EXHIBIT #4
DATE 3-9-11
HB SB 198

SB 198 Revise Fiscal Notes (Sen. Joe Balyeat)

This is a pretty simple bill. It simply adds two requirements to the rules regarding fiscal notes:

1) Fiscal notes must reflect the changes in behavior resulting from policy changes in the bill; and an estimated fiscal impact of those behavior changes. This is what the literature would call a "dynamic" fiscal model, as opposed to our current "static" fiscal model. For example, currently, if you have a bill changing tax rates, The Budget office and DOR just calculate the current number of taxpayers, at current economy levels, times the tax rate change – and that's your fiscal note. There is no consideration given to the fact that changing tax rates, leads to changed economic behavior in the private sector.

Only on bills exceeding $10 million.

But we all know that that's not how the world works. We may debate how much tax increases and decreases effect behavior; but I think we can all agree that such changes certainly do affect behavior; and academic study after academic study confirms that view. This bill applies to all policy changes, not just tax rate changes, but the easiest way to illustrate the concept is with tax changes.

Why should we change to a dynamic model? Why should we pass this bill? Certainly there's the political consideration. I submit that both political conservatives and liberals should like this bill. Take a tax cut bill for example. Conservatives would like the dynamic fiscal note because it would result in a lower cost for the tax cut – lowering rates will result in greater activity which offsets some or all of the cost of the tax cut. Liberals would like the tax cut's dynamic fiscal note because it would show a lower "hit" on the budget; leaving more money to spend on programs.

But aside from the politics, there's the policy considerations: certainly it's in the best interest of Montanans that we consider legislation in light of the most accurate financial data we can get. It's simply financial foolishness to budget billions of taxpayer dollars based on inaccurate fiscal notes. And common sense as well as academic literature will tell you – changes in law result in changes in private sector behavior. Any financial analysis which ignores those behavior changes is simply incomplete and, therefore, inaccurate.

Is this do-able? I submit that the budget office already does this, whenever it's convenient, or whenever they want to. Here's a simple example – if a new tax credit is proposed, the fiscal note says, "It's estimated that 150 taxpayers will take advantage of this new credit." They're predicting a change in behavior resulting from a change in tax policy.

Moreover, even when it's not convenient, they utilize a dynamic model when the bill sponsor has enough pull. Example – in the '05 session, we had the State Auditor's bill to cap premium taxes on Captive Insurance Companies. Here's a direct quote from the fiscal note assumptions: *"This cap will make Montana competitive with other Captive Insurance [state] domiciles that already have caps on premium taxes in place. As Montana attracts more Captive Insurance companies, the amount of premium taxes collected will increase."* During the hearing, both Auditor Morrison and bill sponsor Sen. Mike Wheat agreed openly with the premise that lowering this tax rate makes MT more competitive, attracts more business to Montana; and, thus, leads to increased tax collections.

I might add that we passed the bill based entirely on that "dynamic" premise; and, two years after that we had proof that the prediction was accurate… so much so that the State Auditor came back with another bill attempting to iron out the kinks in Captive Insurance Regulation to attract even more Captives to MT

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2) **SB 198 proposes that fiscal notes must include an estimate of costs to the private sector that will occur as a result of the policy changes in the bill.** I argue that we aren't getting the whole picture with fiscal notes that merely reflect the costs to government; without also estimating the costs of new legislation to the private sector.

4 years ago we passed Sen. Cocchiarella's SB466 – a paired down version of the Small Business Regulatory Flexibility Act. In fact, we passed it with 150 votes for and 0 votes against. SB466 amended 2-4-405 to read: *"an agency shall prepare a statement of the economic impact of the adoption, amendment, or repeal of a rule as proposed. The agency shall also prepare a statement upon receipt by the agency or the committee of a written request for a statement made by at least 15 legislators. [To include] the probable economic impact of the proposed rule upon affected classes of persons, including but not limited to ... affected small businesses, and quantifying, to the extent practicable, that impact."* This statute already says 15 legislators can request an analysis quantifying the 'probable economic impact of proposed rule changes upon affected classes of persons and affected small businesses.'

Now, if 15 legislators can request that impact analysis resulting from mere proposed rule changes, then surely 26 Senators and 51 Representatives can request the same analysis be done for proposed statutory changes. And that's exactly what this bill asks for.

You might anticipate there'd be reluctance from the budget office saying these things aren't readily do-able; or will cost too much. Meaning no disrespect, it's the tendency of bureaucracies to avoid change. And the natural, typical approach is to overestimate the cost and consequence of bureaucratic changes. With current technology this suggested change is well within reach. Computer technology and data availability have advanced to the point where these things are easily do-able; and I've provided examples showing the change proposed in this bill is already being done on occasion. But, as we represent the people of the State of Montana, with the billions of dollars they've entrusted to our care, shouldn't we have consistency rather than merely occasional accuracy? And shouldn't we have as much data as possible, certainly including an estimate of how much proposed legislation will cost the private sector?

When we passed the $9 billion mark in total spending a couple sessions back, I coined the phrase, "Another day, another $100 million." Because that's exactly what the math worked out at -- $100 million a day for each of the 90 days we're in session. Well, I've got news, based on current spending totals, it's now, "Another day, another $120 million." When we're entrusted to make budget decisions of that magnitude -- $120 million per day, We need the most complete and accurate fiscal notes possible for each piece of legislation we consider. Anything less than that is a dis-service to the people of Montana. Making Billion dollar decisions on less than the whole picture, is fiscal fiduciary foolery. Our current fiscal note practice with its static model and focused only on costs to government, is like telling the judge, "I pledge to tell the truth... but not the whole truth."

Mr. Chairman, I'll sit and listen to proponents and opponents, if any, and reserve the right to answer questions and close.