within the boundaries of the Blackfeet Reservation, I feel this bill would have an adverse affect on our sales.

As a tribal member of the Blackfeet Tribe, I am against this bill. Generally speaking, any reservation is economically depressed more so than the rest of the state/nation. I feel you are trying to hamper each Tribe/reservation in one of the few economic incentives they have available to them. The passage of this bill will have an adverse affect on an "already" economically depressed area.

Thank you -

Rita Horn
Box 12
Browning, MT 59417

SENATE TAXATION
EXHIBIT NO. 26
DATE 4/10/91
BILL NO. HB 1012

RANDE WALTON
TINA MARIE'S SMOKE SHOP - RONAN. MONTANA
APRIL 5. 1991

MR. CHAIRMAN. MEMBERS OF THE COMMITTEE:

MY NAME IS RANDE WALTON. MY WIFE. TINA. OWNS AND OPERATES TINA MARIE'S SMOKE SHOP. A SMALL BUSINESS WHICH EMPLOYS 9 PEOPLE. 8 OF WHICH ARE NON-TRIBAL MEMBERS. OF THAT 9. 5 ARE DIRECTLY OFF THE WELFARE ROLLS AND ARE NOW ON THE TAX ROLLS. WHICH CERTAINLY LEADS TO A MORE PRODUCTIVE PERSON IN OUR COMMUNITY.

DUE TO OUR SMALL BUSINESS. WE HAVE 29 MONTHLY ACCOUNTS FOR GOODS AND SERVICES, WHERE THE MONEYS ARE MOSTLY PAID BACK INTO OUR OWN ECONOMY.

DUE TO THE CURRENT SITUATION ON TRIBAL CIGARETTES. WE EMPLOY THESE 9 PEOPLE AND OUR DAY TO DAY BUSINESS CARRIES ON. IF THIS BILL PASSES, WE SURELY WOULD NOT NEED 9 EMPLOYEES. THESE 9 PEOPLE ARE EMPLOYED BECAUSE THE SALES OF OUR CIGARETTES ARE SEEN AS A BARGAIN TO OUT-OF-STATE TRAVELERS AND AREA PEOPLE ALIKE.

OUR LOCAL ECONOMY IS STIMULATED GREATLY BY THESE MONEYS AND IT CERTAINLY DOES HAVE A GOOD EFFECT ON THE TRIBAL OPERATORS. BY WAY OF GREATER SELF-ESTEEM AND SENSE OF PRIDE.

MY WIFE. BEING A TRIBAL MEMBER ON THE RESERVATION. COULD PUT ALL OUR PERSONAL PROPERTY IN TRUST. PAYING NO STATE TAX. WE HAVE NOT AND DO NOT ELECT TO DO THIS. WE PAY PERSONAL PROPERTY TAX AS ANY NON-TRIBAL MEMBER DOES.

I PERSONALLY HAVE WORKED CONSTRUCTION AND OIL FIELDS OVER THE LAST 12 YEARS. THE MONEYS THAT I'VE USED FOR MY DOWN PAYMENTS AND OPERATING CAPITAL CAME MOSTLY FROM ALASKA AND NORTH DAKOTA DUE TO THE SITUATION IN MONTANA IN THOSE TWO TRADES.

WE ARE CURRENTLY 4 YEARS INTO A 10-YEAR NOTE ON OUR BUSINESS AND 19 YEARS OUT ON MY HOME LOAN. WE FIND IT HARD TO BELIEVE THAT I WOULD HAVE TO RESORT BACK TO MY OLD OUT-OF-STATE JOBS TO BE ABLE TO LIVE IN MONTANA. AS FOR THE 9 EMPLOYEES. I GUESS IT'S BACK TO THE WELFARE LINES.

GENTLEMEN, THIS BILL DOES NOTHING FOR MY FUTURE IN MONTANA. I ASK FOR YOUR OPPOSITION TO HB 1012.

THANK YOU.

Tina M. Walton

676-0311

Rande Walton

SENATE TAXATION
EXHIBIT NO. 27
DATE APRIL 10, 1991
BILL NO. HB 1012

TO: MR. CHAIRMAN AND MEMBERS OF THE SENATE TAXATION COMMITTEE

RE: HOUSE BILL 1012

==========

MY NAME IS DAVE HARDIN. I AM AN EMPLOYEE IN THE CIGARETTE DEPARTMENT OF SHEEHAN MAJESTIC, A FAMILY OWNED BUSINESS IN MISSOULA, MONTANA. I HAVE BEEN EMPLOYED THERE FOR 4 YEARS AND ENJOY MY JOB.

I AM A 5TH GENERATION MONTANAN AND LOVE THIS STATE. IT'S HARD TO FIND GOOD JOBS IN MISSOULA, ESPECIALLY NOW THAT WE HAVE THE RECENT MILL CLOSURES. I HAVE FAMILY OF FOUR TO RAISE, AND IT TAKES A GOOD JOB TO DO THIS. I HAD TO LEAVE MONTANA IN THE 1970'S FOR 3 1/2 YEARS TO FIND WORK AND WAS NOT ABLE TO COME BACK TO MONTANA UNTIL I FOUND A JOB AT SHEEHAN MAJESTIC. IF THIS BILL WERE TO PASS, MYSELF AND 5 OTHER SHEEHAN MAJESTIC EMPLOYEES THAT I SPEAK FOR WOULD LOSE OUR JOBS. WE DO NOT WANT TO LEAVE MONTANA AGAIN TO FIND A GOOD JOB.

SO WE URGE THIS COMMITTEE TO PLEASE VOTE DOWN HOUSE BILL 1012.

DAVE HARDIN, EMPLOYEE
SHEEHAN-MAJESTIC, MISSOULA, MONTANA

SENATE TAXATION
EXHIBIT NO. 28
DATE 4/10/91
BILL NO. HB 1012

* * * * * * * * * * * * * * * * * * * *
* TESTIMONY OF FRANK SMITH, OWNER *
* H & S SMOKE SHOP - POPLAR, MONTANA *
* BEFORE THE SENATE TAXATION COMMITTEE *
* ON APRIL 10, 1991 *
* REGARDING HOUSE BILL 1012 *
* * * * * * * * * * * * * * * * * * * *

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE: MY NAME IS FRANK SMITH. I AM THE OWNER OF THE H & S SMOKE SHOP AND VENDING IN POPLAR, MONTANA. I CURRENTLY EMPLOY 17 PEOPLE, BOTH TRIBAL AND NON-TRIBAL.

APPROXIMATELY 20% OF OUR INCOME COMES FROM CIGARETTES. WE ARE USING THEM MOSTLY AS A DRAWING TO SUPPORT OUR SALES OF THE STORES. I FEEL THIS BILL COULD CAUSE A HARDSHIP ON OUR BUSINESS AND ALSO ON THE WHOLESALERS IN THE STATE. IN ADDITION, I DON'T THINK IT WILL STOP NON-TAX SALES. IN FACT, I HAVE BEEN APPROACHED BY A NORTH DAKOTA BUSINESS WITH THE PROPOSAL OF PURCHASING FROM HIM IN THE EVEN THIS BILL PASSES.

THIS BILL WILL EITHER (1) RAISE THE COST OF MY DOING BUSINESS, (2) FORCE ME TO CUT BACK ON MY SALES FORCE, CREATING MORE UNEMPLOYMENT IN AN AREA ALREADY IN BAD SHAPE FOR JOBS, AND/OR (3) FORCE ME TO BUY OUT-OF-STATE, HURTING THE BUSINESS OF OUR LOCAL DISTRIBUTORS.

SOME OF THE INCOME OF THE SHOPS IS USED FOR YOUTH PROGRAMS. IN THE YOUTH BASKETBALL TOURNAMENTS IN GREAT FALLS AND POPLAR THIS PAST WINTER, SEVERAL OF THE TEAMS WERE SPONSORED BY SMOKE SHOPS. ALSO 4-H PROGRAMS, BOY SCOUT TROOPS AND SOME HEAD-START ACTIVITIES IN AND AROUND THE RESERVATIONS ARE RECIPIENTS OF THE SMOKE SHOPS' COMMUNITY EFFORTS, WHICH I FEEL IS IMPORTANT AT THIS TIME, WITH ALL THE PROBLEMS WE ARE HAVING WITH YOUTH.

THANK YOU FOR YOUR TIME AND I WOULD APPRECIATE YOUR VOTE AGAINST HOUSE BILL 1012.

SENATE TAXATION
EXHIBIT NO. 39
DATE 4/10/91
BILL NO. HB 1012

TESTIMONY OF JAY BENNETT, MANAGER
SHEEHAN MAJESTIC - MISSOULA, MONTANA
BEFORE THE SENATE TAXATION COMMITTEE
REGARDING HOUSE BILL 1012
APRIL 10, 1991

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: MY NAME IS JAY BENNETT. I AM THE MANAGER OF SHEEHAN MAJESTIC, A FAMILY OWNED BUSINESS FOR OVER 35 YEARS, LOCATED IN MISSOULA, MONTANA.

CURRENTLY, WE EMPLOY 32 FULL TIME EMPLOYEES AT OUR WAREHOUSE. IF THIS BILL SHOULD PASS, I AM LOOKING AT LAYING-OFF 6 EMPLOYEES! THESE 6 EMPLOYEES ARE TAX PAYING MONTANANS, WHOSE GROSS WAGES ARE OVER $25,000 EACH. THERE ARE SOME POINTS I THINK THE COMMITTEE SHOULD BE AWARE OF.

1) THIS IS MORE THAN A CIGARETTE ISSUE. WE ALSO SUPPLY GROCERIES AND CANDY AS WELL AS DELI ITEMS TO THESE ACCOUNTS. WE STAND IN JEOPARDY OF LOSING THIS BUSINESS ALSO, DUE TO THE FACT THAT WE WILL NOT BE ABLE TO SUPPLY THEIR CIGARETTE NEEDS.

2) ENFORCEMENT OF THIS BILL. IT APPEARS THAT HB1012 WOULD BE AN ADDED BURDEN TO THE DEPARTMENT OF REVENUE. THE DEPARTMENT OF REVENUE HAS EXPRESSED THAT IT IS UNDERSTAFFED TO DO AUDITS ON OUT-OF-STATE WHOLESALERS. I KNOW OF OTHER OUT-OF-STATE WHOLESALERS WHO HAVE <u>NEVER</u> BEEN AUDITED ON CIGARETTES OR TOBACCO PRODUCTS. HOW CAN THEY NOW, ALL OF A SUDDEN, POLICE THIS BILL?

3) IN 1972, LEGISLATION IN THIS LEGISLATIVE BODY GAVE US THE RIGHT TO SELL CIGARETTES TO THE INDIAN RESERVATIONS. THIS MEANT A POSITIVE GROWTH IN OUR BUSINESS AND A SIGNIFICANT INVESTMENT TO ACCOMODATE THIS. THIS IS NOT ONLY A POSITIVE GROWTH, WITH MORE JOBS FOR MONTANANS, BUT WE HAVE MAINTAINED A GOOD WORKING RELATIONSHIP WITH THE DEPARTMENT OF REVENUE ON THESE MATTERS.

4) DO WE REALLY WANT THESE GOOD EMPLOYEES, THESE MONTANA INCOME TAX PAYING CITIZENS TO FALL OFF THE TAX ROLLS AND ONTO UNEMPLOYMENT AND WELFARE, ALONG WITH THEIR FAMILIES? I HOPE NOT. AS A MONTANA DISTRIBUTOR, WE WORK WITH THE DEPARTMENT OF REVENUE. THIS ISN'T GOING TO BE JUST ANOTHER LOSS TO THE WHOLESALERS AS WELL AS OTHERS, BUT ALSO TO THE DEPARTMENT OF REVENUE, WHO WILL SURELY LOSE CONTROL OF THE CIGARETTES COMING INTO THE STATE FROM OUT-OF-STATE WHOLESALERS.

COMMITTEE MEMBERS, PLEASE REMEMBER THESE POINTS:

1) THE CIGARETTES ARE STORED IN A BONDED MONTANA WAREHOUSE.
2) THEY ARE TRUCKED BY MONTANA FREIGHT CARRIERS TO MONTANA DISTRIBUTORS.
3) MONTANA EMPLOYEES DISTRIBUTE THESE CIGARETTES.

IN CLOSING, I URGE YOU TO VOTE AGAINST HOUSE BILL 1012 AND KEEP MONTANANS WORKING!

Senate TAXATION
EXHIBIT NO. 30
DATE 4/10/91
BILL NO. HB 1012

++

TESTIMONY OF JERRY STINSON, OWNER
BIG SKY BROKERAGE - GREAT FALLS, MT
BEFORE SENATE TAXATION COMMITTEE
ON APRIL 10, 1991
REGARDING HOUSE BILL 1012

++

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: AS PART OWNER IN BIG SKY BROKERAGE, I AM VERY CONCERNED ABOUT HOUSE BILL 1012. AS A FOOD BROKER IN THE STATE OF MONTANA, ONE OF THE MANUFACTURERS WE REPRESENT IS LIGGETT & MYERS TOBACCO. WE HAVE REPRESENTED LIGGETT & MYERS TOBACCO FOR APPROXIMATELY 8 YEARS AND THE RESERVATION SUNDRY SHOPS IN MONTANA REPRESENT APPROXIMATELY 20% OF OUR TOTAL CIGARETTE BUSINESS. THE RESERVATION SMOKE SHOPS DO NOT HAVE TO BUY CIGARETTES FROM JOBBERS/WHOLESALERS IN THE STATE OF MONTANA. THEY BASICALLY CAN BUY CIGARETTES FROM ANYONE OR WHEREVER THEY CHOOSE. IF THIS BILL PASSES, IT WILL FORCE THE RESERVATION SMOKE SHOPS TO BUY OUT-OF-STATE AND WILL FORCE BIG SKY BROKERAGE TO LAY OFF APPROXIMATELY 2 FULL TIME AND 1 PART-TIME EMPLOYEES.

SENATE TAXATION
EXHIBIT NO. 31
DATE 4/10/91
BILL NO. HB 1012

^^^

WRITTEN TESTIMONY OF ERIC F. KAPLAN, ATTORNEY
BEFORE THE SENATE TAXATION COMMITTEE
ON APRIL 10, 1991
REGARDING HOUSE BILL 1012

^^^

The United States Supreme Court has considered on several occasions whether or not a state may tax sales of various products, including cigarettes, made by Indians to non-Indians. The Court has consistently held that such taxes will be upheld only if they impose no requirements on those who trade with the Indians, such as cigarette wholesalers, and only if they require little more of the retailer than simply collecting the tax from non-Indians. Under these standards, HB 1012 appears to be unconstitutional.

The only tax systems that have been approved by the Supreme Court involving sales of cigarettes by Indians to non-Indians have required the retailer "simply to add the tax to the sales price" and collect it from the non-Indians. Moe v. Salish & Kootenai Tribes, 425 U.S. 463, 483 (1975). The Court has consistently stated that it would allow only such "minimal burdens" to be placed on Indian retailers. See, e.g., Oklahoma Tax Commission v. Potawatomi Tribe, _____ U.S. ____, 111 S.Ct. 905, 911 (1991).

The New York Supreme Court, based on decisions of the U.S. Supreme Court, very recently struck down as unconstitutional a cigarette tax that appears to be identical to HB 1012. The Court held that "the tax scheme under review here fails because it imposes some burdens, although only minimal, on the Indian trader . . . . " Milhelm Attea & Bros. v. Department of Tax, 564 N.Y.S. 2d 491, 494 (1990).

Milhelm relied largely on Herzog v. State, 69 N.Y. 2d 536 (1987), aff'd, 72 N.Y. 2d 720 (1988). Herzog, struck down a state tax on reservation motor fuel sales which, like HB 1012, involved a refund system for sales to Indians. In holding the tax unconstitutional, the Court, citing Moe, supra, stated that

> The Supreme Court has drawn a clear distinction between State taxation schemes which merely require Indian retailers to collect a valid tax on non-Indian purchases and those that burden persons engaged in trade with Indians on reservations.

69 N.Y. 2d at 544.

Herzog relied largely on the U.S. Supreme Court decision in Central Machinery v. Arizona, 448 U.S. 160 (1979). In Central Machinery, the Court ruled that Arizona could not impose a tax on the sale of tractors where the sale was made by a non-Indian to Indians on the reservation. The Court held that "federal law pre-empts the asserted state tax." Id. at 165.

HB 1012 is unconstitutional on two separate grounds. First, it requires the Indian retailer to do more than the "minimal burden" of simply collecting the tax from non-Indians. For example, the retailer must, in effect, obtain State approval of his order before it is filled. Only if his order is within that month's quota will it be filled. The Bill provides that all taxes "must be pre-collected by the wholesaler", presumably, from the retailer. Thus, the retailer may be faced with the additional burden of having to advance taxes and wait for a refund, although the Bill is unclear in this regard.*

The Bill is also unconstitutional because it imposes requirements on the wholesalers who trade with the Indian retailers in direct contravention of Central Machinery. This attempted regulation is far-reaching. The wholesaler must obtain prior approval of any sale it makes to the reservation. He must also advance the tax money to the State and wait for a refund from the State. The wholesaler must apply for his refund within an undefined amount of time "or the credit or refund is lost." The wholesaler must provide proof of order and delivery to exempt retailers in order to obtain a credit or refund. Additionally, the wholesaler must certify to the Department of Revenue that the economic benefit for the credit or refund has been passed on to the retailer. It should be emphasized that, under Central

---

* At least three provisions of the Bill also suggest that the retailer may have to collect the tax directly from the Indian customer and refund it to him or her at a later point. Section 3(3) states that "the tax imposed by this section must be pre-collected . . . on all cigarettes entering Montana Indian reservations." Does this include sales to Indians? Section 2 states that "except for cigarettes sold on military reservations, all cigarettes sold in Montana must have a Montana cigarette tax stamp affixed prior to sale." Does this include sales to Indians? Finally, Section 3(4) refers to "taxes pre-collected on cigarettes sold by the retailers to members of an Indian tribe." If the retailer is supposed to collect the tax from the Indian, than this is clearly illegal under many Supreme Court decisions. Moreover, it would place an extreme burden on the retailer to require him to rebate tax payments to numerous individual Indian purchasers. If the intent is not for the Indian customer to pay the tax, the bill is, at best, ambiguous.

#31

Machinery, and its progeny, the State can impose no regulations or requirements upon those who trade with Indians.

In light of the above, HB 1012 is apparently unconstitutional on two separate grounds - - it places on the retailer more than the "minimal burden" of simply collecting the tax from non-Indians and it imposes requirements on the wholesalers who trade with Indians, contrary to Federal Constitutional law.

#31

NEW YORK SUPREME COURT—APPELLATE DIVISION THIRD JUDICIAL DEPARTMENT

MILHELM ATTEA & BROTHERS, INC. v. DEPT. OF TAXATION & FINANCE OF THE STATE OF NEW YORK, et al.

No. 60199 (N.Y. Sup. Ct., App. Div., Dec. 6, 1990)

Summary

Plaintiffs, wholesale dealers of cigarettes, challenge cigarette sales tax regulations promulgated by the state of New York which: (1) allow wholesalers to purchase, tax free, a quantity of cigarettes determined by the State Department of Taxation and Finance to be the amount needed to supply the personal needs of Indian consumers, (2) impose record-keeping requirements on wholesalers, and (3) may require applications for refunds for exempt sales upon which tax was prepaid; and seek a declaratory judgment that the regulations are invalid and an injunction against their enforcement. The court granted plaintiffs' motion for a preliminary injunction restraining enforcement of the regulations and plaintiffs' motions for summary judgment. Defendants appealed.

Citing its reasoning in *Herzog Bros. Trucking v. State Tax Commission*, 69 N.Y.2d 536, and again considered (72 N.Y.2d 720) upon remand from the U.S. Supreme Court (*State Tax Comm'n of State of New York v. Herzog Bros. Trucking*, 487 U.S. 1212), the court of appeals affirms the grant of plaintiffs' motion for summary judgment.

Full Text

Before WEISS, Presiding Justice, and MIKOLL, LEVINE, MERCURE and HARVEY, Associates Justices

MIKOLL, Associate Justice

Plaintiff in action no. 1, Milhelm Attea & Brothers, Inc. (hereinafter Attea Brothers), a wholesale dealer of cigarettes licensed under Tax Law § 480, is a New York corporation with its principal place of business in Erie County. Almost 75 percent of its sales are to Indians on Indian reservations in New York. Plaintiff in action no. 2, Elias H. Attea, Jr., also sells cigarettes wholesale to Indians on Indian reservations in New York.

The Tax Law imposes a cigarette tax on all cigarettes possessed in this state for sale "except that no tax shall be imposed on cigarettes sold under such circumstances that this state is without power to impose such tax" (Tax Law § 471[1]). Sales of cigarettes on Indian reservations to Indians for personal consumption are exempt from state taxation (20 NYCRR 335.5[2]). Pursuant to regulations applicable to sales made after January 1, 1989, a tax is imposed on cigarettes sold at wholesale to Indians on Indian reservations for retail sale to non-Indians (*see* 20 NYCRR 331.4, 331.5, 331.6, 331.7, 331.8, 331.9, 331.10, 335.5). Wholesalers may purchase, tax free, a quantity of cigarettes determined by defendant Department of Taxation and Finance (hereinafter the Department) to be the amount needed to supply the personal needs of the Indian consumers (20 NYCRR 335.5). Thus, the quantity of tax-free cigarettes which may be sold by the wholesalers is limited (20 NYCRR 335.5[e]). Further, record-keeping requirements are imposed on the wholesalers (*see, e.g.*, 20 NYCRR 337.3) and applications for refunds for exempt sales upon which the tax was prepaid may be necessary (*see, e.g.*, 20 NYCRR 340.1).

Plaintiffs commenced the instant declaratory judgment actions seeking to have the new regulations declared invalid and to enjoin their enforcement. Subsequently, both plaintiffs moved for a preliminary injunction restraining enforcement of the new regulations. The motions were granted. Thereafter, motions were made by the respective parties for summary judgment. Supreme court granted plaintiffs' summary judgment motions for the relief demanded in the complaint and denied defendants' cross-motions. The court also permanently enjoined defendants from, *inter alia*, enforcing the regulations. This appeal by defendants ensued.

The issues presented here are similar to those considered by the court of appeals in *Herzog Bros. Trucking v. State Tax Comm'n* (69 N.Y.2d 536 [14 Indian L. Rep. 5051]) and again considered by that court (72 N.Y.2d 720 [16 Indian L. Rep. 5003]) upon remand from the United States Supreme Court (*State Tax Comm'n of State of N.Y. v. Herzog Bros. Trucking*, 487 U.S. 1212). As here, the plaintiff in *Herzog* was a wholesaler selling a product, in that case motor fuel, to Indians on a reservation who then sold it at retail to Indian and non-Indian consumers. There, the wholesaler was to collect the fuel tax upon the first sale and the tax was then included in the retail price and passed on to the ultimate consumer (*see Herzog Bros. Trucking v. State Tax Comm'n*, 72 N.Y.2d 720, 723, *supra*). A refund or credit was made where the ultimate consumer was an Indian (*id.*). When the court of appeals initially heard the case, it reversed this court's decision which had found the tax scheme valid (*Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, *supra*, *rev'g*, 122 A.D.2d 518). The court of appeals at that time held that:

> ...Congress has preempted the field of regulating trade with Indians on reservations and has left "no room" for the application of supplementary State tax laws, such as the one here at issue, that impose "additional burdens" on Indian traders.... Thus, no matter how minimal the burden imposed on the motor fuel taxation scheme on [the plaintiff], as a trader to the Seneca Nation, such regulation is preempted by the Federal Indian trader laws...(*id.*, at 546 [citation omitted]).

#31

When the first *Herzog* case went to the United States Supreme Court, the case was remanded (*State Tax Comm'n of State of N.Y. v. Herzog Bros. Trucking*, 487 U.S. 1213, *supra*) to the court of appeals to consider the effect of the motor fuel tax scheme contained in newly enacted regulations effective November 30, 1988 and applicable to sales made after January 1, 1989. Those regulations differed from the regulations originally in issue (*Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, *supra*), but are substantially similar to those at issue in the instant case. The regulations originally in issue in *Herzog* required the wholesaler to prepay sales tax on all fuel sold and apply for a refund or credit of tax paid where the ultimate sale was tax exempt. During the pendency of *Herzog*, the Department published for comment new regulations which, like the regulations now before the court, provided for preapproval of tax-free sales to Indians by registered dealers. No tax was to be paid on fuel designated for such sales at any point in the transaction (20 NYCRR 414.7[a][3]). The amount of fuel which would be preapproved for tax-free sale was set by the Department based on projected Indian consumption (20 NYCRR 414.7[a][2]; [b]). On remand from the United States Supreme Court for consideration of the case in light of the newly published regulations, the court of appeals refused to review the constitutionality of those regulations, reasoning that to do so would be to render an advisory opinion (*Herzog Bros. Trucking v. State Tax Comm'n*, 72 N.Y.2d 720, 725, *supra*).

This court is now called upon to address the constitutionality of similar regulations. When the court of appeals heard *Herzog* on remand, it referred to its analysis of the case law on the issue in the first *Herzog* case and opined that "[i]n the absence of a reversal by the Supreme court, we assume that our interpretation of those decisions and our application of them to the facts before us represents the present state of the law on the subject" (*id.* at 724-25). Accordingly, the tax scheme under review here fails because it imposes some burden, although only minimal, on the Indian trader contrary to the court of appeals' interpretation of the applicable Supreme Court decisions (*see id.*, *see also Warren Trading Post Co. v. Arizona Tax Comm'n*, 380 U.S. 685, 690; *Herzog Bros. Trucking v. State Tax Comm'n*, 69 N.Y.2d 536, 546, *supra*).

We note that this court's decision in *Matter of De Loronde v. New York State Tax Comm'n* (142 A.D.2d 90, *appeal dismissed, lv denied*, 73 N.Y.2d 986) [16 Indian L. Rep. 5001] was rendered November 23, 1988 without the benefit of the decision on remand in *Herzog*, which was rendered December 12, 1988.

Opinion by MIKOLL, J., in which WEISS, J.P., LEVINE, MERCURE and HARVEY, JJ., concur.

Order and judgment affirmed, with costs.

Counsel for appellants: Robert Abrams, Att'y Gen., Albany, New York

Counsel for respondent: Kavinoky & Cook, Buffalo, New York; Williams, Stevens, McCarville & Frizzell, Buffalo, New York

H 32

SENATE TAXATION
EXHIBIT NO. 32
DATE 4/10/91
BILL NO. HB 1012

TESTIMONY OF EVELYN M. STEVENSON
TRIBAL ATTORNEY FOR THE CONFEDERATED SALISH AND KOOTENAI TRIBES
OF THE FLATHEAD RESERVATION
ON HOUSE BILL 1012
BEFORE THE SENATE TAXATION COMMITTEE
APRIL 10, 1991

Good morning Mr. Chairman; members of the Committee. My name is Evelyn Stevenson, Tribal Attorney for the Confederated Salish and Kootenai Tribes of the Flathead Reservation. For over 17 years, I've followed the Indian cigarette tax issue. My purpose here today is to briefly relay the position of the Tribal Council. The immediate problem with the Bill is one of timing. If the Bill goes into effect July 1 of this year, there is no time to work with the State on a joint policy. If, however, enactment were delayed until July 1 of next year, the transition would be simplified. The early date would impose irreparable harm on the Indian businesses now and would make it difficult to revitalize their operations later.

In the past when I've appeared before the Montana Legislature, the discussion has been similar--the potential loss of revenue to the State for sales of cigarettes to non-Indians on the Reservation. The State and the Tribes have compared those estimated figures to several other considerations--including a balance against all of the many other State taxes which Indians are now paying which they should not, by law, be paying. Some tourists also come to Montana to visit the Reservations and are attracted to lower cost cigarettes, but at the same time, they stay and spend monies in other businesses. So there are significant pluses for our communities that would be directly or

purchases from the wholesalers would go through the Tribes and the Tribes would collect a 1-½% administrative fee on the total amount. There has not been an official Tribal statute in place, however, to mandate that all purchases would channel through the Tribes nor have there been any specific rules or regulations. The Council has now mandated the Legal Department to draft those internal controls and procedures and to monitor compliance as a cost of government.

Obviously, the concern which this Committee has turns on sales to non-Indians and the Smoke Shops, thereby, marketing a tax benefit. That's a legitimate concern but you do need to question how much of that business would even come into Montana from out of State tourists or Canadians if the benefit weren't here and you need to think about other monies those visitors are spending while on the Reservations or travelling through Montana to get to the Reservation. Montana itself, for example, markets a tax benefit whenever the State advertises that Montana doesn't have a sales tax like those State surrounding us. Nearly every legislative session, Montana weighs and balances all of the political and economic facets regarding the pros and cons of a sales tax.

House Bill 1012, as originally drafted, had areas where we could see real legal and administrative problems that could prove costly and time-consuming in the implementation of the Act.

The proposed amendments cure some of those, but raise some new questions. Most important is that without enforcement cooperation from the Tribes, meaningful implementation is going to be difficult. Also, as stated, Reservation businesses may close down between the time this law goes into effect and negotiations are completed with the Department of Revenue. The Tribes need to know as well whether Montana is prepared to act immediately regarding other areas of taxation or will litigation become a reality?

The Bill excludes the Military Base which raises a question of equality. Although I don't know the present figures, when we reviewed this before, every airman was smoking around 17 packs a day. So clearly there are some non-military civilians getting a tax break that wasn't intended for them.

Two years ago, the Salish-Kootenai Tribes proposed that the State and the Tribes meet and come up with possible resolutions. But in the two-year interim, we've not heard from Revenue. Therefore, I'm suggesting that this Legislative Body now pass only that portion of HB 1012 which mandates the State to sit down and negotiate in good faith with Indian leaders to work on cigarette taxes as well as the other areas taxation and to delay the effective date on levy to the tax until next year. To these aims, an impartial arbitrator could facilitate the process. H.B. 1012 does need more thought and study and I urge you not to

#32

impose a tax law until the Tribes have been made a part of the consultative process. The process should be turned around so that no action goes into affect until after negotiation arbitration is completed rather than at the outset. Thank you.

SENATE TAXATION
EXHIBIT NO. 33
DATE 4/10/91
BILL NO. HB 1012

Mr. Chairman and members of the Senate Taxation Committee:

My name is Tom Ault. I own and manage a small candy and tobacco wholesale business in Wolf Point, Montana. We service North-Eastern Montana. I have done this for the past 15 years.

When I started in the tobacco business, Montana wholesalers could not sell unstamped cigarettes to Indian smokeshops. The smokeshops were there, but the cigarettes were being shipped in from out-of-state and sold untaxed. Montana wholesalers did not sell the untaxed cigarettes, but they were still sold; most came from the State of Washington.

Approximately 10 years ago, the law as changed to give Montana wholesalers the opportunity to compete for these sales. Montana wholesalers could now make the wholesale deliveries of products that previously were being shipped in from out-of-state and not helping the Montana economy.

HB1012 will revert to an advantage for out-of-state businesses. HB1012 controls the number of unstamped cigarettes a Montana wholesaler an sell to smokeshops. We will have quotas we can sell. When the quotas are met, there will still be a demand for cigarettes. This demand will be met by out-of-state wholesalers. The Department of Revenue can control the in-state wholesaler, but cannot control wholesalers in other states. These untaxed cigarettes will still be sold. Every U-Haul or Ryder truck, and every semi-trailer cannot be stopped and searched for unstamped cigarettes. The business will still be there for out-of-state wholesalers, but not Montana wholesalers.

This bill is bad for Montana business. It will force Montana smokeshops to do business with out-of-state wholesalers.

I urge you to vote against House Bill 1012. Thank you.

Tom Ault, Owner/Manager
Hi-Line Wholesale
Wolf Point, Montana

SENATE TAXATION
EXHIBIT NO. 34
DATE 4/10/91
BILL NO. HB 1012

Testimony of Binky Hall, Owner
Joe's Jiffy Stop - Pablo, Montana
Before the Senate Taxation Committee
April 10, 1991
Regarding House Bill 1012

Mr. Chairman and Members of the Committee: I am the sole proprietor of Joe's Jiffy Stop. We are a convenience store located in Pablo, Montana, across Highway 93 from the tribal complex of the Confederated Salish and Kootenai Tribes.

In the seven years I have owned the store, we have progressively put the bulk of our profits into the growth of our business and the betterment of our community.

In 1990, I secured a guaranteed loan for nearly 1/2 million dollars to build a new building and upgrade our gasoline facility to EPA regulations.

I employ 19 people not counting myself or my teenage sons. Our payroll runs approximately $6,000 per 2 week pay period. Of these 19 employees, only 1 besides myself is a tribal member and she is awaiting a job at the tribal natural resources department. These people are mostly single parents, who are the sole support of their families. I feel that at least 1/4 of them would be on welfare were they not working.

Since cigarettes are a definite 20% of our sales and off-shoot sales could add another 20%, I would be in a position to lay off 20-40% of my employees and the direct effect of that would filter out into our small community in greater and greater waves.

In the even this bill were to pass, I would have to try to find some sort of product that would fill that portion of my sales or I would be forced to declare bankruptcy, and closure causing more economic hardship in my area.

I feel our sales do not hurt the State of Montana, but cause a drawing card that is beneficial to our area.

SENATE TAXATION
EXHIBIT NO. 35
DATE 4/10/91
BILL NO. HB 1012

RANDE WALTON
TINA MARIE'S SMOKE SHOP - RONAN, MONTANA
APRIL 10, 1991

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE: MY NAME IS RANDE WALTON. MY WIFE, TINA, OWNS AND OPERATES TINA MARIE'S SMOKE SHOP, A SMALL BUSINESS WHICH EMPLOYS 9 PEOPLE, 8 OF WHICH ARE NON-TRIBAL MEMBERS. OF THAT 9, 5 ARE DIRECTLY OFF THE WELFARE ROLLS AND ARE NOW ON THE TAX ROLLS, WHICH CERTAINLY LEADS TO A MORE PRODUCTIVE PERSON IN OUR COMMUNITY.

DUE TO OUR SMALL BUSINESS, WE HAVE 29 MONTHLY ACCOUNTS FOR GOODS AND SERVICES, WHERE THE MONEYS ARE MOSTLY PAID BACK INTO OUR OWN ECONOMY.

DUE TO THE CURRENT SITUATION ON TRIBAL CIGARETTES, WE EMPLOYE THESE 9 PEOPLE AND OUR DAY TO DAY BUSINESS CARRIES ON. IF THIS BILL PASSES, WE SURELY WOULD NOT NEED 9 EMPLOYEES. 3 OR 4 WOULD BE THE MOST IT WOULD TAKE TO OPERATE THE BUSINESS AND THE FUTURE OF THIS STORE WOULD BE ON THE LINE.

MY WIFE, BEING A TRIBAL MEMBER ON THIS RESERVATION, COULD PUT ALL OUR PERSONAL PROPERTY IN TRUST, PAYING NO STATE TAX. WE HAVE NOT AND DO NOT ELECT TO DO THIS. WE PAY PERSONAL PROPERTY TAX AS ANY NON-TRIBAL MEMBER DOES.

I PERSONALLY HAVE WORKED CONSTRUCTION AND OIL FIELDS OVER THE LAST 12 YEARS. THE MONEYS THAT I'VE USED FOR MY DOWN PAYMENTS AND OPERATING CAPITAL CAME MOSTLY FROM ALASKA AND NORTH DAKOTA DUE TO THE SITUATION IN MONTANA IN THOSE TWO TRADES.

WE ARE CURRENTLY 4 YEARS INTO A 10-YEAR NOTE ON OUR BUSINESS AND 19 YEARS OUT ON MY HOME LOAN. WE FIND IT HARD TO BELIEVE THAT I WOULD HAVE TO RESORT BACK TO MY OLD JOBS TO BE ABLE TO LIVE IN MONTANA. AS FOR THE 9 EMPLOYEES, I GUESS IT'S BACK TO THE WELFARE LIVES.

GENTLEMEN, THIS BILL DOES NOTHING FOR MY FUTURE IN MONTANA. I ASK FOR YOUR OPPOSITION TO HB1012. THANK YOU.

SENATE TAXATION
EXHIBIT NO. 36
DATE 4/10/91
BILL NO. HB 1012

Written Testimony

House Bill 1012 - Senate Taxation Committee

April 10, 1991

Mr. Chairman, members of the committee, for the record, my name is Mike Parker. I am president of Pennington's, Inc. of Great Falls, Shelby and Havre. I am writing to testify against House Bill 1012, in its present form.

I respect the rights of Native Americans to buy and possess tax-free cigarettes for their own use; I am, however, opposed to the possession and use of tax-free cigarettes off the reservation by non-Indians.

However well-intended, House Bill 1012, it its present form, is seriously flawed and deserves your vote of do <u>not</u> pass.

This Bill contains no provisions for enforcement and penalties beyond present levels, which are admittedly inadequate. There are no monetary or criminal penalties for offending consumers, wholesalers, or retailers and there is no provision to increase the Department of Revenue budget to provide for additional enforcement personnel.

The Bill singles out Indian sales, but does not address a similar situation which arises from the availability of tax-free cigarettes on Military reservations. The Department of Revenue will acknowledge that apparent military per capita consumption of cigarettes, sold to the commissary and exchange at Malmstrom Air Force Base near Great Falls, greatly exceeds per capita consumption of the Montana population in general. Tax-free cigarettes are available not only to active duty military personnel, but are available as well to Guardsmen and Reservists. Friends, relatives and customers have related stories to me personally regarding their purchase and/or use of tax-free military cigarettes.

The Bill encourages dialogue with the Indian tribes and their involvement in the implementation of the program proposed by the Bill. It should also encourage dialogue and the involvement of the U.S. Government Bureau of Alcohol, Tobacco and Firearms, Federal Bureau of Investigations, and the U.S. Military authorities.

As provided in the Bill, proportionate reduction of quotas at the time for reporting are unworkable. Quota sales must be allowed on a first come, first served basis prior to sale with the Department of Revenue maintaining quota records. Proportionate reductions after the fact would cause retailers and wholesalers who initially

36

sell at reduced prices to lose a great deal of money if quotas are actually exhausted prior to the end of a month, but not determined until the fifteenth of the following month.

Montana wholesalers were once denied the opportunity to sell tax-free tobacco products to Indian buyers. The law was changed several years ago to provide a level playing field for Montana businesses. The existing sales opportunity, if denied Montana businesses, will again be exploited by out-of-state and intertribal suppliers. Nothing short of the establishment of a police state, complete with border searches will stop the inflow of untaxed products into the State. Please take care not to simply move the source out of the state and out of mind.

Please seek input from all parties involved in the sales of tax-free cigarettes and defer action until the next legislative session in 1993. If something is to be done, let it be a well-thought-out joint effort.

The program outlined in this Bill is doomed to failure. Please vote "No" on House Bill 1012.

Sincerely,
Mike Parker, President
Pennington's, Inc.

SENATE TAXATION
EXHIBIT NO. 37
DATE 4/10/91
BILL NO. HB 1012

TESTIMONY OF STEVEN SMITH, SALES REPRESENTATIVE
UNITED TRUCK LINES
BEFORE THE SENATE TAXATION COMMITTEE
REGARDING HOUSE BILL 1012

APRIL 10, 1991

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE: MY NAME IS STEVEN SMITH. I AM A SALES REPRESENTATIVE FOR UNITED TRUCK LINES. WITH THE DECLINE OF WAREHOUSING AND DISTRIBUTION IN OUR STATE, THE TRUCKING INDUSTRY HAS BEEN STRUGGLING. IN THE PAST 10 YEARS, THERE HAVE BEEN FIVE MAJOR INTRASTATE CARRIERS SELLING THEIR AUTHORITY DUE TO THEIR INABILITY TO PRODUCE A PROFIT IN THIS STATE.

ANY FURTHER REDUCTION IN THE MONTANA INTRASTATE FREIGHT WILL PUT A GREATER STRAIN ON A STRUGGLING TRUCKING INDUSTRY. IF WE LOSE THE DISTRIBUTION OF CIGARETTES FROM WITHIN THE STATE OF MONTANA, TO THE INDIAN RESERVATIONS, THEN WE STAND TO LOSE 1,200,000 POUNDS OF FREIGHT ANNUALLY.

WE HAVE MADE A SUBSTANTIAL INVESTMENT IN MONTANA IN TERMS OF TERMINALS, EQUIPMENT, AND PERSONNEL. WE HAVE DONE THIS BECAUSE OF OUR BELIEF IN THE FUTURE OF THIS STATE. A LOSS OF THIS MAGNITUDE WOULD MAKE IT MORE DIFFICULT TO MEET OUR FUTURE RESPONSIBILITIES AND INVESTMENT REQUIREMENTS TO OUR SHIPPING PUBLIC AND CUSTOMERS.

PLEASE VOTE AGAINST HOUSE BILL 1012.

SENATE TAXATION
EXHIBIT NO. 38
DATE 4/10/91
BILL NO. HB 102

DAVE BAKER, OWNER/PRESIDENT
BILLINGS STORAGE AND WHOLESALE COMPANY
APRIL 10, 1991

Mr. Chairman and Members of the Senate Taxation Committee:

My name is David Baker. I am the President and owner of Billings Storage and Wholesale Company, in Billings, Montana. We are a general commodity wholesale and distribution center that has been under the same family ownership for 47 years. Among our clients are the tobacco companies. For them we provide wholesale and distribution services for all of Montana and parts of Idaho and Wyoming.

An important portion of the tonnage that we handle annually is that which goes to the various Indian reservations in the State. As has been testified, this amounts to approximately 32,000 cases annually. At 35 pounds per case, this comes to approximately 1,200,000 pounds of tonnage that we stand to lose as a result of this legislation. This large potential tonnage loss will force us to reduce our work force accordingly. With the general softness that currently exists in the Montana economy, there is little or no opportunity for us to replace this tonnage. As a result, we will immediately begin to reduce our work force.

I would also like to add that the current transportation environment is highly conducive to transporting commodities into the area from out-of-state. Currently, 40 to 60% discounts are routinely given on tonnage coming into this state from out-of-state locations. As a result, cigarettes purchases can easily be made

out-of-state and transported into the area to the detriment of a number of Montana businesses.

If this legislation is passed, a large portion of businesses and more importantly, jobs and revenue, currently being enjoyed by a large variety of Montana businesses will be lost. It seems to me also that anticipated revenues to the state will not be gained. The results will all be to the detriment of businesses like myself, Montana wholesalers, and Montana truckers. Also, once lost, it will be gone forever. As a concerned businessman and taxpayer, I urge you to vote against House Bill 1012.

Thank you.

SENATE TAXATION
EXHIBIT NO. 39
DATE 4/10/91
BILL NO. HB 1012

39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Steve Pfeiffer	Box 652 Essex, MT	862-8286
Patrice K. Chase	P.O. Box 314 East Glacier	226-5517
James E. Thielman	116 Larch Lane Cut Falls MT	862-3047
Rodney A. Pahl	326 3rd Ave. S.E Cut Bank MT	873-2877
Terry McMasters	Box 43 East Glacier Park MT	226-9385
Jack Carpenter	Box 7093 Gt Falls MT	226-5504
Gary M. Pettigrew	217 8th Ave. No.	434-5395
Doug Schuch	124 Somerset Dr Kalispell	752-0726
Jeannette Jaeger	576 Reese Cut Lake Libby MT	293-7326
Steve Angare	Box 46 East Glacier	
William F. Bigspring Jr.	Box 21 East Glacier Park MT	226-4405
Louise I. Cadasa	Box 27 East Glacier Park	226-5518
Cletus Running Wolf	Box 223 East Glacier Park	226-9375

34

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
R L Von Tuckelberg	408 Dawn Dr. C Fall	892-1407
M. H. Lane	P.O. Box 245/East Glacier	226-5539
Eugene W. White	Box 10 Browning Mt.	338-7859
Roy R Folsom	Box 191	226-4483
Gerald Black	Box 153 E. Glacier	338-2370
Charlene Blackman	Box 153 E. Glacier	338-2370
George Dan Bow	Cut Bank	
Bill Dempsey	East Glacier	226-4490
Lorraine Dempsey	East Glacier	226-4402
Kathryn Rink	Box 2 East Glacier Park	224-4470
Gale Salois	East Glacier PK	
Laurie Adams	P.O. Box 4324 Whitefish	862-9618
Laurie Barnard	P.O. Box 183 E. Glacier Park	226-4475
Lonette Sinclair	Box 394 Browning Mt	338-2912
Earlyn Jeppe	Big Fork Mt. 59911	755-5217
Tammy Wyppert	Box 1265 Browning Mt 59417	338-5761
R P Mattoes	Box 256 EG., Mt 59434	224-4451
Tazie Williamson	Box 1918 Browning	338-5451
Roberta Uhl	Box 100 East Glac Pk	226-4477
Kay Farris	Box 100 E.G.P.	226-4477
Kyre Fuller	Cut Bank Mt	873-2351
Harold Scalese	Sunburst MT.	937-3195
E.S.A. Havens	21 Curve Havre, MT.	265-0354
Irene Seely	E. Glacier, MT	226-9279

#34

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Judy Calf Looking	Box 163 Browning Mt	
Mike Waller	Box 221 Cut Bank MT	
Bob Fawber	Box 172 Cut Bank Mt	873-5460
Butch Marchin	Box 823 Cut Bank Mt.	873-2632
Chuck Pedersen	Box 6634 GT Falls	454-3811
Gerard N. Vandeberg	Box 319 East Glacier MT	226-4469
Orlo Shoen	Box 296 Chester Mt	292-3602
Wm Hall	Browning Montana	338-5536
Brian Gallup	East Glacier MT	
J. E. Stoller	Libby Mont	
Bill Salt	E. Glacier	
Julian Lively	Kevin Mt.	
Jack Lively	Kevin Mt	
Laurel Bull Calf	Box 1743 Browning Mt	338-2912
Deborah L. Gill	Box 277, E. Glacier	226-9372
Bud Drewniak	Box 64 Grass Range	428 2484
Sylvia Drewniak	" " "	
Hal Sommer	Box 1334 Cut Bank Mt	873-2626
Lisa Hillman	Box 102 Browning	
[illegible]	Box 188 E.G. Mt.	
Shirley Little Dog	Box 4 East Glacier	226-4423
Don Dorlayne	Box 251 Coram Mt.	387-5212
B. L. King	Box 176 East Glacier	226 4464
G. A. Jacobson	Box 416 West Glacier Mt	387-5463

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Dick Gregory	P.O. Box 26 East Glacier	226-5503
J. Schumacher	Box 41 East Glacier	226-9289
Linda Chase	Box 229 East Glacier	226-4426
Denis Chase	✓ ✓	
Ray Schenden	Box 3 East Glacier	226-4442
[illegible]	Box 246 ELP.	226-5500
Carol Kramer	Babb, MT.	732-4439
Clara Foundayer	E. Glacier	226-4429
Roger Paul	Box 66 MT	
Lloyd Trotter	PO Box 275 Whitefish MT	862-4624
Robert England	Box 142 Browning	338-7844
James Rack	Box 104 E Glacier MT	
Joneva McCann	Box 1103 Havre, MT 59501	265-6279
Doreen Blackwood	Box 722 Browning Mt.	338-7786
Glen & Alice Taylor	312 Kalispell Ave. Whitefish MT 59	862-3963
Ken Johnson	Box 621, Essex, MT 59916	888-5673
Janet Carnes	Box 286 E. Glacier	226-5520
Russell A. Douglas	Box 1478 Browning	338-7311
Anne D Grant	Box 163 E Glacier	226-4494
John Phelan	Box 12 E Glacier Pk	226-9331
Albert Lunde	Box 146 Oak Bank	873-4331
Carla Neugebauer	4960 Whitefish Stage - Whitefish, Mt.	862-0374
Marie Neugebauer	" "	"
Patrick R Schn	Box 94 East Glacier	226-9392

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
[illegible]	P.O. Box 172, East Glacier	226-9219
Elaine Kadara	Box 253 East Glacier	
Ramsey N Rink	Box 2 East Glacier	
Laura Alford	772 N. Carter Colville WA	
John E Sosek	Box 103 E Glacier Mt	2269227
Don Du Bray	Box 187 East Glacier	
Mona Fauque	Box 71 East Glacier	59434
Lee Bakley	Box 04H Chester	0
Larry A. Kidbusch	Box 23 Cavan, Montana	387-5497
Richard Lucke	Box 52 E, Glacier MT	
Larry Van Hay	Eureka Mt	
John Vale	E G Pk Mt	59434
Danielle K Searles	E. Glacier MT	59434
Erich H. Goddard	Browning Box 1776	338-2005
L E Bullard	Box 186 East Glacier	2269284
R.J. [illegible]	Box 1171 Browning	338-5898
Susan McMasters	Box 43 East Glacier Park	226-9385
[illegible]	Box 263 E. Glacier	226-4460
Mary Ann Longtime Sleeping	Box 415, Browning MT	
Donald L Wellington	Box 2 Whitefish Mt.	862-2741
Lisa J. Wyrick	Box 79, East Glacier Pk.	226-9296
[illegible]	Box 13 East Glacier	226-4454
[illegible]	Box 111 East Glacier	226-9308
William P. Grant	P.O. Box 163 East Glacier	226-9230

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Marjorie Klein	Box 562	Browning Mt.
Audrey Scully Rider	Box 215	Browning Mt.
Don Gellon Kidney	Box 1960	Bing Mt

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Corrina R. Crane	Box 1604	338-5553
Gabriel R. Crane	Box 1604	" "
[illegible]	Box 31 HB	2031
Dayton Bachman	Gen Del Browning mt	—
Karen Dragonfly	Bx 1876 Bring	
James O. Kennedy	Box 651 - Browning	
Bernie Brown	Box 544 Browning	338-5886
Linda Racine	Box 1024 Brg	338-2573
Ronnie Rose	Box 1024 Brg	" "
Crystal Whitegrass	Box 31 Browning	
Darrell R Mornberg	Box 331 Browning Mt	338-2157
Colleen Swims Under	Box 1708 Browning, Mt.	338-2028
JoAnn Gilham	Box 203 Browning Mt	
[illegible]	Box 408 Browning Mt	338-5831
Ken Kicking Woman	Browning	
James Butterfly	Browning	
Yogsius & Lucas	Browning	338-2083
Anna S. Fisher	Box 156 Browning Mt.	338-7846
Adeline Bull Chief	Bx. 903 " "	
David Knapp	Bx 1022 " "	338-7191
Iris A Fitz	POB 326 " "	338-5974
Ernie T. Fitz	" " " "	" "
Jeanne Kenny Wolf	PO Box 1374 - Bring	
Cliff Macko	Gen. Dept.	

39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Daryl R. Ham	Box 128 Browning Mt	
Darrell W. LaBuff	Box 1351 Browning Mt.	
Vernon Wagner	Box 1261 Browning Mt.	
Carl Creek Medicine Sr	Box 66 Browning Mt. 59417	338-2097
[illegible]	Box 23 Brown	
Donald Headsman	Box 291 Browning Mt.	
Donna Griffin	Box 645 - Browning, Mt.	338-7442
Alan D. Thompkey	P.O. Box 388 Cut Bank Mt.	338-5261
Evelyn Irwin	Box 1148 Browning	338-5285
Francis Jetted Eagle Jr	Box 236 Heart Butte	
Myrna [illegible]	Box 904 Brwg Mt	338-2628.
Mike Madman	Box 1707 Brwg Mt	5785
Edna Pollock	Box 675 Browning, Mt	7602
Ayin Engelard	Box 128 Browning Mt	7292
Aloysius Running Wolf	Browning Mt	5947
Tom Steel Smoking	Browning, Mt.	
Ezela Harrison	Browning, Mt	5357
Jean W Oscar	Browning Mt	7334
Ronald Running Crow	Browning Mt	
Thom Jones	Browning Mt	5295
Mildred Pepin	Browning Mont	
Wesley Brown	Box 514 Brwg Mt	7251
Albert Sherman	#592 Brwg. Mt	
Rob Cassidy	Box 93 Babb MT	732-5594

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Mary L. Little Dog	Box 12 Heart Butte Mt	None
Gerald Bechel	Box 502 Browning Mt.	338-2120
Bernadette Henderson	Box 1781 Browning Mt	—
Clinton Dusty Bull	Box 1172 Browning Mt	338 8554
Marlene Heavyrunner	Browning Mt	338-5945
Karla Weatherwax	Browning, Mt.	338-5681
Wm Mukus	Box 621 Browning Mt.	
Lawrence Harn	Box 154 Heart Butte Mt	338-2031
Dina Old Person	Browning Mt. 59417	
Leona Little Dog	Browning, Mt.	
Alfreda Ladd	" "	
Jon Phillips	" "	
[illegible]	" "	338-7711
Douglas M James	Box 252 E Glacier,	338-4418
Virginia Madman	Box 393 Browning, Mt	338-7326
Terry Racine	Box 243 " "	338-7969
Conrad Chambers	BOX 544 Browning, MT	338-2838
Darlene Spotted Bear	Box 894 Brg Mt.	
Nina Valle	Bx 651 Brng MT	338-5748
Nona Taylor	Box 77 Babb, Mt.	732-5544
Irene Meineke	Box 1461 Browning Mt	
Rhonda Cockrum	Box 241 Browning, Mt.	338-2009
Camilla Wells	Browning Mt	—
Ronald Lurlue	Box 1804 Browning, MT	338-2769

#34

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Rose R. Sure Chief	Box 137 Browning	338-7947
Kyer Talk About	Browning, mont.	338-7383
Daniel Wuethe	Browning, mt	338 2446
Mona Zubach	Box 803, Browning	338-7601
Ron Zubach	" " "	"
Don Woods	Box 505 Browning	
[illegible]	Box 1135 Browning	
[illegible]	Box 223 Browning	
Bob Lail Feathers	Box 218 Browning	3387936
[illegible]	Box 396 Browning 59417	338-7103
Rita Horn	Box 12 Browning	338-7327
Sally Ann Fish	Box 595 Browning mt.	338-5663
Georgie Smith	Box 1622 Browning mt	
Virginia Smith	Box 1622 Browning	
Velma Smith	Box 1622 Browning	338-5328
Elton Guardipee	Browning	338-5328
Joclair Running Crane	Heart Butte mont	—
Minnie Boggs	Browning mt	5659
Leonda Lahr	Browning Mt	338 7331
Jim Huchelba	Browning Mt	—
Ernest Marcean	" "	
Joy Dey Bray	" "	338-7843
Zona Whitegrass	" "	338-7082

#34

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Jack Clemence	37 3rd Ave SE Cut Bank	873-4951
Pat Dolyne	Seville Housing	873-5360
Alta Hallenberg	Seville Housing	873-5360
John B. Faure	175 Brook Dr Kal	752-1234
Kate Milaux	Cut Bank	
Pat Brownell	Seville Flats	336-3955
Les Brownell	Seville Flat	336-3955
Harold Brownell	Seville Flats	336-3955
Trevor Tibbitts	Cut Bank Mont	873-5210
Chuck Frazier	Cut Bank Mont	873-4013
Vedo Kuardipee	Cut Bank Mont.	
Montana Nygaard	Cut Bank, Montana	
Bobby Rehbein	Box 58 Heart Butte	338-2335
Kandie Lemieux	Cut Bank	5308
Mandy Gladwell	Cut Bank	mess-2161
Christie C. Gatton	" "	873-2051
Cliff Gueswegen	" "	873-4050
Ann Worth	" "	873-4737
Victoria Angare	Cut Bank	
Laurine R. Crane	Cut Bank	873-2828
Louis Jay Momberg	Hc 91 Box D B Cut Bank	873-2056
Judy M. Walters	420 Mtn View Cut Bank	873-2628
Dale Tromsley	Cut Bank MT.	
Diane Anderson	209 3rd Ave S.W. Cut Bank	

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Rory Tuller	122 1st Ave NE	4340
Bob Thompson	325 1st Ave SW	[illegible]
Mary Welker	130 8th Ave No	2958
Jeff Rathwood	322 2nd St. SW	5673
[illegible]	34 1st Ave S.E	4792
Gladys Nyberg	817-38th St So. Gt Falls	761-3777
Babe Meins	813 Dean Dr. Cutbank	873-5727
Herman Hoff	18 2nd St SE Cut Bank, MT	873-5213
Larry Wesley	38 11th Ave SE	873-4440
[illegible]	415 2nd SW	873-4556
Melvin Billy	4th N. 3 ST.	338-2808
Rick Cline	214 5th ave SE	873-2690
Leo Gobert	Box 1144 Cut Bank MT.	873-2954
[illegible]	325 6th SE	873-2460
[illegible]	Box 2171 CB	873-4692
Keith Simmons	13 4th Ave. S.E	873-5454
Karen DenBoer	222 6th Ave NE	873-2004
Allen Janet	219 5th Ave SW	873-2163
Jessie Morris	Box 1412 Cut Bank Mt.	873-4504
Bill Nith	636 3RD St, SO SHELBY MT	434-2675
Patty LaTrace	Box 1368 Cut Bank	873-5774
Jeff Fooks	114 3RD AVE. SW CUT BANK	873-2381
Delma Connelly	Box 1517 Cut Bank Mt.	336-3495
Freda Jochems	Box 1333 Cut Bank Mt.	336-2985

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Myra Costello	206 W. Main	4516
Nannette Garrow	212 3rd ave SE	4633
Robert H. Cremer	Box 2033 C.B.	2379
Otto Bear Child	~~Box~~ Del Bonita S.R.T. #91	4631
Wallace Garrow	Box 1513 Cut Bank	4633
Amber D. Drewnick	Box 1236 Cut Bank	2171
Connie Zimmerschied	#4 Skyland Trailer Park	4610
Anton Cole	"	4410
Mary Young	Box 1188	4202
Kenneth Livingston	Cut Bank	4631
Greg McCarter	Cut Bank	2377
Diane Marceau	Del Bonita St. RT	5397
Merlin Marceau	Del Bonita St. RT.	5397
Trish Schaeffer	C B	4249
Margaret Jiron	Del Bonita St Rt	5353
Barry Gustafson	Cut Bank	5377
Kim Sherard	Cut Bank	59427
Dick Bendy	Cut Bank	
Marcella Moore	Cut Bank	59427
Joe LaTraie	Cut Bank	
Kathy Beady	Cut Bank	~~5449~~ 2491
Steve Archambault	Box 219	5575
Bernice Galt	Cut Bank	
Ivory Pohn	Box 573 Cut Bank	873-4336

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Kenneth L. Jeffers	Hilltop Apts Cut Bank	
[illegible]	Box 2171 Cut Bank	
Elaine Guardipee	Box 965 Browning	336-3393
John Veenstra	Box 1183 Cut Bank Mt.	
Mike Powell	Del Bonita St Ret A-3 Cut Bank Mt	873-5917
Harvey Pepper	Del Bonita Stock T Box B-3 - Cut Bank	5942
Helen Rawlings	Box 744 Cut Bank	873-4911
Evelyn Rawlings	Box 744 Cut Bank	873-4911
George Rides at the Door	Cut Bank Box 1371	873-2701
Dewey Doore	Cut Bank Gen Del	
Elizabeth Heavyrunner	Cut Bank Mt	873-4790
Kenneth A Stone	Browning Mt	
Ursula Spotted Bear	Del Bonita Stock Ret A-9 Cut Bank Mt	59427
[illegible]	Cut Bank Montana	873-4801
Thelma Gims Bach	Browning Mt	59417
Richard ~~[illegible]~~ Swenson	Cut Bank Montana	59427
Yvonne Pedett	Cut Bank Mt	59427
Yvonne Stratman	1126 2nd St So Shelby MT	434-2941
Carol J. Karpela	215 1st Ave. So. Shelby, MT	434-2139
Sandra L Hershey	816 9th Ave So Shelby, Mt	2424
Enid L Britton	PO Box 177 St Shelby Mt	59474
Bob Yeager	139 Central Shelby Mt	59474
David Yeager	Box 153 Valier, Mt	279-3310
John Yeager	Cut Bank Mt	873-5472

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Larry D. Francom	215 3rd Ave S.W. Cut Bank	4860
Wallace H. Smith	213 4th Ave SE Cut Bank	4493
Marjorie Smith	"	"
[illegible]	Box 1260 Cut Bank MT	336-2835
[illegible]	313-4 Ave. S.E. C.B.	4870
Hazel Campbell	520 2nd St SW	4840
Kurt Zuback	2480 E Broadway Helena MT	449-3673
Carolyn Zuback	2480 E Broadway, Helena MT	449-3673
Agnes V. Bard	14 West main Box 18 Cut Bank	873-4631
Lynne Herschman	522 2nd St SE Cut Bank	873-5736
Freddie Tibbitts	411 1st St N.W. Cut Bank	4115
Nancy Kubis	Box 201 Cut Bank	4557
Mike Kubis	Box 201 Cut Bank	4557
Gary F. Henderson	Box 1032 Browning	338-7722
Buster Harrison	118 5th Ave N.W. Cut Bank	4004
Peter McDermott	R.R.M. P.O. Box 42 Pardee	
Pattie Mombery	912 East Main CB	5529
Mrs. Christina Lee	205 2nd Ave S.W. C.B.	4831
Mr. Ted Lee	205 2nd Av. S.W. CB	4831
J.E. McDonald Jr.	258 2nd Ave S. Shelby, MT	59747
Florence Spotted Bear	DBSR Box 5 Cut Bank, Mt.	59427
Gene Pendergrass	Box 463	2344
Kay Jessup	Box 2112	2344
Melanie Kleimer	Box 879 Cut Bank	2361

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Marvin Fald	Cut Bank, Mont	5795
Jennie M. Jacobson	Cut Bank, Mont	4889
Agnes E. Forest	Cut Bank, Mont	2981
Frank Granza	Cut Bank Mt.	4674
Wayne LaBuff	Cut Bank Mt	4836
Marvin L. Garrison	Cut Bank Mt.	—
James E. Gustafson	C. B. Mt.	—
Cyrene Atkinson	C. B. Mt	—
Mary Ann Longer	C. B. Mt	5755
Thelma Matt	C. B. Mt	—
Christine Howell	Cut Bank, Mt	2059
[illegible]	Cut Bank Mt	3708
Erwin Atwood	Cut Bank Mt.	5673
Deborah K. McKaye	Cut Bank, Mt	4371
Virgil Hill	Cut Bank Mt.	2588
Deb Gobert	Cut Bank Mt	2754
Ewalt Berry	Cut Bank	—
Fred Sumpers	Cut Bank	—
[illegible] McCadams	Cut Bank	—
James Fald	Cut Bank	—
R. E. Hall	"	—
Esther Cottengim	"	—
Jamie Taylor	"	5467
[illegible]	Cut Bank	4533

Cut Bank Hotel

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Bob Jochums	Box 1333 Cut Bank, Mt	336-2785
Lyle Jons	Box 6611 Troy Mt	—
Marvin Edwards	Box 155 Cut Bank Mt	873-2519
Polly LaTray	Cut Bank	
Eddie Lozing	Star Rt Cut Bank Mt	336 3453
Jeannie Reishus	Cut Bank Mt	—
Kim Reishus	Cut Bank Mt	—
Laura Johnson	Dupuyer Mt	473 3274
Steve Johnson	Dupuyer Mt	473-3274
Jeanie DeBoo	Dupuyer Mt	473 3281
Linda Lee Reishus	Dupuyer Mt	—
Joan Sappe	Valier	339-2325
Barbara Brown	25 2nd Ave S.W.	873-5369
H.C. Barger	577-7 ave So Shelby	434-2[illegible]
Peg McKechnie	Box 473 Shelby Mt	434-2800
Pat Omdahl	5 Skyland Mob Sk Cut Bank	
Mary Marshall	Del Benito Star Rt 91 Cut Bank	873-4631
Annette Beurchild	Cut Bank.	873-4631
Dora Joe	Cut Bank	873-4631
Dana Beurchild Woolston	Cut Bank	—
Kathryn Chattain	Box 456 Valier	279-3479
[illegible]	222 4th Ave SE Cut Bank	873-2998
Denise Mataisz	Box 230 BABB 59411	732-4406
Joseph Brown	Cut Bank	

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
[illegible] Mills	Conrad, Mt.	[illegible]
June Hamelina	Box 212 Cut Bank, Mt	59427
Joyce Hibbs		
Ernst Strausburg	129-3rd Ave. SW Cut Bank	59427
Philip Anick	229 2nd Ave SE #6, Cut Bank	59427
Ina Lee Wheeler	Del Bonita, Cut Bank	
Jeve Lofsing	110 2nd ave NW	59427
Evelyn Ground	Box 1211 Browning Mt.	59417
John Brownell Jr		
Sharon Magee	117-1st Ave SE - C. Bank	
Louis Dye	209 3rd St. S.W. C.B	873-2778
Bill Dunaway	131 Mt View Cut Bank	873-4738
Gloria Santos	Box 1573 Cut BANK	873-5421
Viola Beaver	3309 1 Av N Great Falls MT	771-8821
Sam Bird	Del Bonita Star Rte	873-5919
Dick Bird	Box C-2, Del Bonita, Cut Bank, Mont	
Neil Keller	Cut Bank Mt.	873-4481
William Patts	Cut Bank Mt Delbonita Star Box D-12	Cut Bank Mont
[illegible] Ligman	402 2nd St. SE Cut Bank MT	2420
Terry Hat	Del Bonita Star Rt.	873-5919
Jeanette Koch	110th Ave W.W Cut Bank	873-4631
[illegible]	P.O. Box 218 Kevin MT	337-2930
Jan Butler	PO Box 452 Shelby MT	434-2465
Marjie Kehmer	Box 1321 Cut Bank	873-4623

#31

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Charlotte Weatherwax	Box 841 Browning Mt. 338-2248	
Joe Weatherwax	Box 841 Browning Mt.	338-2248
Althea Tailfeathers	Box 1266 Browning MT	338-7319
Lawrence Tailfeathers	Box 1266 Browning MT	338-7319
Julia Jordan	Box 65 Browning Mt.	338-5686
Barbara Kipp	Box 637 Browning Mt	338-7757
Marie Calf Looking	Box 1296 Browning Mt	338-7346
Dennis Calf Looking	" " " "	" "
Cynthia Kipp	Box 564 Browning	338-2015
Eugene Y. Kipp	" " "	
Lea D. Tabey	Bx 227 Heart Butte, MT 59448	338-2057
Verna Talks Ca Lott	Box 855 Browning Mt	
Marvin Weasel Tail	Box " " " "	
April Little Dog	Browning MT	
Jerry Swims Under	Browning MT	
Judey Calf Looking	Browning Mt	
Jerene Last Star	Bx Mt. 338-7724	
[illegible]	Box 1447 Bx MT	
Robin Bearchild	Box 1447 Browning, MT	
Alice Heavy Run	Box 1533 Browning, MT	
Verna St. Goddard	Browning Mt. Bx. 1776	
Eileen Dorsey	Browning Mt.	
Margaret Marceau	Browning Mt	
Rick Wolfant	Browning Mt	

#34

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Carl Ave Melis Jr	Box 60	338-2097
P Del Courtoreille	Box 1481 Browning	338-7738
Loretta Owl Chief	Box 1481 Browning	338-6330
Avonne Boss	Box 14 Browning	338-2668
Ina Boggs	Box 14 Browning	338-2667
Sue Goss	Box 14 Browning	338-7756
Cameron Boggs	Box 1001 Browning	338-5491
Sylvia Meinecke	Box 1311 Brg mt	
Sandra Meinecke	Same	
Sandra Guardipee	Same P.O Box 1311 59417	
Virginia Marcus	Box 1344	
Patty Welch	Box 1343 Browning	338-1258
Helen Morris	Box 1930 Browning	
Eli Still Sinking	Box 1463 Browning	
Frank Still Sinking Jr	Box 1463 Browning	338-7804
Merlin Running Wolf	Box 16 Browning	338-2893
Dean Red Oscar	B 1051 Browning mt	
Thomas Horn	Brang, Mt. 59417	
Audra Wiessel Heard	Browning, Mt 59417	
Delia Edwards	Browning, Mt. 59417	338-5888
Gail Bruno	Box 1930 Browning Mt	338-2762
Norma Ann Trombley	Box 192 Brg. MT 59417	
Theresa Plume	Box 202 Rest Glacier MT.	338-5817
Lisa Ro Runner	Box 732	

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Dave Franklin	10 242 Cut Bank	
Anna Wood Wood	P.O. Cut Bank	
Selma Aldrich	Box 192 Cut Bank	
James Aldrich	Box 192 Cut Bank	
Daniel Ray Losing	425 7th Ave. S.E. Cut Bank, Mt.	
Dawn Lo Fountain	Box 1406 Cut Bank	
Kerry Shortman	Box 563 Cut Bank	MT
Mede Shortman	Box 563 Cut Bank	Mt.
Chili Davis	114 3rd Ave SE	MT
J. Cotting	Box 1386	NA
Lorelie Smith	Box 4	MT
[illegible]	Box	
John W Stordahl	234 4th Ave SE Cut Bank	4317
Linda K. Buck	118 3rd Ave N.W. Cut Bank	
Tim McCann	510 W. Central Cut Bank	
Robert W Montell	DBSR 89 Cut Bank	
Jim Smith	P.O Box 4 Cut Bank	
[illegible]	[illegible] Cut Bank	
Marvin Donnell		
Donald Barrier	Box 712 Cut Bank	
Clifford L.	Cut Bank	Cut Bank
[illegible]	[illegible] 16 [illegible]	
Eugene W Champion	Cut BANK 337	
W Hill	213 3 Ave SE	

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Bonnie Lawrence	Browning Mt.	338-7252
Mary Lurank	Cut Bank Mt	873-4826
Buffy Cary	214 7th AVE SE Cut B. MT	873-4987
Carrie Cardis	Cutbank MT	[illegible]
Clifford S. Calfthail	P.O. Box 1534 Cut Bank	
Anna Heisel	Browning Mt.	
Willa Lichter	Cut Bank MT	
Lori Attwood	Cut Bank MT	
Shirley McFarlane	Cut Bank	
Margo Meyer	Cut Bank	
Debbie Jensen	Cut Bank	
Kathy Johnson	Cut Bank	2979
Ken Krimm	Cut Bank	2708
Lavern Crieger	Browning Mt.	
Rosetta Mann	Townsend Mt.	
Gail Augare	Browning Montana	
Dorothy Mitchell	Cut Bank Montana	
Jean Bertzen	Cut Bank Mt	
Pat Price	Cut Bank	
Emma Cline	Cut Bank Mt.	3690
Lynne Lawrance	Cut Bank MT.	

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
[illegible]	[illegible]	[illegible]
Tamara Pease	26 1st AVE S.W	873-4851
Pat Harris	26 1st AVE S.W	873-4851
Dennis Bean	#5 14th Ave S.W	873-4541
Sally E Hocking	Box 164 Cut Bank	5747
P.J. Rattler	Browning Mt.	59417
Joe Curran	Cut Bank Mt 59427	59427
Chris Gobert	Browning Mt.	59417
Marion Gobert	Browning Mt.	59417
Lillian Rattler	Browning Mt.	59417
Terra Butterfly	Browning Mt.	59417
Robert Curran	Babb Mt.	59417
HAROLD Butterfly	Browning	
Rose Nutto	Shelby	434-2675
Shelby Lester	Shelby	434-2675
June Guardipe	Browning	279-3669
Cora Nadeau	Valier	
Donald E. Mason	Cut Bank	336-2502
Flo Fenstad	Cut Bank	336-2497
Karen Sayes	Cut Bank	873-2692
Marian Vanden Bos	Valier Mt.	279-3503
[illegible]	Cut Bank	873-2314
Gail Stradeu	Box 22 Cut Bank Mt	873-2175
Robin Nimmi	Box 714 C.B. Mt.	873-4698

#39

We the undersigned wish to declare our opposition to House Bill 1012.

Name	Address	Phone
Denise Wittmer	P.O Box 256 Shelley	434-5716
David M. Wells	Box 313 - Browning Mt	
Maxine Branch	Box 283 Cut Bank Mt	873-2476
Hugh C. Branch	" "	"
Geo F. Huddart	Cut Bank Mt	
R.O. Cunningham	Box 46 Cut Bank	873-2796
Benda Hunter	P.O. Box 1554 Cut Bank Mt	336-3939
Shauna Gray	B-6 Delbonita	873-4275
Risa Butterfly	Glacier Ridge E-7	2732 (873)
Martha Barnes	229-2nd Ave. S.E	873-2412
Marla Ollinger	Glacier Ridge E-3	873-2609
Mike Loring	B-14 Cut Bank Mt. 59.27	873-5403
Clarence Paul	Box 62 Cut Bank Mt.	

The United States
Law Week
Extra Edition No. 1
Supreme Court
Opinions
February 26, 1991 • THE BUREAU OF NATIONAL AFFAIRS, INC., WASHINGTON, D.C. • Volume 59, No. 33

SENATE TAXATION
EXHIBIT NO. 40
DATE 2/19/91
BILL NO. HB 1012
STATE LAW LIBRARY
MAR 06 1991
OF MONTANA

OPINIONS ANNOUNCED FEBRUARY 26, 1991

The Supreme Court decided:

COURTS AND PROCEDURE—Sanctions

Fed.R.Civ.P. 11, which provides that "signature of an attorney or party constitutes a certificate by the signer . . . that to the best of the signer's knowledge, information, and belief formed after reasonable inquiry [the pleading, motion, or other paper] is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law," imposes objective standard of reasonable inquiry on represented parties who sign pleadings, motions, or papers; so construed, Rule 11 has no more than incidental effect on substantive rights of parties and thus does not violate Rules Enabling Act, either by authorizing fee shifting in manner not approved by Congress or by effectively creating federal tort of malicious prosecution that encroaches on state law causes of action. (*Business Guides Inc. v. Chromatic Communications Enterprises Inc.*, No. 89-1500) . Page 4144

NATIVE AMERICANS—Tribal Immunity

Federally recognized Indian tribes enjoy tribal sovereign immunity from state taxation on sales of goods to tribal members that occur on reservation or trust lands, but not on such sales to non-tribal members. (*Oklahoma Tax Commission v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, No. 89-1322) ..... Page 4137

POSTAL SERVICE—Postal Monopoly

Postal workers adversely affected by Postal Service's international remailing rule, which suspends operation of private express statutes so as to allow use of private couriers to deposit with foreign postal services letters destined for foreign addresses, are not within zone of interests encompassed by private express statutes and therefore lack standing to challenge validity of rule. (*Air Courier Conference of America v. American Postal Workers Union*, No. 89-1416) ..... Page 4140

NOTICE: These opinions are subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D.C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

Full Text of Opinions

No. 89-1322

OKLAHOMA TAX COMMISSION, PETITIONER *v.* CITIZEN BAND POTAWATOMI INDIAN TRIBE OF OKLAHOMA

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Syllabus

No. 89-1322. Argued January 7, 1991—Decided February 26, 1991

Although, for many years, respondent Indian Tribe has sold cigarettes at a convenience store that it owns and operates in Oklahoma on land held in trust for it by the Federal Government, it has never collected Oklahoma's cigarette tax on these sales. In 1987, petitioner, the Oklahoma Tax Commission (Oklahoma or Commission), served the Tribe with an assessment letter, demanding that it pay taxes on cigarette sales occurring between 1982 and 1986. The Tribe filed suit in the District Court to enjoin the assessment, and Oklahoma counterclaimed to enforce the assessment and to enjoin the Tribe from making future sales without collecting and remitting state taxes. The court refused to dismiss the counterclaims on the Tribe's motion, which was based on the assertion that the Tribe had not waived its sovereign immunity from suit. The court held on the merits that the Commission lacked authority to tax on-reservation sales to tribal members or to tax the Tribe directly, and therefore that the Tribe was immune from Oklahoma's suit to collect past unpaid taxes directly, but that the Tribe could be required to collect taxes prospectively for on-reservation sales to nonmembers. The Court of Appeals reversed, holding, *inter alia*, that the lower court erred in entertaining Oklahoma's counterclaims because the Tribe enjoys absolute sovereign immunity from suit and had not waived that immunity by filing its action for injunctive relief, and that Oklahoma lacked authority to tax any on-reservation sales, whether to tribesmen or nonmembers.

Held: **Under the doctrine of tribal sovereign immunity, a State that has not asserted jurisdiction over Indian lands under Public Law 280 may not tax sales of goods to tribesmen occurring on land held in trust for a federally recognized Indian tribe, but is free to collect taxes on such sales to nonmembers of the tribe.**

(a) The Tribe did not waive its inherent sovereign immunity from suit merely by seeking an injunction against the Commission's proposed tax assessment. *United States v. United States Fidelity and Guaranty Co.*, 309 U. S. 506, 511–512, 513. In light of this Court's reaffirmation, in a number of cases, of its longstanding doctrine of tribal sovereign immunity, and Congress' consistent reiteration of its approval of the doctrine in order to promote Indian self-government, self-sufficiency, and economic development, the Court is not disposed to modify or abandon the doctrine at this time. Nor is there merit to Oklahoma's contention that immunity should not apply because the Tribe's cigarette sales do not occur on a formally designated "reservation." Trust land qualifies as a reservation for tribal immunity purposes where, as here, it has been "validly set apart for the use of the Indians as such, under the superin-

NOTE: Where it is deemed desirable, a syllabus (headnote) will be released * * * at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U.S. 321, 337.

Copyright © 1991 by The Bureau of National Affairs, Inc.
0148-8139/91/$01 50

SENATE TAXATION
EXHIBIT NO. 41
DATE 4/10/91
BILL NO. HB 340

A PROPOSAL TO THE MONTANA DEPARTMENT OF REVENUE

TO BUILD A BIOPHYSICALLY BASED SYSTEM OF POTENTIAL FOREST PRODUCTIVITY FOR USE AS A BASIS FOR FOREST LAND TAXATION

BY

DR. KELSEY MILNER, PROJECT DIRECTOR
DR. STEVEN W. RUNNING
DR. HANS ZUURING

SCHOOL OF FORESTRY
UNIVERSITY OF MONTANA
MISSOULA, MONTANA 59812

16 NOVEMBER 1990

PROPOSED DURATION:
1 JULY 1991 - 30 JUNE 1994

PROPOSED BUDGET:
$614,076

PHONE NUMBERS:
K. Milner 243-6653
S.Running 243-6311
H.Zuuring 243-6456
FAX # 243-4510

Executive Summary

We propose a system for estimating and mapping the potential productivity (cu.ft/acre/year) of commercial forest land in Montana. The maps produced by the system will contain the attributes required by the Department of Revenue for implementation of a forest productivity based tax system.

We have completed a pilot study that demonstrates the proposed system which links a biological model of photosynthesis to a geographic information system (GIS). The result is a map of the University of Montana's Lubrecht Experimental Forest showing productivity classes, forest/non-forest boundaries, and section, township and range lines. We estimated productivity for every acre but mapped the results at a resolution of 5 acres. Eight productivity classes are displayed in order to show the capability of the system, though a smaller number of more broadly defined classes is easily obtained.

The proposed system has a number of positive qualities:

1. **Low initial cost.** The estimated total cost of the completed project, covering 3.6 million acres, is $500,000. This translates to a per acre cost of $0.14. Alternatives would be approximately double this amount.

2. Reasonable time frame. Initial maps for high priority counties would be available within 18 months of a July 1, 1991 starting date. The project would be completed by June 30, 1993.

3. Strong defensibility. Our system contains scientifically sound, well tested, components that reflect more than ten years of research and successful application. Tests to date indicate that the system is significantly more accurate than traditional productivity estimation methods.

4. Uses existing information. The data bases required by the system are currently available. The high cost and great difficulty of collecting the large quantities of productivity data necessary for alternative methods is avoided.

5. Other applications. The assembled statewide data bases, including satellite imagery, soils, topograpy, climate, and rectangular survey will be invaluable for use in a wide variety of land use planning activities.

forest mgt.
wildlife mgt.
County land use planning
Surface water

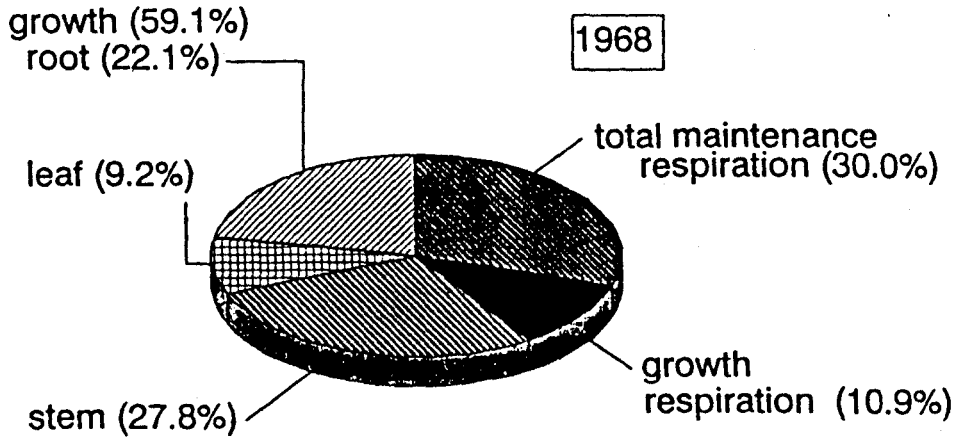
PROPOSED BUDGET

UNIVERSITY OF MONTANA, SCHOOL OF FORESTRY
BUDGET: MONTANA DEPARTMENT OF REVENUE TAX PROPOSAL
TIME PERIOD: July 1, 1991 - June 30, 1994

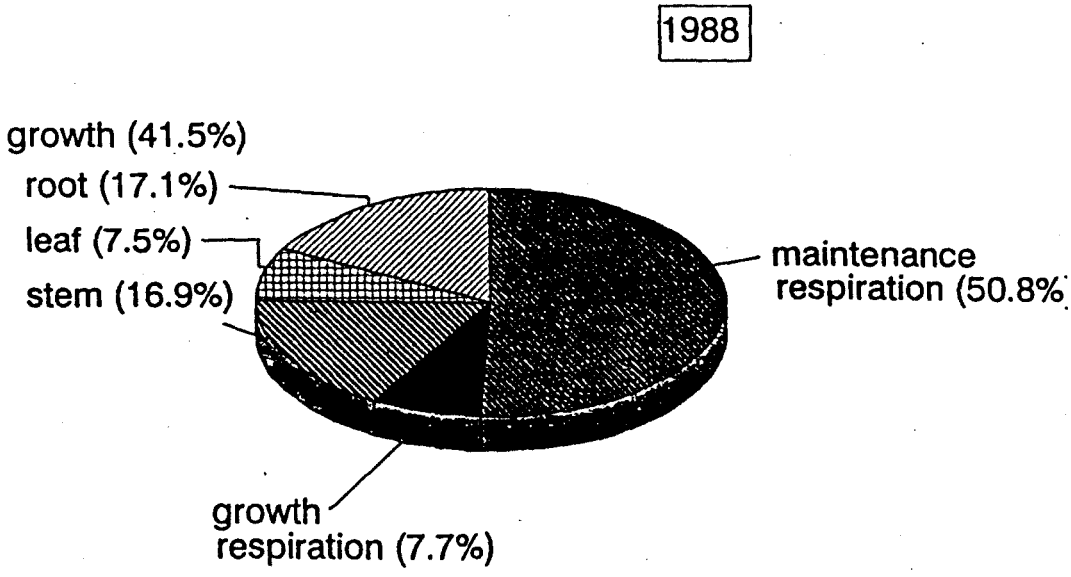
	YEAR 1 (7/91-6/92)		YEAR 2 (7/92-6/93)		YEAR 3 (7/93-6/94)	
SALARIES	Effort (mo)	Cost	Effort (mo)	Cost	Effort (mo)	Cost
K. S. Milner	3	$10,500	3	$11,025	0.5	$1,929
S.W. Running	1	$5,000	1	$5,250	0.5	$2,756
H. Zuuring	3	$12,000	3	$12,600	0.5	$2,205
Tech - GIS	12	$30,000	12	$31,500	6	$13,779
Tech - Field	12	$24,996	12	$26,246		
Tech - Remote sensing	12	$30,000	12	$31,500		
Subtotal		$112,496		$118,121		$20,670
FRINGE BENEFITS						
P.I.'s (19%)		$5,225		$5,486		$1,309
Technicians (19% + 150/mo.)		$21,549		$22,357		$3,518
Subtotal		$26,774		$27,843		$4,827
CAPITAL EQUIPMENT						
One 486' computer		$10,000				
TM tapes		$40,000		$40,000		
ERDAS system		$50,000				
Subtotal		$100,000		$40,000		
TRAVEL						
Training, public meetings field validation		$20,000		$10,000		$10,000
Subtotal		$20,000		$10,000		$10,000
SUPPLIES/SERVICES						
Supplies		$10,000		$10,000		$1,000
Subtotal		$10,000		$10,000		$1,000
TOTAL DIRECT COSTS		$269,270		$205,964		$36,497
INDIRECT COSTS (20% direct)		$53,854		$41,193		$7,299
TOTAL COSTS		$323,124		$247,157		$43,796
GRAND TOTAL		$614,076				

THEORETICAL BACKGROUND OF THE BIOPHYSICAL MODEL

Simulated Carbon Balance for Co-Dominant Tree

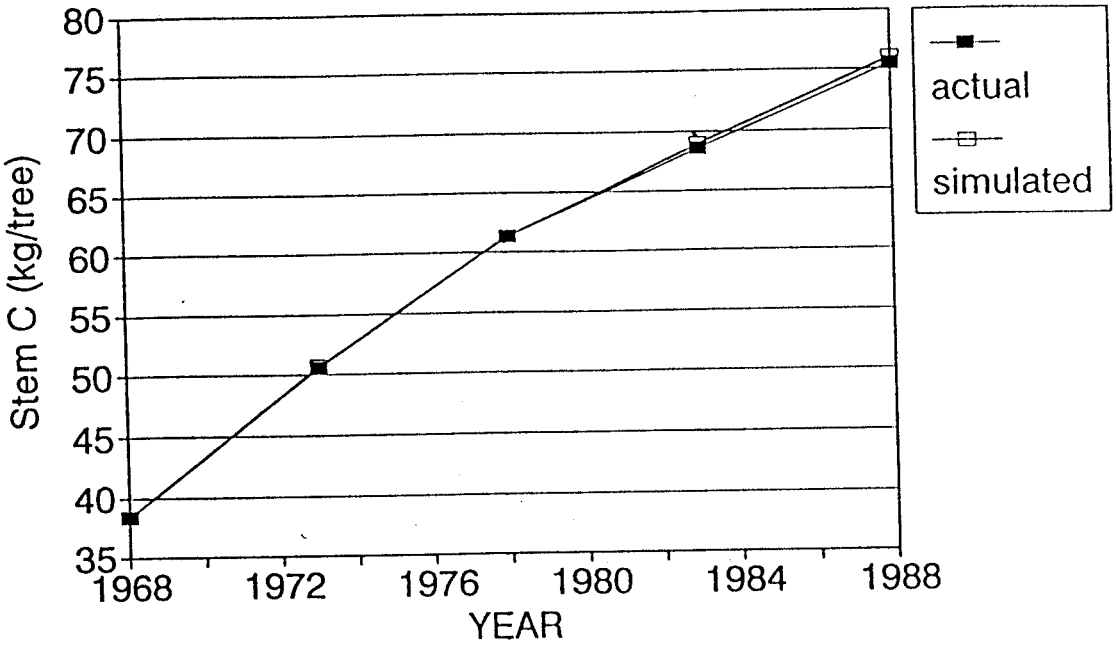


Age = 37 years; LAI = 3.0; DBH = 5.9 cm; Height = 4.68 m

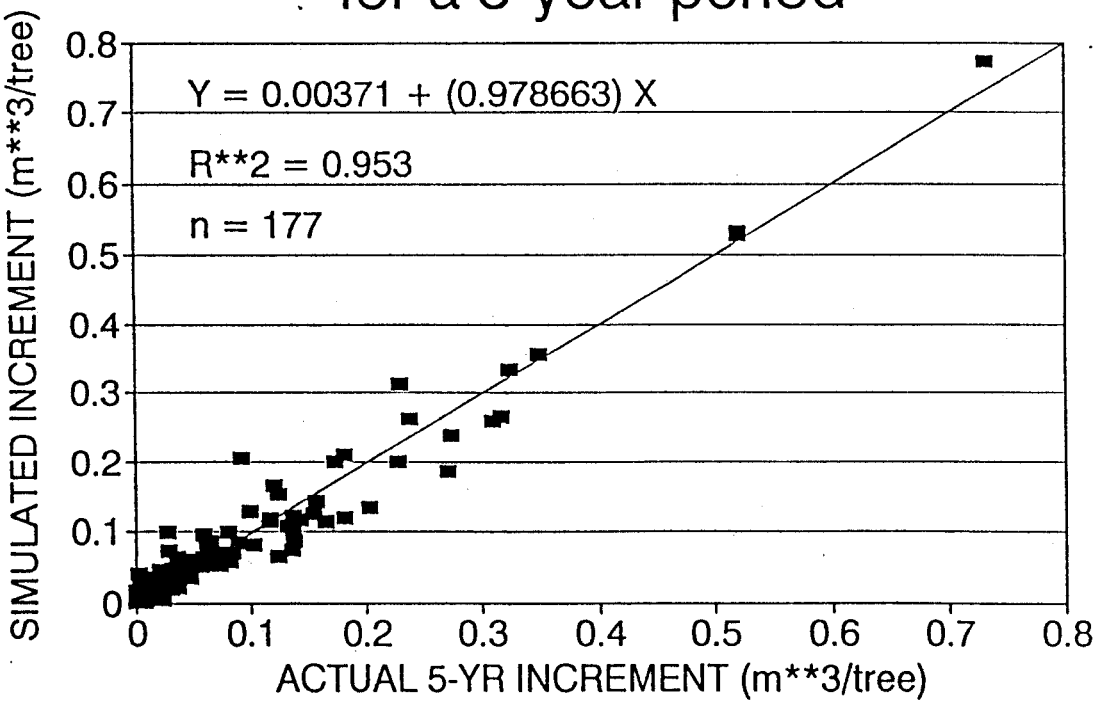


Age = 57 years; LAI = 3.0; DBH = 11.1 cm; Height = 6.64 m

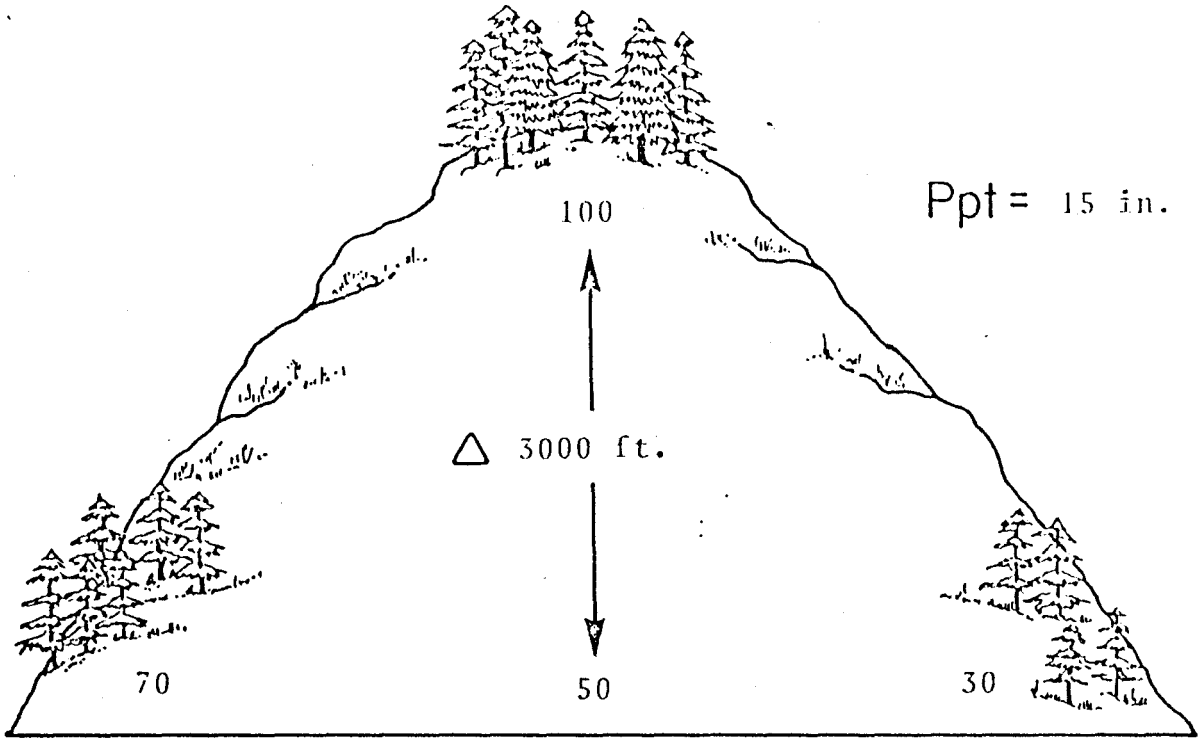
20 Year Growth of Co-Dominant Tree



Simulated -vs- Actual for a 5-year period

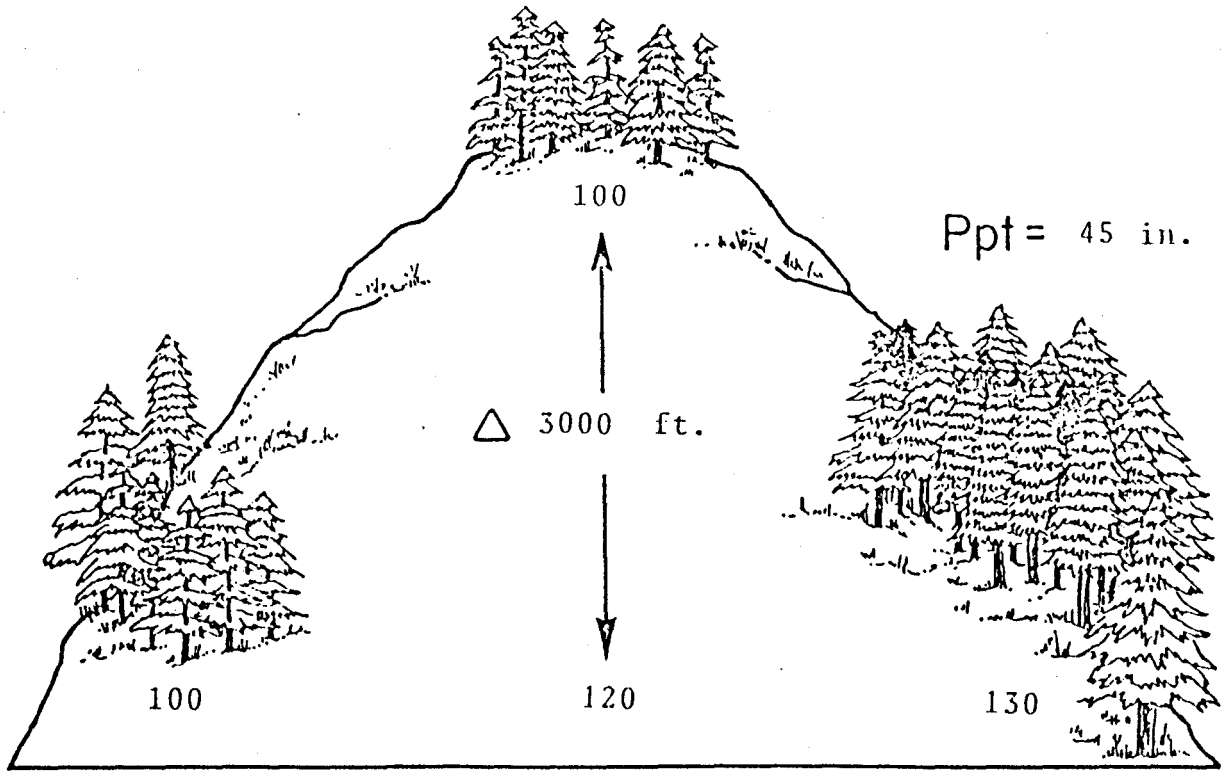


INFLUENCE OF TOPOGRAPHY ON FOREST PRODUCTIVITY



$ft^3/ac/yr$

NORTH SOUTH



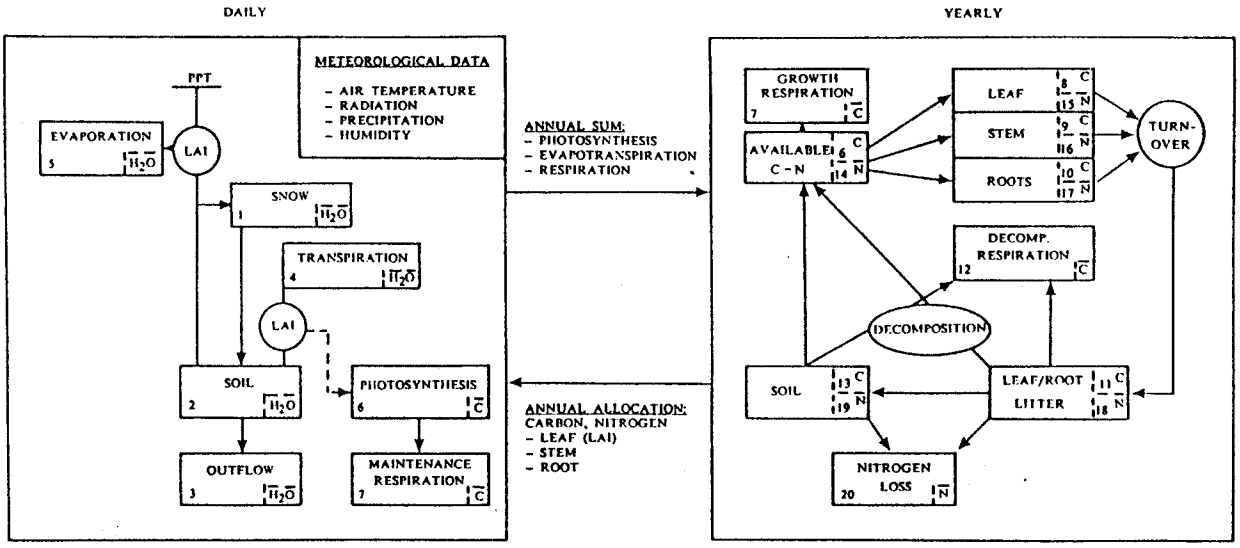
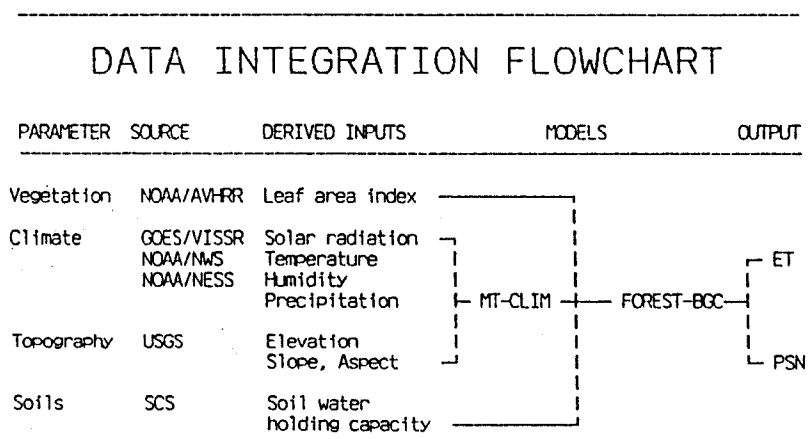


FIGURE 1. A compartment flow diagram of FOREST-BGC, illustrating the daily and yearly components of the model. Compartments are defined by element for H_2O, water; C, carbon; and N, nitrogen.



NOAA = National Oceanic and Atmospheric Administration
AVHRR = Advanced Very High Resolution Radiometer
GOES = Geostationary Orbiting Environmental Satellite
VISSR = Visible and Infrared Spin Scan Radiometer
NWS = National Weather Service
NESS = National Earth Satellite Service
USGS = United States Geological Survey
SCS = Soil Conservation Service
MT-CLIM = Mountain microclimate simulator
FOREST-BGC = Forest ecosystem simulation model
ET = Evapotranspiration
PSN = Photosynthesis

FIGURE 3

GEOGRAPHIC INFORMATION SYSTEM

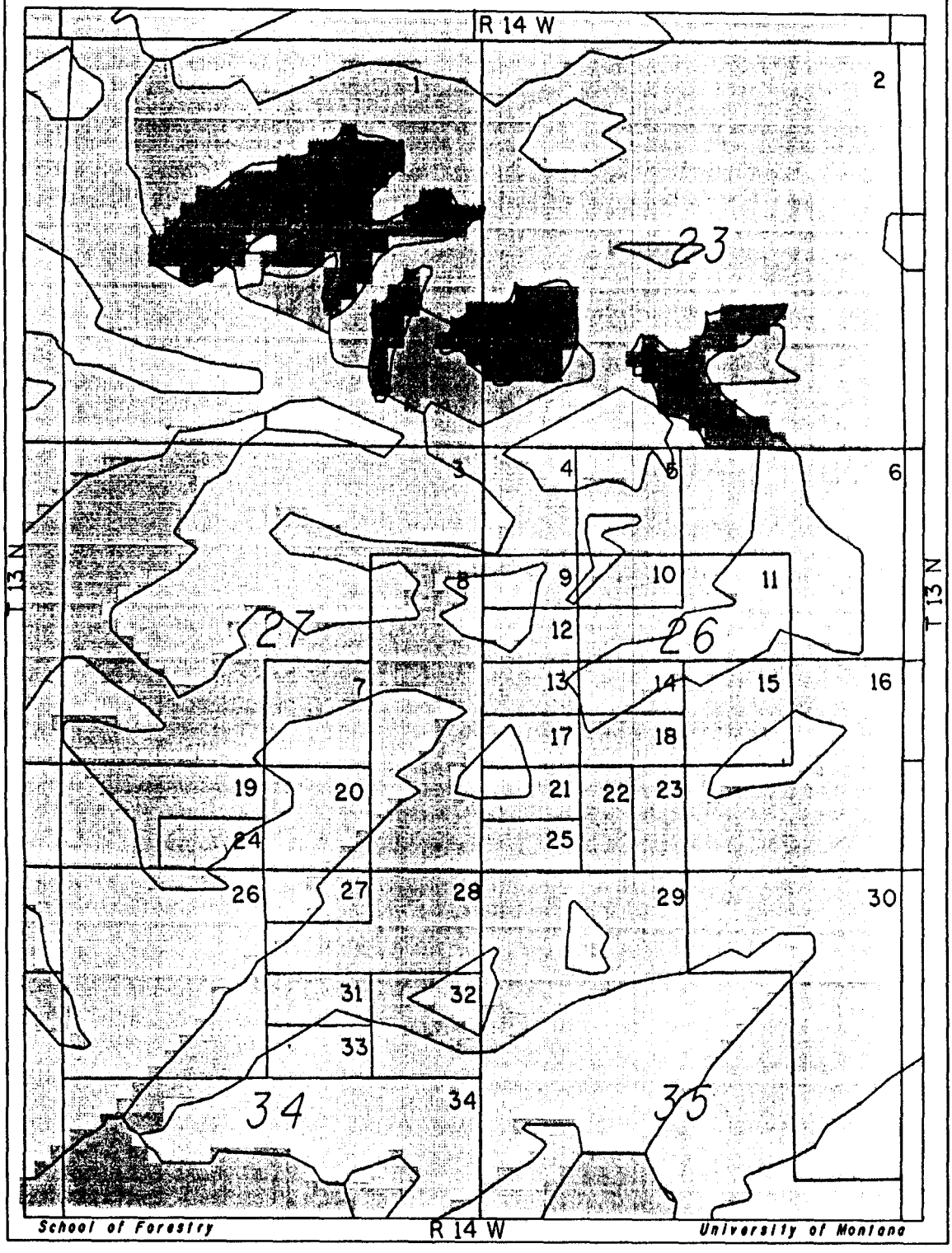
LUBRECHT POTENTIAL FOREST PRODUCTIVITY

Pilot Study: Montana Forest Taxation Project

Kelsey Milner
Steve Running
Hans Zuuring

Land ownership code: 22 Section numbers: 22

Class 8 | Class 7 | Class 6 | Class 5 | Non-Forested



Lubrecht Taxation Example: Land Ownership by Potential Productivity Class

KEY	OWNER	LEGAL DESCRIPTION T	R	SEC	SUBDIVISION	POTENTIAL PRODUCTIVITY CLASS	ACRES
1	MFCES	13N	14W	22	All, Fractional	Class 5	56
						Class 6	208
						Class 7	181
						Class 8	36
						Non-Forested	111
2	MFCES	13N	14W	23	All, Fractional	Class 6	52
						Class 7	454
						Class 8	26
						Non-Forested	64
3	MFCES	13N	14W	27	NE1/4NE1/4, W1/2NE1/4,	Class 6	188
					NW1/4, N1/2SW1/4	Class 7	177
4	MFCES	13N	14W	26	NW1/4NW1/4	Class 6	36
5	Private	13N	14W	26	NE1/4NW1/4	Class 6	16
						Class 7	23
6	MFCES	13N	14W	26	E1/2NE1/4, NW1/4NE1/4	Class 6	52
						Class 7	84
7	Private	13N	14W	27	NW1/4SE1/4	Class 6	21
						Class 7	23
8	BLM	13N	14W	27	SE1/4NE1/4, E1/2SE1/4	Class 6	45
						Class 7	75
9	Private	13N	14W	26	N1/2SW1/4NW1/4	Class 6	6
						Class 7	10
10	Private	13N	14W	26	N1/2SE1/4NW1/4	Class 6	1
						Class 7	17
11	DSL	13N	14W	26	SW1/4NE1/4,	Class 6	33
					S1/2SE1/4NW1/4	Class 7	5
12	Private	13N	14W	26	S1/2SW1/4NW1/4	Class 6	7
						Class 7	9
13	Private	13N	14W	26	E1/2SE1/4SW1/4	Class 7	44
14	Private	13N	14W	26	N1/2NE1/4SW1/4	Class 6	18
						Class 7	3
15	Behl	13N	14W	26	NW1/4SE1/4	Class 6	10
						Class 7	27
16	BLM	13N	14W	26	NE1/4SE1/4, S1/2SE1/4	Class 6	15
						Class 7	101
17	DSL	13N	14W	26	S1/2NW1/4SW1/4	Class 6	6
						Class 7	10
18	Private	13N	14W	26	S1/2NE1/4SW1/4	Class 7	22
19	Private	13N	14W	27	SW1/4SW1/4,	Class 6	21
		N1/2SE1/4SW1/4				Class 7	30
20	Smilde	13N	14W	27	SW1/4SE1/4	Class 6	31
						Class 7	6
21	Private	13N	14W	26	N1/2SW1/4SW1/4	Class 6	5
						Class 7	11
22	Private	13N	14W	26	W1/2SE1/4SW1/4	Class 7	16
24	Private	13N	14W	27	S1/2SE1/4SW1/4	Class 6	3
						Class 7	15

25	DSL	13N 14W 26	S1/2SW1/4SW1/4	Class 7	16
26	Private	13N 14W 34	NW1/4	Class 6	122
				Class 7	31
27	Private	13N 14W 34	N1/2NW1/4NE1/4	Class 6	12
				Class 7	12
28	DSL	13N 14W 34	NE1/4NE1/4,	Class 6	5
			S1/2NW1/4NE1/4	Class 7	59
29	BLM	13N 14W 35	W1/2, SW1/4NE1/4,	Class 6	155
			NW1/4SE1/4, S1/2SE1/4	Class 8	23
30	DSL	13N 14W 35	N1/2NE1/4, SE1/4NE1/4,	Class 6	36
			NE1/4SW1/4	Class 7	123
31	Tucker	13N 14W 34	N1/2SW1/4NE1/4	Class 6	1
				Class 7	17
32	Smilde	13N 14W 34	SE1/4NE1/4	Class 6	23
				Class 7	14
33	Greene	13N 14W 34	S1/2SW1/4NE1/4	Class 6	16
				Class 7	2
34	BLM	13N 14W 34	S1/2	Class 6	132
				Class 7	22
				Class 8	65

CURRICULUM VITAE OF

PRINCIPAL INVESTIGATORS

RESUME
November, 1990

Kelsey S. Milner
Associate professor, School of Forestry
University of Montana
Missoula, Montana 59812
(406) 243-6653

Education:

B.A. Mathematics; Washington State University Pullman WA. 1968
M.S. Forestry; University of Montana, Missoula; 1980
Ph.D Forestry; University of Montana, Missoula 1986

Experience:

1964-1968	Forestry technician, USFS, Sula, MT
1968-1969	U.S. Army, 4th Infantry Division, Vietnam
1974-1978	Forestry technician, USFS, Sula, MT
1978-1979	Research assistant, School of Forestry, University of Montana, Missoula, MT
1980-1985	Research forester, Champion International Corporation, Milltown, MT
1985-1989	R & D Supervisor, Western Operation, Champion International Corporation, Milltown MT
1989-	Champion Professor of Forestry, School of Forestry, University of Montana, Missoula, MT

Pertinent project experience:

1985-1989 R & D Supervisor, Champion International. Annual budget of $300,000 applied to research activities in Montana, Washington, Oregon, and California.

1989- Growth and Yield Specialist for the Inland Northwest Growth and Yield Cooperative. Annual budget of $36,000.

Journal Referee:

Forest Science
Canadian Journal of Forestry Research
USFS Intermountain Forest and Range Experiment Station

Publications:

30 Champion International internal research reports

CURRICULUM VITAE
(SEPTEMBER 1990)

Steven W. Running

Professor, School of Forestry, University of Montana,
Missoula, Montana 59812

Address:

Home: 1419 Khanabad Drive, Missoula, MT 59802
Phone: (406) 721-5096
Office: School of Forestry, University of Montana, Missoula, MT 59812
Phone: (406) 243-6311
FAX: (406) 243-4510

Born: April 18, 1950; Spokane, Washington; U.S. Citizen; SS# 534-52-4404

Marital Status: Married, 2 children

Education:	B.S.	Botany; Oregon State University, Corvallis	1972
	M.S.	Forest Management; Oregon State University	1973
	Ph.D.	Forest Ecophysiology; Colorado State University, Fort Collins	1979

Society Affiliations:
American Meteorological Society
Ecological Society of America
International Union of Forest Research Organizations

Proposal Reviewer:
National Science Foundation
National Aeronautics and Space Administration
American Institute of Biological Sciences
Natural Sciences and Engineering Research Council of Canada
U.S.D.A. Cooperative Research Program
U.S. Dept. of Energy
U.S. Environmental Protection Agency
California Space Institute

Committee Appointments:
National Academy of Sciences, Space Science Board - Planetary Biology and Chemical Evolution Committee participant 1982-1984.
NASA - Land Related Global Habitability Program Planning 1982-1983.
NASA - Global Biology Review Panel 1983-1984.
NASA - MODIS Instrument Panel 1984-1986.
NASA - Interdiscplinary Studies Review Panel 1986.
NASA - Shuttle Imaging Radar - C Review Panel. 1988.
NASA - High Resolution Imaging Spectrometer Review Panel 1988.
NASA - Management Operations Working Group. 1988-1990
NASA - Terrestrial Ecosystems Program Advisory Group 1988-1990
International Geosphere-Biosphere Program - Committee on Global Hydrology 1988-1990
NASA - Earth Observing System MODIS Team Member 1989-1999
World Climate Research Programme - WCRP/IGBP Land Surface Experiments, 1990-1994
Global Change Institute, Earth Systems Modeling Workshop 1990

Awards, Honors
University of Montana, Distinguished Scholar - 1990

Journal Referee:

Science
Bioscience
Ecology
Canadian Journal of Forest Research
Canadian Journal of Botany
Forest Science
Northwest Science
Water Resources Research

Remote Sensing of Environment
USFS Rocky Mountain Forest and Range Experiment Station
USFS Intermountain Forest and Range Experiment Station
USFS Pacific Northwest Forest and Range Experiment Station
Tree Physiology
Australian Journal of Forest Research
J. Range Management
American Naturalist
AI Applications in Natural Resource Management
J. applied Meteorology
International. J. of Remote Sensing
Ecological Applications
J. Environmental Quality
Agronomy Journal

Other reviews:

Academic Press Publishers Inc.
American Meteorological Society
Weyerhauser Corporation
American Association for the Advancement of Science
Australian National University

Experience:

1968	Surveyor, U.S. Forest Service, Marblemount, Washington
1969-1970	Research Assistant, Dept. Forest Management, Oregon State University
1972-1973	Graduate Research Assistant, Dept. Forest Management, Oregon State University
1973-1974	Forest Ecologist, Environmental Associates Inc., Corvallis, Oregon
1974-1976	Research Assistant, Coniferous Forest Biome, Oregon State University
1976-1979	Graduate Research Assistant, Dept. of Forest and Wood Sciences, Colorado State University
1976-1979	Research Forester, Forest and Mtn. Meteorol. Project, Rocky Mtn. Forest and Range Experiment Station, Fort Collins, Colorado
1979	Senior Research Associate, Natural Resource Ecology Laboratory, Colorado State University
1979-1983	Assistant Professor, Forest Ecophysiology, School of Forestry, University of Montana, Missoula
1983-1988	Associate Professor, Forest Ecophysiology, School of Forestry, University of Montana, Missoula
1986-7	Visiting Sabbatical Scientist, CSIRO Division of Forest Research, Canberra, Australia
1988-	Professor, Forest Ecology, School of Forestry, University of Montana

Publications:

Drew, A.P., & S.W. Running. 1975. Comparison of two techniques for measuring surface area of conifer needles. For. Sci. 21:231-232.

Running, S.W., R.H. Waring, & R.A. Rydell. 1975. Physiological control of water flux in conifers. Oecologia (Berl.) 18:1-16.

Waring, R.H., W.H. Emmingham & S.W. Running. 1975. Environmental limits of an endemic spruce, Picea breweriana Wats. Can. J. Botany 53(15):1599-1613.

Running, S.W. 1976. Environmental control of leaf water conductance in conifers. Can. J. For. Res.6(1):104-112.

Waring, R.H., & S.W. Running. 1976. Water uptake, storage and transpiration by conifers: a physiological model. IN: O.L. Lange, E.D. Schulze and L. Kappen (Eds.), Water and Plant Life, Problems and Modern Approaches. Ecol. Studies Vol. 19. Springer-Verlag (Berl.) p. 189-202.

Grier, C., & S.W. Running. 1977. Leaf area of mature Northwestern coniferous forests: relation to site water balance. Ecology 58(4):893-899.

Hinckley, T.M., J.P. Lassoie and S.W. Running. 1978. Temporal and spatial variations in the water status of forest trees. Forest Science Monographs #20. 72 p.

Running, S.W. 1978. A process oriented model for live fuel moisture. IN: Proceedings 5th National Conference on Fire and Forest Meteorology, American Meteorological Society, Boston, Mass. p. 24-28.

Waring, R.H., & S.W. Running. 1978. Sapwood water storage: its contribution to transpiration and effect upon water conductance

through the stems of old growth Douglas-fir. Plant, Cell and Environment 1:131-140.

Running, S.W. 1979. An ET model controlled by physiological processes for coniferous forests. IN: Proceedings 14th Conference on Agriculture and Forest Meteorology. American Meteorological Society, Boston, Mass. p. 107-210.

McDonald, S., & S.W. Running. 1979. Monitoring irrigation in western forest tree nurseries. USDA Forest Service Gen. Tech. Report RM-61. Rocky Mt. For. and Range Exp. Stn., Fort Collins, CO. 8 p.

Running, S.W., & C.P. Reid. 1980. Soil temperature influences on root resistance of Pinus contorta. Plant Physiology 65:635-640.

Running, S.W. 1980. Environmental and physiological control of water flux through Pinus contorta. Can. J. For. Res. 10:82-91.

Running, S.W. 1980. Field estimates of root and xylem resistances in Pinus contorta using root excision. J. Exp. Bot. 31:555-569.

Running, S.W. 1980. Relating plant capacitance to the water relations of Pinus contorta. Forest Ecology and Man. 2:237-252.

Knight, D.H., T.J. Fahey, S.W. Running, A.T. Harrison, & L.W. Wallace. 1981. Transpiration from 100-year-old lodgepole pine forests estimated with whole-tree potometer. Ecology 62:717-726.

Running, S.W. 1981. The influence of microclimate on forest productivity: A system to predict the biophysical site quality of forest land. p. 297-316. IN: "Computer Techniques and Meterological Data Applied to Problems of Agriculture and Forestry: A Workshop." March 29-30, 1981. Anaheim, CA. American Meteorological Society, Boston, MA 02108. (Invited paper).

Running, S.W. 1981. Stress physiology of coniferous trees used in mineland reclamation. Western Wildlands 7(3):23-24.

Running, S.W. 1982. Insolation and heat effects on tree seedlings on newly cleared sites. (p. 87-92). IN: Site Preparation and Fuels Management on Steep Terrain. February 15-17, 1982. Washington State University Extension Publication. p. 179. (Invited paper).

Running, S.W., D.H. Knight, & T.J. Fahey. 1983. Description and application of H2OTRANS: A stand level hydrologic model for western coniferous forests. p. 489-496. Developments in Environmental Modeling, 5. Analysis of Ecological Systems: State-of-the-Art in Ecological Modeling. W.K. Lauenroth, G.V. Skogerboe, M. Flug, eds. Elsevier Pub. Co. 992 p.

Running, S.W. 1982. A biophysical assessment of the regeneration and growth potential of forest land in Montana. p. 58-75. IN: Management of Second Growth Forests: The State of Knowledge and Research Needs. J. O'Loughlin and R.D Pfister, eds., School of Forestry, University of Montana, Missoula, Montana 59812. 269 p. (Invited paper).

Cole, C.V., J. Hanson, & S.W. Running. 1983. State-of-the-art in applications of ecological models to land resources. p. 978-988. Developments in Environmental Modeling. W.K. Lauenroth, G.V. Skogerboe, M. Flug, eds. Elsevier Publ. Co. 992 p. (Invited paper).

Running, S.W., & R.D. Hungerford. 1983. Spatial extrapolation of meteorological data for ecosystem modeling applications. In: Proceedings of the 16th Conference on Agriculture and Forest Meteorology. American Meteorology Society. Ft. Collins, CO., April 25-29, 1983. p. 192-195.

Knight, D.H., T.J. Fahey, & S.W. Running. 1985. Factors affecting water and nutrient outflow from lodgepole pine forests in Wyoming. Ecological Monographs 55:29-48.

Peterson, D.L., D.A. Mouat, & S.W. Running. 1983. Characterization of terrestrial ecosystems for biogeochemical studies using remote sensing. IN: International Geosciences and Remote Sensing Symposium, August 31 - Sept. 2, San Francisco, CA. p.

Running, S.W. 1984. Microclimate control of forest productivity: Analysis by computer simulation of annual photosynthesis/ transpiration balance in different environments. Agric. and Forest Meteorology 32:267-288.

Running, S.W. 1984. Documentation and preliminary validation of H2OTRANS and DAYTRANS, two models for predicting transpiration and water stress in western coniferous forests. USDA Rocky Mtn. Forest and Range Exp. Stn. Research Paper RM-252. 45 p.

Vance, N., & S.W. Running. 1985. Summer climatic influences on plant moisture stress of P. ponderosa planted on reclaimed surface-mined land in eastern Montana. Reclamation and Revegetation Research. 4:129-143.

Botkin, D.B., & S.W. Running. 1984. Role of vegetation in the biosphere. p. 326-332. IN: 10th International Symposium on Machine Processing of Remotely Sensed Data, Purdue University, June 12-14, 1984. (invited paper).

Spanner, M., K. Teuber, W. Acevedo, D. Peterson, S.W. Running, D.H. Card, & D.A. Mouat. 1984. Remote sensing of the leaf area index of temperate coniferous forests. p. 362-370, IN: 10th Inter-national Symposium on Machine Processing of Remotely Sensed Data, Purdue University, June 12-14, 1984.

Graham, J.S., & S.W. Running. 1984. Relative control of air temperature and water status on seasonal gas exchange of Pinus contorta. Can. J. For. Research 14:833-838.

Running, S.W., & R. Nemani. 1985. Topographic and microclimate control of simulated photosynthesis and transpiration in coniferous trees. Eidg. Anst. forstl. Versuchswes., Ber. 270:53-60 (invitedpaper).

Vance, N., & S.W. Running. 1985. Light and moisture stress effects on growth and water relations of western larch seedlings. Can. J. For. Res. 15:72-77.

Spanner, M.A., D.L. Peterson, M.J. Hall, R.C. Wrigley, D.H. Card, & S.W. Running. 1984. Atmospheric effects on the remote sensing estimation of forest leaf area index. IN: 18th International Symposium on Remote Sensing of Environment. Paris, France. Oct. 1-5, 1984.

Nemani, R., & S.W. Running. 1985. The use of synoptic meteorological data to drive ecological models. 17th conference on Agriculture and Forest Meteorology. American Meteorological Society, May 20-24, 1985. Scottsdale, AZ. p. 252-255.

Running, S.W., D.L. Peterson, M.A. Spanner, & K. Teuber. 1986. Remote sensing of coniferous forest leaf area. Ecology 67:273-276.

Donner, B., & S.W. Running. 1986. Water stress response after thinning Pinus contorta stands in Montana. Forest Sci. 32:614-625.

Running, S.W., R. Nemani and R.D. Hungerford. 1987. Extrapolation of synoptic meteorological data in mountainous terrain, and its use for simulating forest evapotranspiration and photosynthesis. Can. J. For. Res. 17:472-483.

Peterson, D.L., M.A. Spanner, S.W. Running, K.B. Teuber. 1987. Relationship of Thematic mapper simulator data to the leaf area index of temperate coniferous forests. Remote Sensing of Env. 22:323-341.

Running, S.W. 1986. Global primary production from terrestrial vegetation: Estimates integrating satellite remote sensing and computer simulation technology. The Science of the Total Environment. 56:233-242. (invited paper).

Riggs, G. and S.W. Running. 1987. Measuring near-infrared spectral reflectance changes from water-stressed conifer stands with AIS-2. pp 100-104. 3rd Airborne Imaging Spectrometer Workshop. June 2-4, 1987. Jet Propulsion Laboratory, Pasadena CA.

Running, S.W. and B.D. Donner. 1987. Water stress response after thinning lodgepole pine stands in Montana. IN: Management of small-stem stands of lodgepole pine. pp 111-117. U.S. Forest Service Int F.R.E.S. Gen Tech. Rep. INT-237. (invited paper)

Spanner, M.A., D.L.Peterson, S.W.Running and L.Pierce. 1987. The relationship of AVHRR data to the leaf area index of western coniferous forests. IN: NASA Life Sciences Symposium, Three Decades of Life Sciences Research in Space. June 21-26, 1987 Wash., D.C. pp358-359.

Running, S.W., and R.R. Nemani. 1988. Relating seasonal patterns of the AVHRR Vegetation Index to simulated photosynthesis and transpiration of forests in different climates. Remote Sensing of Environment. 24:347-367

McLeod, S., and S.W. Running. 1988. Comparing site quality indices and productivity of ponderosa pine stands in western Montana. Can. J. For. Res. 18:346-352.

Running, S.W., and J.C. Coughlan. 1988. A general model of forest ecosystem processes for regional applications. Ecological Modeling. 42:125-154.

Peterson, D.L., and S.W. Running 1988. Ch 10. Applications in forest science and management. pp 429-463 IN: Theory and Applications of Optical Remote Sensing. J. Wiley and Sons. (invited paper)

Hungerford, R.D., S.W. Running, R. Nemani and J.C.Coughlan. 1989. MTCLIM: A mountain microclimate extrapolation model. USDA Forest Service. INT Res. Paper INT 414 52pp.

Pierce, L. L., and S.W. Running. 1988. Rapid estimation of coniferous forest leaf area index using a portable integrating radiometer. Ecology 69:1762-1767.

Nemani, R.R. and S.W. Running. 1989. Testing a theoretical climate-soil-leaf area hydrologic equiibrium of forests using satellite data and ecosystem simulation. Agric. and Forest Meteorology. 44:245-260.

McLeod, S. and S.W. Running. 1988. Site quality estimation of ponderosa pine stands in Montana. IN: Ponderosa Pine: the species

and its management. Wash. State Univ. Ext Bull. p 273-275.

Running, S.W., R.R. Nemani, D.L. Peterson, L.E. Band, D.F. Potts, L.L. Pierce, and M.A. Spanner. 1989. Mapping regional forest evapotranspiration and photosynthesis by coupling satellite data with ecosystem simulation. Ecology. 70:1090-1101.

Nemani, R.R. and S.W. Running. 1989. Estimation of regional surface resistance to evapotranspiration from NDVI and thermal infrared AVHRR data. J. appl Meteorology. 28:276-284.

Spanner, M.A., L.L. Pierce, D.L. Peterson, S.W. Running. 1990. Remote sensing of temperate coniferous forest leaf area index: The influence of canopy closure, understory vegetation and background reflectance. International Journal of Remote Sensing 11:95-111

Coughlan, J.C. and S.W. Running. 1989. An expert system to aggregate forested landscapes within a geographic information system. Artificial Intelligence Applications in Natural Resource Management 3:35-43.

Running, S.W. 1990. Estimating terrestrial primary productivity by combining remote sensing and ecosystem simulation. IN: Ecological Studies Vol "Remote Sensing of Biosphere Functioning. H. Mooney and R. Hobbs. eds Springer-Verlag p 65-86. (invited paper)

McMurtrie, R.E., M.L.Benson, S.Linder, B.J.Myers, S.W. Running, T.Talsma and W.J.B. Crane. 1990. Water-nutrient interactions affecting the productivity of stands of Pinus radiata. Forest Ecology and Management 30:415-423

Peterson, D.L. S.W. Running, J.D. Aber 1989. Analysis of airborne multi-spectral imagery for forest ecosystem parameters. IN: 3rd Interagency Airborne Science Workshop. La Jolla, Calif. Feb 21-24, 1989.

Pierce, L.L., S.W.Running and G.A.Riggs. 1990. Remote detection of canopy water stress in coniferous forests using the NS001 Thematic Mapper simulator and the thermal infrared multispectral scanner. Photogrammetric Engineering and Remote Sensing. 56:579-586

Hunt, E.R. Jr., S.W. Running, and T.A. Federer. 1989. Resistances and capacitances for soil-plant-atmosphere models of water flow at various temporal and spatial scales. Agric and Forest Meteorology. (in press). (invited paper)

Running, S.W. 1989. Simulating regional evapotranspiration with vegetation parameterization by satellite. IN: Measurement and Parameterization of Land Surface Evaporation Fluxes. T. Schmugge and J.C. Andre eds. Springer-Verlag, New York. (in press) (invited paper)

Band, L.E. D.L.Peterson, S.W. Running, J.Dungan, R.Lathrop, J.Coughlan, R.Lammers, and L.Pierce. 1989. Forest ecosystem processes at the watershed scale: 1. Basis for distributed simulation. Ecological Modeling (submitted).

Higgins, S.S., F.E. Larsen and S.W. Running. 1989. Modelled predictions of transpiration and carbon gain/loss for stands of conifer, olive and peach in Jordan. Acta Horticultura (in press).

Riggs, G.A. and S.W. Running. 1990. Detection of canopy water stress in conifers using the airborne imaging spectrometer. Remote Sensing of Environment. (in press)

Running, S.W. and R.Nemani. 1990. Regional hydrologic and carbon balance responses of forests resulting from global climate change. Climatic Change (in press)

Running, S.W. 1990. A modified integrated NDVI for improving estimates of terrestrial net primary production. IN: Proceedings Society of Optical Engineering, Orlando, FL, 17-21 April 1990.

Running, S.W., J.C. Coughlan, D.L.Peterson, L.E. Band. 1990. Mapping regional forest evapotranspiration and photosynthesis by coupling satellite data with ecosystem simulation. IN: 1990 Proceedings Int. Geosciences and Remote Sensing. p 265-268

Hunt, E.R., and S.W. Running. 1990. Problems with scaling leaf water relations to regional scales. IN: 1990 Proceedings Int. Geosciences and Remote Sensing Symposium. pp 1259-1262

Riggs, G. and S.W.Running. 1990. Estimating forest water stress with high resolution imaging spectrometer. IN: 1990 Proceedings Int. Geosciences anf Remote Sensing Symposium. pp 893-896.

Abstracts: Abstracts of at least 45 presented papers have been published in the Bulletin of the Ecological Society of America, American Meteorological Society Proceedings, and many other conference reports.

SWRUNNING

Research Projects 1989 - 1990

Extrapolation of process models of ET and NPP of coniferous forests to large spatial scales. NASA 10/87-10/90, 1990 Budget $224,993

Estimating regional forest evapotranspiration and photosynthesis with a satellite derived vegetation index and surface temperature. National Science Foundation 1/89 - 6/91, 1990 Budget $85,352

Interaction of climate and nutrition on forest production: Comparison of controlling factors in contrasting environments. National Science Foundation 3/90 - 8/91 $60,233

Canopy carbon and water fluxes from terrestrial vegetation: Development of EOS/MODIS. NASA 2/90 - 12/90 $25,000

Parameterization, testing and validation of microclimate and ecosystem models on the Oregon Transect. NASA 10/89 - 9/90. $48,700

Coupling of FOREST-BGC and FORET ecosystem simulation models for projection of forest responses to global climatic change. Environmental Protection Agency 9/90 - 9/92, 1990 Budget = $40,000

Application of remote sensing and digital image analysis for assessing wildland fire severity. USDA Forest Service 8/89 - 12/92 $49,500

Shrub steppe ecosystem modeling project. Battelle Pacific Northwest Laboratories. 1/90 - 10/90 $7,000

Design and testing of a spatial information system for establishing source-receptor relationships between airborne pollutant emissions and ecological consequences. McIntire-Stennis 10/88-10/89 $13,600

Complex interaction in large oligotrophic lakes: Non-native species as strong interactors controlling spatial and trophic linkages. (with J.A. Stanford et al, Flathead Bio. Stn) 1/90 - 12/90. $10,000

NASA Global Change Graduate Fellowship for Lars L. Pierce, 10/90 - 10/91. $22,000

Total Grant Support 1989-1990: $586,378

RESUME

Name: Hans Robert Zuuring

Date/Place of Birth: August 21, 1942; The Hague, Netherlands.

Education: BScF (1966) in Forest Management.
University of Toronto, Canada.

PhD (1975) in Forest Biometry [Minor in Statistics]
Iowa State University, Ames, Iowa.

Current Positions:

Director of Geographic Information Systems Laboratory, full tenured professor, and biometrician of Montana Forest and Conservation Experiment Station, School of Forestry, University of Montana.

Recent Publications:

Schuster, E.G. and H.R. Zuuring. 1986. Quantifying the Unquantifiable, or, have you stopped abusing measurement scales? Jour. of For. 84(4): 25-30.

Zuuring, H.R., J.D. Arney and K.S. Milner. 1987. Generic graphical analyses for tree growth model invalidation. In Forest Growth Modelling and Prediction, Volume 2, Proceedings of the IUFRO Conference, August 23-27, 1987, Minneapolis, Minnesota. pp. 828-834. Editors: A.R. Ek, S.R. Shifley, T.E. Burk. USDA For. Serv., Gen. Tech. Rep. NC-120, North Central For. Expt. Stn. 1149 p.

Korol, R.L., and H.R. Zuuring. 1988. Development of a mechanistic stand growth model for uneven-age Douglas-fir in south-central British Columbia. In Forest Simulation Systems, Proceedings of the IUFRO Conference, November 2-5, 1988, Univ. of California, Berkeley, CA. pp. 31-38. Editors: L.C. Wensel and G.S. Biging. Univ. of California, Divn. of Agriculture and Nat'l Resources, Bulletin 1927.

Zuuring, H.R., and R.L. Korol. 1988. An economical and reliable stem analysis data acquisition method utilizing color slides and GIS capabilities. In Forest Simulation Systems, Proceedings of the IUFRO Conference, November 2-5, 1988, Univ. of California, Berkeley, CA. pp. 301-305. Editors: L.C. Wensel and G.S. Biging. Univ. of California, Divn. of Agriculture and Nat'l Resources, Bulletin 1927.

Potts, D.F., D.L. Peterson, and H.R. Zuuring. 1989. Estimating postfire water production in the Pacific Northwest. USDA For. Serv. Res. Pap. PSW-197. Pacific Southwest Forest and Range Expt. Stn., Berkeley, CA. 9 p.

Zuuring, H.R. 1989. Teaching GIS Concepts: The University of Montana School of Forestry Experience. In Forestry on the Frontier, Proceedings of the SAF National Convention, September 24-27, 1989, Spokane, Washington. pp. 49-51.

Recent Documents

Zuuring, H.R. 1988. General GIS Principles. Unpublished document. School of Forestry, Univ. of Montana, Missoula, MT. 24 p.

Zuuring, H.R. 1988. ERDAS Ver 7.3 Tutorial. Unpublished document. School of Forestry, Univ. of Montana, Missoula, MT. 41 p.

Zuuring, H.R. 1989. PAMAP GIS Ver 2.2 Overview. Unpublished document. School of Forestry, Univ. of Montana, Missoula, MT. 51 p.

Zuuring, H.R. 1990. PAMAP GIS Ver 2.2 Tutorial. Unpublished document. School of Forestry, Univ. of Montana, Missoula, MT. 97 p.

Recent Oral Presentations

Zuuring, H.R. 1987. Generic graphical analyses for tree growth model invalidation. Paper presented at the IUFRO Forest Growth Modelling and Prediction conference, Minneapolis, MN, August 24-28, 1987.

Zuuring, H.R. 1988. GIS: Experiences at the School of Forestry. Sigma Xi noon hour seminar, Univ. of Montana, October 20, 1988.

Korol, R.L., and H.R. Zuuring. 1988. Development of a mechanistic stand growth model for uneven-age Douglas-fir in south-central British Columbia. Paper presented at the IUFRO Forest Simulation Systems conference, Berkeley, CA, November 2-5, 1988.

Zuuring, H.R. 1989. Teaching GIS Concepts: The University of Montana School of Forestry Experience. Invited paper presented at the National SAF Convention, Spokane, WA, September 24-28, 1989.

Zuuring, H.R., and M. Manasi. 1990. Estimating forest productivity from remotely sensed data and topographic variables using the spatial analysis capabilities of a GIS. Invited paper presented at the Management and Productivity of Western Montana Forest Soils Symposium, Boise, ID, April 10-12, 1990.

FUNDED RESEARCH PROJECTS

1) **Title:** Physical Modeling of Duff Moisture Content.
Principal Investigators: D.F. Potts/H.R. Zuuring
Funding Agency: USDA For. Serv.
Duration: 4/7/87 to 6/30/90 **Amount:** $17,908

2) **Title:** Growth Prediction Model for Newly Established Stands under Various Levels of Vegetation Competition.
Principal Investigator: H.R. Zuuring
Funding Agency: a. Champion International Corp.
b. McIntire-Stennis
Duration: 7/1/87 to 9/30/91 **Amount:** a. $20,000
b. $33,571

3) **Title:** Development of a Mechanistic Stand Growth Model for Uneven-age Douglas-fir in South-Cental B.C.
Principal Investigator: H.R. Zuuring
Funding Agency: MORP (Study # 86)
Duration: 7/1/87 to 6/30/90 **Amount:** $19,381

4) **Title:** Construction of a Database for Growth and Yield Modelling of Interior Douglas-fir.
Principal Investigator: H.R. Zuuring
Funding Agency: a. McIntire-Stennis
b. Canadian Forestry Service
Duration: 2/2/88 to 9/30/89 **Amount:** a. $17,690
(In-kind Services) => b. $15,102

5) **Title:** The Development of a Stand Productivity GIS Layer for Lubrecht Experimental Forest by Spatial Analysis Utilizing LANDSAT Data.
Principal Investigator: H.R. Zuuring
Funding Agency: McIntire-Stennis
Duration: 6/22/88 to 9/30/90 **Amount:** $24,365

6) **Title:** The Development of Integrated Resource Analysis System: A Cooperative Venture with the Montana Department of State Lands and USDA Forest Service
Principal Investigator: S. Frissell, D.H. Jackson, H.R. Zuuring
Funding Agency: a. Dept. of Nat. Res. & Cons
b. Dept of State Lands
c. McIntire-Stennis
Duration: 7/1/90 to 6/30/92 **Amount:** a. $ 89,000
b. $ 35,000
c. $ 54,000
T O T A L $178,000

SENATE TAXATION
EXHIBIT NO. 43
DATE 4/10/91
BILL NO. HB 340

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 10th day of April, 1991.

Name: Janet Ellis

Address:

Telephone Number:

Representing whom?

MT Audubon Legislative Fund

Appearing on which proposal?

HB 340

Do you: Support? X Amend? ____ Oppose? ____

Comments:

Current ad valorem tax:

1) taxes value of land plus value of trees on land
2) As trees mature, becoming more valuable, the tax increases
3) If trees are harvested - the taxes decrease
4) this is an actual tax incentive to cut trees: encourages harvesting

Proposed productivity tax:

1) Landowner taxed same amount for land, regardless of if it has trees on it
2) Tax based on production capability of land

Our current system (ad valorem) is not good tax policy: Why charge a higher tax to a person maintaining old growth than a person who clearcuts?

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11th day of April, 1991.

Name: A Nadine Oberg

Address: 36 S. Last Chance Gulch Ste A
Helena MT 59601

Telephone Number: 443-1160

Representing whom?
Montana Solid Waste Contractors

Appearing on which proposal?
HB 973

Do you: Support? X Amend?____ Oppose?____

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 11th day of April, 1991.

Name: Evelyn Stevenson

Address: Box 345

Pablo MT

Telephone Number: 675-2700

Representing whom?

CS+K Tribes - Flathead

Appearing on which proposal?

H.B. 1012

Do you: Support?____ Amend?____ Oppose? ✓

Comments:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 1[illegible], 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 321 (third reading copy - blue), respectfully report that House Bill No. 321 be concurred in.

Signed:

Mike Halligan, Chairman

[illegible]
Amd. Coord.

[illegible]
Sec. of Senate

[illegible]

SENATE STANDING COMMITTEE REPORT

Page [illegible]
April [illegible], [illegible]

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 340 (third reading copy [illegible] blue), respectfully report that House Bill No. 340 be concurred in

Signed:

Mike Halligan, Chairman

[illegible]
Amd. Coord.

Sec. of Senate

[illegible]

SENATE STANDING COMMITTEE REPORT

Page 1 of 1
April 11, 1991

MR. PRESIDENT:

We, your committee on Taxation having had under consideration House Bill No. 976 (third reading copy - blue), respectfully report that House Bill No. 976 be amended and as so amended be concurred in:

1. Page 17, line 6.
Strike: "tax"
Insert: "production"

Signed:
Mike Halligan, Chairman

JGL 4-11-91
Amd. Coord.

SF 4-11-91
Sec. of Senate