

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on February 17, 1983, in Room 420 of the Capitol Building at 8:00 a.m. All members were present.

HOUSE BILL 790

REP. DAVE BROWN, District 83, sponsor, opened by saying when the coal trust fund was set up to be used, the legislature did not allow use of those funds for the development of new technology that would more effectively use the coal resource. We should be using the coal resource for Montana and the nation.

PROPOSERS:

JACK SHERICK, Mountain States Energy: The economic development growth in Montana is based for a large part on energy and energy economy. It's important that we capitalize on all resources, especially renewable resources. To develop new technology requires an investment. This can be used as an incentive to make these investments.

OPPOSERS: none

REP. BROWN, in closing, said we own 30% return on that coal through coal tax investment. In Canada they are working toward the same end. They'll spend \$27 million over the next two years to develop that resource.

QUESTIONS:

REP. METCALF: The theory is really good but I question why you chose to take this out of renewable energy. The budget for MHD alone could totally deplete that fund. Rep. Brown: The state would not let that happen. There is a lot of competition for these funds.

REP. SCHULTZ: Has all the federal money been cut out for this? Rep. Brown: No. I might emphasize this is not just MHD funds. There's a lot of programs that come under this.

EXECUTIVE SESSION

REP. SAUNDERS: I move DO PASS HOUSE BILL 790.

REP. KADAS: I don't think that is what the Renewable Energy Grant Program was set up for. It was set up for renewable energy.

REP. HARPER: I wonder if MHD is going to take a cut out of this every year. They need so much money that I think this would just be a drop in the bucket.

REP. METCALF: The language that is being stricken shows that the purpose of the Renewable Grant Loan fund was to lessen the reliance on renewable energy. I would rather see this fund stay pure.

REP. KADAS: I move a SUBSTITUTE MOTION TO TABLE HOUSE BILL 790.
QUESTION: Motion carried with Rep. Ellison voting no.

HOUSE BILL 751

REP. JOE BRAND, District 28, sponsor, opened by saying this is a bill to prevent the Washington Public Power Supply System from being exempt under the PSC. The PSC is an aggressive, consumer oriented regulator. They will make co-ops reflect the cost of power and make those decisions that are based on good accurate information. It won't be costless, but in the time it will save all rate payers. Co-op part-time managers cannot stay on top of the quickly changing energy picture. The PSC can. The consumer, however, will have to pay for this. About half the states have their co-ops regulated.

PROPOSERS:

BILL OPITZ, Executive Director, PSC: We are neutral on this bill. We feel this is a policy to be made by the legislature. There is a fiscal note of \$100,000 per year to regulate cooperatives. This is RTA's and REA's. We would need some kind of direction from the legislature as to what to do with the rates that are presently in effect. We have normally taken new utilities that come under our jurisdiction and grandfathered the rates that are presently in effect.

OPPOSERS:

Written testimony of opponents is attached as Exhibit #1.

QUESTIONS:

REP. BACHINI: Mr. Bollinger? Mr. Bollinger: I just finished 8 years on the Public Service Commission and have had a great deal of contact with co-ops in the State of Montana and I have found them very easy to work with. We would get about 12 complaints a year on co-ops and were usually always able to settle the disputes. This bill has not been well thought out and you should look at it very closely.

HOUSE BILL 783

REP. KELLY ADDY, District 62, sponsor, opened saying this is an anti-trust bill for Montana.

PROPOSERS:

JERRY CATE, Montana Dept. of Justice: This bill was designed after a model act adopted in Arizona and New Mexico. It's designed to prevent price fixing in Montana. (Exhibit #2)

OPPOSERS:

J. C. WEINGARTNER, State Bar of Montana: Attorneys are included within the scope of this bill. It allows the county attorney, the attorney general or anyone else to go to court to seek an

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injunction to stop a lawyer. Discipline of lawyers is reserved to the Supreme Court. This bill is so vague, you wouldn't know if you had violated it. There are no courts in this state able to handle suits like this will produce.

BUCK BOLES, Montana Chamber of Commerce: We think there is adequate protection for the consumer in Montana. If it ain't broken, don't fix it.

CHAD SMITH, Montana Hospital Association: We would like an amendment added to this bill exempting group purchasing organizations. The reason is that our hospital buys supplies in conjunction with other hospitals and we take bids. We feel if this exemption is not entered, we may have to go to court to prove we are not fixing prices.

DENNIS REHBERG, Montana Association of Realtors: We are in opposition to this bill.

JANE MITCHELL, Attorney, Montana Insurance Department: We are concerned with the broad language of the bill because insurance companies join voluntary rating organizations that gather statistics on which rates are based. They don't have to follow the rates but we are afraid the broad language of this bill would prohibit it.

KELLY ADDY, in closing, said Montana is a small business state and this is the kind of economy we want to maintain. Out-of-state manufacturers can come in here and manipulate things. I think we should put this in the department of justice.

QUESTIONS:

REP. PAVLOVICH: Would companies like Arco and Burlington Northern come under this act? Mr. Cate: Yes, it would include anyone except those that the legislature would choose to exempt.

REP. KITSELMAN: How about group purchasers like K-Mart, Tempo, etc.? Mr. Cate: They would be included.

REP. ELLISON: How about IGA? Mr. Cate: There is a problem with them, if they start to agree on charging the same price. They would have a problem with selling more than with buying.

HOUSE BILL 815

REP. FABREGA, District 44, sponsor, opened by saying this bill was requested by the House Business & Industry Committee and authorized by the Dept. of Commerce. It requests an appropriation of \$78,500 from the general fund to the Dept. of Commerce to identify abandoned railroad rights-of-way and to study the feasibility and desirability of acquisition by the state of those rights-of-way.

PROPONENTS:

JIM MULAR, Brotherhood of Railway & Airline Clerks: There are 347 miles of track due to be abandoned in Montana. Any financially responsible party may purchase these but the state has no funds

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available for it. The appropriation would give the funds necessary for a study so we might buy these lines.

TERRY MURPHY, Farmer's Union: We stand in support of this bill.

JOHN CRAIG, Dept. of Commerce: We are neutral on this bill but I am willing to answer any questions you might have.

QUESTIONS:

REP. WALLIN: There is a law suit in Gallatin County right now over rights-of-way because adjoining land owners are entitled to that property. Mr. Craig: In some cases it becomes a clear case of deed restriction in how that land was acquired by the railway. When the property was acquired by warranty deeds, the railway takes the position that they hold the authority but when it was acquired by easement then it's another story.

REP. WALLIN: Are we enacting legislation here that further clouds the issue for the land owner?

REP. METCALF: This is for a study only. They will also study the rights of the land owners.

HOUSE BILL 765

REP. MIKE KADAS, District 95, sponsor, opened by saying this is an economic development bill, probably the most important one of the session. Every dollar that is not spent on electricity or gas will stay in the community and be recycled within the community, and we are talking about millions of dollars. Jobs generated from this bill for people of Montana include builders, glazers, pipe fitters, etc. This is a conservation measure. It will help make Montanans more self sufficient. This will hold down rates. It will not make rates go down - it will actually make them go up because we will be putting this into the rate base, but we will be paying less because we will be using less. The bill requires that we purchase the cheapest energy first. Rates will go up some, but if we don't pass this, rates will go up even more. There are a number of amendments that I have typed up for the committee. (Exhibit #6)

PROPONENTS:

BRIAN BERG, Physicist: Profitable energy conservation has not been pursued. We need financing. Tax credit programs have helped but people act cautiously toward conservation. It requires coordination in implementation. With this system it would be so much simpler. You call for an audit and you get one from the utility. There is a lot of competition for capital and it's hard to see the returns on conservation. It's hard to know if your conservation was the result of your insulation or because the winter was warmer. I urge your support of this bill.

BILL OPITZ, Executive Director, PSC: We want to go on record as supporting this legislation. We have suggestions to make it more workable. 1) The rate base should be amortized over

the effective life of the conservation measure. 2) The customers which are eligible for the audits should be limited to those who qualify for RCS audits. 3) The dwellings affected should not include those built between the effective date of the bill and January 1, 1993. C

JEAN PARODI, Missoula: I would like to winterize my home but I don't have \$500 to invest in insulation. This bill would be a great service to the people of Montana.

GARY DECKER, Missoula Valley Energy Board: This will help solve the rising cost of energy and create more jobs. (Exbt. #3)

ALAN OKAGAKI, Alternative Energy Resource Organization: I believe today's energy glut is a temporary phenomenon. Eventually, supply and demand will be allowed to work by way of the pricing mechanism. We are dealing with finite resources. The consumer should be encouraged to conserve. If the utilities run the program, they will be much more willing to promote conservation. We are talking about \$125 million to \$200 million into the rate base from the residential sector over the next two years. This will have a small impact.

DONALD REED, Montana Environmental Information Center: HB 765 would require gas and electric utilities to purchase cost-effective energy conservation and require the PSC to include these expenditures in the rate base. (Exhibit #4)

WADE WILKISON, Mont. Solar Energy Indus. Association: Montana must go with encouraging small business in the state. We will never have huge auto plants. Conservation can bring about economic development in Montana.

BOB HURST, Montana Senior Citizen's Association: Many senior citizens cannot afford conservation on their own. This would allow more folks to take part in conservation.

MARC LEDBETTER, Northern Plains Resource Council: If the United States made a serious attempt at conservation, it might use 30-40% less energy consumption. We should not produce more, we should use less. This is a good bill because it gives a return for investing in conservation. (Exhibit #5)

SAM RYAN, Montana Senior Citizen's Association: We support this legislation.

REP. FABREGA: Montana is 217th out of 238 as far as our cost of energy. The way this bill is written, if you do something to an existing building that is energy efficient at a cost of 50% or less of what it would cost to make that new energy, then the existing customers are actually buying the impact of the new customers at 50% the value. That's what makes sense about this bill. By putting it into the rate base and letting the utility do it, we can accelerate that process.

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JOHN LAHR, Montana Power Company: We are for this concept. We have prepared many amendments for your consideration. (Exhibit #7)

JOHN ALKE, Montana-Dakota Utilities: If this \$150-200 million investment were to come to pass for conservation, we are talking about an annual return required of \$20 million per year. Who is going to pay this \$20 million? The rate payer. Who can least afford to pay for this conservation? Fixed income and low income. If you load up utility rates with a "jobs function" you will have one of the most regressive tax structures this state has ever seen. We want this bill amended to be permissive. It should be conservation only, it should not be a jobs bill. The rational is if we use less, the consumer will benefit. That's not the case in gas utility business in Montana. We're talking a stagnant demand to a declining demand. Every dollar investment in conservation forced on the gas operations of MDU and Montana Power will literally increase rates. The only benefit to gas payers would be the benefit of free insulation, etc. His fellow rate payers who did not receive that insulation would receive no benefit...he would simply be subsidizing the other rate payer who received it. It is essential that the program be permissive with PSC approval so it will be a benefit to all rate payers.

GENE PHILLIPS, Pacific Power and Light: We do not have any gas operation, we are totally electric. We would like you to exempt utilities that already have in place the equivalent of this legislation. We have an inspector to make audits and Pacific Power & Light pays for the work and parts. It is paid back to PPL when the house is sold. (Exhibit #8)

LUCI BRIEGER, Montana Conservation Congress: Over 40 conservation groups, represented by more than 100 people, attended Montana's first Conservation Congress last September in Helena. One of the many issues we discussed was energy conservation. We unanimously endorsed this proposal as the most comprehensive and cost-effective approach to implement energy conservation measures. (Exhibit #9)

RICHARD STEFFEL, Missoula Air Pollution Council: We support this bill as written. We have a problem with wood smoke which could have been avoided if there were effective conservation measures applied to Missoula County.

DAVID FREIBAND, Missoula Energy Office: They support this bill.

OPPONENTS: none

REP. KADAS: I think the amendments that Mr. Opitz suggested are good ones. Montana Power's amendments make this essentially what is in the Senate bill already. I think that utilities that have had the opportunity to invest in conservation have largely turned that option down. What I'm trying to do is get conservation on a similar level with conventional resources and I don't think

a permissive bill would do this. Utilities should not be given two extra rate points for something they should be doing anyway. Conservation is energy you don't have to use, you don't have to create it.

QUESTIONS:

REP. WALLIN: A lot of people have weatherized over the last few years. What benefit except higher rates will they receive?

Mr. Opitz: There rates will eventually be lower than if the conservation had not been provided. Rep. Wallin: He is going to be paying the same rate as the guy who is getting the work done free isn't he? Mr. Opitz: When you look at the 50% of avoided cost, many of the people who could afford it have taken these conservation actions. The 50% figure is going to mitigate the number of customers that are going to qualify. Those who will qualify will be low income and senior citizens and it an out and out grant to those people in need.

REP. ELLISON: How large a program is this going to be? John Lahr: Our average loan we give under the zero percent program is \$850 for residential dwellings, and if you multiply that by 100,000 customers, you will have some idea of what this represents.

REP. FABREGA: What kind of a contract are we looking at with a fixed price and when you go to the market place? Mr. Lahr: Our customers are currently paying the market clearing price for natural gas. Removal of price control doesn't present that much of a risk for our customers. We acquire contracts from within the state or Canada, etc. and we have an escalator on the rate. Rep. Fabrega: If the life of wells could be prolonged through conservation, it could keep the rate consistent. Tom Schneider, Chairman of MPSC: There is no distinction between electric and gas in this - the concept in this bill is equivalent. In the case of gas being a commodity and not a fixed cost, we wish that were the case, but it is very much a fixed cost. We're locked into long term take or pay contracts which is identical to the fixed costs of an electric plant.

John Alke: I would have to totally disagree with Commissioner Schneider. It's often the fact that gas utilities are locked into a situation of take or pay that make them so different. The concept on electric is deferral - that you can skip building the plant. With gas, if you dramatically reduce the consumption by conservation, we are obligated to buy the gas anyway - there is no deferral.

HOUSE BILL 752

REP. KADAS, District 95, sponsor, opened by saying this bill instructs the Dept. of Commerce to adopt rules for energy efficiency for appliances using a significant amount of electricity. One year after adoption of the standards, no new appliance that is not in compliance may be sold.

PROPOSERS:

RONALD POGUE, AERO: In the average home, 49% of energy consumption goes to appliances and lighting, which requires 200 megawatts per year, which is 25 to 37 million dollars per year. The initial cost of new appliances will be 25% higher. Appliances that are more efficient are on the market. Landlords, builders, etc. who are very sensitive to first cost factors are not concerned about long range energy use of those appliances. The Statement of Intent directs the Dept. of Commerce to adopt the regional BPA standards when they come through which will be at least two years away.

JIM KIMBEL, Dept. of Administration: We are here to answer questions on this matter. We are neutral.

QUESTIONS:

REP. METCALF: Don't major manufacturers list some kind of rating on their appliances? Is that a federal regulation?
DEBORAH SCHMIDT, EQC: There is a federal law that requires the labeling of appliances for efficiency. The labeling has not been affected by the no-standard standard which is being proposed.

EXECUTIVE SESSION

HOUSE BILL 751

REP. FABREGA: I move to TABLE this bill.
Question: Motion carried unanimously.

HOUSE BILL 815

REP. FABREGA: I move DO PASS HOUSE BILL 815.
Question: Motion carried with Rep. Wallin voting no.

HOUSE BILL 783

REP. KITSELMAN: I move to TABLE this bill.
Rep. Fabrega: I support the motion. The bill is a little too broad in what it's trying to enforce.
Rep. Ellison: It's too bad bills of this nature come in so late.
Question: Motion carried with Rep. Harper, Kadas, Saunders and Hansen voting no.

HOUSE BILL 752

REP. FABREGA: I move DO PASS HOUSE BILL 752. Montana needs to be in a position to adopt those standards that are going through-out the country.
REP. HARPER: I agree with the purpose but it seems to me the consumer should know how effective the appliance is. I would like to see a rating system that would be easily understood.

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REP. METCALF: Federal regulation says you must include energy conservation figures. You have to do the investigating yourself. (

QUESTION: Motion carried with Rep. Ellerd, Kitselman, Ellison and Wallin voting no.

REP. FABREGA: I move DO PASS the Statement of Intent.

Question: Motion carried unanimously.

HOUSE BILL 765

REP. FABREGA: I move DO PASS HOUSE BILL 765.

REP. KADAS: I would like to wait for a day on this bill and get the PSC amendments written up.

HOUSE BILL 638

REP. HARPER: I move the Statement of Intent.

Question: Motion carried unanimously.

The hearing adjourned at 11:30 a.m.



REP. JERRY METCALF, CHAIRMAN



Linda Palmer, Secretary

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on February 17, 1983, in Room 420 of the Capitol Building at 4:40 p.m. for a special Executive Session. All members were present except Rep. Pavlovich.

HOUSE BILL 638 - EXECUTIVE SESSION

Legal Council, Paul Verdon, read to the committee the bill as amended. (Exhibit #1)

REP. HARPER: Rep. Kitselman still has problems with the bill but this is the best we could do with the time allowed.

REP. KITSELMAN: Everything referred to in this bill is found in Title 33, Chapter 13 which allows the commissioner to act.

REP. HARPER: There is no provision in the code on time frames and the timely payment of claims.

REP. KITSELMAN: There is the mechanism under the Fair Trade Practices Act. This bill does require another FTE for reporting to the department.

REP. HARPER: If the law is there, the department has admitted it is not fulfilling the law by requesting an FTE for a new requirement. They obviously have not been doing it before.

REP. HANSEN: I move the amendments.

REP. HARPER: The only time the 18% can be imposed is after the entire company has been judged to be a late payer.

QUESTION: Motion carried unanimously.

REP. HANSEN: I move DO PASS HOUSE BILL 638 AS AMENDED.

QUESTION: Motion carried unanimously.

The statement of intent will be prepared for tomorrow.

HOUSE BILL 701 - EXECUTIVE SESSION

REP. FAGG: Strike all the language after line 17 on page 1 and all material to line 10 on page 2. Insert: developed by the department of commerce in a manner to recover 90% of the examination costs.

REP. METCALF: The small banks shouldn't be penalized. There are 100 Montana banks. Shouldn't that schedule be adopted by rules so they can participate. We allow that in so many other operations. We shouldn't be subsidizing those inspectors.

REP. FAGG: I don't think the legislature should be in the fee business - they are going to come back every year. Perhaps they should be made through rule-making.

REP. FABREGA: I would suggest on page 1, line 16 we say an examination fee shall be assessed according to schedules adopted through rule-making.

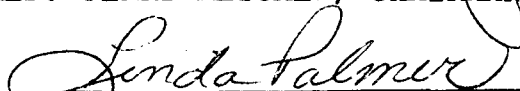
REP. HARPER: We run into a lot of resistance with agencies rule-making.

REP. METCALF: Let's hold this for now. The department is going to make up a schedule that we can look at.

The meeting adjourned at 5:15 p.m.



REP. JERRY METCALF, CHAIRMAN



Linda Palmer, Secretary

February 16

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MR. SPLAKER:We, your committee on BUSINESS & INDUSTRYhaving had under consideration HOUSE Bill No. 638first reading copy (white
color)

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE INSURANCE COMMISSIONER MAY IMPOSE AN ADMINISTRATIVE PENALTY UPON AN INSURER FOR FAILING TO PROMPTLY PAY CLAIMS; PROVIDING THAT ANY INSURER FAILING TO PAY A CLAIM WITHIN 20 WORKING DAYS AFTER RECEIPT OF PROOF OF LOSS SHALL NOTIFY THE INSURED AND ANY ASSIGNEE IN WRITING OF THE REASON FOR FAILING TO MAKE SUCH PAYMENT; PROVIDING FOR THE PROCESSING AND PAYMENT OF CLAIMS BY AN INSURER WITHIN 20 WORKING DAYS AND NO LONGER THAN 30 WORKING DAYS AFTER RECEIPT OF REQUIRED DOCUMENTS OR INFORMATION; PROVIDING THAT INSURERS SHALL PAY THE INSURED INTEREST ON CLAIMS THAT ARE NOT PAID IN A TIMELY MANNER; DEFINING "PROOF OF LOSS" AND "INSURER"; AND ESTABLISHING THE USE OF A UNIFORM BILLING FORM."

Respectfully report as follows: That HOUSE Bill No. 638

BE AMENDED AS FOLLOWS:

1. Title, line 6

Strike: "PROMPTLY"

Following: "PAY"

Insert: "MEDICAL OR HEALTH"

Following: "CLAIMS"

Insert: "IN A TIMELY MANNER"

2. Title, line 7

Following: "THAT"

Strike: the remainder of line 7 and lines 8 through 12 in their entirety and line 13 through "INFORMATION"

Insert: "THE COMMISSIONER MAY INQUIRE INTO THE CAUSE OF CERTAIN LATE PAYMENTS"

3. Title, line 14

Following: "ON"

Insert: "CERTAIN"

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4. Title, line 15

Following: "INSURER"

Strike: the remainder of line 15 and line 16 through "FORM"

5. Page 1, line 23

Following: "corporation;"

Insert: "health service corporation;"

6. Page 2, Following line 8

Strike: all language and punctuation through page 3, line 20

Insert: "Section 2. Time for payment of claims. (1) If within 30 days after receipt of a proof of loss, the insurer has not paid the claim for benefits provided in the policy or contract or notified the insured or the insured's assignee of the reasons for failure to pay the claim in full and has not requested additional information or documents, the insured or the assignee may report the delay to the commissioner, who may then investigate to determine if the insurer has failed to pay the claim within 30 days of its receipt without good reason and, if so, whether such delay is a general course of business practice of the insurer.

(2) Upon the commissioner's determination that the delay is a general course of business practice and for a year thereafter unless earlier rescinded by the commissioner, all claims for benefits not paid by that insurer within 30 working days after receipt by the insurer, without good reason as determined by the commissioner, shall obligate the insurer to pay interest at 18% a year from the date the commissioner determines that the delay became unreasonable."

Renumber: subsequent sections.

7. Page 4, following line 20.

Insert: "Section 4. Right of privacy guaranteed. Nothing in [this act] requires the commissioner to disclose information in violation of the Insurance Information and Privacy Protection Act.

Section 5. Rule making authority. The commissioner shall make rules, under the Montana Administrative Procedure Act, necessary to implement [this act].

Renumber: subsequent sections.

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS & INDUSTRY, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 633, FIRST READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL 633

A statement of intent is required for [House Bill 638] because it gives rule making power to the commissioner of insurance. In section §, the commissioner is authorized to establish rules to determine if a health or medical insurer is meeting his contractual obligation in a timely manner, to provide for administrative penalties against insurers who fail to fulfill those obligations and to make the determinations necessary for insured persons whose benefit payments are unnecessarily delayed to be eligible to collect interest on the late payments.

STANDING COMMITTEE REPORT

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MR. SPEAKER

We, your committee on BUSINESS & INDUSTRY

having had under consideration HOUSE Bill No. 765

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"AN ACT TO REQUIRE CERTAIN GAS AND ELECTRIC UTILITIES TO PURCHASE
COST-EFFECTIVE ENERGY CONSERVATION; TO REQUIRE THE PUBLIC SERVICE
COMMISSION TO INCLUDE CONSERVATION IN A UTILITY'S RATE BASE;
AMENDING SECTION 15-32-107, MCA."

Respectfully report as follows: That HOUSE Bill No. 765

BE AMENDED AS FOLLOWS:

1. Page 1, line 20
Following: "measure"
Insert: "or combination of measures"

2. Page 1, line 21
Following: "energy"
Insert: "to a residential building"

3. Page 2, line 2
Following: line 1
Insert: "(5) 'Residential building' means a building used for
residential occupancy that:
(a) was fully constructed and habitable as of [the effective date
of this act];
(b) has a system for heating, cooling, or both that uses a fuel
supplied by the utility; and
(c) contains at least one, but not more than four separately or

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centrally heated dwelling units, or contains more than four..... 19.....
separately heated, or cooled, or both heated and cooled units."

Renumber: subsequent subsection

4. Page 2, line 12

Following: "its"

Insert: "residential"

5. Page 2, line 22

Following: "case,"

Strike: the remainder of line 22 and lines 23 and 24 through measure

Insert: "labor costs may be used to purchase further conservation
measures. The customer may not pay himself labor costs"

6. Page 3, line 1

Following: line 25 on page 2

Insert: "(1)"

Page 3, line 7

Following: line 6

Insert: "(2) A building shell, piece of equipment, or process that
has been retrofitted under [this act] with a conservation measure of
measures may not be retrofitted again under the provisions of [this
act]."

3. Page 3, line 8

Following: "base."

Insert: "(1)"

9. Page 3

Following: line 12

Insert: "(2) The commission shall prescribe amortization periods for
conservation that is included in a utility's rate base."

10. Page 3, line 19

Following: line 18

Insert: "or to contract for"

11. Page 4

Following: line 25 on page 3

Insert: "(3) The commission shall limit the application of
conservation measures to correspond to the existing end-use of
energy that a utility provides to a customer at the time the energy
audit is conducted."

Renumber subsequent subsection.

AND AS AMENDED

DO PASS

STATEMENT OF INTENT ATTACHED

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS & INDUSTRY, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 765, FIRST READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT;

STATEMENT OF INTENT
HOUSE BILL 765

A statement of intent is necessary for this bill because it directs the Public Service Commission to adopt rules governing the installation of cost-effective conservation measures and the reflection of those measures in a utility's rate base. The commission must adopt criteria and standards for:

- 1) allowable conservation measures from an engineering standpoint;
- 2) cost-effectiveness;
- 3) on-site energy audits;
- 4) conservation corresponding to end-use of energy that a utility provides;
- 5) inspections;
- 6) inclusion of conservation in a utility's rate base;
- 7) other procedures necessary to implement this act.

In adopting cost-effectiveness and engineering criteria, the commission is directed to consult with the Department of Natural Resources and Conservation and with Montana's representatives to the Northwest Power Council.

It is not the intent of the legislature to allow grants from the Bonneville Power Administration for purposes of conservation to be placed in the rate base.

STANDING COMMITTEE REPORT

FEBRUARY 17

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MR. **SPEAKER**.....

BUSINESS & INDUSTRY

We, your committee on.....

having had under consideration **HOUSE**..... Bill No. **752**

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"AN ACT TO REQUIRE THE DEPARTMENT OF COMMERCE GO ADOPT ENERGY
EFFICIENCY STANDARDS FOR CERTAIN APPLIANCES AND TO PROHIBIT THE
SALE OF APPLIANCES NOT MEETING SUCH STANDARDS."

Respectfully report as follows: That..... **HOUSE**..... Bill No. **752**

DO PASS

STATEMENT OF INTENT ATTACHED

MR. SPEAKER:

WE YOUR COMMITTEE ON BUSINESS & INDUSTRY, HAVING HAD UNDER CONSIDERATION HOUSE BILL NO. 752, FIRST READING COPY WHITE, ATTACH THE FOLLOWING STATEMENT OF INTENT:

STATEMENT OF INTENT
HOUSE BILL 752

A statement of intent is necessary for this bill because it grants rule-making authority to the department of commerce for the purpose of establishing standards for operating efficiency for appliances whose use requires a significant amount of energy on a statewide basis.

It is the intent of the legislature that the department of commerce adopt standards that conform to any standards that may be adopted by the Pacific Northwest Electric Power and Conservation Planning Council.

The legislature also directs the department of commerce to take steps necessary to secure Montana's standards against preemption by the U.S. Department of Energy under a "no-standard" standard, as proposed in recent federal regulations.

Exhibit #1

P.O. Box 563
Hamilton, MT 59840
February 16, 1983

House Business & Industry Committee
Montana State Legislature

WRITTEN TESTIMONY
Opposing HB 751

Dear Representatives:

The issues concerning this bill seem so clear cut, and the arguments against it so compelling, that I feel I need only trespass on your time to the extent of a few paragraphs to present my case. I speak as a member of the Ravalli County Electric Cooperative. I have never held any office in my Coop, but I have attended both membership and directors meetings. Here are the points which I ask you to consider:

1. We as members, both directly at the membership meetings, and through the Directors we elect, exert more immediate and effective control than the Public Service Commission ever could even if it had time to do so. You can be sure that we give very careful consideration to any change of rate and also to the operations. After all, we observe the crews and management in action all the time. To have the PSC involved would only hinder us in the control we exercise ourselves.

2. In addition to our own control, the Coop is audited and any rate increases we put into effect can be rejected by the Rural Electrification Commission, USDA which provides technical analysis on a professional level.

3. Having to anticipate, present and defend rate increases to the PSC would increase our costs and burden our already slim staff.

4. Being non-profit we don't seek rate increases beyond what is actually needed. Historically our Coop Directors and employees have been very careful about this but if the time ever came when they were not, you may be assured that we as members would put a stop to it at once.

5. Although it is doubtful that the PSC would have affected the WPPSS problem (note that private power companies under regulation are caught up in it also) our Coop is revising its bylaws to provide for more member input and more careful review by the members when the Directors are considering major undertakings.

6. In summary: While PSC control is vital for private utilities, the Coops where every consumer has a vote and the members thus have control, are an entirely different situation. Past legislature action has properly exempted us from PSC control. We ask you to continue that exemption by rejecting HB 751 as it would only hinder our more effective local control and raise our costs.

Thank you for your consideration of these comments

Yours truly,

Charles E. Wissenbach

Charles E. Wissenbach
Ravalli Coop Member

PRESENTATION TO BUSINESS AND INDUSTRIES COMMITTEE, 2/17/83

KIM WEINHEIMER, MANAGER OF OFFICE SERVICES, FERGUS ELECTRIC COOPERATIVE, LEWISTOWN, MONTANA.

THE GRAVITY OF A SIMPLE SENTENCE "AN ACT AUTHORIZING THE REGULATION OF RURAL COOPERATIVE UTILITIES BY THE PUBLIC SERVICE COMMISSION;" IS SO FAR REACHING AND HAS SUCH AN IMPLICATION OF DIMINISHING OF THE POWER OF THE MEMBERSHIP OF FERGUS ELECTRIC COOPERATIVE, THAT I HOPE TO SEE THIS COMMITTEE BRING AN IMMEDIATE HALT TO THIS BILL!

AT FERGUS ELECTRIC COOPERATIVE, WE TRULY BELIEVE THAT WE ARE ALREADY REGULATED. THIS REGULATION IS FROM A MOST INFLUENTIAL GROUP -- OUR MEMBERS! THE PROOF OF THEIR POWER AS A UNIT WAS SO EVIDENT AT OUR 1981 ANNUAL MEETING OF THE MEMBERSHIP, THAT I WISH EACH AND EVERYONE OF YOU COULD HAVE BEEN PRESENT. WE HAD A MEMBERSHIP OF 2722 AT THE TIME AND 597 (22%) OF THAT GROUP WAS PRESENT AT THE ANNUAL MEETING. WHAT WAS OUR DRAWING FEATURE? ? -- IT WASN'T THE ENTERTAINMENT! THROUGH AN UNFORTUNATE TIMING OF EVENTS, IN JULY OF 1981 WE MOVED INTO OUR NEW OFFICE COMPLEX -- AND RAISED OUR RATES FOR THE FIRST TIME IN 3 YEARS BY 30%. OUR RATE INCREASE WAS BASED ON A COMPLETED "COST OF SERVICE STUDY" WHICH ALSO RECOMMENDED A RATES FORMAT CHANGE. THIS FORMAT INCLUDED A BASE RATE CHARGE FOR WHICH NO KILOWATT HOURS WERE RECEIVED, BASED ON THE PREMISE THAT THE CHARGE COVERS OUR FIXED COSTS OF HAVING THAT SERVICE, WHETHER IT IS USED OR NOT -- UNFORTUNATELY, "FACILITIES" CHARGE WHEN YOU'RE MOVING INTO A NEW "FACILITY" TENDS TO CONFUSE THE CONCEPT OF BASE CHARGE TO COVER FIXED COSTS! IN ADDITION TO THIS, WE RAISED OUR IRRITATION

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RATES AND THIS GROUP DID NOT AT THAT TIME HAVE A TRUSTEE WHO WAS AN IRRIGATOR ON THE BOARD.

LONG STORY -- THE RESULT -- 22% TURNOUT AT THE ANNUAL MEETING OF THE MEMBERSHIP -- REPLACEMENT OF 2 VERY ASTUTE VETERANS TO THE BOARD WITH ONE IRRIGATOR AND ONE RANCHER WHOSE BASE SUPPORT DID NOT LIKE "FACILITIES" CHARGE. (OUR NEW BOARD MEMBERS ARE BECOMING EQUALLY ASTUTE!) ALSO A PROPOSED BY-LAW CHANGE WHICH WAS AMENDED AND APPROVED AT OUR 1982 ANNUAL MEETING OF THE MEMBERSHIP. SEE PAGE 10 OF THE BLUE BOOK "BY-LAWS", AN INSTRUMENT OF OUR MEMBERSHIP WHICH HAS BEEN SUPPLIED TO YOU ALONG WITH THE SERVICE POLICIES OF OUR MEMBERSHIP. ANOTHER VERY POSITIVE STEP AS A RESULT OF THE MEMBERSHIP'S WISHES WAS THE ESTABLISHMENT OF A 14 MEMBER ADVISORY COMMITTEE USED AS A COMMUNICATIONS LINK WITH THE MEMBERSHIP IN CONVEYING POLICY AND OTHER IMPORTANT DECISIONS AND SUGGESTIONS TO AND FROM THE BOARD OF TRUSTEES.

OUR COOPERATIVES MEMBERS DEFINITELY REGULATE US -- I RATHER DOUBT ANY OTHER GROUP COULD HAVE ACTED AS SWIFTLY AS THIS INFLUENTIAL GROUP DID IN A 3 MONTH PERIOD OF JULY 1981 - SEPTEMBER 1981! IN ADDITION TO THIS REGULATION, WE ALSO ARE REGULATED BY OUR BANKING INSTITUTES: REA, BANK FOR COOPERATIVE, COOPERATIVE FINANCE CORPORATION, AND NUMEROUS OTHER LENDING INSTITUTES IN HAVING TO MEET TESTS OF FINANCIAL SOUNDNESS.

WE CONSTANTLY UTILIZE MANAGEMENT TOOLS OF SERVICE POLICIES, BY-LAWS, COST OF SERVICE STUDIES, FINANCIAL FORECASTS, BUDGETS, LONG RANGE ENGINEERING PLANS AND MANY MORE. OUR TRUSTEES GO THROUGH HOURS OF MEETINGS ANALYZING THESE TOOLS AND MAKING RECOMMENDATIONS

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AS REPRESENTATIVES OF THE MEMBERSHIP. ADDING ANOTHER LEVEL OF REGULATION WILL DO MORE TO TAKE AWAY THE MEMBERSHIP POWER THAN TO ADD TO IT. IT ALSO WILL IMPLY CERTAIN COSTS OF REPORTING IN ADDITION TO THE PRIOR MENTIONED!

I STRONGLY BELIEVE (AND HAVE BEEN PROVEN TO!) THAT THE MEMBERSHIP OF FERGUS ELECTRIC COOPERATIVE AND EVERY OTHER COOPERATIVE FOR THAT MATTER IS OUR REGULATION, AND THAT POWER SHOULD NOT BE DIMINISHED IN ANY WAY -- PARTICULARLY THROUGH THE ADDING OF ANOTHER LEVEL OF REGULATION -- THE PUBLIC SERVICE COMMISSION.

THANK YOU.

OPPOSANTS TO HB 751

<u>NAME</u>	<u>FROM</u>	<u>POSITION</u>
1. Rod Hanson	Sun River Elec.	Mgr.
2. Kim Weinheimer	FERGUS ELECTRIC COOP	Office Mgr.
3. CHARLES E. WISSENBACH	RAVALLI COOP COOP	MEMBER
4. JAMES C. NELSON	GLACIER ELECTRIC COOP, COTBANK,	ATTY MEMBER
5. Richard H. Lawson	Vigilant Electric Coop, Dillon.	Member
6. Roberta Rehner	Sun River Elec. Coop - Fairbairn.	member
7. Donald F. Park	Ravalli Elec Coop	Director
8. Nettie Brown	RAVALLI E/COOP.	Trustee
9. GARY D. MASON	RAVALLI COUNTY ELECTRIC.	Member.
10. Kelly Krueger	Mont. Assoc. Utilities	MEMBER AND MANAGER
11. Penny Lawson	Vigilant Electric Coop	Intern
12. Adam Michnevich	Missoula Electric Coop	Rate Comm. Member
13. Jay Downer	Gen. U. P., Mont. Assoc. Util	Gr Falls

SUMMARY OF MONTANA BUSINESS AND
CONSUMER PROTECTION ACT, HB 783

Sections 1 and 2 are self-explanatory.

Section 3. Definitions: (1) Person: defines person to include any type of legal entity. (2) Trade/commerce: are basically defined to mean any type of economic activity. (3) Service: specifically includes personal service, professional service, rental, leasing and licensing for use.

Section 4. This section comes directly from the federal Sherman Act and corresponds to section 1 of that Act. The Sherman Act was enacted in 1890; therefore, the language of this section has 93 years of precedent for our courts to look at. Actually this section does nothing more than codify the well-known rules of the common law applicable to restraints of trade. This section requires the concurrence of four elements to become operable: (1) a contract, accommodation or conspiracy (2) that is unreasonable (3) that is in restraint of trade (4) part of which is within Montana. Section 4 would prohibit: price fixing, bid rigging, tie-in arrangements, group boycotts, market divisions, etc.

Section 5(1). This section is taken from section 2 of the Sherman Act, and therefore also has the benefit of many years of interpretation. While the sweep of the

statute may seem broad, case law has narrowed the requirements considerably. We have further narrowed the applicability of this section by adding a requirement that the effect be unreasonable, a requirement the federal law does not have specifically within the statute. The section names two separate offenses: (1) actual monopolization, and (2) attempts to monopolize, which must have the effect of eliminating or excluding competition or controlling, fixing or maintaining prices.

Section 5(2). This section merely states the manner in which an antitrust monopolization case may be proven, that is, with statistics, economic analysis and circumstantial evidence.

Section 6. This section grants an exception to the traditional antitrust exempt organizations such as public utilities, labor unions, cooperatives and common carriers which are regulated by other statutory provisions.

Section 7. This section provides for venue. An action may be brought in the district of the defendant; the Attorney General is also allowed the option of bringing the action in Lewis and Clark County in order to save the State the expense of litigation in distant areas.

Section 8. Allows the State to bring an injunctive action to stop violation of this act and also provides

for a civil penalty (fine) of not more than \$5,000 for each violation.

Section 9. This section attempts to provide for criminal penalties for violation of the act.

Section 10. This section allows the State, or any person injured (or threatened with injury) from a violation of the act to bring an injunctive action and also provides for triple the amount of actual damages in attorney's fees. This section is the same as federal law.

Section 11. This section authorizes the Attorney General to represent all the consumers in Montana in an action for triple damages for a violation of the act. This is similar to federal law.

Section 12. If the State has obtained a final judgment, decree or conviction under this act for violation of sections 4 or 5, it can be used as prima facie evidence in a subsequent civil action by a person who was injured by the defendant's illegal conduct. This does not apply to consent judgments or decrees entered before trial has commenced. This will make it much easier for private individuals injured by antitrust activities to recover their damages. They will not have to go through the ordeal of proving the offense again, they will only be concerned with proving damages. This is also similar to federal law.

Section 13. Allows specifically for consent judgments or decrees which are commonly used in antitrust actions. This section provides that the court must approve the decree.

Section 14. Statute of limitations.

Section 9 (Civil penalty and injunctive relief by state) is designated as being four years.

Section 11 (Injunctive relief and damages) is designated as being four years or one year after state action under sections 9 or 11(1).

Section 15. Self explanatory: means that one or more of the remedies under the act may be sought by an injured party or by the State.

Section 16. This section directs courts to attempt to be uniform in application of this law and interpretation of similar state cases, and that per se violations of federal law are unreasonable acts under sections 4 and 5 of this act.

Section 17. Amends section 30-14-205, MCA.

Section 18. Amends section 30-14-222, MCA, and attempts to provide for additional injunctive relief.

Section 19. Is a standard severability section.

Section 20. Self-explanatory.

Missoula Valley Energy Conservation
Board
c/o Lois Jost
Missoula County Courthouse
Missoula, Mt 59802

re: HB 765

Chairman Metcalf and Committee Members:

The Missoula Valley Energy Conservation Board strongly supports HB765. We feel this bill is in the best interests of Montanans in that it will slow the rising cost of energy, will create more jobs than does energy production, and will help maintain a more healthful environment.

The Draft Energy Plan by the Northwest Power Planning Council was released Feb. 1. In this draft plan conservation was determined to be the most cost-effective measure we can pursue to provide needed energy for future growth. Depending on the growth forecast used, the Power Council has determined that conservation can supply 47% to 97% of the new energy required through the year 2002 at an average price of 2¢ per kwh to the consumer. This compares to a price of 4¢/kwh for thermal generating plants. Lower cost energy is a boon to individuals and businesses. For the low-income household it can mean not having to choose between being hungry or being cold. For the middle- and upper-income groups it means more money spent and/or saved within the community. For the business it may mean the difference between locating in Montana or elsewhere.

Studies done in recent years by different groups have shown that energy conservation will create more jobs than will energy production. A study published in the May/June 1981 issue of Solar Washington shows that within the general manufacturing sector an average of \$18,000 is required to create 1 job whereas in the public utility sector an investment of \$105,000 is needed to create one job. That's a ratio of almost 6 to 1. Because more jobs are created on a first-cost basis by conservation there also will be more secondary jobs created. Since this money is spent in existing communities and the work is needed in existing communities, the jobs are created where they are needed - in existing communities. Furthermore, the money saved by the home-owner or renter on decreased utility bills is spent within the community on services and products, thus creating even more jobs. For these reasons, money spent on conservation, in terms of jobs created, is a far better investment than money spent on energy production.

Energy conservation also promotes a cleaner, more healthful environment. Reducing the need for coal-fired generating facilities means a reduction in air-pollution, ground-water pollution, destruction of ranch- and farm-land, and visual pollution.

In closing, we urge you to report this bill out of committee with a "do pass" recommendation.

Thank You.
Gary Decker
Gary Decker. Pres.

HB 765

Testimony presented to the House Committee on Business and Industry
By the Montana Environmental Information Center

February 17, 1983

HB 765 would require gas and electric utilities to purchase cost-effective energy conservation and require the Public Service Commission (PSC) to include these expenditures in the rate base.

Our support for HB 765 stems from our support for energy conservation as the cheapest energy resource available and for clean economic development which benefits all of Montana's diverse communities.

This bill represents a tough approach to energy conservation. We do not take the mandatory nature of the legislation lightly. But the response of gas and electric utilities to conservation has been dismal. Conservation is far and away the least costly energy resource at out disposal. For far too long, the utilities have made nominal efforts towards conservation and have ignored the possibility of purchasing conservation directly from consumers.

HB 765 is a serious economic development proposal for communities around Montana. To understand this, it is necessary to compare conservation with traditional sources of new energy. The first observation is that conservation creates more jobs per unit of energy produced. The estimates of how many more jobs are produced by conservation range from two to five times as many jobs per unit of energy produced. These estimate include construction of power plants as well as jobs created in coal mining to supply the plant.

The second important comparison takes place at the community level. After state and federal taxes, expenditures for energy are the largest flow of money going out of a community. Once that money leaves, it is gone from the local economy for good. Conservation keeps more of that money working within our local economies by reducing that flow out of communities.

The third point is that conservation creates jobs within local communities. In a sense, local building and trade workers are producing energy within their own communities. These jobs have several important qualities. First, they are widely distributed around the state, instead of being concentrated in a single location such as Colstrip. Secondly, the jobs in energy conservation created by HB 765 would be in a particularly hard-hit sector of our economy: the building trades. Housebuilders are out of work. HB 765 is one way to put them back to work while reducing consumers monthly power bills.

HB 765 is a tough approach for energy conservation. But tough times call for tough approaches. Please give HB 765 a "DO PASS" vote, if not for the proponents, for the utility consumers in your district.

TESTIMONY OF NORTHERN PLAINS RESOURCE COUNCIL ON HB 765 BEFORE THE
HOUSE BUSINESS AND INDUSTRY COMMITTEE, February 16, 1983

My name is Marc Ledbetter and I'm representing the Northern
Plains Resource Council. I'm testifying in support of HB 765.

A 1979 study by the Harvard Business School came to the conclusion that, "If the U.S. were to make a serious commitment to conservation, it might well consume 30 to 40 percent less energy than it does now and still enjoy the same or even higher standard of living." They warned that, "It no longer is economically, politically, or environmentally sound to ignore possibilities for much greater efficiency in energy use."

John Gibbons, director of Congress's Office of Technology Assessment, and head of the National Academy of Sciences study on energy conservation, sums up the opinion of almost everyone who has examined its potential: "We're now at a true watershed in the energy debate. Up to now we've been taking the same approach to the problem America has always followed when faced with a shortage in any part of its economy: produce more. Our dilemma has been that, for the first time in our history, we've discovered we can't get more production by turning up the old spigots. But now we've found a new spigot with a very large supply, and as soon as we begin turning it on we'll be on our way out of the dilemma."

HB 765 is a serious commitment to energy conservation. The bill treats energy conservation for what it should be -- a way to produce energy. A return can be earned by investing in it, just like other forms of energy production.

Some may question the wisdom of requiring a utility to invest in conservation upon request of its customers. They may say that weatherizing homes and buildings is something that home and building owners should be responsible for. They may say that making electric motors and industrial processes more efficient is a company's business. But to the extent that our utility system is set up such that one customer's energy consumption affects the energy rates of another energy consumer, we can't sit back hoping for free-market solutions to our problems.

Utilities are regulated monopolies -- there is nothing free market about them, so in this instance we have to set aside some of our free market preferences.

Setting up a program that aggressively pursues conservation is going to save us lots of money. If we would have had something like this in place long ago, we wouldn't have energy bills as high as we have now, and we wouldn't be facing the enormous increases in our electric bills that will come with the rate basing of Colstrip 3 & 4.

PROPOSED AMENDMENTS HB 765

1. Page 1, line 20.
Following: "measure"
Insert: "or combination of measures"
2. Page 2, line 22.
Following: "case,"
Strike: the remainder of line 22 and lines 23 and 24 in their entirety
Insert: "labor costs may be used to purchase further conservation measures. The customer may not pay himself labor costs."
3. Page 3, line 1.
Following: line 25 on page 2
Insert: "(1)"
4. Page 3, line 7.
Following: line 6
Insert: "(2) A building shell, piece of equipment, or process that has been retrofitted under [this act] with a conservation measure or measures may not be retrofitted again under the provisions of [this act]."
5. Page 3, line 19.
Following: line 18
Insert: "or to contract for"
6. Page 4.
Following: line 25 on page 3
Insert: "(3) The commission shall limit the application of conservation measures to correspond to the existing end-use of energy that a utility provides to a customer at the time the energy audit is conducted."

House Bill 765 - Introduced Bill

1. Title, line 4.
Following: "TO",
Strike: ~~"REQUIRE CERTAIN GAS AND"~~
Insert: "PROVIDE INCENTIVES TO ENCOURAGE"
2. Title, line 5.
Following: "ELECTRIC"
Strike: "UTILITIES TO PURCHASE COST-EFFECTIVE"
Insert: "UTILITY INVESTMENT IN OR PURCHASE OF
CONSERVATION; TO REQUIRE THE PUBLIC SERVICE
COMMISSION TO APPROVE CERTAIN GAS AND
ELECTRIC UTILITIES INVESTMENT IN"
3. Page 1, line 13.
Following: "the"
Strike: "incremental"
4. Page 1, line 14.
Following: "commission,"
Strike: "to an electric or natural gas utility
of energy or capacity, or both, which, but
for the purchase of conservation, the utility
would generate or supply itself or purchase
from another source."
Insert: "which would be incurred by the utility
if the utility does not make the purchase of,
or investment in conservation."
5. Page 1, line 20.
Following: "means"
Strike: "a measure that supplies energy by
increasing the energy efficiency of building
shells, equipment, or processes."
Insert: "any reduction in electric power
consumption as a result of investment in
measures that increase the efficiency of
electricity or gas use in building shells,
space heating or cooling equipment, water
heating equipment, or refrigeration equipment
which, over its economic life meet the
criteria of (Section 3)."
6. Page 2, line 1.
Strike: "50% of"

7. Page 2, line 9.
Strike: Section 2 in its entirety. Renumber subsequent sections.
8. Page 3, line 2.
Following: "through"
Strike: "6"
Insert: "5"
9. Page 3, line 2.
Following: "made"
Strike: "for construction or installation that is begun after (the effective date of this act) and before January 1, 1983, and which, at the time they are placed in the rate base,"
Insert: "to replace, upgrade, or enhance building shells, space heating or cooling equipment, water heating equipment or refrigeration equipment which was installed and in operation in the existing structure as of (the effective date of this act), and"
10. Page 3, line 6.
Following: "cost-effective."
Insert: "Purchases or investments by utilities are subject to prior approval by the commission. The Commission shall allow investments in conservation which have received such approval to be placed in the utility's rate base."
11. Page 3, line 7.
Following: "Section"
Strike: "4"
Insert: "3"
12. Page 3, line 11.
Following: "section"
Strike: "3"
Insert: "2"
13. Page 3, line 12.
Following: "section"
Strike: "5"
Insert: "4"

14. Page 3, line 12.
Following: "base."
Insert: "The commission shall establish a rate of return on equity for utility investments in conservation at a level equal to two percentage points above the rate of return on equity determined by the commission to be appropriate for such utility's other investments."
15. Page 3, line 13.
Following: "Section"
Strike: "5"
Insert: "4"
16. Page 3, line 15.
Following: "shall"
Strike: "establish"
Insert: "approve"
17. Page 3, line 16.
Following: "that"
Strike: "may"
Insert: "will"
18. Page 3, line 18.
Following: "through"
Strike: "6"
Insert: "3"
19. Page 4, line 1.
Following: "Section"
Strike: "6"
Insert: "5"
20. Page 4, line 4.
Following: "through"
Strike: "6"
Insert: "5"
21. Page 4, line 6.
Following: "Section"
Strike: "7"
Insert: "6"

22. Page 5, line 1.
Following: "("
Strike: "6"
Insert: "5"
23. Page 5, line 24.
Following: "of"
Insert: "or investments in"
24. Page 6, line 1.
Following: "through"
Strike: "6"
Insert: "5"
25. Page 6, line 3.
Following: "Section"
Strike: "8"
Insert: "7"
26. Page 6, line 4.
Following: "through"
Strike: "6"
Insert: "5"

PACIFIC POWER & LIGHT
COMMENTS REGARDING
MONTANA CONSERVATION BILL
HB 765

Section 1(3) - Revised Definition

- (3) Conservation -- "In order to be cost-effective, the system cost of conservation must be no greater than that of the least cost similarly reliable alternative resource. The system cost of conservation includes the cost of conservation passed on in customer electric bills and the cost of conservation borne directly by individual ratepayers."

Section 2 - Requires utility to either purchase or engage in conservation activities. We already comply with this.

Section 3 - Refers only to conservation measures made subsequent to bill enactment. Language should be inserted that protects our existing investment in weatherization programs as well as the BPA programs.

Section 4 - Allows investment up to 50% of avoided cost.

Section 5 - Commission may require on-site audits. We have no problem as we already do Home Energy Analysis (HEA).

Section 6 - Conservation Tax Credit. We do not currently take the tax credit, no problem with section.

Section 7 - Refers to "recognized nonfossil forms of energy generation." This probably means solar and wind. The term should be defined in the Definition section.

Section 7(1) - Utility may charge interest at 7% per year. This section may possibly preclude our "0" interest loans, as well as the BPA program. Further, the rate should be left to the discretion of the Commission to change periodically as conditions warrant.

Section 7(2) - The interaction between a utility and a financial institution making loans is not clear. There should be some greater clarification of the interaction.

Section 7(3) - Credit against tax. The utility may take a tax credit against producer license tax or against state income tax. The calculation of this credit is unclear. Further, for ratemaking the utility is not allowed to make a profit. Profit is not defined and it is unclear how that is to be interpreted. A better approach would be to compute for ratemaking the amount actually claimed on tax return. This section would come into play only if investments were not placed in rate base.

Section 7(6) - Gives utilities the choice of rate base or tax credit treatment. The choice should be clearly that of the utility and not the Commission.

New Section - We should attempt to get a section that exempts utilities (such as Pacific) that already have programs in place that are substantially equivalent or exceed those included herein. This should include both our programs and BPA programs currently in existence.

ATTN:



Montana Conservation Congress

Testimony on HB 765

Mr. Chairman and members of the committee:

Over 40 conservation groups, represented by more than 100 people, attended Montana's first Conservation Congress last September in Helena. One of the many issues we discussed was energy conservation. We unanimously endorsed this proposal as the most comprehensive and cost-effective approach to implement energy conservation measures. I am here today on behalf of those 40 groups to urge you to support HB 765.

Thank you.

Lucianne Brieger

Attached:

List of groups in attendance

Resolution on energy conservation, passed at the Congress

WHEREAS, rising gas and electricity costs are crippling Montanans and Montana businesses; and

WHEREAS, past electricity and gas forecasts have considerably overestimated current energy consumption; and

WHEREAS, conservation of energy through insulation and weatherproofing, renewable technologies, and subsequent reduced usage of nonrenewable energy sources is less costly both to the consumer and the environment than is utilization of power produced by most major conventional power plants; and

WHEREAS, present Montana Building Code Standards are inadequate and contribute to an increasing air pollution problem; and

WHEREAS, citizens have access to the energy decision-making process but lack technical expertise, time and resources to effectively participate; and

WHEREAS, weatherization and most alternative energy projects are highly labor intensive and create more jobs for local tradespeople than the highly specialized and capital-intensive construction of thermal power plants; and

WHEREAS, Montana communities export millions of dollars for energy which could be recycled through local economies; and

WHEREAS, conservation and renewable energy readily lend themselves to the goals of state and community self-reliance; and

WHEREAS, the Pacific Northwest Electric Power Planning and Conservation Act of 1980 has pointed to conservation and alternative energy as the two most desirable forms of new energy for the Pacific Northwest,

THEREFORE, BE IT RESOLVED by the Montana Conservation Congress, assembled in Helena on this 18th day of September, 1982 that the State of Montana provide adequate funding for incentives to promote conservation and the wise utilization of all energy sources and for the development of alternative sources of energy through:

- a) building energy efficiency standards that encourage increased conservation and renewable energy applications.
- b) rate structures that encourage conservation and decreased peak power loads;
- c) requirement of comprehensive end-use gas and electric energy forecasting^{planning};
- d) expanding the scope and funding of DNRC's Alternative Energy Grant and Loan Program to enable them to make conservation grants and loans and allow non-profit organizations to be eligible for loans;
- e) requiring the purchase of the most socially, environmentally, and economically cost effective energy resources as needed;
- f) the extension and increase of tax credits and incentives, conservation and renewable energy;
- g) energy conservation improvements be eligible for a 10 year property tax exemption.

BE IT FURTHER RESOLVED, that state supported efforts for conservation and utilization of appropriate energy sources be thoroughly developed before any additional major facility sitings are considered for our state.

BE IT FURTHER RESOLVED, that the Montana Legislature provide a mechanism for citizens to obtain the expertise and assistance needed to effectively participate in

Conservation Groups in Support of HB 765

Alliance for a Nuclear-Free Montana
Alternative Energy Resources Organization
American Fisheries Society
Cabinet Resource Group
Citizens for an MX-Free Montana
Canyon Coalition
Common Cause
Defenders of Wildlife
Elkhorn Citizens Organization
Five Valleys Audubon
Flathead Audubon
Flathead Resource Organization
Great Bear Foundation
Headwaters Alliance
Institute of the Rockies
Last Chance Audubon
League of Women Voters
Madison-Gallatin Alliance
Mo Breaks Protective Association
MEIC
MEIC-Bozeman
Mt Wilderness Association
Mt Wildlife Federation
MontPIRG
Nature Conservancy
North Fork Preservation Association
Northwest Citizens for Wilderness
Northern Rockies Action Group
Pintlar Audubon
Rocky Mountain Front Advisory Council
Sierra Club-Yellowstone Valley Group
Sierra Club- Last Chance Group
Sierra Club- Bitterroot Group
Solar Energy Industry Association
Trout Unlimited- West Slope Chapter
Upper Mo Breaks Audubon
Western Sanders County Involved Citizens
Wildlands and Resources Association
Wilderness Society
Wildlife Society- UM Chapter
Yellowstone Valley Audubon
Flathead EIC

Submitted by Luci Brieger, representative of the Mt Conservation Congress.



Box 1176, Helena, Montana

JAMES W. MURRY
EXECUTIVE SECRETARY

ZIP CODE 59624
406/442-1708

February 17, 1983

The Honorable Jerry Metcalf
Montana House of Representatives
Capitol Station
Helena, Montana 59620

Dear Jerry:

The Montana State AFL-CIO will be unable to send a representative to testify in behalf of House Bill 783, because of the severe scheduling conflicts which develop this time of the legislative session.

We do support House Bill 783. We cannot vouch for the wisdom of the individual parts of the bill, but we certainly support the overall thrust of trying to promote competition and limit monopolistic practices of certain businesses.

There are of course some businesses which by their very nature are monopolistic, such as providing electric service. We presume that these are excluded by the prohibition on page 3, line 2, against, "unreasonably limiting or excluding competition . . . "

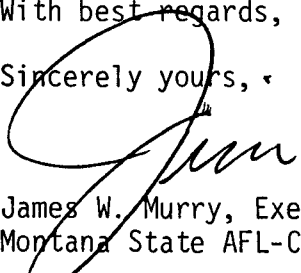
In Montana we have seen the effect of mergers on the part of Burlington Northern, ARCO, Champion International and other multinational corporations. The results have led to the loss of jobs in Montana. We wonder if mergers would be covered under page 2, line 22, the new section on the establishment, maintenance, or use of monopoly. If so, the bill will have very important results for Montana. If not, we still support the bill, but it will have much less direct effect on jobs.

The other drawback of the bill is that there is no provision for increasing the funding to the Attorney General's office to investigate and prosecute violations of this act. Such activity, while beneficial to Montana's economy, costs money and time, neither of which are presently available in excess in the Attorney General's office.

With those reservations, we ask you to support House Bill 783.

With best regards, I am

Sincerely yours, *


James W. Murry, Executive Secretary
Montana State AFL-CIO

cc: All Members of the House Business and Industry Committee

VISITOR'S REGISTER

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COMMITTEE

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HB 765

DATE _____

2-17

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Kadus

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2-17

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HB 783

2-17

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HB 751

DATE 2-17

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HB 790

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