

The meeting was called to order by Chairman Brand, roll was taken, with Bardanouve and Tower absent.

Dick Hargesheimer distributed his summary to the committee, see attachment #1.

SB 401--Senator Lowe, sponsor--I have been very interested in this bill, and I will sketch it briefly. I have been construction and design all my life, and I have worked with this. Presently, Montana has federal, state and municipal codes that many times conflict and duplicate. This bill attempts to resolve these problems.

(1) The bill provides for one code writing agency at the state level under the Department of Administration - Division of Architecture and Engineering; (2) It requires local government to use state wide building codes. This has been done already for the most part; but with this bill, there will be a uniform building code - plus, it takes state government out of local code enforcement. (He went through the definitions in the bill, and then turned the hearing over to Sonny Hanson)

SONNY HANSON, Montana Technical Council--(Hanson explained the arrangement of the people he had brought to testify -- the first 4 will be speaking on the organization of the bill if passed; the next 4 will speak of the specific importance of the bill)

GENE HUNTINGTON, Office of Budget and Program Planning, Governor's Office--The Governor received a letter requesting that something be done about fixing the building codes; so, we looked at the R.C.M.'s, and the local codes and tried to come up with some way to take care of them. We found support from every agency that these codes needed to be revised. The lack of efficiency and duplication being the worst problem. The service that people were getting was less than to be desired due to the number of agencies involved. We want a more efficient agency, and want to be able to give people better specifications on buildings. The bill addresses the inspection of existing buildings, and the construction of new buildings. We found a number of agencies that had their own specifications. We think this would provide for elimination of some of this. We conceive of a new agency that could act more efficiently. In terms of duplication of effect - we found 12 agencies involved in enforcement of codes and also a number of agencies that make up codes. As far as public service, this increases the state's accountability, so one person can give the OK to build. Relative to conflicts with local government - generally, the state law provides that building codes are a state responsibility; but some cities have their own codes. The State Building Code Council was charged with finding areas of duplication, and together with the Department of Administration, they have been very frustrated by the confusion. Every agency that had regulatory functions to carry out used the state codes to enforce certain things that aren't really necessary. We need to have only one agency writing and enforcing codes. This bill does two things: it provides for more efficient operation of government and improves the service to the public.

DELMONT C. THURBER, Montana Building Codes Advisory Council--Mr. Thurber submitted written testimony -- see attachment #2.

W. JAMES KEMBEL, Chief, Building Codes Administration Bureau, Department of Administration--Mr. Kembel submitted written testimony -- see attachment #3.

JACK CROSSER, Director, Department of Administration--The building codes function is currently assigned to the Department of Administration -- with this bill, it will belong to a division for that specific purpose. We are not trying to diminish any-

thing going on now. The attainment of the present objectives would be facilitated by this bill.

DAVID DAVIDSON, President, Davidson & Kuhr Architects, Great Falls--Mr. Davidson submitted written testimony, see attachment #4.

REP. REX MANUEL--Sonny spoke to me the other day about these codes - I built a motel in Fairfield last year; and some of it had to be put together in modular forms in Butte, and then transported to Fairfield. We spent two weeks running from agency to agency about codes. So the thing finally got done and installed and OK'd, and then when it got to Fairfield, the bottom plumbing had to be done again. I think this would be a good bill.

WILLARD JOHNSON, Architect, Montana Codes Council, Billings--These codes are without direction, and we must put these things under some coordinating agency. It is too immense to even discuss. Without some coordination, we are going nowhere in this state.

FRANK STROEBE, Architect, Director of Building Safety, Billings--We have a good working relationship with our city fire marshal, and when these differences in the codes arise during the plan reviews, we are able to modify those differences; but, if we could review the plans submitted for compliance with one code, we would save a lot of conferences and meetings -- and spend the time more profitably in reviewing the plans. The adoption and administration of codes under one agency would provide a much better situation. If we had questions on interpretation, we could contact one state agency who would unify all of the agencies now involved. By the same token, if we have problems with inspection, we could consult with one state agency. I urge passage.

REP. ESTHER BENGSTEN--I served on the Energy Conservation Subcommittee, and we came up with an energy conservation policy. In that subcommittee, we went through the governor's recommendations, and the Advisory Council's recommendations, and tried to come up with a bill in terms of energy conservation. It became clear that we needed some coordination in terms of codes. The Natural Resources Committee urges that you pass this bill. I highly recommend that you not turn this down as it is the only bill in this session that deals with the building codes. I urge passage.

SONNY HANSON--This bill would establish a new division in the Department of Administration - and I feel that the Fire Marshal section is a very important part of the bill.

BILL OLSON, Montana Contractors Association--We support this from the standpoint of new construction. We urge passage.

LARRY MOORE, Construction Industry Council--We support. Thank you.

ROD WILSON, Billings Chamber of Commerce--We are concerned about how much it costs right now to build a home. The cost of improving a lot in Billings has gone up 80% in the last 5 years. The cost of building a new home is going up about \$560 each month. We urge passage in an effort to help this situation.

KERMIT MUELLER, Contractor, Helena--At the time that we asked that this be started, everybody on the council voted for this bill. I urge support from my position as a builder. We have too many codes to follow, and this would help.

MIKE McGRATH, Assistant Attorney General--I don't appear as a proponent or an opponent. If you recommend passage, we have amendments relative to the Fire Marshal Bureau. (see attachment #5) We are concerned about arson investigation remaining in the Department of Justice.

OPPONENTS

AL SAMPSON, Montana State Firemens' Association--We are concerned about the Fire Marshal's office. The fire code is a very small part of that office, and we see no reason why one man couldn't be put into the Department of Administration and leave the Fire Marshal alone. He is doing a good job.

HILTON ODEGARD, Montana Fire Prevention Association, Great Falls Fire Marshal--The intent of this bill is great, there is no question about that - a central code committee would be great; but, it will have to be a code specified by the state. The only interest the state will have is in farm buildings, so what will it do for the cities? There will be federal agencies, state agencies, plus the local agencies. If they aren't going to control the planning or inspection in cities, then where will the slow down come? Anybody is going to have to have the state and federal inspectors look at the plans still. I feel it does not accomplish what it intended. Until all agencies jointly agree that these codes would be adhered to, the bill has no purpose. The only building it applies to are public, so private individuals still have no relief. With this, the fire marshal would be nothing more than a figure head. It splits his whole team up, and takes all of his control away, yet the fire marshal's role is supposedly the greatest. (see attachment #6 for Mr. Odegard's additional testimony)

LESTER JOHNSON, Montana Arson Investigators Chapter--We unanimously oppose this. We are opposed to splitting the fire marshal's office. We do need strong arson investigating teams. The fire marshal needs enforcement powers, and this is why we oppose.

BOB KELLY, Fire Chiefs' Association, Missoula Fire Chief--We recognize the merits of this, as it gets the officials under one department. But, the state fire marshal's duties and activities only comprise 15 - 20% of his activities. The rest of his work has nothing to do with building construction. We feel these other duties can be better taken care of under the Department of Justice. We have suggested that the Fire Marshal appoint one of his people to the Department of Administration, so he can speed up the process of code interpretation, and apply himself to building codes; but leave the arson investigation under the Department of Justice. We are also concerned that the Life Safety Code, FPA 101 will be eliminated. When they speak of conflicts, it must be with 101, because the major cities operate under Uniform Codes which dovetail. USC and 101 have been adopted by most major cities in the state. If 101 were eliminated, we must oppose. We can't understand why they don't want to work with 101. It is used nationwide. We have 35 members on the board that makes the regulations. If SB 401 is adopted, at least study it for two years for more input from the fire service people. The Building Code Council only has one man on it that has anything to do with fire service.

LEE LEWIS, Bozeman Fire Service--Our department, as a whole, is opposed.

RAY BLEHM, Montana State Firemens' Association--We aren't opposed to improvement of the codes. We just don't want the fire service bureaus fragmented. The US

leads the world by 2 to 1 in loss of life to fire. The Fire Marshal deals with many codes that have nothing to do with building codes. We don't want to see him become a figure head building inspector. What about public education - will we carry these on and get the funds? Funds will be sent to too many places. Code enforcement is third priority in fire service by the recommendation of the national council. We recommend at least amending this bill.

MATT KUNNARY, Helena Fire Marshal, Montana Fire Prevention Association--We very seldom inspect a building while it is being built, and so with SB 401, it would destroy most of the other programs the Fire Marshal is carrying out. We oppose.

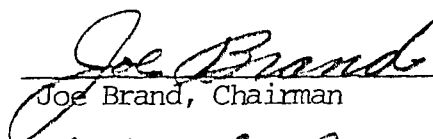
SENATOR LOWE--It seems that the only conflict we have is with the Fire Marshal. There is no intent to change the duties. What we do propose is that their department could function better under this code department - we did amend the bill so that arson investigation remains with the Department of Justice (see attachment #5). This is 15% of his work. He will still have input. The enforcement is 95% gone with the local county attorneys and the local law enforcement agencies. We are looking at all buildings with this in incorporated cities, because they normally are concerned with utilities. This bill would include public buildings outside of cities and all buildings inside of cities. 101 would certainly be included. Arson would be kept with the Attorney General. Codes would be under the Department of Administration, so the builder knows what he is looking at. The Fire Marshal will still have his operation and subdivision as is under a different department.

O'CONNELL--I have worked for public safety the whole time I have been in public office. But isn't it possible to delete the Fire Marshal from this bill? They aren't into building codes. HANSON--The fire codes and Life Safety Code are essentially building codes. There have been references before to the high rise dorm in Bozeman - (he explained the conflicts experienced with this building). I would rather live with the Uniform Building Code than the Life Safety Code. O'CONNELL--It was suggested that a member of his office could be put in administration, and leave the Fire Marshal where he is. HANSON--If the Fire Marshal weren't to stay in the Attorney General's office, and if Greely wants to accept him, he can stay. RYAN--You say 18 states have this? THURBER--Yes. RYAN--Do you mean as far as building codes or arson investigation? THURBER--18 states have begun programs similar. In the last three weeks it has become apparent that most other states are at least considering this same thing. RYAN--Have they been in this long enough to give us any counsel on this? THURBER--Oregon finished theirs in 1973. Rhode Island will have everything under a single code situation as of July 1, 1977. ROBBINS--Are you aware that we had a two year study of the fire laws? CROSSER--No, I was not. ROBBINS--As long as it applied to the Fire Marshal's office, I am surprised that no one dealing with this bill came to us during the committee meetings or anything. TURNER--We will have to consider the buildings built before the 1937 earthquake. You have codes, but do you have compliance. HANSON--A lot of the buildings here were not built with earthquake requirements. The Securities Building took \$150,000 to bring up to code. The liability of contractors and architects is outrageous, so we are very concerned about code aspects. Our legal exposure is way out of line. FEDA--I can see the building codes, but the Fire Marshal I can't see. Doesn't the Insurance Commission work closely with the Fire Marshal? PENTILLA--Yes, we do. It is only a statutory requirement though. When we discussed this code business with the Legislative Council, it was my impression that the Fire Marshal was not being moved. We knew the codes had to be dealt with, but that's why I never brought this up in the interim committee study of the fire laws. After the last meeting the initial draft of the bill came out. I didn't get to go to the council meeting, but told some people on the council that I didn't want to see this happen. KROPP--Relative to these assumptions on the fiscal note -

pertaining to electrical inspections - does that mean this would be a different inspection? LOWE-Each city has to have its code approved by the state; and part of this approval is contingent upon proper and uniform inspection. What this fiscal note says is that since they have an approved code, no state inspectors will go in. MEYER-If their code isn't up to par with the state, who will inspect, and how much will it cost. LOWE-The state would. If the city chooses not to have a uniform code, then the state will continue to inspect. LIEN-Do you see any problem with leaving the Fire Marshal where he is, and putting a representative in the Department of Administration. HANSON-As long as you take away his authority to make and enforce codes which would affect the building codes. As long as we can have uniformity of building codes. O'CONNELL-How does the Building Codes Bureau receive their funding? LOWE-Under the Department of Administration whether this is under another division or one of its own. KEMBLE-We don't inspect buildings per say. O'CONNELL-What about fees? HUNTINGTON-If the city supports it's own laws, then the state has no business there. ROBBINS-What about the Attorney General? McGRATH-He wants the arson investigation; and intends to increase support for County Attorneys as far as that type of investigation. If this bill passes though, we have no objection. MEYER-Wouldn't you have to add staff for these inspections? CROSSER-I think the staff would be the same as with the present situation. I don't really know. If cities refuse to maintain their codes, we might have to. FEDA-What did you have on your mind when you had the bill drafted? LOWE-I didn't envision any additional people because the law requires that the state inspect, but with this, the Uniform Code, and cities doing their own inspections, the state wouldn't have to send a man. I feel sure there would probably be a decrease. RYAN-In looking at the fiscal attachment, why is there a difference in staffing between eastern and western Montana? KEMBLE-Elevator inspectors would not be included in the central area. BRAND-You have a fire inspector in each area subject to the division administrator, and the Fire Marshal over in a corner where you will never hear from him. KEMBLE-The thought was to get everyone working in the same line. The law doesn't set the organization, and it can be changed after passage. BRAND-I feel the Fire Marshal should be somewhere between the two of them. KEMBLE-He would be the advisor. LIEN-Was your intent to get collective input from electrical and plumbing inspectors? KEMBLE-Yes. BRAND-According to the fiscal note, you will need another attorney, what for? CROSSER-We have one attorney with the resource and legal division. BRAND-Do these people have an attorney now? CROSSER-They do use the Attorney General's office, and the building code people use our counsel. The regulatory boards - I'm not sure whether they have one or not. BRAND-How much money are we talking about? KEMBLE-It is included in the figures. BRAND-There's no line item. KEMBLE-The organization transfer would be handled through legal, clerical, and accounting; and the budget for the meshing would be for those groups. BRAND-Item 4 says it will take several years for this. KEMBLE-Two years. BRAND-Most buildings have federal funding of some kind; don't you think you will have to comply with federal law in this? HANSON-It depends upon the source of the funds, and the building use. Any federal law always takes precedent over state or municipal law; but, they pretty much go along with ours. BRAND-With federal codes you will still have delays. HANSON-Yes, but we are speaking more of local residents, and public buildings rather than federal buildings. LIEN-How about school buildings? HANSON-State codes. The only time federal codes would be involved would be in impacted areas. KELLY-It is my understanding that if 401 is adopted, the state Board of Health will still have to work with 101.

HEARING CLOSED - MEETING ADJOURNED

10:15 a.m.


Joe Brand, Chairman

