

MINUTES OF MEETING  
SENATE JUDICIARY COMMITTEE  
January 21, 1981

Page 1.

The tenth meeting of the Senate Judiciary Committee was called to order by Mike Anderson, Chairman, on the above date in Room 331, at 10:00 a.m.

ROLL CALL:

All members were present except for Senator Tveit, who was excused.

CONSIDERATION OF SENATE BILL 33:

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA.

Senator Goodover presented the bill as representative of the Legislative Council. Code Commissioner Diana Dowling, explained that in 1975 a mandate was handed down to rearrange the Codes with an eye to eliminating outdated laws, duplication, inconsistencies, and errors in law. This bill, she explained, is part of a continuing effort to accomplish the mandate.

Senator Crippen took issue with the use of the word "revise" in the title, but Ms. Dowling said that any substantive changes made by the Code Committee would be thrown out anyway, since it would be outside their mandate.

Bob Pyfer, of the Legislative Council, then outlined the planned presentation by staff members of Senate Bill 33 (marked Exhibit A, and attached to these minutes). Since each attorney had worked with several different sections, these sections would be covered all at one time, rather than going down through the bill's sections in numerical order.

Cort Harrington, Legislative Council member led with a discussion, in particular, of Section 63 on page 7, title 15. He said that Sections 63-70 involve a problem coordinating a bill passed last session. Chapter 693 replaced sections with other sections, and in doing so the intent of the other bill might not have been accurately reflected.

Laurence Weinberg, attorney with the Department of Revenue, stressed the importance of maintaining the intent, and

presented a copy of the resolution from the Revenue Oversight Committee (marked Exhibit B and attached to these minutes).

General explanation of the proposed changes may be found in the pages of the explanation of the bill, marked Exhibit C and attached to these minutes.

Specifically, Lee Heiman, of the Legislative Council, said that in the bill, on page 4, line 16, following "a", the word "statutory" should be inserted as an amendment. He further proposed to amend page 4, line 15, by striking the words "in this chapter".

Senators S. Brown and Mazurek felt that Section 15 represents a substantive change, and should not be included in the bill. Mr. Pyfer stated that the matter of public employees' holidays was very unclear under present law, and that some clarification seemed to be indicated; but, rather than jeopardize the entire bill, that portion could be dropped.

Senator Berg moved that Section 15 be dropped from Senate Bill 33, and the motion passed unanimously.

Mr. Weinberg then offered an amendment (marked Exhibit D and attached to these minutes) to Section 64, page 52, lines 23 and 24.

Senator S. Brown asked whether the Supreme Court had reviewed the sections on Evidence, and Lee Heiman said that both the Supreme Court and Mr. Duke Crowley, a law professor at the University of Montana, had done so.

Further discussion of Senate Bill 33 was scheduled for Tuesday, January 26, at 10:00 a.m.



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Senator Anderson  
Chairman, Judiciary Committee

## ROLL CALL

JUDICIARY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 1/21/81

Each day attach to minutes.

**SENATE JUDICIARY COMMITTEE**

**BILL SB 33**

**VISITORS' REGISTER**

DATE 1/21/81

Please note bill no.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY

NAME: Carl Harrington DATE: 1/21/81

ADDRESS: Legislative Council

PHONE: 449-3064

REPRESENTING WHOM? Legislative Council

APPEARING ON WHICH PROPOSAL: Code Commission bill 5B

**DO YOU: SUPPORT? AMEND? OPPOSE?**

COMMENTS: Explain certain actions of the SB 37  
sections amending Titles 1, 15, 19, 20, 27, 70, 72.

NAME: LEONARD DATE: 11/25/14

DATE: 1/2

ADDRESS: 1111 16th Avenue

PHONE: 2-1700

REPRESENTING WHOM? Sixty

APPEARING ON WHICH PROPOSAL: 51533

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENTS:

NAME: LAURENCE WEINBERG DATE: 1/21/81

ADDRESS: LEGAL DIV, D.O.R.

PHONE: 449-2852

REPRESENTING WHOM? D.O.R.

APPEARING ON WHICH PROPOSAL: SB 33

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

COMMENTS: WILL OFFER AMENDMENTS

WRT TAX

NAME: Russ Josephson DATE: 1/21/81

ADDRESS: Room 117 - Capitol Building

PHONE: X 3064

REPRESENTING WHOM? Legislative Council

APPEARING ON WHICH PROPOSAL: SB 33

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

COMMENTS: STAFF; here to explain parts of the bill  
I drafted.

Exhibit 5  
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HOUSE MEMBERS

OSCAR KVAALEN  
CHAIRMAN  
REX MANUEL  
ROBERT L. MARKS  
JOHN VINCENT

SENATE MEMBERS

PAT M. GOODOVER  
VICE CHAIRMAN  
CHET BLAYLOCK  
CARROLL GRAHAM  
FRANK HAZELBAKER



DIANA S. DOWLING  
EXECUTIVE DIRECTOR  
CODE COMMISSIONER  
ELEANOR ECK  
ADMINISTRATIVE ASSISTANT  
ROBERTA MOODY  
DIRECTOR, LEGISLATIVE SERVICES  
ROBERT PERSON  
DIRECTOR, RESEARCH  
SHAROLE CONNELLY  
DIRECTOR, ACCOUNTING DIVISION

# Montana Legislative Council

State Capitol

Helena, 59601

(406) 449-3064

January 19, 1981

TO: Attorneys  
FROM: Bob Pyfer *BP*  
RE: Hearing on Code Commissioner Bill

As you know by previous notice, the Code Commissioner Bill (SB 33, Goodover) will be heard in Senate Judiciary, Room 331, on Wednesday, January 21, at 10 a.m. Diana will give opening remarks, then each attorney will take his turn explaining all of the titles he worked on, including repealers (sec. 251), in the following order:

Cort *1, 15, 19, 20, 27, 70 (except 70-28-206), 72*

Lee *2, 7 (repeal 11-4305(5), 59-1007), 26, 33, 37, 53*

Jim *3, 45, 46, 61*

Katherine *5, 13, 16, 39, 75, 76, 85*

David *25, 70-28-206*

Greg *30, 32, 40, 41, 82*

Russ *35, 50, 67, 69, 80, 81*

Be prepared to discuss each section in your listed titles. Also select certain sections that you feel should be specifically pointed out to the Committee because of their quasi-substantive or apparently substantive nature; this is necessary because Judiciary Chairman Senator Anderson is inclined to only require you to explain those selected sections and to answer any questions from the Committee.

BP:ee

cc: Diana Dowling  
Sen. Mike Anderson

WHEREAS, slight technical difficulties in codifying chapters 693 and 706, Laws of 1979, have arisen because of the Legislature's inadvertent omission of a provision coordinating the two bills; and

WHEREAS, members of the 1979-1981 Revenue Oversight Committee were either members or observers of the House and Senate Taxation Committees during the 1979 Legislature and, as such, followed the progress of the bills closely and understood fully the intent of the legislation.

NOW, THEREFORE, BE IT RESOLVED, the Revenue Oversight Committee declares that in passing Chapters 693 and 706, Laws of 1979, the Legislature clearly intended that section 15-6-134 should read:

"15-6-134. Class four property -- description -- taxable percentage. (1) Class four property includes:

(a) all land except that specifically included in another class;

(b) all improvements except those specifically included in another class;

(c) all trailers and mobile homes used as permanent dwellings except:

(i) those held by a distributor or dealer of trailers or mobile homes as his stock in trade; and

(ii) those specifically included in another class;

(d) the first \$35,000 or less of the market value of any improvement on real property or a trailer or mobile home used as a permanent dwelling and appurtenant land not exceeding 5 acres owned or under contract for deed and actually occupied for at least 10 months a year as the primary residential dwelling of:

HOUSE MEMBERS  
OSCAR KVAALEN  
CHAIRMAN  
REX MANUEL  
ROBERT L. MARKS  
JOHN VINCENT

SENATE MEMBERS  
PAT M. GOODOVER  
VICE CHAIRMAN  
CHET BLAYLOCK  
CARROLL GRAHAM  
FRANK HAZELBAKER



*Exhibit C*

DIANA S. DOWLING  
EXECUTIVE DIRECTOR  
CODE COMMISSIONER

ELEANOR ECK  
ADMINISTRATIVE ASSISTANT

ROBERTA MOODY  
DIRECTOR, LEGISLATIVE SERVICES

ROBERT PERSON  
DIRECTOR, RESEARCH

SHAROLE CONNELLY  
DIRECTOR, ACCOUNTING DIVISION

ROBERT C. PYFER  
DIRECTOR, LEGAL SERVICES

## Montana Legislative Council

State Capitol  
Helena, 59601

(406) 449-3064

LC 422

1981 Legislature  
Code Commissioner Bill - Summary

SENATE Bill No. 33

AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS OF THE STATE OF MONTANA IN ACCORDANCE WITH THE MANDATE TO THE CODE COMMISSIONER CONTAINED IN SECTION 1-11-204, MCA.

### Title 1. General Laws and Definitions

Section 1. 1-11-101. Section catchlines cannot be changed by the code commissioner if the catchlines are specifically adopted as part of the law by the legislature. This amendment states this more clearly.

Section 2. 1-11-103. Clarifies provision stating that contents of the MCA other than statute text are generally not part of the law.

Sections 3 through 10. 2-15-131 through 2-15-137. Amends provisions on executive reorganization to insure that future transfers of agencies and functions in the executive branch are covered by the same provisions covering the original executive reorganization of 1971. The amended sections deal with employee rights, property rights, agency rules and orders, pending legal proceedings, existing transactions, references to the agency and federal aid qualifications. As amended, the sections refer to generic "reorganizations of the executive branch", which should be broad enough to cover any future agency transfers or function transfers.

### Title 2. State Government Administration

Section 11. 2-15-201. Amend out 2-15-201(10). Section referred to in sentence was repealed by Ch. 571, L. 1979, relating to a proclamation issued by Governor at least 60 days prior to a general election stating time of election and offices to be filled and an offer of reward for arrest and conviction of election law violators. Present law on elections makes the Secretary of State the chief election administrator in the state. The Governor no longer has these duties or anything comparable.

(10)



*Exhibit D*

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# STATE OF MONTANA

DEPARTMENT OF REVENUE  
MITCHELL BUILDING  
HELENA, MONTANA 59601

## SUGGESTED AMENDMENTS TO SENATE BILL 33

Amend p. 52, line 23

Following: "The"

Strike: "department's"

Insert: "department of health and environmental sciences""

Amend p. 52, line 24

Following: line 23

Insert "and water"