

HOUSE BUSINESS AND INDUSTRY COMMITTEE

February 4, 1981

SUMMARIES FOR

HOUSE BILL 262 -

Introduced by Rep. Smith, amends the Territorial Integrity Act to allow an electric supplier to furnish electricity to his own premises used for his business.

HOUSE BILL 321 -

Introduced by Rep. Fabrega and others, amends the Montana Consumer Loan Act to adjust dollar amounts in accordance with fluctuations of the consumer price index. "Consumer type loan business" in present statute is one which makes loans of \$25,000 or less but the bill provides this ceiling may be changed on July 1 of even-numbered years if the consumer price index has changed by 10% or more and the dollar amounts shall be changed in multiples of 10%, but the dollar amounts may not be those reduced below those appearing in this act on its effective date. The bill, in effect, inserts an automatic inflation escalator in the Consumer Loan Act.

HOUSE BILL 409 -

Introduced by Rep. Keyser and others, creates the "Motion Picture Fair Trade Practices Act". The bill prohibits blind bidding, license agreements that require minimum payment guarantees, and minimum ticket prices. The bill also requires notice of trade screening and prohibits advance payments.

HOUSE JOINT RESOLUTION 4 -

Introduced by Rep. Moore, directs that within 60 days the Department of Revenue initiate changes in administrative rules to reduce paperwork connected with sale of untaxed cigarettes by a wholesaler.

## HOUSE BUSINESS AND INDUSTRY COMMITTEE

Chairman Rep. W. J. Fabrega called the meeting to order at 8:00 a.m., February 4, 1981 in Room 129, Capitol Building, Helena. All members of the committee were present except Rep. David O'Hara. Bills to be heard were HBs 262, 321, 409, and HJR 4.

## HOUSE BILL 409 -

REP. KERRY KEYSER, House District #81, Madison County, chief sponsor, said HB 409 establishes fair trade practices for the distribution and exhibition of motion picture films; prohibits blind bidding and payment of minimum guarantees on percentage pictures; provides information on trade screenings; prohibits advances as security.

The more he looked into this and looked at more and more what is happening to the Bozeman situation, the angrier he got. This is happening to small theater owners. These people are paying large, large amounts of property tax on all of their property throughout the State of Montana. They are employing thousands and thousands of people - young people, mainly, and they are paying taxes and they are spending money in the community and they are part of the community and are a hard working business, dealing strictly in dollars - dollars that are basically being ripped off from the theater owners in the state by out-of-state distributors. It's a practice that he couldn't believe was happening in Montana, but it is.

A theater owner is going to get an invitation to bid with a contract and then he gets a brochure. He doesn't get to see the film, doesn't get a clip - he doesn't even get a guarantee that the name of this will stay the same, that the actors will be the same as he sees on the brochure. But he puts up a lot of money and maybe he'll get what he bids on. You pay money up front before you buy it.

LARRY FLESCH, President of the Montana Association of Theater Owners, operates a theater in Shelby, Cutbank and Conrad. Theaters are independently owned businesses. Two large nationwide operators in the state, both operate in Missoula - the Commonwealth and the Mann Theaters. Theaters are viable, integral part of our town. The theater is a very prominent social part of the town. Statewide, they provide hundreds of full time jobs and thousands of part time jobs. They are a state tax base for the state, counties, and cities. Revenues remain in our state and these are becoming smaller and smaller every year. Guarantees and advances are having a bad effect on our theaters. The Montana Association of Theater Owners supports the passage of HB 409.

TIM WARNER, Bozeman, Vice President of TOI, a film buying association, buys film in Montana and in Idaho, Utah, New Mexico, Arizona, and Wyoming. New Mexico and Arizona have the anti-blind buying. It is law in about 19 other states - it was the law in Washington and Oregon. He has had experience for the last few years with both states that have this law and those that don't.

Blind bidding is where you bid for a picture or you negotiate for a picture both done blind - without seeing the product. Paramount uses this

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procedure and where producers could not own the theaters. The 48-hour cancellation clause was done away with. At first blind bidding was on 2 pictures a year. Pretty soon they were blind bidding every picture - all you do get is a lot of information on a picture. Usually you don't even get a brochure. Because of financial powers, no way would they listen to their pleas. They are up against the big producers and they control 95% of the films in America. They are up against one of the largest controlled groups in the U.S. It is hard to believe that they can't even see a picture so they can exercise their own judgment. The theme of the movie might be fine in some places and not in others. In Bozeman bought a film blind, and because they didn't want that show playing in that town, the people were quite upset. They don't understand that he is buying blind. He doesn't know until it hits the screen what the film is like.

The exhibitors share most of the financial aid to the producers - they had \$29 million in the bank before one film ever hit the screen. Their guarantees are put up in advance before it is ever filmed. They also make the theater owner guarantee a play day. It is a nightmare. After guaranteeing a play day, they pulled it without any warning.

Any per capita finance that you charge is going to have a bearing on the bid. Depends on what theater charges - say you were charging a dollar for kids, by putting a per capita on and if you don't charge it you are in trouble. This is very good legislation. It is also good for the industry. They will have to get it done and make a good movie and it gives some control over what we are going to play and charge to the public. He thinks what they are asking is fair and they can be counted on for support.

DON CAMPBELL, Elta Theaters, Lewistown, manages two small independent theaters. He negotiated for a film the first part of 1980 and was required to put up a \$2500 advance fee. The film that was guaranteed to them in October - that size of an advance and play day hurts us and our people.

JIM BAILEY, Roxine Theater in Anaconda, received a shipment of film with a C.O.D. of what they estimated he should get from showing it. We are going to have an estimated percentage of what you are going to do. It ties up my money interest free to these companies. Universal is the company. It is a Universal business practice. He would appreciate a genuine consideration of this bill.

DIONE SMITH, Movie Haus, Laurel, had a show and their terms came out as 60% vs refusal. They grossed \$127 and had a guarantee of \$100, so they had \$27 left. The \$100 goes to the film cost and incidentals were \$50 so there is nothing left. Supports HB 409

HOLLI SMITH, Movie Haus, Theater, Laurel also supports HB 409.

TOM HINES, Kalispell, representing himself, works with the theaters in Kalispell, operating four theaters and two drive-ins. The biggest problem was the Disney people. You have to charge a minimum of \$1.50, but when they figure out how much for the film - 100 people times \$1.50 and then they take 70% of that, so you have to charge \$1.50 for kids to come to the show. You have just priced a lot of low income people from going to that Disney movie. Trying to prohibit this by this bill.

BOB SIAS, Simonse, Missoula, has a three theater independent operation.

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Last year alone he borrowed \$30,000 that went down the drain on guarantees of films that we were not guaranteed to see. The films were never finished and we are hard up. Can't put up with this kind of unfairness.

PEYTON TERRY, Glasgow, representing himself, owns a small theater. He used to sell cars. The price is established at the top with bigger theaters, are vying with giant producers. It is discriminatory to film some pictures in this state. There are four other Rocky Mountain states with different picture making. Urges support for HB 409.

SENATOR MANNING, Hysham, hopes this bill gets over to the Senate. He is a summer theater owner and builder. He thinks this piece of legislation is long overdue.

ART and HAZEL JENSEN, Strand Theatre, Superior, MT, have run a theatre for 46 years. They support HB 409.

JOHN SCULLY, attorney, 30-14-205 Montana statute deals with Unfair Trade Practices Act and it sounds similar to the bill. It has to do with its legality. Price fixing you will find in this situation '48-50 the industry was broken up as a result of price fixing. Only two pictures a year that were blind bid.

Why don't we rely totally on the Unfair Trade Practices Act, they will continue to argue this. The bill before you is legal. It doesn't cover all that this bill is trying to handle. We are trying to get it off our back, and you are putting it back on our back. You find out there are very simply times when government has to step in and break up monopolies and unfair trade practices.

It is a viable controlled basis here people enter into willingly on both sides. There is an invitation to bid - a competitive bid receipt and the acceptance of it which consists of an "x" in a box. Tim Warner guaranteed \$15,000 in May 1980 with a playing date of October 1980 - playing time is set forth specifically. Number of seats in the facility, number of playing times, proposed admission prices to be charged is item #6. Percentages are set out. Look at the invitation to bid guarantees the film rental, minimum playing time and terms on which you are invited to bid.

Seating capacity, the house expense - this isn't a happenstance figure of \$15,000 from paper, it is actually from figures. Seating capacity of 375 is figured out on what kind of showing it should be and what kind of minimum there should be. In this day of computers, time and percentages are easy to figure. We could show averages - it is a grey area.

It is not right to engage in this practice. We are getting close to '50 again of price fixing. Audits are performed by the industry to take a look at your seating capacity and figure out the expense of operating. People are losing thousands by the prebid and guarantees. You are providing a source of money by guaranteed prebids and the movie won't even be ready until December. Having a paper contract guarantees them a minimum of \$15,000 for financial paper leverage. You are basically financing something you haven't even seen. You can't fix a rate on seating arrangement of a theater. They are using theater owners' money.

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Because of the shortage of time, the Chairman asked other interested proponents to stand and state their names and sign the Visitors' Register. The Chairman apologized because of lack of time for them to make statements since many of them had come from distant parts of Montana.

#### OPPONENTS. -

DON GARRITY, lawyer in Helena, and TOM KEEGAN, lawyer, representing the Motion Picture Association of America, will be available for any questions the committee might have. They were surprised at Mr. Flesch's indication that the theater owners are in bad shape. They think the theater business is in good shape and here to stay.

The motion picture producers need these people a lot worse than they need them. Their members are in competition with each other. There are 14 different films which they wanted released during Christmas. All screens are owned by the same company, but when you have 14 bidding makes for getting the better price for film producers. All of the films are done by blind bidding, and can be cancelled within 48 hours.

Using the money of theater exhibitors - Theater Owners Incorporated (TOI) didn't pay one dime to anyone for Heaven's Gate, and those advance payments are guaranteed and are never payable for two weeks before the actual showing - they are paid 30-60 days after the showing of the picture in that theater.

People testifying are from very small towns. They print 200 prints at \$5,000 per print. Those prints aren't going to small towns. The movies they get have been around for a long time. They have had an opportunity to see them in larger cities. They don't pay very much for these films.

\$2500 advance payment - he showed that movie on August 20, and his check was signed on August 15. The problem of his movie coming C.O.D. and when the movie arrived he had to pay the estimate of what he was going to gross on it - advance payments are usually used with people with whom they have had payment problems. Need to defend producer and to have the freedom to treat different people differently on the way they honor their contractual commitments. There is no competition in the state so the theater owners are free to negotiate on any film.

Their audience is not going to be able to go to Spokane or Denver - they will still get a trade from Montana after they have been shown in other places. This bill would prevent the kind of competition which we now have in Montana where we do have bidding. He doesn't think competition should be stricken. Keyser said this bill is a consumers protection bill. Theater owners would like to charge \$1 and they would like to charge a dime for other expenses. If the committee wants to keep prices down, and will regulate prices for all popcorn, pop, etc., they would oppose such a bill. They would oppose any bill which interferes as drastically as this does in our business. Most of our film contracts are negotiated. Guarantees where the rental is bid and we have competition are called "firm deal" contracts, but most common are the negotiated contracts which are very loose and will charge you from 60-35% and depending upon how well the film does.

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These are our only customers in Montana, and like all well-run businesses, we make adjustments because we want to keep them happy and in business. There are many more screens in Montana - 30% more than there were in 1967. The theater industry and theater owners are doing well in this state - don't want government involved in writing their contracts. He doesn't think anybody is coming out poorly under their contracts. Wants the bill rejected.

TOM KEEGAN, lawyer in Helena, said the state is empowered to protect the public health, welfare and safety of its people. This has nothing to do with these things. There is a monopoly in every city except Missoula because TOI, Commonwealth, and Simonse where guarantees are offered by Warner and Universal. Helena, Great Falls are monopolies. If the theater owners don't buy some pictures and doesn't show, chances are those are lost dollars. Can't expect people to go to Great Falls to see it.

Companies spend money making films in Montana - they come in, they film, and they leave. This bill slaps the companies in the face. Business needs no protection. People are staying in their home towns and are not travelling for entertainment. The theater industry is healthy and here to stay. He doesn't believe the theater industry has gone to pot from May 1979 to May 1980. He thinks HB 409 is being litigated in other states.

'All the Rocky Mountain states' is not completely accurate. Colorado killed this type of bill. Film makers will not make film in Montana was suggested. We don't want to be perceived as anti-business isolationists. If the litigation is brought to declare this law unconstitutional, it will be a very expensive suit. They want the Legislature to protect a monopolistic industry in the state.

HB 409 treats the theater owners in the State of Montana like children - you can't make a good deal for yourself. TOI has a good track record here - almost \$5 million. The only way he can compete with them in starting up a new theater, would be to compete. He runs a good operation. This law says you can't compete. If the state is going to regulate in this manner, we want some protection, too. Most agreements are on a percentage of the box office. If the state is going regulate, they would have to count the house each night and put it in an escrow account in their name rather than an estimation of what they are to get. Regulate the cost of popcorn, etc. There is profiteering in the concession stands. Sell cost-plus 10 or 15%. There is no public purpose served by this type of legislation - otherwise go all the way.

#### QUESTIONS -

Rep. Robbins - is there blind bidding in other states? Mr. Warner - in Utah and Idaho they get it on the same basis, but don't put up the guarantees and advances. They can't screen it here. They screen it in Idaho. Should allow same things to Montana. Right now they are soliciting dates in Montana. They still pay the same percentage. You are still going to have bidding and the prices in Billings and Bozeman. They want to have the right to see the movie and not have to put up the guarantees in advance.

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The film companies in Utah and Idaho are still doing the same amount of business - 100% film rental.

Rep. Kessler - bidding is taking place--Drive-in owners will bid on those. Mr. Garrity - Billings operators don't have to bid in advance. They arrange to book the films in advance, but they do not bid on them, they negotiate.

Rep. Kessler - you either bid for film or negotiate? Mr. Warner - they blind negotiate in Billings -- they still haven't seen the film. The flyer is a lot of information, but that is not usually provided that much.

Rep. Fabrega - the security deposits - paid 14 days before play day? They can get prime play time for a picture. You pay advances or guarantees two weeks before you open the picture. What is going to be the effect on the consumer's price at the theaters with IIB 409? Mr. Warner - the consumer's price will change - without the per capitas you will be able to charge what you want to. They have the ability to price fix through setting per capitas. The exhibitor will be able to use his discretion on what to charge in the market place.

Rep. Vincent - in both presentations you mention bidding quite often. But you don't address the concept of blind bidding. Mr. Keegan - it is a matter of economics - they pay \$9,000 per day in interest charges. Only 54% of the movies in Montana were blind bid. They could have been screened in Utah. The film gets run for the release date. A theater owner can go and see that trade screening, then he has to scramble to go and film his screen. There are more pictures than there are screens.

Rep. Vincent - there is a lot of blind bidding going on - you seem to be justifying it on the basis of the fact that that is the way the rest of the industry is all the way through. Mr. Garrity - these are very expensive productions. They have got to get those movies on a paying basis right away. We haven't seen a screening of the movies ourselves. It is a rush to get these out with the promotion, etc. Movies cost so much money. They just don't have the leisure of time to get the film made and then advertise and shown.

Rep. Bergene - present day freedom of any subject being addressed in film is very evident, is that why some films don't do so well when the prime audience is children? Is there a problem with PGs? Donna Kilpatrick, Laurel, said under the blind bidding system they have to accept the movie and part of the time they get them and they have been viewed in Billings so they kind of know what is in them. It still affects them anyway.

Rep. Wallin - when you get this brochure, do you know the rating of the film? Mr. Warner - at the time of bidding there is no rating on them.

Rep. Fabrega - can you cancel or cut any movie on a local basis? Mr. Warner - no way to cancel a contract.

Rep. Meyer - you don't receive any money on these films, but yet the theater owners say they pay two weeks in advance. Mr. Keegan - he sent

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the company \$2500 in June and didn't show it until August 15. Small guarantees are paid by small companies.

Rep. Fabrega - how will a movie maker know how much he is going to make? Mt. Warner - he gets a percentage of the box office. You pay 70% or you pay according to your house seating capacity at 90% and that practice will still be in effect. He will still get his percentage of the box office. Mr. Garrity - if this bill were to pass, you would be limiting some of their alternatives. They couldn't require guarantees and advance payments. If they take a percentage of the box office, they can require a flat fee. On a percentage, if the film doesn't go well, they don't do well.

Rep. Vincent - blind bid of \$15,000 -- it is still in TOI bank account but ended up with a poorer picture. He was locked into Heaven's Gate and lost play time. Mr. Warner - you are really going once you commit yourself to a picture - have to commit yourself to that playing time.

Rep. Fabrega - some of the larger areas are pretty much monopoly controlled. You would be in a position to offer the movie industry to take it or leave it. Mr. Warner - they weren't clamoring that in order to get Miles City in they had to put up \$3500 90-10, 70-60. Basically in Montana it is a small independent territory operating 46 screens.

Rep. Vincent - Heaven's Gate was a United Artists film. Maybe these companies have to do a little house cleaning. When Heaven's Gate was made they had this big screening in Toronto and Los Angeles. No one has seen that film. They are given carte blanche and the cost of these movie companies are escalating. Maybe these big companies are conducting business practices that aren't that well suited to good movies and good business - they allowed that to happen to themselves, and maybe they are trying to pass their mistakes on. Heaven's Gate was bought blind by United Artists, and before that they asked theater owners to share the risk. They jerked that picture. Mr. Scully said we are lucky they jerked Heaven's Gate.

Rep. Meyer - if a movie maker comes and says we want a \$15,000 guarantee plus the percentages? Mr. Warner - the way it works is you still pay the percentages - you don't pay the advances or guarantees. You just get away from the advances and guarantees.

Rep. Fabrega - if no guarantee, then they demand a flat rate? Mr. Warner - no way - they want a guarantee and a percentage so that they get it both ways. They won't sell on a flat fee basis.

Rep. Ellerd - can a theater owner or operator buy a film for a fee or a percentage? Anne Grupp, Motion Picture Association of America, Inc., Hollywood, California, said maybe \$100 for a picture is a big fee for a small town, but motion pictures are very expensive, and they are put out on the basis of 75, 50, 100 vs 35, 50 of their gross vs a minimum of 75 of their gross - they get a gross or a guarantee. For approximately \$100 a theater owner would be in the position to get a film.

Rep. Ellerd - is \$100 too high? Mr. Smith, Laurel - yes, on some films. They couldn't have very many of those kind of films or they would go broke.

Rep. Harper - this whole enterprise is part of the free enterprise



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system. The contention is that the film companies are operating under some sort of collusion and are drawing contracts that have violations in them. What violation is there in the contract offerings you have? Mr. Warner - basically, the standard contract for Helena is 90-10 70-50-40. A town like Missoula has the guarantees and advances in there. They are pretty much standard contracts. Some are actually on sufficiently higher terms than you want to pay. You know what that market is going to go for. It is a fairly common contract. There is competition going on amongst the film makers. Mr. Keegan - trade screening is not going to change your percentages.

Rep. Harper - if blind bidding was such a bone of contention to be used for one film over another, why is this so? Mr. Scully - the producer or the distributors have said that they are really buying it blind also, and have not seen the text. How do they figure their minimums - on seating capacity. The bill says simply, we do not want to negotiate or bid or buy sight unseen; and second, we don't want to have a fixed rate. They don't see it either most of the time, but they are asking the exhibitor to take the risk. This paper is financial legislation in the financial world. We don't get a chance to see it and are being asked to take a chance also.

Rep. Keyser closed saying the makers of Star Wars made over a billion dollars in profits - it is not a \$1 million business industry. The motion picture people may not make movies in the state, but that has not proven to be true in other states. There are no regulations, no controls. There is no state agency mentioned in the bill. He wants to stop the practice that an industry cannot look before they can present it to the public. He thinks the bill is very well needed and would hope the committee gives it a do pass.

#### HOUSE BILL 262 -

REP. CARL SMITH, House District #57, Powder River County, sponsor, had Riley Childers, Montana Association of Rural Utility Cooperatives, explain HB 262 amends the Territorial Integrity Act to allow an electric supplier to furnish electricity to his own premises used for his business.

BILL JARDIN, Attorney for the Tongue River Electric Co-Op, supports HB 262. The REA Act was first offered to private utilities in 1930; however they didn't want to get into the rural areas, and rather than build lines to serve a small ratio of customers compared to the miles of lines, they preferred to serve higher density areas. See his EXHIBIT B.

Montana Power Co. is negotiating presently with the BN to acquire a lot of their property near Castle Rock subdivision. This could lead to a situation similar in some respects to the one that is in court now concerning the Colstrip subdivision .

SENATOR ED SMITH, District #1, supports HB 262. He was very much involved in the Territorial Integrity Act in 1971 and did a tremendous job between investor owned and cooperative utilities. In 1971 it was so

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that either a rural electric or investor owned utility could provide their own power to their own premises.

JIM MULLEN, has been a member of the Tongue River Electric Board for 25 years and president for 10. He has had the responsibility of bringing electric service to a very large area in eastern Montana, from Terry to Busby. Colstrip is just within their boundaries and east again to Terry - 100 miles from east to west - 150 miles north to south. Density is the name of the game. To be able to provide good service, they need more density than they have now. They expected when they took on this area, there would be growth that they needed. They fought and worked for the Territorial bill and thought it had ensured that they would get the benefit of going out to serve when nobody else would do so.

MPC has wrestled their Territorial Act back enough to drive a subdivision through. Montana Power wants them to bury their lines. They are asking the committee to ensure them against these kinds of encroachments on their area that they have been serving for many years and thought it was their territory. See EXHIBIT C.

ROD HANSON, Chairman of the Montana State Association of Rural Cooperatives legislative committee, said the state Association unanimously supports HB 262. The language passed in 1971 was to be used in the real estate business. It was definitely so that a utility could provide service to their own facilities. This could be very good in that it would stop many costly lawsuits.

PAT McKITTTRICK, representing Montana Association of Utilities in this matter, supports HB 262. How would you address such and such a bill. What was the intent of a bill? This question has always come up. Did the Legislature correct this problem? How would the courts interpret the Act? Chief sponsor Senator Smith said the intent in 1971 was that this section in no way was intended for any electric supplier, a co-op or an investor owned utility, to own property and build a subdivision on that property and then sell that subdivision. That the premises that were owned by the supplier and used in their own customary business they could provide electricity to that. To correct this situation will specifically curtail litigation that is going to arise. He can foresee a hypothetical case wherein a utility could purchase an entire subdivision, speculate, and then sell it and then claim that they have the right to service that subdivision. The intent as it is now enacted is that they can service only their own business premises.

#### OPPONENTS -

BOB GANNON, MPC, said there was one hell of a fight over the Territorial Integrity Act. With the cases mentioned and the situation as it was in the 60s and up until 1971, there was a definite difference of opinion about how electric service was to be supplied throughout the state. In 1971 it ended up in a grand compromise and both sides gave and took a little, and the result was the Territorial Integrity Act. Premises were intended to be included in the Act - he takes exception with that. The Territorial Act defines commercial premises and premises. It was thought serious enough to put the definition in the act.

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The word 'premises' was used in 69-5-107 to restrict it. Colstrip was not thought of at that time. The property was used on premises. The reason for this provision in the law, from our standpoint, is that there are co-op office buildings on MDU and this provision allowed them to serve in those areas. It was a two-way street. The offices of the co-ops are now served by their own power. Colstrip is the problem here.

MR. SHUEY explained by means of a map the lines of both MPC and the Tongue River Electric Co-op in conjunction with Colstrip. The Co-op's line is closer to the subdivision. With homes built in connection with Colstrip, MPC will have first right to these homes. If Colstrip were incorporated, they could sell the houses. They weren't incorporated and haven't been sold. They are trying to make the lines be buried in that entire subdivision. Colstrip is a unique situation. Neither the Co-op or MPC is in the business of subdivision building. MPC owned the property and had to build houses for their people who work in their plants. The lawsuit arises out of the subdivision.

Mr. Jardin represents Tongue River. Whether that property is within the meaning of this act is irrelevant - the lawsuit should be allowed to take its course. Determination of whether that property in that subdivision was contemplated in that act is going to be decided, and they will abide by the decision of the lawsuit. He doesn't think the amendment addresses the situation. They are in the electric utility business and need people who have to live in the area. There are camps in other places. This amendment raises the issue of another lawsuit where people are needed to run the plants. Any utility employee is a beneficiary of a benefit from MPC having obligations to provide this service and feel they are within the law in providing this service.

JOHN ALKE, MDU, is not involved with the disputes in Colstrip. They feel the TIA has been of use in stopping investor-owned utilities from transgressing into co-op territory, and vice versa. Investor owned utilities invest in property to expand their services. The utilities are not allowed to borrow money for subdivisions. This bill is being introduced to solve a unique situation. The original act has provided good general guidelines although there have been a few interpretative problems. The original purpose of the bill will be defeated and you will find repeated trips to this committee to try to solve these unique situations on an ad hoc basis. Opposes HB 262.

GENE PHILLIPS, Pacific Power and Light Co., Kalispell, said there has been very little litigation since 1971. Colstrip is a unique situation. This bill will not solve that situation - the courts will solve that. They operate the water systems in Big Fork and Libby. The question arises of whether they could serve their own and we could serve our own property simply because it wasn't specifically related to their business. Hopes HB 262 does not pass.

EVERETT SHUEY, MPC, said the Territorial Integrity Act has been in effect almost 10 years, and MPC has not had a lawsuit until the last two weeks. MDU has had one. Before that MPC had three and lost one.

QUESTIONS -

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Rep. Jacobsen - How long is that line for that service? Mr. Gannon - We would just cross underneath the highway because we had service right across the highway.

Rep. Fabrega - Is that relevant? Mr. Gannon - Yes, to serve as a closer line. Mr. Jardin - The line was extended further to now serve the subdivision. The trunk line was there first.

Rep. Ellison - What is this other lawsuit with the Vigilante? Is it a subdivision? Mr. Wilbur Anderson, Vigilante Electric Co-op, said Vigilante subdivision was served with papers by MPC because of a controversy over serving a new facility at a truck stop that they had served. It is a new facility but a similar one. Mr. Gannon - this lawsuit has nothing to do with this proceeding. This is a different co-op and is different from this issue here.

Rep. Fabrega - Is this subdivision going to be company owned housing or is it intended to be sold immediately after construction? Mr. Gannon - Their policy has been to build houses and sell or rent them to Montana Power people. They would like to get rid of it, but can't and may forever have the housing. Montana Power owns the land and may have to keep them forever.

Rep. Robbins - Will this same thing be happening at the mines in North Dakota? Mr. Alke - Can't answer, knowledge limited to Montana operations.

Rep. Wallin - Are we trying to ask you to change the rules in the middle of the ballgame? Mr. Jardin - Have to go by the laws when the issue was filed, so it would not affect the cases now pending.

Rep. Fabrega - Was it the intent of the Territorial Integrity Act that houses would be considered property owned? If the company had to build employee housing, and not to sell it, that in the Act of 1971, the company would have been able to serve its own property? Senator Smith - Their headquarters were in MPC territory, and the ruling was that MDU could serve them. Rep. Fabrega - If that housing is necessary because of the isolation for the company to operate their plants, would that have come under the idea that the company can provide its own operation? Senator Smith: Confined strictly to their own headquarters. It was who was the closest to provide that power. They were closer and if they intend to sell the houses, he didn't think that was what the intention was.

Rep. Ellison - Wasn't the intent that in order for the co-ops to survive, they were going to have to be able to serve the expansion in their district? Sen. Smith - The duplication of lines was the concern at that time. It was to eliminate that problem. Whoever was closer would take that line.

Rep. Fabrega - You have the right to service any property while owned? Mr. Gannon - It is one of a practical problem, if we put our own equipment in and it was sold, would end up duplicating services again. Rep. Fabrega - Even as a necessary operation or development of a subdivision? Mr. Gannon - The intention in Colstrip is for the convenience of employees. They wanted to sell it to them, but couldn't do it. Rod Hanson - Once you have the

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facilities in, then it would take a duplication of equipment. Could maybe have a small division. Seems to be opening a kettle of worms here and this could be happening all over.

Rep. Harper - What is the cost of a KW hour? Mr. Hanson - There is very little difference.

Rep. Carl Smith closed, asking Mr. Jardin to close for him, but this was denied.

Rep. Jensen took over the chairmanship of the meeting.

#### HOUSE BILL 321 -

Rep. W. JAY FABREGA, House District #44, Great Falls, chief sponsor, said HB 321 is an act that controls the operations of the finance companies. The Montana Consumers Loan Act will be amended to increase the base rates.

JERRY LOENDORF, Montana Consumer Finance Association, Helena, said they serve approximately one out of four families in the U.S. because they will generally take higher risks. The loans they make are generally small and high cost. They are very heavily regulated at the federal and state levels. HIB 321 does a number of things.

Current law limits the amount a consumer finance can loan to anyone. In 1975 and 1979 they asked for increases which were granted to bring this loan ceiling up to \$25000. With inflation, periodically and continually they will have to come back and ask for increases in loan ceilings. In order to avoid that problem they would like to have the loan ceiling be tied to the Consumer Price Index. The purchasing power would not be affected, it would remain the same. \$25,000 purchasing power of today would still be \$25,000 of purchasing power in the future. That would work by allowing the Department of Business Regulation to set the rate. This is being done in other places.

Page 5, line 11 (a) currently the rates allowed to be charged on loans up to \$300 is \$20; that rate break would be increased to \$500. The current rate is \$16 for loans up to \$300 and not over \$500, and this is changed to \$500 and \$1,000; and \$12 per hundred would be charged on loans of \$1,000 up to \$7,500. If you borrowed money from a consumer loan company, you would have a rate increase of \$8.00. This can be justified because these rate break points were established in 1969 and haven't been changed since then, and as cost of operation has gone up, income has remained the same. There is one company that does not loan below \$15,000,000. He opposes only the \$25,000 loan limit. If you loan that amount to one person, it takes much less work. Costs increase 10 times at \$25,000 loans. Some adjustment can be justified.

Inflation will continue and so he proposed that those break points be also tied to the Consumer Price Index so they would be allowed to increase gradually so the result would be that income would remain constant with the

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with the increase in cost of operations and so they wouldn't have to come back and request changes.

Loans of \$7,500 - \$25,000 are really the small loans that are rated up to \$7,500 and charges are all based in dollar amounts. Loans over \$7,500 are required by law to be made on an interest basis and so would increase them to 2% making the interest cost from 18% to 24% per year. In addition to the cost of operation, the cost of money has changed. Consumer loan companies obtain their funds from banks and the bank prime rates are 19-1/2% right now. He is not proposing a particular increase, but is thinking about it for the future also. The increase would go into effect in October. In two years the prime rates have just about doubled from the high rate in 1978 to the high rate in 1980. The market has been very volatile.

Page 7 provides for add-on loans changing a dollar amount for a loan. On a \$100 loan and plan to pay \$60 for a year and kept the money for two years - if I take that type of loan and I have two defaults in a row for 10 days, then the finance company can change the charge from an add-on charge to a percent. So the person who doesn't pay on time would have to pay the amount as those that do pay.

Cost of closing accounts - title, insurance premiums, attorney fees for deeds, etc. - asking to change closing costs so they will be changed from third parties right now. This would simply close that up. It allows the person who is administering an account to arrange for disbursement of certain amounts. Third party expenses can be added to the principal amount.

There is a change in the penalty - if a mistake is made in the charges through other than a bona fide mistake, all of those would have been void under \$1,000 in 1959. So losing charges but not the principal would not be such a big penalty, but today if you misstated an 8 instead of a 5, that loan is void, and you could lose the entire principal loan. It gives a benefit to the borrower to which they are not really entitled. This will have made an interest-free loan wherein you couldn't collect interest, but you could collect the principal.

Page 12 the borrower is covered by the Truth in Lending protection act. It requires disclosure of exactly what the loan requires the borrower to do.

New provisions on page 18 provide that in event of litigation, the prevailing party would be entitled to recover attorney's fees. It is questionable under the current law as to whether a company can include that provision in their contract. If someone brings a lawsuit and they lose, they have to pay attorney's fees to the winning party.

OPPONENTS: None

QUESTIONS -

Rep. Harper - Are there any special places to look at in this bill?  
Mr. Alke - escalating provisions are appropriate. He sees no problems in this area.

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Rep. Metcalf - If a person has a loan at an interest rate already contracted and the interest rate backs up, it would not be affected? Mr. Loendorf - Yes.

Rep. Schultz - Why drop the penalty? Mr. Loendorf - They still lose the charges, except for accidental errors in computation. Rep. Schultz - Would banks have the same costs in servicing their loans? Have their costs gone up? Mr. Loendorf - Yes.

Rep. Pavlovich - Are recording fees basically always the same price? Mr. Loendorf - Yes, \$2 per page. It is not something the consumer loan companies charge, but they would disburse the amount and be sure it is recorded. They take so much for recording fees and you get the balance or else you pay it front end.

Rep. Pavlovich - You have to comply with the truth in lending laws? Mr. Loendorf - If you comply with the federal truth in lending, that constitutes Montana law as far as Montana law is concerned, so when you have complied with that, you have complied with Montana law. This act precludes the Federal Disclosure Act, and if you don't do what is required, you lose the principal and the interest.

Rep. Meyer - Loss after a 10-day period default - what do you mean there? Mr. Loendorf - If you loaned \$100 and charged \$20 and if that money is not paid back and they keep it for two years, it would have to be converted to an add-on loan at an interest figure. It would require payment of \$20 for each year if it were held longer.

Rep. Fabrega felt no need to close.

#### HOUSE JOINT RESOLUTION 4 -

This resolution will be rescheduled at the request of Rep. Meyer, sponsor of the bill.

Meeting adjourned at 11:45 a.m.

---

REP. W. JAY FABREGA, CHAIRMAN

*Josephine Lahti*  
\_\_\_\_\_  
Josephine Lahti, Secretary

## VISITORS' REGISTER

HOUSE \_\_\_\_\_

COMMITTEE \_\_\_\_\_

LL \_\_\_\_\_

Date \_\_\_\_\_

SPONSOR \_\_\_\_\_

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Andersen	Dillon, Mont.	Vigilante Etc. Corp	✓	
Algood, F.	Helena, Mt.	Mt. Cascade Electric Assn	321	
Tom Warner	Bozeman, MT	My Self	409	
Wm. Hines	Kalispell, MT	My Self	409	
John Allen	Helena	Mont. Nat. V.B.		✓ 362
Raymond Pickrell	Polson	myself	409	
Robert T. Green	Glendora	Myself	409	
Charles S. Berger	Wolf Point	"	409	
Paul Pickrell	Polson	Myself	409	
Don Campbell	Leicester	Elta Theatres	409 ✓	
James Kipatrock	Lawson	Movie House	409	
Tom O'Leary	Great Falls	Catholic Theatre	409	
Art Jensen	Superior, MT	Strand Theatre	409	
Ed Jensen	Superior, MT	Strand Theatre	409	
Ed Jensen	Thompson Falls	Key Theatre	409	
Tom Manning	Helena		409	
Tom Hedges	Helena	T.O.T.	409 ✓	
Joyce Brooks	HELENA	MMA	362 X	
Connie Deuch	Helena	Helena Theatre	409	
James Deuch	Helena	Helena Theatre	409	
Ed C. Evans	Helena	Commonwealth	409	
Bob Seab	Missoula	Simons	409	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



## VISITORS' REGISTER

HOUSE

COMMITTEE

LL NB 409

Date 2/4

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUPPORT	OPPOS
Edward S. HARRIS	405 Welme Bldg	W. A. S. Mon Co	409 ✓	
L. R. Austin	806 Wilbur Bldg	W. A. Simons	409	
Harry Wagner	48 Gold Bn <sup>115th St.</sup>	T.O.I.	409	
Ernest Williams	3122 Chryslr Bldg	T. H. Entres	409	
Wm. J. Krumm	827 Blackmore Pl	Theatres	409	
Wm. J. Krumm	227 PONDROSA <sup>MILES</sup> CITY	"	409	
Wm. J. Krumm	Marion	"	409	
Tom Regan	Helena	MPAA		✓ 409

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE **B&I** COMMITTEE

B8I

COMMITTEE

HB 409

Date \_\_\_\_\_

KEYSER

ON GARRITY

HELENA

MOTION PICTURE ASS'N  
OF AMERICA, INC.

SUPPORT

OPPOS

OM KEEGAN

11

11

## INNE GRUPPA

HOLLYWOOD, CAL.



PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Samy F. Hall BILL No. 409  
ADDRESS Shelby County Tenn DATE 2/4/81  
WHOM DO YOU REPRESENT 17175  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Tim Warner BILL No. 409  
ADDRESS Bazemans DATE 2/4/81  
WHOM DO YOU REPRESENT 101  
SUPPORT ✓ OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Ricardo Sanchez BILL No. 18/409  
ADDRESS 402 22th St. Laurel DATE 4/4/81  
WHOM DO YOU REPRESENT Movie House - MATO  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME

*Raymond T. ...*

BILL No.

*409*

ADDRESS

*Glenview*

DATE

*9/4/81*

WHOM DO YOU REPRESENT

*Mayor (Summit Hill)*

SUPPORT

*409*

OPPOSE

AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Holli Smith BILL No. HB 409  
ADDRESS 419 W. 8th Street, Wt. DATE 2/4/81  
WHOM DO YOU REPRESENT More Home, Shelter  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME John Sully BILL NO. 409  
ADDRESS 303 S. 1st St. 1802 DATE 2/4  
WHOM DO YOU REPRESENT MATO  
SUPPORT X OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:



NAME JANUS ROSKI BILL No. 409  
ADDRESS Laurel, ME DATE 2-4-81  
WHOM DO YOU REPRESENT MONIE HANS  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

NAME Donna Cipatrick BILL No. 409  
ADDRESS Laurel, MI DATE 2/4/81  
WHOM DO YOU REPRESENT House Hans  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

STATEMENT OF MOTION PICTURE ASSOCIATION  
OF AMERICA IN OPPOSITION TO HOUSE BILL 409

House Bill 409 outlaws many of the existing business practices of the motion picture industry, practices which have been proven in the marketplace. This bill dictates new terms for contracts between motion picture distributors and theater owners and provides that the distributor and theater owner cannot agree among themselves to waive any of those terms. The bill makes it a crime, punishable by up to six months in jail and a fine of up to \$500, for a theater owner or a motion picture distributor to violate any of its provisions.

Why do the sponsors of this measure want to involve Montana's government so extensively in the affairs of a private business? Montana's theater owners are not inexperienced amateurs at the mercy of the major film producers. They are experienced professionals operating large and successful businesses. The majority of the movie theater business in Montana is done by just four companies -- Mann Theatres Corporation of California; Commonwealth Highland Theatres, a Colorado corporation; Theater Operators, Inc., a Wyoming corporation; and Carisch Theaters, Inc., a Minnesota corporation. According to their latest reports, on file with the Montana Secretary of State, those companies had gross receipts of 132.9 million dollars in 1979. The same reports show that those companies took in more than 8.9 million dollars from their Montana operations in that year.

These are not people with whom motion picture companies feel free to deal on a "take it or leave it" basis. They control a large and profitable market for our product. In fact, they are the only market for our films in Montana. We need them to rent and show our

movies far more than they need us. Last Christmas, our members had fourteen films scheduled for release. Helena has four screens. Who is in the better bargaining position? Our rental negotiations with Montana theater owners are far from one-sided affairs. They are tough, able bargainers who are managing their business quite well without the interference of Montana government. The president of the Montana Theater Owners' Association recently reported that, with attendance at Montana theaters increasing, "The theater industry is healthy and it is here to stay." (Great Falls Tribune, May 1, 1980, p. 6-B). Montana theater owners clearly are not in need of the massive governmental intrusion into their business affairs which House Bill 409 would sanction.

With that background, let us examine the specific provisions of House Bill 409.

#### 1. BLIND BIDDING

House Bill 409 prohibits motion picture distributors and theater owners from bidding, negotiating or contracting for the rental of a motion picture until the exhibitor has had an opportunity to see the movie. That sounds reasonable, doesn't it? Unfortunately, the economics of producing motion pictures are such that in many cases producers simply cannot afford the delay that special pre-release showings of a completed film to theater owners would entail.

Because theater owners are the prime market for their products, motion picture producers do provide "trade screenings" for theater owners before bidding or negotiating for their rental as often as circumstances permit. In 1980, members of the Motion Picture As-

sociation of America released 131 films for distribution in Montana. Of those films, 55 were trade screened prior to bidding or rental negotiations. Four were re-releases of earlier movies with which the theater owners were already familiar. One was rented without a trade screening but with a provision in the rental agreement allowing the theater owner to cancel the agreement within 48 hours of receiving the movie. Only 71 of the 131 films were rented "blind", without a trade screening (54%). A majority of Montana's theater owners did not attend the trade screenings of those films for which they were available, even though they were frequently held in Denver or Salt Lake City.

It should be emphasized that no Montana theater owner is compelled to bid on or negotiate for any motion picture before he has seen it. He is free to refuse to bargain for any film. He can wait until the film is released in other areas, see it there, and study the box office receipts it generates before committing himself to exhibit it. Of course, if his theater is located within one of the three cities in this state which has competing theaters, his competitor may take the risk and book the film "blind." House Bill 409 would deprive competing Montana theater owners of that freedom of choice.

Motion picture producers bid blind too -- on a much larger scale than any theater owner. They commit themselves to the expenditure of millions of dollars to make a movie from a book, a play, or often on the basis of a rough idea for a movie. The average production cost for a motion picture by a major company is now over ten million dollars. Advertising and promotion can add another five million dollars. Firm commitments for prime time television commercials

must be made as far as eleven months in advance. Release of the film must coincide with the advertising. Delay in booking a film into theaters may not only miss the impact of an expensive advertising campaign but imposes serious financial burdens on the producers. At today's interest rates, a movie budgeted at fifteen million dollars for production and promotion means over nine thousand dollars a day in bank charges! And most theater owners do not pay their rentals until from 30 to 60 days after they have shown a film.

We must get our products on a paying basis as soon as possible. Blind bidding is often the best means of doing so. Our notices to bidders tell them as much as we can about the as yet unfinished movie. If it is based on a book or a play, we tell them that, together with the figures on sales for the book or play. We tell them what the story is about, the audience at which the film is directed (family, adult, youth, etc.), who the stars are, the name of the director and producer, and the advertising campaign planned to promote it.

On the basis of that description, we invite bids or enter into negotiations with theater owners for rental of the film. At the time bids are invited, we have not seen a final print of the movie ourselves. We are not in the business of misleading theater owners. Our relationship is, of necessity, one of mutual trust. Every unsuccessful movie which we produce makes it more difficult to market our other films. Since most of our rentals are based on a percentage of box office receipts, we want our films and the theater owners who rent them to do well. Motion picture distributors often revise the

terms of a rental agreement downward where a film has not done well in a particular theater. For example, the film "Dressed to Kill" was rented to the Campus Cinema in Bozeman on the basis of 70% of ticket receipts. When it did poorly, that rental was voluntarily scaled downward to 35%. We trust the theater owners to give us an honest count of their box office receipts. They trust us to provide them with a quality product.

On occasions, we are both disappointed. But we lose much more from an unsuccessful film than the theater owners.

"Blind bidding" is not uncommon in our economy. Manufacturers spend millions on research and development without any assurance that they will develop a marketable product. Exploration for oil and gas proceeds with only limited knowledge of what lies beneath the earth's surface. The consumer is asked to blind bid on many products. When he buys a book or a ticket to a play or a film, he does so on limited information. When a movie patron is disappointed in a film, he has no recourse to recover his expense. Would the theater owners be willing to require by law that they could collect payment from their patrons only after they had seen the movie and then only in the amount the patron thought it was worth?

## 2. OTHER RESTRICTIVE PROVISIONS OF THE BILL

House Bill 409 would also greatly impair the freedom of motion picture distributors and theater owners to contract in other areas. It would outlaw contract provisions calling for minimum payment guarantees and advance rental payments. If this bill is being sold on the basis of the theater owners' need to see a film before negotiating for its rental, why are these provisions necessary? Do the theater owners want the State of Montana to guarantee them a profit as well?

Montana has a comprehensive Unfair Trade Practices and Consumer Protection Act, enacted in 1973, which already provides adequate protection for theater owners. (Sections 30-14-101, et seq., MCA). The state should not be writing our contracts.

Advance rental payments and guarantees, which would be prohibited by House Bill 409, are sometimes required but they are almost never payable until two weeks before the film is delivered. Such deposits or advance payments are usually required of theater owners whose credit is poor or unknown or who are slow in paying their bills. Every business makes similar demands of such customers. They are a legitimate means of doing business and should not be prohibited.

### 3. HOUSE BILL 409 IS NOT A CONSUMER PROTECTION BILL

In its statement of purpose, House Bill 409 indicates that it will benefit the moviegoing public by "expanding the choice of motion pictures available" and "holding down admission prices". It will do neither.

Nothing in this bill would or could require motion picture producers to make more movies and all of our production is available for screening in Montana. This bill will not reduce or "hold down" admission prices. States which have enacted similar laws have experienced rising ticket prices just as have states without such laws.

If the sponsors of House Bill 409 really want to "benefit the moviegoing public by holding down admission prices to motion picture theaters" (Section 2), they can draft a bill empowering some state agency to regulate ticket prices and the price of popcorn, candy, and soda pop as well. We suspect the theater owners would object as strongly to such a measure as would we.

### CONCLUSION

House Bill 409 is an unwarranted government interference with



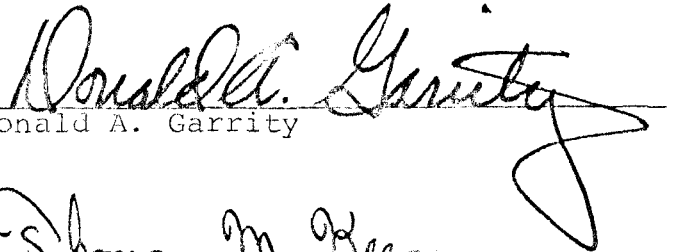
the contracting practices of a private industry. According to figures compiled by the Montana Travel Promotion Unit, motion picture production companies have spent over 30.5 million dollars in filming movies in this state since 1974. An itemized report of those expenditures is attached to this statement. The movie "Heaven's Gate", which to date has been a financial disaster for its producer, spent some 17 million dollars in Montana.

The motion picture industry is a substantial contributor to the Montana economy. We think that entitles us to fair treatment from Montana government. House Bill 409 is not fair -- it is punitive and unnecessary. We earnestly request your vote against this measure.

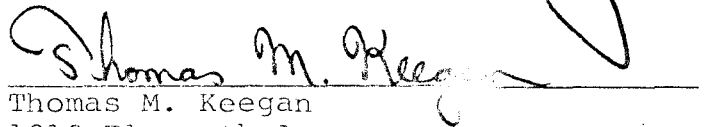
Respectfully submitted,

MOTION PICTURE ASSOCIATION  
OF AMERICA

By



Donald A. Garrity



Thomas M. Keegan  
1313 Eleventh Avenue  
Helena, Montana 59601  
Registered Lobbyists

# DEPARTMENT OF HIGHWAYS



TED SCHWINDEN, GOVERNOR  
THOMAS JUDGE, GOVERNOR

2701 PROSPECT

## STATE OF MONTANA

### MOTION PICTURE REVENUE

HELENA, MONTANA 59601

<u>Year</u>	<u>Film</u>	<u>Estimated Revenue Left in Montana</u>	<u>Total</u>
1974			
Aug. - Oct.	KILLER INSIDE ME Butte - Universal	\$ 450,000	
April - June	RANCHO DELUXE Livingston	500,000	
Aug. - Oct.	WINTERHAWK Kalispell - Charles B. Pierce	<u>432,000</u>	\$ 1,382,000
1975			
June - July	MISSOURI BREAKS Billings, Virginia City & Red Lodge Universal	5,000,000	
Aug. - Oct.	WINDS OF AUTUMN Kalispell - Charles B. Pierce	425,000	
August	(TV) Millers Beer - Commercial Great Falls	10,000	
August	1/10 POTATO FRITZ Helena - West German Film Co.	<u>15,000</u>	\$ 5,450,000
1976			
Feb. - July	BEARTOOTH Red Lodge - ESI Production - Waco, Tx.	225,000	
August	1/10 DAMNATION ALLEY Flathead Lake - 20th Century Fox	90,000	
August	(TV) ALPO - COMMERCIAL Forsyth - Dog Food	10,000	
August	PONY EXPRESS RIDER Virginia City - Doty Dayton Prod. Salt Lake	<u>15,000</u>	\$ 340,000
1977			
April	TELEFON Great Falls - MGM	220,000	
June	GREY EAGLE Helena - Charles B. Pierce	475,000	

## MOTION PICTURE REVENUE (cont'd)

Page 2

June	DR. HOOKER'S BUNCH Red Lodge - ESI Production	450,000	
August	(TV) DAY OF HELL Aubrey-Lyons Prod. Warm Springs	500,000	
October	(TV) XMAS MIRACLE IN CAUFIELD, U.S.A. 20th Century Fox - Roundup	400,000	
October	SCHOOL BUS SAFETY FILM DOCUMENTARY Missoula	<u>1,500</u>	\$ 2,046,500
1978			
Feburary	WINTER RECREATION U.S.T.S. Film - Whitefish	2,000	
February	WEST YELLOWSTONE SNOWMOBILE RACES Warner Miller Prod. West Yellowstone	2,000	
August	THE SHINING Stanley Kubrick -- Hawk Films, Ltd. Herts, England Warner Bros. Glacier National Park - Scenic Background	50,000	
October	WHITEHORSE SCOTCH - COMMERCIAL Film Fair, Los Angeles Red Lodge Area	20,000	
October	(TV) RODEO RED AND THE RUNAWAY GIRL Highgate Pictires Learning Corporation of America Billings - Broadview	200,000	
December	DATSUN - COMMERCIAL Billings Area	<u>20,000</u>	\$ 294,000
1979			
January	ARTIC CAT - COMMERCIAL Lyle McIntire Wilson - Kriazh Los Angeles - West Yellowstone	3,000	
February	TOTAL ECLIPSE ABC News Special - Helena	10,000	
February	TOTAL ECLIPSE Astronomical Society of America Paul Ryan - Lewistown & Helena	10,000	

MOTION PICTURE REVENUE (cont'd)

Page 3

Feb. - Oct.	HEAVENS GATE United Artists Kalispell, E. Glacier, Butte & Pole Bridge	17,000,000	
March	SECURITY BANK - COMMERICAL Fry - Sills Associated Film Makers - Miami, Florida Billings Area	8,000	
March - May	HEARTLAND Film Haus/Wilderness Women Prod. Harlowtown - White Sulphur, Two Dot	500,000	
May - June	(TV) WALKS FAR WOMEN - NBC EMI Production Billings, Hardin, Red Lodge	1,400,000	
	MILLER BEER - COMMERICAL Backer and Spielvogel, Inc. Great Falls, Dillon	20,000	
June	(TV) SOUTH BY NORTHWEST Production - Black Pioneer Virginia City - Nevada City	80,000	
August	RICHARD LEVINE - COMMERICAL American Airlines Productions Great Falls	10,000	
Sept.	WINSTON - COMMERICAL Frank Moscoti - New York Kalispell, Thompson Falls & Pole Bridge	50,000	
October	TIRE PRODUCT - (BANGDAD) COMMERICAL Great Falls - Missoula - Cedar Rapids, Iowa Vieda Limited	5,000	
	MILLER BEER - COMMERICAL Backen & Spielvogel, Inc. Red Lodge	70,000	
November	WRIGLEY'S GUM - COMMERICAL Hang Glider Kalispell - Corum	<u>50,000</u>	\$19,216,000
1980			
June	GENERAL ELECTRIC CO. - COMMERICAL Big Sky	10,000	

MOTION PICTURE REVENUE (cont'd)

Page 4

July - August	FAST WALKING Lorimar Prod. Deer Lodge - Old Prison Rocker	1,750,000
August	GOOD MORNING AMERICA - TV Billings Area	5,000
September	BIG JOHN JEANS - JAPANESE COMMERCIAL Pyramid Production Bozeman - Livingston	10,000
	AMERICAN TRAIL - TV DOCUMENTARY Syndicated TV in 25 states Smiloft Television, Lincoln, NE Missoula - Glacier National Park - Big Fork	6,000
October	KHQ TV - DOCUMENTARY PM MAGAZINE Spokane, WA Moiese Bison Range - Virginia City	5,000
	CONTINENTAL DIVIDE - FEATURE Universal Studio West Glacier - Apgar - Eagle Migration 3 week shoot	10,000
November	BIG JOHN JEANS - JAPANESE COMMERCIAL - 2nd Shoot Pyramid Production Bozeman - Livingston	<u>10,000</u>

\$ 1,806,000

\$30,534,500

February 5, 1981

Members of Business &  
Industry Committee  
Montana House of Representatives  
Helena, MT 59601

Dear Committee Members:

I am submitting as testimony, the following documents to help clarify in your minds why the exhibitors of Montana are not only opposed to the blind bidding aspect of the film buying arrangement, but also the guarantee and advance portion of the Bill.

The guarantee portion of the Bill is primarily offensive to the small towns of Montana. However, it does have a severe economic impact on the larger towns in the state. I will cite some examples of which I am personally aware, however, it is very common for these examples to happen to any exhibitor in the State of Montana.

We feel that the film companies are entitled to a percentage of the film gross in any given market place, and the percentage is negotiated either through bidding or negotiation with the film company. But by including guarantees in that negotiation, the film companies are forcing an unfair risk on the exhibitor client in the market place.

Because of the nature of the film business, motion pictures which might do extremely well in large communities might not do as well in the Montana communities due to the theme of the motion picture. In our small communities there are several factors that can alter the gross such as bad weather or local high school football or basketball games, etc.

By including guarantees and advances, they are altering the agreed upon percentage, since if a film does not gross a certain amount, the exhibitor still pays the guarantee, thereby paying a higher percentage.

An example of this is that in Billings, Montana, Theatre Operators Incorporated put up a guarantee of \$50,000 on THE EXORCIST. The picture only grossed \$58,000. The following is a chart showing what we should have paid on a percentage basis.

Weeks 1-3	Gross \$35,000 x 70% = \$24,500
Weeks 4-6	Gross \$12,000 x 60% = \$ 7,200
Weeks 7-9	Gross \$11,000 x 50% = <u>\$ 5,500</u>
Total % Payment      \$37,200 or 64%	

If we had just paid the percentage, the film rental would have been 64% for the 9-week period. However, because of the guarantee, the film rental for the 9-week period was 87%. Also, in addition to the \$12,800 loss in film rental, we also lost our weekly house expense of \$3,000, or \$27,000 for the 9-week period, bringing the total loss to approximately \$50,000 on a picture which Warner Brothers Communications made millions.

In some small communities which I buy for such as Cut Bank, Conrad, Shelby, Hamilton and Miles City, it is not uncommon for the film companies to place a \$1000 guarantee on a motion picture. If a motion picture only grossed \$1500, it would normally be settled on a percentage basis at 35% or \$525. However, because of the guarantee, the film rental percentage changes to 66%.

One example is in Conrad, Montana, we put up a \$500 guarantee vs 35%. The show only grossed \$950 and we should have paid 35% or \$333, yet with the guarantee, we paid 53%.

Another example is in Bozeman, Montana we paid a \$25,000 guarantee on THE EXORCIST and the picture only grossed \$23,000. The following chart shows the percentage we should have paid.

Weeks 1 & 2	Gross \$14,000 x 70% = \$9,800
Weeks 3 & 4	Gross \$ 6,000 x 60% = \$3,600
Weeks 5 & 6	Gross \$ 3,000 x 50% = <u>\$1,500</u>
Total % Payment      \$14,900 or 65%	

Business & Industry Committee  
February 5, 1981  
Page Three

However, because we had paid a guarantee on the motion picture of \$25,000, we ended up paying 109% in film rental.

In closing, as the exhibitors of Montana, we sincerely feel that we have an obligation with the film companies to share the risk for the picture playing in our market place. However, we do feel that this risk is equally shared when the movie is bought on a percentage basis and both parties receive a percentage of the gross that is realized in the market place.

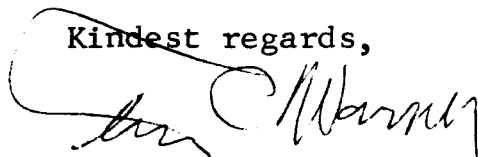
The exhibitor in Montana has already invested very substantially in the movie business with his theatre property. An example of this would be that in Bozeman, Montana, Theatre Operators Incorporated has just invested \$1,089,000 to build the Campus Square Theatre facility, and in the past year we have invested several million dollars in Billings, Montana between the Rimrock Four, the World West and the Crossroads Theatres. Also, in Helena, Montana, we have invested well over \$1 million in our theatres there.

At no time in making these investments, have the film companies guaranteed us or guaranteed our notes at the bank.

I am sure that the exhibitors throughout the State of Montana can cite very similar investments according to the size of the community in which they operate.

If you have any need for further examples or clarification, I would be more than happy to visit with you. Thanking you in advance for your time and cooperation.

Kindest regards,



Tim C. Warner  
Theatre Operators, Inc.

TWbp



## VISITORS' REGISTER

HOUSE

COMMITTEE

LL AD 262

Date \_\_\_\_\_

INSOR

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

NAME Bill Jarding Bill No. HB 262  
ADDRESS 1200 PLEASANT, MILES CITY DATE 2/4/81  
WHOM DO YOU REPRESENT TONGUE RIVER ELECTRIC CO-OP  
SUPPORT YES OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

*Exhibit B*

Gentlemen:

I am appearing today to offer support for House Bill 262. This is an Act to amend Section 69-5-107 MCA relating to the Territorial Integrity Act of 1971.

I feel that to better understand the reason for this proposed amendment is to review a little history concerning the problems between the cooperatives and the private utilities. Some of you may not realize it, but when the REA Act was first considered, it was offered to private utilities. As you undoubtedly realize, one of the factors that has made the electrification of the rural areas, was the availability of a low-interest rate.

Now, even with the low-interest rate available, private utilities were not interested, because they envisioned the difficulties and the problems in attempting to provide services when the ratio of customers was less than one (1) per mile. One can hardly blame them when they could serve cities and towns where the density of customers would be hundreds per mile and huge loads at their doorstep, such as the University of Montana, Montana State University, the State Capitol complex and countless gigantic shopping centers, motels, hotels and business establishments. Naturally, they wanted the cream and left the problems and the skim milk to the rural electric cooperatives. We can't be critical of private utilities, because this is just good business. Actually, the private utilities would be selling wholesale power to many of the cooperatives anyway, so there was no purpose for private utilities to build a mile of line to a rancher or farmer when

they could sell electricity to something like a Billings' Sheraton Hotel or a huge shopping mall.

Unfortunately, prior to 1971, Montana had a peculiar statute that basically provided that if electrical service was available, that the rural electric's were not allowed to service prospective consumers. As we shall see, this peculiar provision protected the private utilities, not only in the expansion of cities and towns, but also in the rural areas themselves.

There were four (4) cases that went to the Montana Supreme Court involving rural electric cooperatives and the Montana Power Company.

The first case was heard in 1962 and was Montana Power Company vs. Parke Electric Cooperative. This involved the question of which utility would be entitled to serve a subdivision at Livingston, Montana. The owner of the subdivision wanted to receive power from the Parke Electric and even entered into a contract with Parke Electric for that purpose. The Supreme Court held that Montana Power was entitled to serve the area, by reason of the fact that electric service and current was available from Montana Power. The Supreme Court pointed out that Montana's statute was much more restrictive in this area than other statutes in other jurisdictions.

The next case was in 1963 and that was Montana Power Company vs. Vigilante Electric Cooperative. This concerned a tract of land being annexed to the city of Dillon, Montana. The cooperative was then serving eleven (11) customers in the annexed area. The Supreme Court again ruled that Montana Power would be entitled to serve the annexed area, by reason of Montana's rather restrictive statute. The Supreme Court did say that the cooperative could still serve its

existing members in the annexed area.

These two (2) cases illustrate that Montana Power was not interested in providing service to a skim milk area, but when the cream rose to the top, it was ready to provide service. Again, we can't criticise Montana Power, as again, this is just a good business practice<sup>is</sup> they were within ~~the~~<sup>our</sup> peculiar statute.

There then followed a case in 1967, which was Montana Power vs. Fergus Electric Cooperative. This related to furnishing power to a manufacturing plant near Lewistown, Montana. Montana Power apparently did have the closest line in the area; however, both utilities served customers in the immediate area. In addition, at that period of time, the closeness of a line made no difference under our statutes. Again, the Supreme Court pointed out the restrictive nature of our statute and ruled that Montana Power was entitled to provide the service. Judge John C. Harrison made a strong dissent, pointing out that prior decisions and existing laws protect private utilities in the expansion of cities and towns, but a decision such as this allows a private utility to actually invade the rural area. He further pointed out that the plant wanted to obtain power from the cooperative.

The next case was in 1971. Montana Power Company vs. Sun River Electric Cooperative. This case involved energy for a missile site located 12 miles east of Conrad. The contractor requested power from the cooperative. The cooperative had a line within 3,400 feet of the site and the nearest line of Montana Power was six (6) miles away. Again, the Supreme Court ruled in favor of Montana Power, indi-

cating Montana's different statute and pointing out the statute restricted service by cooperatives to rural areas and areas where service is not otherwise available. Of course, in 1971, the new Territorial Integrity Act had been enacted, but the Court indicated that the new Act could not govern its decision, since the case was filed before the Act was adopted. As I shall discuss later, this comment of the Supreme Court is important, because it is my understanding that those that oppose this amendment has indicated to the committee that the Act should be not amended at this time, by reason of the fact that a case is now pending concerning this subject. Judge Harrison again made a strong dissent.

The Montana Territorial Integrity Act was adopted in 1971 for the purpose of attempting to resolve the problems that existed between private utilities and rural cooperatives over the years. It did two (2) basic things in that it provided that the utility having the closest line would be entitled to serve an area and the restrictions were removed from the old statute that allowed private utilities to provide service to a rural area customer on the sole basis that it could make service available. Unfortunately, a sort of gray area still existed which concerned the ownership of facilities by an electric supplier that would be in an area to be served by another electric supplier that had the closest line. For example, a cooperative may wish to build facilities in an area served by a private utility and a private utility may wish to build facilities in an area being served by a rural cooperative. As a result, Section

69-5-107 MCA was born and that reads as follows:

"Service to property owned by an electric supplier.  
Nothing in 69-5-103 though 69-5-106 shall restrict  
the right of an electric supplier to furnish electric  
service to any property owned by the electric supplier.

I believe that this Section was rather hastily thrown into the Act, without considering its possible effect, in that it would be opening the door to future difficulties that the Legislature had hoped it had resolved. Other provisions of the Montana Territorial Act specifically refer to premises and refer to premises to be served with electricity. Section 69-5-107 MCA merely refers to any property owned.

I also believe that it was the intention of the Legislature in enacting Section 69-5-107 to protect either cooperatives or private utilities as to the facilities that they used in their usual business. It is my understanding that other persons have previously indicated to this committee to the intent of this provision.

Now, with these thoughts in mind, let us consider what can happen and may happen in the future if this Section of the Act is allowed to stand without amendment. Section 69-5-107, as it is now written, could allow a cooperative or a private utility to purchase an entire subdivision, construct apartment houses, condominiums and other dwellings not actually facilities used in the customary business of an electric supplier and then claim it is entitled to serve the area because of mere ownership of property. This would be despite the fact that another utility had the closest line.

I do not believe that it was the intent of the Legislature that a cooperative or a private utility could circumvent the purpose of the Act, which allows the electric supplier with the closest line to serve an area by the purchase of huge tracts of land that are intended to be used for purposes not related to the utility business. For example, a cooperative or a private utility could acquire an entire subdivision, claim it could serve the area, by reason of ownership and then turn around the next day and sell the buildings or building sites to private individuals. Who would be receiving power after that? It wouldn't be the utility company, but would be private individuals.

There is absolutely nothing wrong with an electric supplier being entitled to provide power to its own business facilities, but to allow an electric supplier to acquire an entire subdivision to eventually provide power to private persons is a circumvention of the intent of the Montana Territorial Integrity Act.

I would assume that those that oppose the amendment to the Act will urge this committee that the Act should not be amended, by reason of the fact that an action is now pending in Rosebud County concerning the meaning of this section of the Montana Territorial Integrity Act and that the Courts should be allowed to decide the issue.

If, in fact, the Legislature enacted a provision that would allow any electric supplier, be it a cooperative, or a private utility, to circumvent the intent of the Legislature, then it would seem that the Legislature should correct the mistake and not put the burden on the Courts. If this section had been properly worded when originally enacted, the matter would not be in litigation now.



Also, as I indicated, in 1971, when the Montana Territorial Integrity Act was enacted by the Legislature, there was then pending litigation between Montana Power and Sun River Electric Cooperative; however, the Legislature found it proper and necessary to enact the Montana Territorial Integrity Act.

I do not feel that the Legislature should delay the enactment of amendments to defective legislation purely on the basis of pending litigation. If this were true, legislation on any subject could be delayed for years. For example, there was pending litigation in the Courts of 1961 through 1971 involving the conflict between Montana Power and rural electric cooperatives. If the Legislature would refuse to enact any legislation concerning an issue involved, then the Montana Territorial Integrity Act probably would not have been enacted to this day.

I would hope that if this committee feels that the provisions of this statute as it now reads was not the true intent of the Legislature, and if the committee believes that its present language does allow a circumvention that was never intended that, in all fairness, this amendment will be approved for consideration by the Legislature. There is an old maxim in the law, which provides that a man should not be allowed to profit from the mistake of another.

If a mistake was made, then I feel the Legislature should be given the opportunity to correct this mistake.

Section 69-5-107 was intended to be an exception to the basic provision that the electric supplier with the closest line

was entitled to provide service to the premises. The exception being if an electric supplier owned a facility in an area, that it would be entitled to provide power to its own facility.

The proposed amendment merely clarifies the intent of this section by referring to "premises" rather than "property owned" and further providing that this exception to the basic law will only apply to facilities used by an electric supplier in its customary business operations.

The enactment of this amendment will prevent an electric supplier from circumventing the true purpose of the Montana Territorial Act by purchasing an entire subdivision for the purpose of attempting to service premises that actually are not and never will be facilities used by the electric supplier in its customary business.

Re: H.B. 262

## Electric Rates For Coalstrip Area

## Montana Power Company-

\$2.25 monthly service charge + .04804 per K.W.

## Tounge River Electric Co-op

\$5.00 monthly service charge

5.4 cents per KW for first 100 K.W.

2.4 " " " " next 1100 K.W.

1.6 " " " " all over 1200 K.W.

## Comparative Rates per 1000 KW

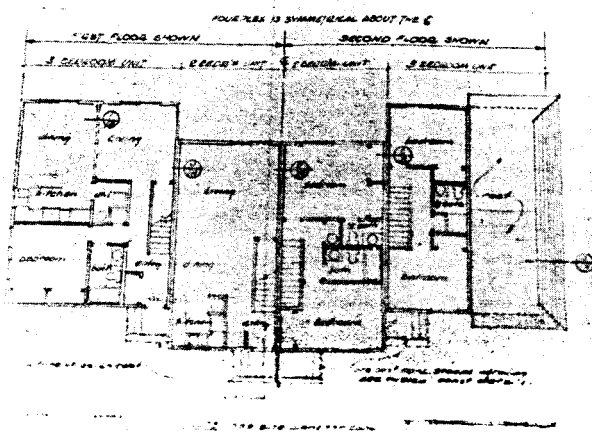
<u>Tounge River Electric Co-op</u>	<u>Montana Power Company</u>
000 KW \$32.00 - - - - -	\$27.05
000 KW \$49.00 - - - - -	\$51.86
000 KW \$65.60 - - - - -	\$76.66
000 KW \$81.60 - - - - -	\$101.47
000 KW \$97.60 - - - - -	\$ 126.27
000 KW \$113.60 - - - - -	\$151.07
000 KW \$129.60 - - - - -	\$175.88

Second Section

January 9, 1981

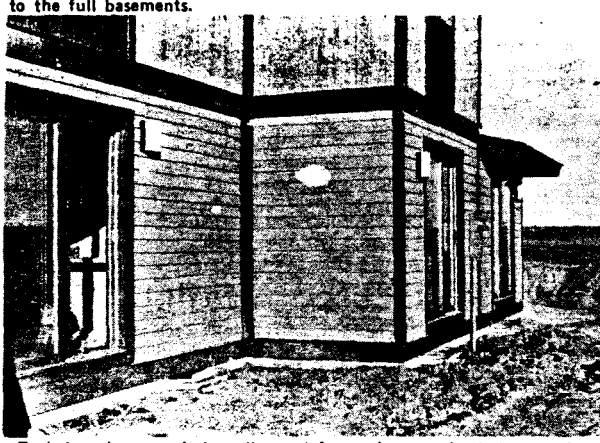
# ROSEBUD COUNTY PRESS

## Castle Rock Lake Subdivision Nears Completion

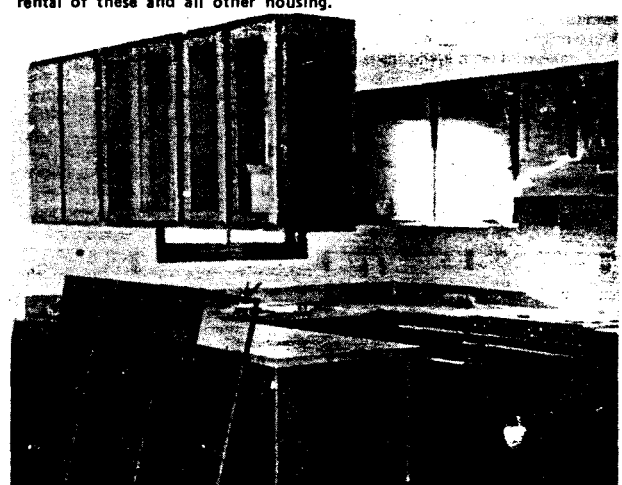


The three bedroom townhouses will have 1190 sq. feet of living space not including the full basement. The 3 bedroom units will also have 1 3/4 baths and a two car garage. The 2 bedroom units have single car garages, 1 1/2 baths, and 1024 sq. feet of living space in addition to the full basements.

Construction Inspector Dan Negethon stated that the townhouses should be ready for occupancy by spring. The units may be bought or rented. Sunlight Development Company is handling the sale and rental of these and all other housing.



Each townhouse unit has all wood frame doors and windows and each will have a back court yard enclosed with a 6 foot wooden fence. A tot lot is planned for an area in the center of the units. The townhouses are from Boise Cascade and were made in Laurel, Montana.



The kitchens in each of the 48 townhouses come equipped with stove, refrigerator, and stacked washer and dryer.

## Gymnasts To Host Local Meet On Friday, Jan. 16

An invitational Gymnastics meet will be held by the Colstrip team, Friday, Jan. 16, in the Colstrip High School Gym. Three gymnastic teams will definitely be in competition starting at 3:30 that day, besides Colstrip, Fort Benton, and Broadus. Glendive, Miles City, and Billings Central have also been invited to participate in the event. Besides competition, Colstrip will have all of the girls who are

not on the varisty team showing their skills in special exhibitions. Fort Benton will also have a special exhibition in which their boys team will go through their paces in floor exercises, side horse, vault and the even bars. Coaching the Colstrip girls will be Eilan LaTang, along with Sandy Heines, who has had experience in gymnastics in South Dakota.



A total of 26 single family homes will also be built in the Castle Rock Lake subdivision. 25 of these are Style Homes and are from Riverton, Wyo. 12 lots will be made available for sale at some time in the future in the area west of the townhouses.

# Colstrip pinched for commercial space

By JOHN HALBERT  
Staff Writer

Plans for providing housing at Colstrip for an expected influx of 8,000 persons are progressing, but there is no room for commercial expansion, a group of legislators and were told by Montana Power Company officials Saturday.

Saturday's tour was organized by Rep. Tom Assay, R-Forsyth. Eight area legislators attended the tour of a power plant, mine site, and reclaimed land in the Colstrip area.

Colstrip population is expected to peak at about 8,000 in 1982 during construction of the power plant units 3 and 4. When the units are finished, the population will probably go down to about 4,500.

Three neighborhoods of mobile homes are either built or planned, according to Pat Gordon of MPC's housing department.

He said two of the neighborhoods, which together will total 521 mobile homes, are complete except for some landscaping. Another neighborhood, with 271 units planned in its first phase, will not be ready until next spring.

Jim Rogers, MPC's manager of thermal operations at Colstrip and Billings, said there is presently no land left for commercial development in Colstrip except for a light industrial park that does not yet have sewer and water.

However, he said, MPC is in the process of buying a tract of land from Burlington Northern near the original townsites that may become available for business operations.

He said surveys of Colstrip residents show that a movie theatre, bowling alley and restaurant are the most desired amenities now lacking in the community.

He said the company is planning one neighborhood of permanent housing in

addition to the three neighborhoods of mobile homes. Construction of 48 townhouses and 25 single family homes is just now getting underway, with delivery of the first pre-fabricated townhouses expected next week.

The company is planning for the projected downturn in population, he said. In the mobile home neighborhoods, for example, two units are placed on each lot. After the population peaks, trailer units will be moved out and single family units will be built, Gordon said.

There are other forms of housing. A bachelor dormitory can accommodate 300 single men, and provides a dining hall and laundry. A block of 191 pads for campers is at full capacity, and will be expanded by another 88 units in December, he said.

Almost all the sewer and water services are in place for all the neighborhoods, he said, and only a few pieces of equipment are needed to complete the lift stations and other parts of the system.

He said Sunlight Development, a non-profit corporation owned by MPC, is taking over the handling of municipal services, and acting as landlord for the rental units provided by the company. If the town's citizens had voted to incorporate as a city in the recent general election, the city government would have taken over the municipal services, he said.

Lots for permanent houses will not be sold until after the population starts to decline, Gordon said in a later interview. He said the company will encourage persons to buy, "because we want to get out of the business of running towns."

He said mobile home units, but not the lots they stand on, will be sold now at the company's cost plus the cost of improvements.

At lunch, the group was addressed by MPC officials and by two members of

the Northern Plains Resource Council, Wally McRae and Nick Golder, who outlined some of the reservations of the group has about reclamation of the mines and mine-mouth generation of electricity for transmission to distant cities.

The men from the NPRC accompanied the tours, adding their comments to those of power and coal company officials.

The eight legislators on the tour were Assay, Sen. Don Ochsmier, R-Miles City, who is awaiting a recount of the votes that put him in office, Rep. Michael "Gerry" Devlin, R-Terry, Rep. John Ryan, R-Brusett, Rep. David O'Hara, R-Billings, Rep. Harrison Fagg, R-Billings, Rep. Dean Switzer, R-Richey, and Rep. Jean McLane, R-Laurel.

Assay said he did not mean to exclude the Democratic legislators, although he did not contact the Democratic legislators directly when organizing the tour.

He said he talked to Sally Jordan, state Democratic central committee chairman, and Rep. Tom Conroy, D-Hardin, and asked them to tell members of their party about the tour.

"I'm a freshman legislator, too, and I didn't want to step on anybody's toes," Assay said.

He said he wanted the legislators to talk to both MPC and NPRC spokesmen, "and see that they have mutual goals; that the antagonism has brought some improvements."

"We are in the hotbox in this part of the state," he said. "We don't have a majority of the votes. I want to get a coalition of legislators in this part of the state."

He said he wants people to "look at the long run," and not allow "rip, rape and run."



The shadow of steam and smoke from a tall stack at the Colstrip power plant covers buildings and mobile homes in that community. Area legislators

expected due to the building of Colstrip 3 and 4. It is estimated the town will hold 8,000 persons in 1982, and 4,500 by 1985. (Star photo by John Halbert)

Devlin also said he appreciated having both MPC and NPRC spokesmen on the tour.

"They've done some good work together," Devlin said. "It's not just a shouting match."

He said the most important part of the tour was a talk made by a rancher north of Colstrip, who said the country in that region will not hold water, and the reservoir that serves the town and the plants at Colstrip has created a seep problem that has soured much of the bottom land along Armalls Creek. The

problem is caused by mineral salts in the land that cut growing potential when water is high.

"We have to be alert to the possibility of seepage from large reservoirs," Devlin said. He said energy companies are looking at off-stream storage for their needs, and this may threaten agricultural land.

Ochsner said he learned something about the reclamation efforts.

"I think they're doing a fine job, particularly with two dry years," he said. "They've got some cover; of course, they seeded several times. I was very

much impressed with the reclamation."

Ryan said he was impressed by the fact that one plant was putting out twice as much power as Fort Peck. The building of the dam destroyed more good bottom land with the lake than will ever be dug up at Colstrip, he said, adding that he used to live along the Missouri River.

"We've got to have jobs, and we've got to have energy," Ryan said. "It hurts some people, but that's the price of progress. I was impressed with the amount of people making a living there."

the  
**miles city star**

Vol. 69 — No. 150 — Miles City, Montana, Tuesday, November 18, 1980, 25 cents

Under new formula

HB-262

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF MONTANA  
IN AND FOR THE COUNTY OF BEAVERHEAD

THE MONTANA POWER COMPANY,  
a corporation,

Plaintiff,

-vs-

No. 27-5-111

VIGILANTE ELECTRIC COOPERATIVE,

Defendant.

TEMPORARY RESTRAINING ORDER  
ORDER TO SHOW CAUSE

The Plaintiff above-named having filed a Complaint in the above action, together with an Affidavit showing grounds exist for the issuance of a Temporary Restraining Order, pursuant to MCA 69-5-111 (1979); and the Court having been fully advised in the matter; NOW, THEREFORE, IT IS HEREBY ORDERED that the Defendant, Vigilante Electric Cooperative, be temporarily restrained from providing electrical service to the premises of Co-Op Supply, Inc., located at 700 North Montana, Dillon, Montana, with the specific exception that if Vigilante Electric Cooperative is presently supplying temporary construction power to the premises, it may continue to supply said temporary construction power to the premises, until the final Order issued by this Court in this action;

IT IS FURTHER ORDERED that the Defendant appear before the above-entitled Court at a hearing to show cause why the Temporary Restraining Order should not be made permanent; said hearing to be held in the above-entitled Court on Tuesday, February 10, 1981, at 10:00 o'clock, a.m., pursuant to MCA 69-5-111 (1979).

DATED this 27<sup>th</sup> day of January, 1981.

District Judge

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT  
OF THE STATE OF MONTANA  
IN AND FOR THE COUNTY OF BEAVERHEAD

THE MONTANA POWER COMPANY,  
a corporation,

Plaintiff,

-vs-

No. 9356

VIGILANTE ELECTRIC COOPERATIVE,

Defendant.

C O M P L A I N T

COMES NOW the Plaintiff, THE MONTANA POWER COMPANY, and for its Complaint against the above-named Defendant alleges as follows:

I.

That the Plaintiff is an electric supplier as defined in MCA 69-5-102 (1979), and the Defendant is an electric cooperative, and electric supplier as defined in MCA 69-5-102 (1979).

II.

That Co-Op Supply, Inc., of Dillon, Montana, is constructing a new "premises" as defined in MCA 69-5-102 (1979), on property which is located within the corporate limits of Dillon, Montana, which is an incorporated municipality, having a population in excess of Thirty-five Hundred (3500) persons.

III.

The Plaintiff, as an "electrical supplier", asserts that it has the right to serve the premises of Co-Op Supply, Inc. with electricity, in accordance with the "Territorial Integrity Act of 1971", MCA 69-5-101 (1979) <sup>et. seq.</sup> and that the Defendant should be enjoined from serving Co-Op Supply, Inc. with electricity.

IV.

That the premises of Co-Op Supply, Inc., at 700 North Montana, Dillon, Montana, has not been served by either the

3/17/19  
11 minutes, 100  
and not 1000

Plaintiff or Defendant, and that because it is located in the City of Dillon, the Montana Power Company has the exclusive right to serve said premises with electrical energy, pursuant to MCA 69-5-101-111 (1979).

... V. ...

That this action is brought pursuant to the "Territorial Integrity Act of 1971" and specifically, pursuant to MCA 69-5-111, which specifically provides that the Court can issue, without notice, a temporary restraining order, if the Complaint is accompanied by an affidavit showing that grounds exist for issuing the temporary restraining order. Pursuant to MCA 69-5-111 (1979), an affidavit is attached hereto, marked Exhibit "A", and by reference made a part hereof, setting forth grounds sufficient for the issuance of a temporary restraining order.

WHEREFORE, the Plaintiff prays that a temporary restraining order, restraining the Defendant from serving Co-Op Supply, Inc. with electrical energy, be issued; that a hearing be held February 3, 1981, pursuant to an Order to Show Cause why the Temporary Restraining Order should not be made permanent; that after hearing, the Court enter its Order and Judgment, permanently enjoining and restraining the Defendant from serving the premises of Co-Op Supply, Inc., 700 North Montana, Dillon, Montana, with electrical energy; and for such other and further relief as to the Court seems meet and just in the premises.

DATED this 27<sup>th</sup> day of January, 1981.

... CORETTE SMITH POHLMAN & ALLEN

By R. D. CORETTE, JR.  
Attorneys for the Plaintiff  
P. O. Box 509  
Butte, Montana 59703



A F F I D A V I T

STATE OF MONTANA       )  
                               : ss.  
 County of Silver Bow)

LEONARD JOHNSON, being first duly sworn, deposes and says:

That he is the Manager of the Montana Power Company, at Dillon, Montana. That he is personally aware that Co-Op Supply, Inc. is constructing premises at 700 North Montana, Dillon, Montana, an incorporated city with more than 3500 people in population.

That he is aware that Co-Op Supply, Inc., in constructing the premises, is using electric energy being supplied by Vigilante Electric Cooperative, for purposes of construction and that it would appear that Vigilante Electric Cooperative is intending to supply electric power to Co-Op Supply, Inc. on a permanent basis.

That he has attached to this Affidavit a resolution of the Board of Directors of Co-Op Supply, Inc. stating that Co-Op Supply, Inc. desires its electrical power service to be provided by Vigilante Electric Cooperative. That it is imperative before permanent electric energy is supplied to Co-Op Supply, Inc. that a determination be made by the Court as to whether the Plaintiff or Defendant should supply permanent electric energy. That Vigilante Electric Cooperative should be temporarily restrained from proceeding with construction and/or supply of permanent electric energy.

FURTHER AFFIANT SAYETH NOT.

  K    
 Leonard Johnson

SUBSCRIBED AND SWORN TO before me this 27 day of January, 1981.

(NOTARIAL SEAL)

R. D. CORETTE, JR.  
 Notary Public for the State of Mont.  
 Residing at Butte, Montana  
 My Commission expires 6/17/81

# CO-OP SUPPLY, Inc.

PHONE 683-2308

226 E. BANNACK

DILLON, MONTANA

59725

October 20, 1980

Resolution      Board of Directors  
Co-op Supply, Inc.  
226 E. Bannack  
Dillon, Mt. 59725

Be it known to any and all interested parties that the Board of Directors of Co-op Supply, Inc., 226 E. Bannack, Dillon, Montana do formally request electrical power service at our new location at 700 N. Montana in Dillon from Vigilante Electric Co-operative.

Being of similar structure and having done considerable business with Vigilante Electric in the past we feel it is very imperative that they be allowed to service our new facility.

Board of Directors

Keith Peters  
Keith Peters, President

Robert F. Jackson  
Robert Jackson, Secretary

Keith Anderson  
Keith Anderson

W. W. Hawkins  
W. W. Hawkins

Elmer Peterson  
Elmer Peterson

NAME Thomas W. Maddox BILL No. HJR 4  
ADDRESS Box 4848, Helena MT 59604 DATE 2/4/81  
WHOM DO YOU REPRESENT MONTANA Association of Tobacco  
AND CANDY DISTRIBUTORS IN.  
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

442-9555 ofc

442-1582 home