

MINUTES OF MEETING  
BUSINESS AND INDUSTRY COMMITTEE  
MONTANA STATE SENATE

January 28, 1981

The meeting was called to order by Chairman Hazelbaker at 10:06 A.M. in Room 404 of the Capitol.

ROLL CALL: All members of the committee were present with Senators Regan and Dover arriving by 10:30.

CONSIDERATION OF SENATE BILL 106. Chairman Hazelbaker called on Senator Matt Himsl, sponsor of SB 106, to explain the bill to the committee. This bill, if enacted, would allow a trustee to invest trust funds in demand time savings accounts and time certificates of deposit in any bank, including a bank operated by the trustee. (Attachment #1.)

Mr. Gene Phillips, attorney representing the Conrad National Bank spoke in favor of the bill. He related a brief history of the amendment which dates back to December, 1976. The comptroller of currencies ruled that state law did not allow deposits in question, but termed them investments. All funds, when mature, were ordered to be moved to other banks. The purpose of this bill, he said, is to clarify state law to allow leaving certificates of deposit in the bank where deposited. Under present regulations, this cannot be done.

Mr. John Cadby, representing the Montana Bankers Association, spoke in support of the bill. (Attachment #2.)

There were no opponents to SB 106.

CONSIDERATION OF SENATE BILL 147. Senator Goodover, chief sponsor of SB 147 presented the committee with amendments which he is proposing. (Attachment #3.)

This bill would allow a public utility to file a review complaint based upon known and measurable changes in an item of cost or expense which had increased since the utility's last general rate increase. The request for review would have to be filed by the utility within two years of the time of rate setting by the Public Service Commission and the PSC would be required to conduct a hearing within three months.

Mr. James Hughes, representing Mountain Bell, spoke in favor of the bill. He explained the term "rate lag" and related the procedure through which rates are established and granted by the PSC. (Attachment #4.)

Mr. Gene Phillips, representing Pacific Power and Light, concurred in Mr. Hughes' testimony. At the present time PP&L has an application before the PSC based on year ending December 1979. It was filed

August, 1980. A hearing is set for February 25, 1981. Probable date of order will be May, 1981--approximately seventeen months after the date to which costs are related and during a period of high inflation. He believes the bill would shorten that time span substantially and also, would not require a full-blown commission hearing every year.

Mr. Dennis Lopach, representing Butte Water Company, spoke in favor of the bill.

Mr. Mark Clark, attorney representing the Montana Power Company, spoke in support of the bill. He stated that the commission now has the power to do what the bill in concept would make mandatory. He said there is a time frame which limits the ability of the utility to take advantage of the rate review process and the bill would provide the utility a fair opportunity to achieve the rates of return.

#### OPPONENTS OF SENATE BILL 147.

Mr. James C. Paine, Montana Consumer Counsel, spoke in opposition to the bill. He stated that the "known and measurable expenses" mentioned in the bill are only a small fraction of the true financial situation of the utility. He also said the utilities were not competitive and the bill would not be an incentive for management to cut down on expenses and the potential for abuse is a factor. (Attachment #5.)

Mr. William Opitz, representing the Public Service Commission, spoke against the bill. He stated that the approach the commission uses is very much like what the legislature does when state agencies request a budget increase. He also noted that both Mountain Bell and Pacific Power and Light were granted increases while a full review was pending. (Attachment #6.)

Questions were asked by Senate committee members of opponents and proponents.

Senator Goodover moved that SB 147 be amended as proposed in Attachment #3. A roll call vote was taken and the motion failed 4-4. (Attachment #7.)

CONSIDERATION OF SENATE BILL 211. Chairman Hazelbaker, sponsor of the bill, explained that the bill would allow insurance agents to extend credit to policy holders for the payment of premiums for credit extended beyond 30 days. Interest up to 1 1/2% per month on the unpaid balance would be allowable. He said that insurance agents have had a statement printed on their invoices to the effect that if the amount due is not paid in 30-60 days, interest would be charged. The insurance industry believes this practice should become part of the insurance law.

Ms. Josephine Driscoll, representing Commissioner Omholt, spoke in favor of the bill. She said there is a question under present law whether or not an insurance agent may charge interest on late payment of premiums and if the practice continues, the law should be amended. She stated that insurance agents are expected to pay insurance companies for premiums if coverage is to stay in force. The agent in some cases may have to borrow money from the bank to pay the premiums.

Mr. Roger McGlenn, representing the Independent Insurance Agents of Montana, Inc., spoke in support of the bill. (Attachment #8.)

There was a discussion of Senate Bill 211. Senator Regan questioned the legality of assessing 1 1/2% interest per month.

Chairman Hazelbaker asked Greg Petesch, legislative researcher, to work with Ms. Driscoll to rewrite that portion of SB 211 which is in question and bring it to the committee for reconsideration.

CONSIDERATION OF SENATE BILL 49. The amendments proposed to the committee have not yet materialized and executive action will be postponed.

ACTION TAKEN ON STATEMENT OF INTENT, SENATE BILL 91. Adopted unanimously.

ACTION TAKEN ON SENATE BILL 91. Senator Goodover made a motion that Senate Bill 91 do pass; the motion carried unanimously.

ACTION TAKEN ON SENATE BILL 143. Senator Goodover made a motion that Senate Bill 143 do pass; the motion carried unanimously.

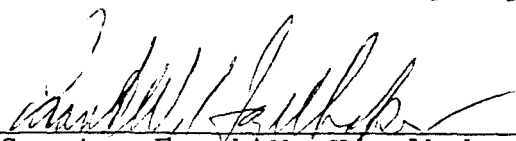
ACTION TAKEN ON SENATE BILL 90. Senator Dover made a motion that Senate Bill 90 do pass; the motion carried unanimously.

ACTION TAKEN ON SENATE BILL 151. Senator Dover made a motion that Senate Bill 151 do pass; the motion carried unanimously.

ACTION TAKEN ON SENATE BILL 106. Senator Lee made a motion that Senate Bill 106 do pass; the motion carried unanimously.

ACTION TAKEN ON SENATE BILL 147. Senator Regan moved that Senate Bill 147 do not pass. Senator Goodover made a substitute motion that consideration of the bill be postponed. The substitute motion carried.

ADJOURN. There being no further business, the meeting adjourned at 11:45 a.m.

  
\_\_\_\_\_  
Senator Frank M. Hazelbaker, Chairman

jt

ROLL CALL

BUSINESS and INDUSTRY COMMITTEE

47th LEGISLATIVE SESSION -- 1981

Date 1-28-81

NAME	PRESENT	ABSENT	EXCUSED
Goodover, Pat - Vice Chairman	✓		
Hazelbaker, Frank - Chairman	✓		
Blaylock, Chet	✓		
Boylan, Paul	✓		
Dover, Harold	✓ 1:30	Late	
Kolstad, Allen	✓		
Lee, Gary	✓		
Regan, Pat	✓ 1:20	Late	

Each day attach to minutes.

SENATE BILL 106

SENATOR HIMSL

C.D. in TRUST DEPT.

Senate Bill 106 would amend the powers of a trustee allowing a bank with a Trust Department to invest trust funds including investments in demand time savings accounts and time certificates of deposit in any bank including a bank operated by the trustee.

The purpose of this amendment is to clarify the position of a Trust Department which now, under audits, finds the Department and the comptrollers <sup>auditors</sup> ~~people~~ in a conflict about where a Trust Department can invest the money. The auditors have criticized trust departments for making anything but a less than a years investment in the banks time certificates --in effect forcing them to buy time certificates in another bank.

At the present time these short term investments earn at the money market rates which are standard and the certificates are all guaranteed to the limit of \$100,000 so there is no risk, nor is there competition in the rates. There is no reason why the Trust Department should not be able to purchase the certificates in their parent bank, and this amendment, it is suggested, would clarify the authorization and remove the trustees from criticism by the Trust Department examiners. That is all the amendment does.

I would urge your acceptance of the amendment as a reasonable and sensible approach.

NAME: JOHN CARRY DATE: 1-28-81ADDRESS: 706 HARRISONPHONE: RES 443-3536 BUS 443-4121REPRESENTING WHOM? MT. BANKERS ASSN.APPEARING ON WHICH PROPOSAL: SB 106DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐COMMENTS: SB 106 WOULD ENABLE BANKSTO INVEST BANK EMPLOYEES RETIREMENTFUNDS IN CERTIFICATE OF DEPOSITSWITHIN THE EMPLOYEES BANK

SENATE BILL 147, INTRODUCED BILL

1. Amend page 2, line 1.  
Following: "entered."  
Strike: "Hearing"  
Insert: "Decision"
2. Amend page 2, line 1.  
Following: "complaint"  
Strike: "is"  
Insert: "shall be"
3. Amend page 2, line 1.  
Following: "notice"  
Strike: "is"  
Insert: "and hearing,"
4. Amend page 2, line 3.  
Following: "be"  
Strike: "conducted"  
Insert: "made"
5. Amend page 2, line 3.  
Following: "basis"  
Strike: "not to exceed"  
Insert: "within"
6. Amend page 2, line 4.  
Following: "months"  
Strike: "from"  
Insert: "of"

SENATE BILL 147

\* \* \* \* \*

This bill is intended to give public utilities partial relief from the problems involved with "regulatory lag" in the limited circumstance where there is a current general rate order (not more than two years old) and there are known and measurable changes in items of cost or expense to the company. Under these circumstances the Montana Public Service Commission (PSC) is directed to hold a hearing on an expedited basis and to consider the known and measurable changes in light of its previous order. The previous order is then updated to reflect such changes.

REGULATORY LAG

Regulatory lag occurs in the following manner. The PSC requires public utilities to file rate applications using an historic or past and established "test year". Thus, for example, if a public utility chose to use the test year 1975, the final figures for that year from its books would not be available until some time after the close of the books in 1976. Using those figures it would prepare its application for rate relief and file it with the Commission. The Commission then could take an additional nine months or more to schedule and hold a hearing in the matter and enter a final order. Upon receiving a final order the utility must prepare tariffs and file the same with the Commission before any effective rate relief is received. In the interim the utility is allowed only to charge on rates from its previous rate order which may be several years out of date. When final rate relief is granted it



is based upon a past test period which may be one, two or three years out of date. Rate changes operate prospectively only.

In short the utility is always operating currently on the basis of a test period long past.

#### BRING UP OR UPDATE CASE

This bill would allow an abbreviated or mini-case to be brought to update an existing rate order for known and measurable cost or expenses incurred by the public utility in the interim between its last rate order and its filing under the provisions of this proposed act. Since the public utility is only updating an existing order it would be bound by the Commission's findings as to all factors except the known and measurable changes in its costs or expenses.

#### KNOWN AND MEASURABLE CHANGES

The most obvious known and measurable change in cost and expense to a public utility would be wages, benefits and payroll taxes related thereto. For example, if Mountain Bell entered into a new labor contract with one of the unions representing its employees, that new wage package would be established by contract and thus "known and measurable". Capital investments are not items of "cost or expense", even though known.

#### TWO YEAR DURATION OF RIGHT TO RELIEF

The bill specifies a two year period after the entry of a general rate order for a "bring up" or "update" case. It is presumed that

under normal circumstances the general order of the Public Service Commission will remain relatively fair and in balance for that period of time as to most factors other than extraordinary expenses falling within the category of 'known and measurable'.

#### NEED FOR EXPEDITED HEARING

Obviously if the relief is to be of any benefit to the public utility it must be on an expedited basis. It is anticipated that since this will be a "mini" or restricted hearing directed only items of extraordinary cost which are "known and measurable" that the issues will be very narrow; the number of witnesses required few; and that the hearing can be noticed and held within a relatively short time. It is also anticipated that if a utility can update an existing order bringing general rate cases will occur less frequently. This should save considerable money for the State of Montana and the Consumer Counsel in administering and handling such hearings, and also will save the rate-payers of the public utility the necessity for continual filings.

It is also anticipated that this will be less economic "shock" to ratepayers since the quality of service will be maintained and in addition, the increases in rates will tend to be spread out rather than lumped which makes it easier for taxpayers to budget and absorb increases which will be gradual rather than sudden and large.

NAME: James C. Paine DATE: 1/28/81ADDRESS: 34 W. 6<sup>th</sup> Ave.PHONE: 449-2771REPRESENTING WHOM? Montana Consumer CouncilAPPEARING ON WHICH PROPOSAL: SB 147DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: ① Examining an isolated increase in expenditures does not reflect the true financial posture of a utility. One must look at all pertinent financial data in order to determine what shape the utility is in.

② Will have an adverse fiscal impact on the Consumer Council Office. No fiscal impact statement has been requested of our office.

NAME: William J. Opitz DATE: Jan 28, 1981ADDRESS: 2 Wood Ct Helena MontPHONE: 443-3624REPRESENTING WHOM? PSCAPPEARING ON WHICH PROPOSAL: SB-147DO YOU: SUPPORT?        AMEND?        OPPOSE? X

COMMENTS: <sup>(1)</sup> SB-147 will encourage every utility to have a <sup>general</sup> rate case @ least every two years. <sup>(2)</sup> Confines the PSC to only look @ the expenses of a utility that the utility complains about. <sup>(3)</sup> The term "uniform basis" is ambiguous; ie does it mean constant %, \$/MCF, \$/customer? <sup>(4)</sup> Penalizes the efficient utilities; <sup>(5)</sup> Would create a tremendous peak load on the Commission, probably after new labor contracts were signed after July 1 & Jan 1 of each year. <sup>(6)</sup> Commissioners, staff & calendar will be unable to handle all the cases. <sup>(7)</sup> Need additional resources, staff & money, in order to properly implement. <sup>(8)</sup> Would require a constant review of past cases. <sup>(9)</sup> Does not take into account growth in rev & accounts.

10 oranges      cust #  
 5 Customers { 2-3 oranges  
                   1-2 oranges  
                   2-1 orange

Cost  
 Labor 50¢  
 Oranges 5¢/A piece

Come to PSC. Set rate @ 11¢/orange

$$\text{Tot Revs } 11 \times 10 = \$1.10$$

$$\text{Total Cost } \underline{1.00}$$

$$\text{Profit } .10$$

1 year later.

Market - 20 Oranges  
 Labor cost - .75  
 Cost of oranges - \$1.00 (.05/orange)  
 Customers - 20

Tot. Revs. =  $20 \times 11 = 2.20$   
 Labor + Oranges 1.75  
 Profit. .45

Asks for .25 ↑ because labor has ↑

Q. How would you spread the increase?

# Oranges ... increase would be  $\frac{.25}{10} = 2.5¢ = 11 + 2.5 = 13.5 \approx 14$  rounds

$$\text{Tot Revs.} = 14 \times 20 = \$2.80$$

$$\text{Tot Cost} = 1.00 + .75 = 1.75$$

$$\text{Profit } \underline{\$1.05}$$

By customers:  $.25/5 = .05/\text{cust.}$

$$\text{Tot Revs.} = (20 \times .05) + (20 \times .11) = 3.20$$

Tot Exp

Profit

$$\underline{\$1.45}$$

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date Jan. 28, 1981 Amendments to Senate Bill No. 147 Time           

NAME	YES	NO
Hazelbaker	✓	
Goodover	✓	
Dover	✓	
Kolstad		✓
Lee	✓	
Regan		✓
Blaylock		✓
Boylan		✓

*James L. Hunter*  
Secretary

*John H. L. L.*  
Chairman

Motion: To amend SB 147 as indicated in minutes of 1/28/81 by  
Attachment #3.

(include enough information on motion—put with yellow copy of committee report.)

# Independent Insurance Agents of Montana INCORPORATED



The Independent Insurance Agents Association of Montana support Senate Bill 211.

With today's high interest rates the insured is tempted to withhold payment of premium for as long as possible. The agent is reluctant to cancel an otherwise good account. For this reason the agent often delays cancellation for nonpayment of premium. We feel that this practice could be interpreted as a form of rebating. As you know rebating is prohibited under our insurance code.

Roger McGlenn

NAME: C E A E D HILLIES

DATE: 1/23/81

ADDRESS: KALISPELL

PHONE: 783 - 6644

REPRESENTING WHOM? UCAOAD AMERICAN - 2 241K

APPEARING ON WHICH PROPOSAL: 25766

DO YOU: SUPPORT? ☒

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



NAME:

DATE :

ADDRESS:

PHONE:

REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

NAME: GENE PHILLIPS DATE: 1/22/61

ADDRESS: KALISPELL

PHONE: 755-6644

REPRESENTING WHOM? PACIFIC POWER & LIGHT

APPEARING ON WHICH PROPOSAL: SB 147

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

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

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PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME:

MARK A. CLARK

DATE:

1/25/91

ADDRESS:

40 E. Broadway, Butte, MT 59701

PHONE:

723-5421

REPRESENTING WHOM?

Montana Power Co.

APPEARING ON WHICH PROPOSAL:

SB 147

DO YOU:

## SUPPORT?

✓

AMEND?

OPPOSE?

CCMMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

NAME: Josephine Driscoll DATE: 1-28-87

ADDRESS: Ins. Dept., State of Mt.

PHONE: 449-2996

REPRESENTING WHOM? Ins. Dept., St of Montana

APPEARING ON WHICH PROPOSAL: 211

DO YOU: SUPPORT? ☒ AMEND? ☐ OPPOSE? ☐

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

NAME:

DATE:

ADDRESS:

PHONE:

## REPRESENTING WHOM?

APPEARING ON WHICH PROPOSAL:

DO YOU:

**SUPPORT?**

AMEND?

OPPOSE?

COMMENTS :

DATE \_\_\_\_\_

COMMITTEE ON \_\_\_\_\_ BILL NO. 513147

BILL NO. 515147

211  
106

## VISITOR'S REGISTER

NAME	REPRESENTING	Check One	
		Support	Oppose
GEORGE T. BENNETT	MOUNTAIN STATES TEL & TEL	✓	
JAMES R. HUGHES	MOUNTAIN BELL	✓	
Mark A. Clark	Montana Power Co	✓	
Margaret MacDonald	Northern Plains Resource Council		✓
Phyllis A. Bock	MT. LEGAL SERVICES & MT'S POWER TO THE PEOPLE		✓
Janet C. Paine	Montana Consumer Council		✓
GENE DALLIPS	Pacific Power & Light	✓	
Bill Ortiz	PSC		X
Harry R. Riedler	M & U	✓	
Josephine Driscoll	Ins. Dept., St. of Mt.	✓ 211	
M. Valencia Lane	Ins. Dept., St. of Mt.	✓ 211	
Mike Zimmerman	M.P.C.		
JOHN CADBY	MT BANKERS ASSN	✓	
Ed Shedd	Mt. Assoc. of Life Underwriters SIB 211		
Jim Jensen	---		12:7
Jennis R. Hopach	Butte Water Co.	✓ 147	

(Please leave prepared statement with Secretary)

# STANDING COMMITTEE REPORT

January 28 19 81

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration STATEMENT OF INTENT, SENATE Bill No. 91

Respectfully report as follows: That STATEMENT OF INTENT, SENATE Bill No. 91  
be adopted.

## STATEMENT OF INTENT RE: SB 91

A statement of intent was requested for this bill by the Senate Committee on Business and Industry.

It is the intent of the legislature that SB 91 not conflict with SB 90. The bills are not in apparent conflict but both amend section 90-6-111. Both bills are effective on passage and approval. It is the intent of the legislature that should both SB 90 and SB 91 be enacted into law, section 90-6-111 should read as follows:

(continued)

DO PASSX



"90-6-111. Bonds and notes. (1) The board may by resolution, from time to time, issue negotiable notes and bonds in a principal amount as the board determines necessary to provide sufficient funds for achieving any of its purposes, including the payment of interest on notes and bonds of the board, establishment of reserves to secure the notes and bonds, including the reserve funds created under 90-6-119, and all other expenditures of the board incident to and necessary or convenient to carry out this part.

(2) The board may by resolution, from time to time, issue notes to renew notes and bonds to pay notes, including interest, and whenever it deems refunding expedient, refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and issue bonds partly to refund bonds outstanding and partly for any of its other purposes.

(3) Except as otherwise expressly provided by resolution of the board, every issue of its notes and bonds shall be obligations of the board payable out of any revenues, assets, or moneys of the board, subject only to agreements with the holders of particular notes or bonds pledging particular revenues, assets, or moneys.

(4) The notes and bonds shall be authorized by resolutions of the board, shall bear a date and shall mature at times as the resolutions provide. A note shall not mature more than 10 years and a bond shall not mature more than 50 years from the date of its issue. The bonds may be issued as serial bonds payable in annual installments or as term bonds or as a combination thereof. The notes and bonds shall bear interest at a rate, or rates, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at places within or without the state, and be subject to terms of redemption as provided in resolutions. The notes and bonds of the board may be sold at public or private sale at such prices, which may be above or below par, as are determined by the board.

(5) The total amount of notes and bonds outstanding at any one time, except notes or bonds as to which the board's obligation has been satisfied and discharged by refunding or for which reserve for payment or other means of payment have been otherwise provided, may not exceed \$675 million. The rate of interest on bonds or notes issued by the board may not exceed an interest rate equal to 1% less than the interest rate established from time to time by the U.S. department of housing and urban development (HUD), federal housing administration (FHA). The interest rate shall be determined for each issue of bonds or notes according to the HUD/FHA rate in effect 30 days prior to the sale of the bonds or notes.

First adopted by the Senate Business and Industry Committee on the 28th day of January, 1981.

Pa.

# STANDING COMMITTEE REPORT

January 28

19 81

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 91

Respectfully report as follows: That SENATE Bill No. 91

DO PASS

*y/c*

# STANDING COMMITTEE REPORT

January 28 19 81

MR. PRESIDENT

We, your committee on BUSINESS AND INDUSTRY

having had under consideration STATEMENT OF INTENT, SENATE Bill No. 143

Respectfully report as follows: That STATEMENT OF INTENT, SENATE Bill No. 143

be adopted.

## STATEMENT OF INTENT RE: SB 143

A statement of intent is required for this act as it grants the board of housing authority to adopt standards for determining and designating areas of chronic economic distress. It is the intent of the legislature that the board adopt rules consistent with section 103A(g) of the Internal Revenue Code of 1954, as amended.

~~XXXXXX~~

*up/c*

# STANDING COMMITTEE REPORT

January 28

1981

MR. **President**

We, your committee on **Business and Industry**

having had under consideration **Senate Bill** Bill No. **143**

Respectfully report as follows: That **Senate** Bill No. **143**

DO PASS

*JL* **STATEMENT OF INTENT ATTACHED**

# STANDING COMMITTEE REPORT

January 28

19 81

MR. President

We, your committee on Business and Industry

having had under consideration Senate Bill No. 90

Respectfully report as follows: That Senate Bill No. 90

DO PASS

# STANDING COMMITTEE REPORT

January 28

19 81

MR. President

We, your committee on Business and Industry

having had under consideration Senate Bill No. 151

Respectfully report as follows: That Senate Bill No. 151

DO PASS

*JHC*

STATE PUB. CO.  
Helena, Mont.

*[Signature]*

Chairman.

# STANDING COMMITTEE REPORT

January 28

19 51

President

MR. ....

Business and Industry

We, your committee on .....

Senate

having had under consideration ..... Bill No. 106

Senate

Respectfully report as follows: That ..... Bill No. 106

DO PASS

J/C