

MINUTES OF THE MEETING  
HIGHWAYS AND TRANSPORTATION COMMITTEE  
MONTANA STATE SENATE

January 16, 1979

The fifth meeting of the Highways and Transportation Committee was called to order by Chairman Mark Etchart on the above date in Room 410 of the State Capitol Building at 1:32 p.m.

ROLL CALL: All members were present, with Senator Manning absent.

The following witnesses were present to testify on Senate Bill 72: William Olson, Montana Contractors Association; Eugene Fenderson, AFSCME-AFL-CIO; Dean Zinnicker, Montana Association of Counties; James Beck, Department of Highways; Senator Lloyd Lockrem, District 32 and sponsor of Senate Bill 72; Ray Wayrynen, State Construction and Building Trades.

The following witnesses were present to testify on Senate Bill 77: Senator Pat Goodover, District 22, chief sponsor of Senate Bill 77.

CONSIDERATION OF SENATE BILL 77: Chairman Etchart asked if there were any proponents present who would like to testify.

Senator Pat Goodover briefly explained Senate Bill 77 to the committee. It is an act to allow a left turn on a red signal from a one-way street to another one-way street going left. He told the committee a lot of other states are allowing this procedure, and that it is just a matter of facilitating traffic flow.

Chairman Etchart asked if there were any other proponents. There were none. He asked if there were any opponents. There were none.

Chairman Etchart asked the committee if they had any questions.

Senator Healy asked Senator Goodover if they had talked to the Highway Patrol about this bill. Senator Goodover replied they had and there was no opposition from the Highway Patrol. Senator Healy asked Senator Goodover about vehicles coming to a complete stop before turning left. Senator Goodover replied that it was understood that the vehicle would come to a complete stop before turning left. He read the existing law pertaining to the question from the code to the committee. Senator Healy said the Title of SB77 does not indicate this law.

Senator Kolstad suggested amending the Title of SB77 to include the law on coming to a full stop.

Senator Goodover said he would have no objection to amending the Title of SB77, adding a full stop on red signal.

Jim Beck stated if a stop is required by the existing law, there is no need to amend it.

Senator Graham told the committee he was worried about lane usage, particularly those vehicles in the middle lane.

Chairman Etchart asked if there were any other questions. He asked Senator Graham if he would like to hold SB77 over until he could do further research on it. Senator Graham told the committee if the Highway Patrol could live with this bill, so could he.

Chairman Etchart closed the hearing on Senate Bill 77 at 1:40 p.m.

CONSIDERATION OF SENATE BILL 72: Senator Lockrem stated this is a simple housekeeping bill requiring all contracts on state and federal aid highways be let by competitive bidding if the cost of the work exceeds \$1,000. He told the committee it is not self-serving on his part. He told the committee he is a contractor, but not a road building contractor. The issue was brought to his attention by L. S. Harris, Manager of the Secondary Road Unit. Senator Lockrem passed out a handout and asked the committee to refer to the 1st page, second paragraph (Exhibit "A"). He submitted to the committee that counties with revenue sharing funds have purchased large amounts of equipment and are using this equipment to keep busy. For the counties to compete with private construction is socialized road building. It applies only to contracts awarded to the state with federal aid.

Chairman Etchart asked if there were any other proponents.

Bill Olson from the Montana Contractors' Association stated he was in support of Senate Bill 72. My remarks are being directed to the safer off-system roads program. He passed a handout, which included his talk. (See Exhibit "B")

Chairman Etchart asked if there were any other proponents.

Ray Wayrynen spoke on behalf of the Building and Construction Trades. He informed the committee they are those construction unions who are involved in heavy construction. Their concern is with some of the things that have been missed by Senator Lockrem and Mr. Olson. They question whether or not we get proper value of tax dollars; whether this is a wise expenditure of tax dollars. In regard to the equipment, the county equipment is exempt from property taxes whereas the private contractor is required to pay taxes. The County ends up with poor quality roads that are not lasting more than two years. Many of the employees of the county who are doing this work are maintenance personnel and are working without union contracts. In private construction, the personnel are bound by contracts for the trades involved. This causes an economic hardship on the private contractor. The county can go

ahead and do poor quality work with maintenance personnel and the people in private construction are not working due to unemployment. We support Senate Bill 72.

Chairman Etchart asked if there were any other proponents.

Bill Olson told the committee the intent of the bill is not to include emergency situations.

Chairman Etchart asked if there were any other proponents to Senate Bill 72. There were none. He asked if there were any opponents to Senate Bill 72.

James Beck from the Highway Department stated the committee should understand the implications of this bill in its present form. It says any work that exceeds the cost of \$1,000, has to be let out for contract. So, that means if the maintenance personnel want to do a little re-surfacing project, they cannot do it. In an emergency situation, if it costs more than \$1,000 to do, they cannot do it. He told the committee the Highway Department feels, as it is presently written, it puts severe limitations to respond to emergency situations. He told the committee there is also a time factor involved, as it takes approximately twelve weeks for the Department of Highways to get to contract. So, again, if a county is in an emergency situation, it would be twelve weeks before the work could start. Mr. Beck gave each committee member a handout (Exhibit "C"). The cost of the documents: mailing alone is \$2 per proposal, which we mail out between four or five hundred. The cost of postage alone is \$800. Plus the preparation, printing, and administration. The \$1,000 limitation is not in the public interest. It would be more expensive. To the best of our knowledge, the Highway Department has not entered into a secondary road job with a county. We oppose Senate Bill 72.

Chairman Etchart asked if there were any other opponents.

Dean Zinnicker, Montana Association of Counties, said they are concerned about the best use of dollars. He stated counties can do the work cheaper. He said they are in support of the counties doing this work. He stated they have trouble getting contractors to do some small jobs and they sometimes don't even bid.

Chairman Etchart asked if there were any other opponents to Senate Bill 72.

Eugene Fenderson from the AFL-CIO stated they are opposed for a good number of similar reasons, but there are some other factors they are concerned about. Mainly, cost and safety. Cost: The investment that the State of Montana has sunk into training its employees. Safety: Back-up in the operation of roads, if we have to take twelve weeks to let for contract. For those reasons, we ask you to oppose this bill.

Chairman Etchart asked if there were any other opponents of Senate Bill 72. There were none. He asked the committee if they

had any questions.

Senator Lockrem stated the issues are being clouded. He said there is opposition from two branches of government. He pointed out to Mr. Beck, it is existing law, that nothing has changed in the law. All we are doing is limiting the dollar amount, and this applies only to federal aid highway systems. What this bill is trying to limit is abuse by the Highway Department and the Counties to the private contractors. He asked the committee to place themselves in their position. He stated Government should only do what the private sector cannot do. Without eliminating the loopholes, we have socialized road building.

Senator Etchart asked if there were any further questions.

Senator Graham said he did not believe you can put the counties in the position where they cannot do anything without letting it out for bid. He said he did not see where this bill would be saving anybody any money. He stated this is costing the counties money because you have to let anything over \$1,000 out for bid. He agreed on the major projects. He said the counties have to have personnel year round. If you take all this work away in the summer, the counties would have to lay off people, thus making it difficult or impossible to get good help for maintenance in the winter months.

Senator Lockrem said that under emergency conditions, the counties could do work, and again stated this applies only to federal aid projects.

Senator Kolstad asked Dean Zinnicker what major problems would the counties be subjected to if this bill passes.

Dean Zinnicker replied they will get less miles of road completed at a higher cost than what they are doing now. It would restrict ability. They could not use off-system road money for emergency. They cannot spend money under this bill.

Senator Graham said he didn't see how this bill cuts off employment, as the county employees people.

Chairman Etchart asked if there were any further questions. There were none. The hearing was closed at 2:20 p.m.

ACTION TAKEN ON SENATE BILL 72: Shaun Simon gave out information about contract figures from the 1978 Highway projects the county did and those that they let for bid. (Exhibit "D").

Senator Graham said he did not see how you could come up with any kind of fiscal impact.

Senator Kolstad suggested amending the title and body to \$10,000 instead of \$1,000.

Dean Zinnicker said it would not help the situation.

Senator Kolstad said it seemed that \$10,000 would help the situation.

Senator Etchart pointed out that according to the figures Shaun provided, the average county project is \$39,000. So, I would assume that is about where the breaking point is for putting it out for bid. You cannot do much for \$1,000.

Dean Zinnicker said on the off-system projects, a county has to justify doing the work. The Highway Department can compare how much difference there is between the county and the contractor.

Chairman Etchart asked if we should try and get a fiscal impact.

Senator Hazelbaker and Senator Kolstad said yes.

Senator Kolstad made the motion to try and get a fiscal impact on Senate Bill 72. The motion was carried unanimously.

ACTION ON SENATE BILL 77: Senator Kolstad made the motion to DO PASS this bill.

Senator Hager stated he felt the center lane may cause a problem and would like to hold this bill over and check it out further. Senator Graham agreed with this. Senator Hager said he would contact the traffic department about this.

ACTION ON SENATE BILL 52: Senator Graham reported he had done some research on this bill and found out that all junkyards must be screened under the Department of Health. About eight have never screened. He asked Jim Beck if the Highway Department ever did screen any junkyards.

Jim Beck said yes, in Townsend. And, as a result of a Court Order, we are attempting to screen a junkyard in Bozeman. But, because of scattered junk over other peoples land, there has been a delay.

Senator Hager asked the Committee to hold up on this as the junkyard dealers in Billings were going to hold a meeting next week concerning this and he would like to wait on this.

Chairman Etchart indicated we would hold over Senate Bill 52.

FURTHER BUSINESS AND ADJOURNMENT: Chairman Etchart announced there would be a meeting of the Committee on Thursday at 1:30 p.m. in Room 410 of the State Capitol Building. There being no further business, the committee adjourned at 2:40 p.m.

*Mark Etchart*

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SENATOR MARK ETCHART, CHAIRMAN

ROLL CALL

Highway & Transportation COMMITTEE  
46th LEGISLATIVE SESSION - 1979

| NAME                   | PRESENT      | ABSENT     | EXCUSED |
|------------------------|--------------|------------|---------|
| Mark Etchart, Chairman | ✓            |            |         |
| Tom Hager, Chairman    | ✓            |            |         |
| Frank W. Hazelbaker    | ✓            |            |         |
| Allen C. Kolstad       | ✓ 5 min late | *disregard |         |
| Carroll A. Graham      | ✓            |            |         |
| Dave Manning           |              | ✓          |         |
| John E. Healy (Jack)   | ✓            |            |         |
| Shaun Senior           | ✓            |            |         |
| Carol Fraser           | ✓            |            |         |
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Each Day Attach to Minutes.



(Xhibit H"  
from Sen Lockem  
SB 72

November 9, 1978

TO: ALL COUNTY COMMISSIONERS  
FROM: L. S. HARRIS, MANAGER - SECONDARY UNIT  
SUBJECT: SECONDARY ROAD CONSTRUCTION

At several of the County Commissioner District meetings conducted in the fall of 1978, there were a number of counties concerned over the increase cost of secondary road construction. During discussions concerning this matter, several counties felt that if they could be allowed to construct secondary road projects with their own forces and their own equipment, that they could construct the projects at a much lower cost than is now being experienced through the regular contract method.

million  
per year

I have researched the State Statutes concerning this possibility and have also received an opinion from the Federal Highway Administration and find that providing the proper justification and following the proper procedures, it is legally permissible for counties to do their own construction on secondary roads and be reimbursed for all costs.

The following quote is from the State Statutes concerning comparative bidding as it relates to what the Highway Commission can and cannot do.

32-4102. COMPETATIVE BIDDING.

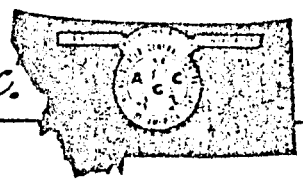
- (1) When the estimated cost of any work exceeds \$1000, the Commission shall let the contract by competitive bidding. Award shall be made upon such notice and upon such terms as the Commission may prescribe by its rules and regulations. However, except when prohibited by Federal Law, the Commission must make award in contracts in accordance with the provisions of Sections 82-1924 and 92-1926.
- (2) If the Commission finds that the work may be done in some more efficient manner, it need not let the contract by competitive bidding.
- (3) If on highway construction work financed in whole or in part by Federal funds, the United States Secretary of Transportation affirmatively finds that under the circumstances relating to a particular project a method other than competitive bidding is in the public interest, the Commission may enter into contract with a Board of County Commissioners. These contracts may authorize each county to acquire right-of-way for, survey, and construct farm to market, secondary, or feeder roads within the county by force account, unit price, or otherwise as may be agreed by the Commission and the Board.

(cont.)



Exhibit "B"

# MONTANA CONTRACTORS' Association, Inc.



CHAPTER OF THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA, INC.

TERRY W. BASS, SEC. MGR.  
PHONE 442-4162

1717 11TH AVE. / P. O. Box 4519  
HELENA, MONT. 59601

Mr. Chairman--members of the committee. My name is Bill Olson, I am the assistant manager of the Montana Contractors' Association located here in Helena, Montana, and I am appearing in front of you today in support of Senate Bill 72.

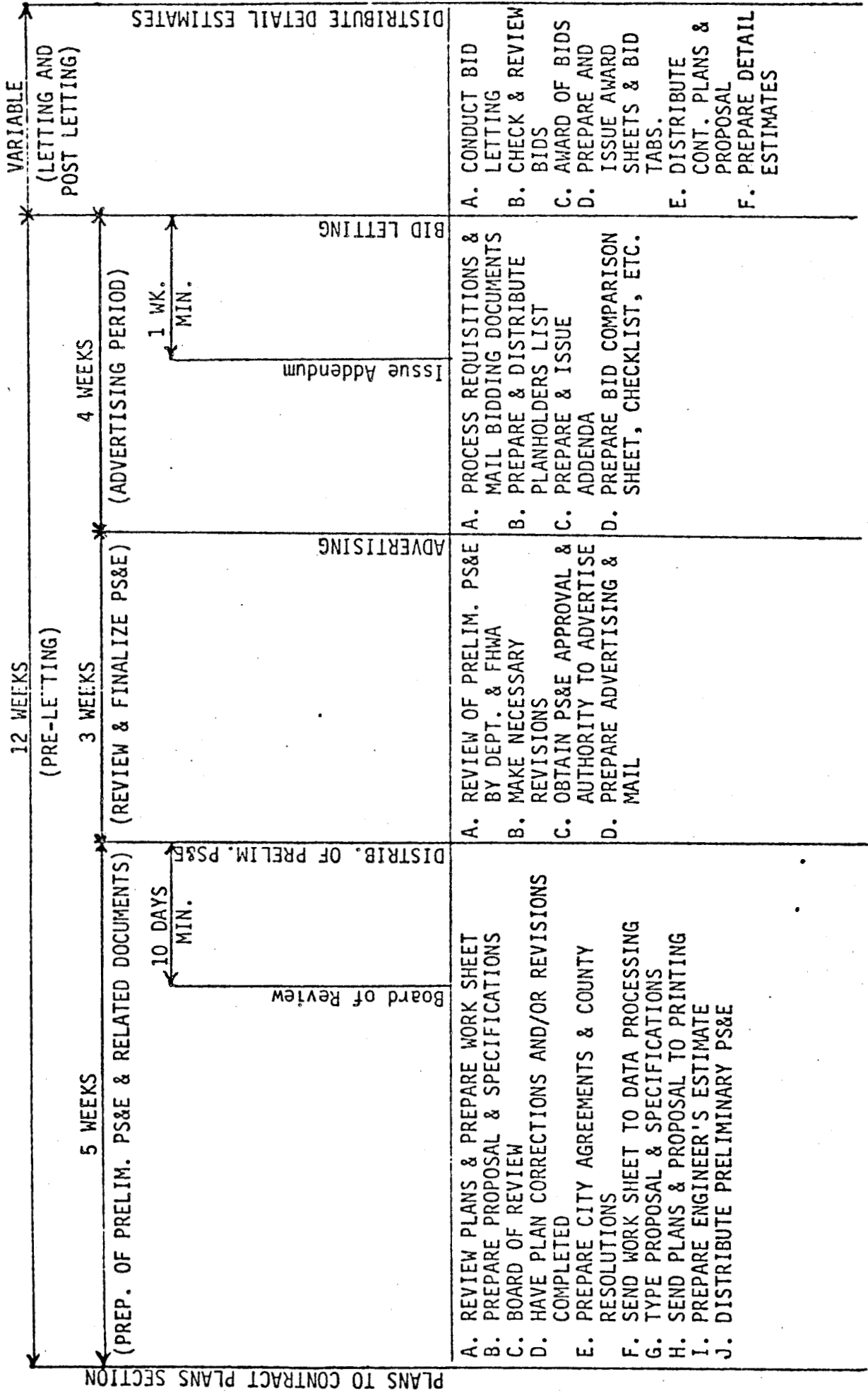
My remarks today will be directed primarily to the safer off-systems roads program. This program is financed with 76% federal funds and 24% state highway matching funds. Annual programs total approximately 4-5 million dollars. The purpose of the program is to reconstruct roads and bridges that are off the Federal-Aid Highway system. The program is sound and sorely needed in Montana. The program is administered by the Montana Department of Highways through its various division offices throughout the State.

As of March 13, 1978, the MDOH had administered 167 such projects under the program. A breakdown of how the projects were handled and the cost range in each category is enclosed for your information. The total cost of these projects are not known, but are estimated to be in excess of 4 million dollars.

Since March 13, 1978, the MDOH have announced proposed projects totaling 48, with an overall cost of \$2,724,942. A breakdown on these projects is enclosed.

Under Chapter 41 Section 32-4102 (2) and (3) the Montana Highway Commission has awarded many of these contracts directly to the towns and counties without competitive bidding. The phrases "more efficient manner" and "in the public interest" contained in the statutes are the justification for such action.

CONTRACT PLANS SECTION  
FLOW CHART



## INTER-DEPARTMENTAL MEMORANDUM

## DEPARTMENT OF HIGHWAYS

*from Hahn's  
SB 13**Exhibit # D*

*Call Jim*

To James R. Beck, Asst. Adm.  
Legal Division

From James W. Hahn, Chief  
Planning and Research Bureau

Date: January 11, 1979

Subject: File: 1000  
Safer Off System  
Roads Projects -  
Method of Construction

A tabulation of Safer Off System projects obligated for construction in 1978 indicated a total of 75 projects totaling \$2,402,182. A total of 43 projects will be constructed in whole or part by county or city manpower and equipment. The average cost of a force account project is \$39,000. The state requires the county to declare that it is in the public interest to build the project with their own forces rather than let it to contract.

A total of 32 projects will be constructed by the contract method. These projects are larger in size and more complex. The average cost of the projects to be let to contract is \$75,000. They are generally construction of bridges, installing plant mix surfacing or guardrail.

There have been several instances when the county has been unable to secure bids for a project and then had to resort to use of their own forces.

Attached is a zerox copy of the tabulation of SOS projects obligated in 1978.

*[Signature]*  
James W. Hahn, Chief  
Planning and Research Bureau

JWH:PP:js

Attachments

*Secondary - all out to K  
or Federal Aid Program*

*Info - not on Seg. 500 r.r.  
to city street*

NAME: Eugene Henderson DATE: 1-16-79

ADDRESS: 600 No. Pook Helena

PHONE: 442-1192

REPRESENTING WHOM? AFSCME - AFL-eig

APPEARING ON WHICH PROPOSAL: SB-72

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: O. I. / NGRAM DATE: 1/16/79

ADDRESS: HELENA MONT.

PHONE: 442-5102

REPRESENTING WHOM? MONT. COSTR. ASSN

APPEARING ON WHICH PROPOSAL: SB 72

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Larry Huss DATE: 1/16/79

ADDRESS: 107 7th Ave

PHONE: 442-2179

REPRESENTING WHOM? Montana Motor Carriers

APPEARING ON WHICH PROPOSAL: SB 72

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Alan Zunic DATE: 1-16-19

ADDRESS: Helena

PHONE: 442-8209

REPRESENTING WHOM? Mont. Assoc of Counties

APPEARING ON WHICH PROPOSAL: SB 72

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE?

COMMENTS: \_\_\_\_\_

Too expensive

Confusing

Too restrictive

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: William Olson DATE: 1/16/79

ADDRESS: P.O. Box 4519 Helena, MT. 59601

PHONE: 442-4162

REPRESENTING WHOM? Montana Contractors Assn.

APPEARING ON WHICH PROPOSAL: SB 72

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS: \_\_\_\_\_  
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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.