

HOUSE BUSINESS & INDUSTRY COMMITTEE

Rep. Jerry Metcalf, Chairman, called the Business & Industry Committee to order on March 18, 1983, in Room 420 of the State Capitol Building at 10:00 a.m. All members were present except Ramona Howe, who was excused.

SENATE BILL 456

SEN. FULLER, District 15, sponsor, opened by saying this is a variation on Kadas' bill. What we are suggesting is a major new public policy issue. We are saying the issue of energy depletion is more than building power plants - that the issue of conservation is equally as valid, and that is possibly a better way to go. It is the legislatures responsibility to initiate that kind of policy direction. There is a 2% incentive to the utilities provided for conservation. No one need participate unless it is in their economic favor to do so. Conservation is a cost effective way to go about producing energy. From a job standpoint, conservation is equally as valid in a sense that if you create three or four more jobs in the conservation of power you are that much farther ahead. In the amendments, we are adding in natural gas to #1. That was an oversight in the rush of transmittal. We put in an all-inclusive phrase to allow for new development in energy technology. We added a new section to include rural co-ops. It is not fair that only recognized utilities be involved in conservation. Amendment 5 takes care of the FTE we will not need. Conservation is a risky investment because it is a new field. We should give incentive to the utilities to start this ball rolling. The PSC is charged with alot of responsibility but we should not allow major public policy to be set by that commission. The legislature should give direction to the PSC.

PROPOSERS:

BRUCE FINNIE, Phd Economist - Advisor to the Northwest Power Council: It has not been in the best interest of utilities to invest in conservation. This bill gives them the incentive to participate when the investment is 1/2 that or less in terms of conventional production or distributions. This bill will do three things for Montana. 1) It will reduce the rates of increase on natural gas and electricity over time. 2) It will create jobs. It is from 2 to 5 times the employment level of a comparable investment in coal fired units gas distribution systems. Perhaps 50% of the conservation potential rests in residential, commercial and industrial conservation. 3) It is clean and does not damage the environment. This bill does not force the utilities to do anything they do not want. The cost effectiveness of conservation is unknown and constitutes a more risky investment justifying a higher rate of return on conservation investment. This bonus applies only to conservation investment that costs 1/2 as much as a coal plant or gas operation. This bill provides for competition between utilities and other potential conservation companies. Competition is healthy.

JOHN ALKE, Montana Dakota Utilities: We support this legislation. Why? Because this bill is permissive where a market in conservation will benefit all rate payers including those that are not participating in conservation.

GENE PHILLIPS, Pacific Power and Light: We endorse this bill.

MIKE ZIMMERMAN, Montana Power: We support this bill.

DON REED, MEIC: We support this legislation with amendments to include natural gas and by making the 2% greater return on equity permissive for the PSC to decide. The existing arrangement is already permissive; that is, utilities can already rate-base conservation.

JIM McNAIRY, Aero Alternative Energy: We support utility investment in conservation and it's important that we treat it as a resource. Unless there are amendments made, we would not support the bill. We support the inclusion of natural gas. We do not think the 2% rate of return is justified and we take issue with anyone who says conservation is more risky than investing in a new power plant. Utilities will not invest in conservation unless it's proven that the conservation cost 1/2 as much as it would cost to invest in a new plant. There is no risk involved in that. Conservation is a simple, proven technique. We would have you strike the 2% rate of return and suggest the utilities and the PSC work for an over-all conservation plan. If these are adopted, we will have the best possible conservation to benefit both the utilities and the Montana rate payer.
(Exhibit #1)

TIM STEARNS, Northern Plains Resource Council: We are afraid this is fundamentally for the utilities providing them with a mandatory 2% incentive. We support AERO.

SONNY HANSEN, President, Energy Conservation Consultants: We do assessments of buildings for conservation. We suggest that this apply only to residential and not to industrial. You can actually increase your energy consumption by going to double panes because of the internal heat build up within a building. As an example, Taco Bells that have high internal heat, if you increase the insulation of that envelope, you have to increase the refrigeration equipment to dispell that heat gain. Consequently, we think this should apply only to residential that is affected by the weather.

OPPONENTS:

TOM SCHNEIDER, Public Service Commissioner: On the Senate side I testified for it - but now I oppose it. Requiring the commission to allow a differential rate of return for conservation investment strikes us as perverse. It says the utilities should be rewarded by a 2% rate of return on their common stock for investing in conservation measures that are 50% as costly as their conventional expansion.

The private conservation company amendment that was proposed today would extend the commission's rate regulatory jurisdiction probably to private companies. We are not interested in doing that - regulating private companies. We don't see the word "co-operatives" in there at all. We support the amendment of Mr. Hansen that the program apply to programs that currently qualify for RCS - there would be no additional staff needed to handle conservation under that program. If we put this on industry...we don't have the resources to examine commercial businesses or buildings to determine cost effectiveness. There is a fiscal impact with that. We would urge that if this legislation passes, a provision be included in the bill that would allow us to depreciate that investment out of the rate base. Otherwise, it would be there permanently. We are glad to see the word "natural gas" back in here.

SEN. FULLER, in closing, said I suggest that the 2% is not a magic figure. It was put in as an incentive to the utilities. If the committee decides against it, that's OK. I don't disagree with Sonny Hansen. It's an optional kind of investment and if the incentive is not there, then commercial will not be involved. Mr. Schneider's amendment is fine. We are setting up a new frame work for this state to deal with energy production. Whether the companies choose to do it or not is up to them.

QUESTIONS:

REP. FABREGA: How would the private companies react? Sen. Fuller: It's not fair to allow other utilities to invest and not allow the co-ops to do the same thing. Rep. Fabrega: The co-ops are not regulated and they determine their own rate base. Mr. Finnie: We are concerned that some form of competition between utilities and companies that could arise to provide conservation exist. If a utility was in a position where they did not need to buy increased conservation, they wouldn't. A private company in that service area would not invest either. If the utility was building an additional facility and did not opt to pursue the conservation option, then the private company could do that.

REP. SCHULTZ: Mr. Schneider, is 2% incentive enough? Mr. Schneider: If I were a utility, I would put my investments there. Whether that is the most cost effective way is a question. Rep. Schultz: You have no suggestion how to accomplish this without the incentive? Mr. Schneider: One suggestion of Mr. Opitz is that if permissiveness is a good idea on the utility side, it ought to be a good idea on the commission side in terms of looking at the rate of return. He suggests you substitute the word "may" allow a differential rate of return of 2%.

REP. KADAS: Mr. Zimmerman, why do you want that particular language as opposed to our original language? Mr. Zimmerman: I asked our people in Butte and they said this definition was more clear and understandable.

REP. KADAS: Mr. Schneider, there is confusion as to whether utilities can do this already. Mr. Schneider: They can invest in conservation but the difference is they are ultimately being paid back by the customer through the rate base. Mr. Alke: I would disagree in part with Commissioner Schneider in that it's not an actual rate income. You have a question of whether or not any item placed in the Montana rate base for conservation has to be allocable solely to Montana rate payers or whether it could be jurisdictional as all other generation is.

REP. FABREGA: Mr. Schneider, do you think the 2% is an important factor in this bill as an incentive rather than making it mandatory? Mr. Schneider: We think it's important and if the word "may" instead of "shall" on the differential rate of return was inserted it would be appropriate. In one case, the Montana Power Company was allowed a differential rate of return on natural gas because of the evidence presented and because of their efforts. Mr. Alke: If I put \$1,000 in someone else's house as an investment, I would not be in control. If anything happens to the house, the chances of me getting full recovery are major. I am taking \$1,000 and giving it to a third party and I am inherently in a more risky position than if I had put my \$1,000 in a generating plant and had that investment fully insured.

REP. ELLISON: You mentioned depreciating it out of the rate base. What kind of formula are you going to use on the different items in a house? Mr. Schneider: It must be depreciated out. Those guidelines would be available through the RCS Program and the Dept. of Natural Resources. I suspect the utilities would have some feelings on it. It won't be any great burden.

REP. KADAS: The way the bill is written, could the utility decide to offer conservation to one particular sector and not offer it to others? Mr. Zimmerman: It seems the implementation of the program is left to the discretion of the utilities to decide that an investment is cost effective. I don't see how it would be available to one customer and not another unless you could prove that the investment is not cost effective.

REP. KADAS: My concern is that you will decide Anaconda Aluminum is cost effective but you won't offer that same thing to residential. Mr. Zimmerman: The PSC will determine the cost effective criteria. Mr. Schneider: The opportunity for discrimination exists. I don't think the commission could require a utility to invest in anything they did not want to invest in. It should apply to the full residential class. This is a very important aspect of it.

Rep. Dave Brown will carry Senate Bill 84 to the House floor.

HOUSE JOINT RESOLUTION 32

REP. DOZIER, District 31, sponsor, opened by saying this resolution proposes a study of the condo ownership act which was adopted in 1965. The Dept. of Commerce is supposed to administer this act but they don't accept any responsibility for it. There is a lot of money tied up in this act and it should be looked at in the areas of appraisal, taxes and assessments. (Exhibit #2)

PROPOSERS:

REP. HANSEN: I would like to go on record as supporting this resolution.

OPPOSERS: none

QUESTIONS: none

EXECUTIVE SESSION

HOUSE JOINT RESOLUTION 32

REP. HANSEN: I move HJR 32 DO PASS.

QUESTION: The motion carried unanimously.

SENATE BILL 305

REP. FAGG: I move SB 305 BE CONCURRED IN.

QUESTION: The motion carried unanimously.

Rep. Harper will carry SB 305 to the House floor.

SENATE BILL 340

REP. WALLIN: I move SENATE BILL 340 BE NOT CONCURRED IN.

REP. FAGG: I know in my profession, you can get a license if you have apprenticed twice the normal length of time.

It lets you qualify for the test. There can't be a fear in allowing a person to take a test - he'll probably fail it.

REP. METCALF: It does say he has to have 10 years of office and field experience and 6 years in charge of land surveying projects. He should be at least qualified to take the test.

REP. WALLIN: I made the motion because we had a bill not long ago to let engineering students take the test without the proper education. We did not waive the requirement for them and it wouldn't be fair to do it here.

REP. FABREGA: There was a difference there. The engineer-in-training test was for immediately after finishing school. This requires twice the number of years.

REP. HARPER: It doesn't say in charge of what - you could be in charge of the same little job for 10 years.

REP. METCALF: They have to present evidence satisfactory to the board.

REP. FAGG: Why force a guy who can't afford to go to college to become educated in college simply to get a license? It does give an elite position to the guy that can afford to go to school.

REP. METCALF: There is a philosophical question here as to whether we really do need formal education to do a job or whether you can learn it on your own. This is to take the test.

REP. KADAS: There was a big difference on the bill we had on the engineers because that test wasn't very comprehensive. If this is a real comprehensive test then I can see your point of view.

REP. FAGG: It's a tough test.

REP. HANSEN: After working in real estate, we have run into alot of errors in land surveying. If going to school would help make it better, I'm for that.

REP. SAUNDERS: Education can be acquired in many ways. A great deal of self education can be acquired.

REP. FAGG: Sonny Hansen of the Montana Technical Council is on top of every bill they are opposed to and he is not here.

REP. BACHINI: There are surveyors out there who have been to college and they make mistakes too.

QUESTION: The motion of BE NOT CONCURRED IN failed 9-6.

REP. FAGG moved the vote be reversed.

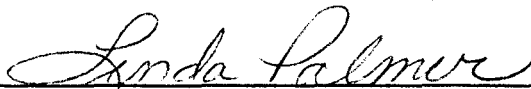
QUESTION: The motion carried unanimously.

Rep. Fagg will carry SB 340 to the House floor.

The hearing adjourned at 10:30 a.m.



REP. JERRY METCALF, CHAIRMAN



Linda Palmer, Secretary

STANDING COMMITTEE REPORT

MARCH 18

183

MR. **SPEAKER:**

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **HOUSE JOINT RESOLUTION** Bill No. **32**

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color

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES
OF THE STATE OF MONTANA REQUESTING AN INTERIM STUDY OF THE PROBLEMS
ARISING FROM DEVELOPMENT, SALE, AND OWNERSHIP OF CONDOMINIUMS AND
REQUIRING A REPORT OF THE FINDINGS OF THE STUDY TO THE LEGISLATURE.

Respectfully report as follows: That **HOUSE JOINT RESOLUTION** Bill No. **32**

~~XXXXXX~~ DO PASS

STANDING COMMITTEE REPORT

MARCH 18

19 83

SPEAKER:

MR.

BUSINESS & INDUSTRY

We, your committee on

SENATE

305

having had under consideration

third

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color

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAW RELATING TO UTILITY RATE SCHEDULE CHANGES; ALLOWING A UTILITY TO WAIVE THE 9-MONTH AUTOMATIC EFFECTIVE DATE OF A RATE SCHEDULE CHANGE; AND ALLOWING THE PUBLIC SERVICE COMMISSION TO DETERMINE THE INTEREST RATE TO BE PAID ON EXCESS REVENUES COLLECTED UNDER A RATE SCHEDULE SUBSEQUENTLY REDUCED BY THE PUBLIC SERVICE COMMISSION; AMENDING SECTION 69-3-302, MCA."

SENATE

305

Respectfully report as follows: That

XXXXXX BE CONCURRED IN

DO PASS

JERRY METCALF

Chairman.

STATE PUB. CO.
Helena, Mont.

COMMITTEE SECRETARY

STANDING COMMITTEE REPORT

MARCH 18

19 83

MR. **SPEAKER:**

We, your committee on **BUSINESS & INDUSTRY**

having had under consideration **SENATE** Bill No. **340**

third reading copy blue)
color

**A BILL FOR AN ACT ENTITLED: "AN ACT TO AMEND THE
REQUIREMENTS FOR ELIGIBILITY FOR EXAMINATION AND REGISTRATION
AS A LAND SURVEYOR OR LAND SURVEYOR-IN-TRAINING; AMENDING
SECTIONS 37-67-308 THROUGH 37-67-310, MCA."**

Respectfully report as follows: That **SENATE** Bill No. **340**

~~XXXXXX~~ **BE CONCURRED IN**
DO PASS



Alternative Energy Resources Organization

424 Stapleton Building, Billings, Montana 59101

(406) 259-1958

324 Fuller, C-4, Helena, Mt. 59601 443-7272

PROPOSED AMENDMENTS TO SB 456, THIRD READING COPY

1. Page 2, Line 12
Following: "POWER"
Insert: "or natural gas"
2. Page 2, Line 16
Following: "EQUIPMENT"
Insert: ", or other cost-effective measure"
3. Page 3, Line 20 through Page 4, Line 2
Strike: subsections (2) and (3) in their entirety
4. Page 4, Line 3
Insert: New Section 5
"A utility shall submit to the Commission, as part of its filings on general rate proceedings, information on its conservation acquisition program. The Commission shall use this information to help determine the most cost-effective mix of conservation and conventional energy supply."
Renumber all subsequent sections.

Condos win favor in city

Exhibit #2

500 units are under construction or planned in Billings area

By MARJ CHARLIER
Of The Gazette Staff

When they first became popular on the coasts, condominiums were synonymous with the trendy, the avant-garde. They represented the new lifestyle of well-paid single persons, sitting in a common hot tub sipping white wine, helping each other get in touch with their feelings.

In spite of being the butt of a national joke, condos became hot property all around the country. By 1981, 21 percent of the homes bought in the United States were condominium units.

Nearly a third of all homes bought in the West 20 years ago were condos, but that statistic is heavily skewed by the number of condominiums purchased in California, Washington and Oregon. Up to now, very few condominiums have sold in Billings, Montana.

Condominiums — and their cousins, the townhouses — were slow to catch on in Billings. But now, more than 500 condo and townhouse units are under construction or planned in the greater Billings area.

Condominiums are basically multifamily dwellings, like apartments. Condo owners own their living quarters and share an undivided interest in common property, such as recreation areas, lawns, plantings and exterior walls of the building.

Townhouses are similar, but in a townhouse project, the landowner owns a portion of the land, either under his unit, or under and around his unit.

Those who own the units belong to a landowners' association, which makes decisions that affect the entire project.

"It's a new concept that's taken off in other areas," said Carol Bentson of Floberg Realtors. While so far the number of projects in Billings is small, those that have been built have sold well.

Rocky Village, a planned-unit development south of Rocky Mountain College, was one of the first condo projects, developed in the late 1970s and early '80s. Only one of the 66 units in the development usually is up for sale at any time, and those that are offered for resale have appreciated in value as well as any single-family home, said Donna Gordon of Parkes Realty.

"That type of ownership lends itself to the lawn being mowed and the walks being kept up," said Gordon.

Spring Creek, an older and very pleasant development on the West End, also is popular. Units for sale there are on the market less than a day.

Other projects that have sold well include Heatlands and Sunshine West, built by Stu Henkel.

The solar townhouses built as duplex units in Sunshine West development off Poly Drive sold well, said Henkel.

Fourteen of the 18 units sold for cash, he said, they attracted more affluent buyers who were interested in new homes at a time when interest rates were very high.

The only condominium project in Billings that hasn't sold well recently has been Rocky Plaza, the high-rise, exclusive building across from Rocky Mountain College at 1400 Poly Drive. Realtors speculated that the high cost of the units limited prospective buyers.

Although most condos here have been well accepted, the number of projects on the market has been small because of a slow adjustment on the part of the financial community and builders, said Bruce Posey, real-estate loan officer at First Bank-Billings.

"It was a new concept, and the financial industry found itself in foreign territory," Posey said. "It took a while for lenders to find the secondary market for loans on condos, and banks were wary of legal ramifications of joint title on the units."

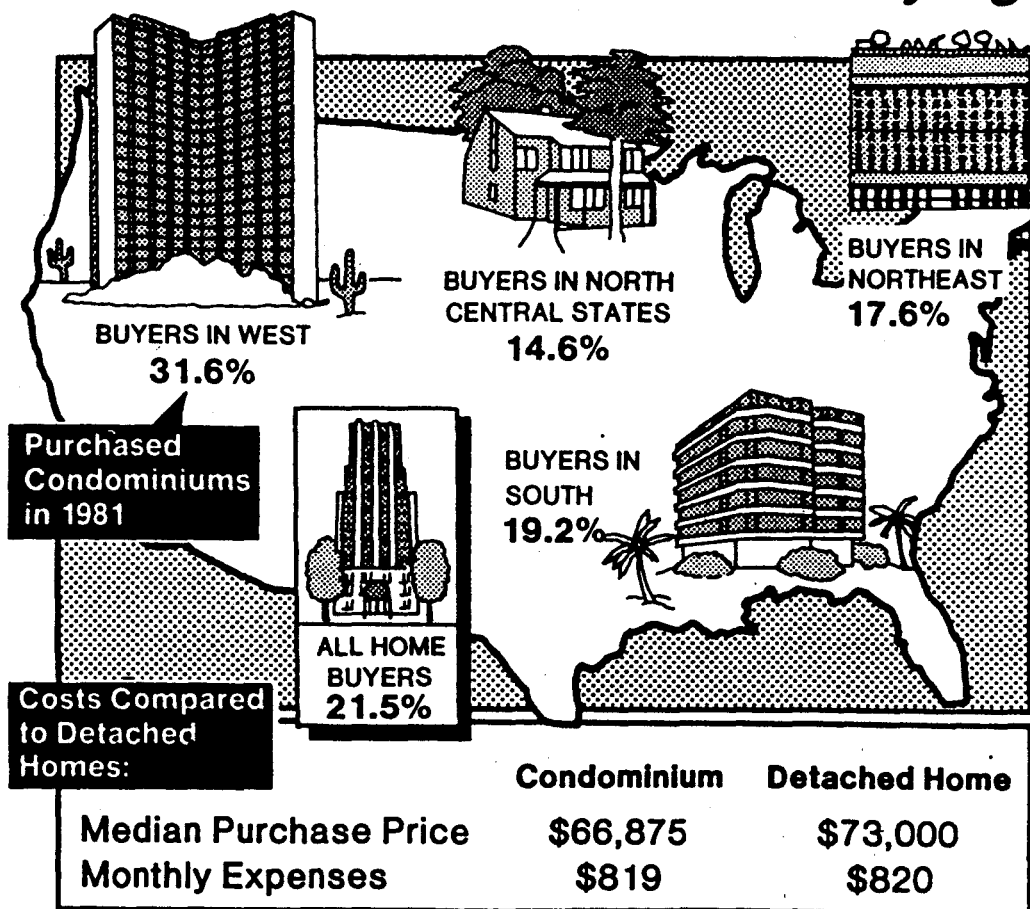
The idea of not owning the ground under you was a problem in the eyes of buyers, Posey said.

Gordon, who was marketing agent for many of the condos at Rocky Village, said that at first it was difficult to sell the condo idea in Montana.

"They were not easy to sell," she said. "The concept had not seeped into the homebuying market."

CONDO COUNTRY

Trends in American Home Buying



land is not at a premium, said First Bank's Posey.

"One thing Montana has a great wealth of is land," he said. "But maybe it was just the builders. Maybe it's just the builders finally have decided to take a chance."

But it could be the expense of land — even in the vast state of Montana — that brought condos to the marketplace, Posey said.

"The big savings in condo development is the land," he said. "You can build 20 units on an acre, rather than three on an acre, and the ground costs the same."

The savings in development translates into a price difference between a condo unit and a similar-quality, single-family home, said the bank officer.

An average 1,000-square-foot home costs about \$55,000 to \$65,000 in Billings. An average 1,000-square-foot condo will be about \$5,000 less.

A condo also may come with recreation facilities that most homebuyers don't get, like swimming pools, gazebo barbecue areas, whirlpools or spas, and large party rooms.

And for a relatively modest price, the better condos are built with oak cabinets, fireplaces, built-in microwaves and many other amenities that come with much-higher-priced homes.

The success of the condo unit in the country — and in Billings — is probably more than price. They are convenient for working persons, especially now that most married women also work outside the house.

With no one home all day to mow the lawn and shovel the walk, the burden of maintaining a home may be too much.

"They like to save their time for pleasure," said Benson of Floberg's. "Their last desire is to go home and mow the grass. They can go home and swim in a pool, or have a hot-tub party without investing \$4,000 in their backyard."

Why not just rent an apartment? For some, the difference is the tax write-off of the interest payment, said Posey. A condo may cost only an extra \$50 or so a month, but in the first few years a major part of the payment is interest, which can be deducted from income taxes.

"That's what the realtors are selling," said Posey. "The only motivation out of pride of ownership is the savings on taxes."

On the drawing board or in the construction

stage today are projects with names like Crestview, Brandywine, Timbers, Terra West, Woodland Hills, Stoneridge and Wheatridge. Some will be condos, some townhouses. Some will have recreational facilities in place; others will have land for pools and spas, and the owners' associations will someday decide whether to build them.

"It's yet to be proven how successful the new ones will be, but those in the past have sold very well," said Posey.

Some condo owners in Billings have run across ownership problems, and there are pitfalls to watch for, said Bentson.

Before buying a condominium, know:

- What are the restrictions? Can you have animals? What can you do with common ground around your unit? Are there restrictions on children and numbers of persons living in the unit?

- What are the bylaws? What are your voting privileges? What decisions will you have a hand in? How are association board members chosen?

- What rights do you have in examining joint expenses and records? Find out if you can be reasonably sure that money will be spent appropriately, and if the people who spend the money will be reasonably accountable.

- How many units are controlled or owned by the developer of the project? If the majority of the units are controlled by one person, you may not have much of a voice in how the project is run.

- Who are your neighbors? If other units have been purchased, see if you can find out as much about them as you would about neighbors in a neighborhood of single-family homes.

Legislation that would require good access to financial records and disclosure of the developer's interest in units is being considered by the Montana Legislature. It was requested by condo owners in Billings who felt they did not get a fair deal in buying their property.

In times of high interest rates and building costs, however, the condo may be the answer and not the problem for new homebuyers.

"Condos like Brandywine will put people in homes who otherwise can't afford one," said Posey. Brandywine condos will sell in the low 50s. Few homes can be purchased for that.

"It really is a good use of land and if they're well done, they're bound to provide housing that's needed more and more in Billings," said Gordon.

Fuller 2/18/89

PROPOSED AMENDMENTS TO SB 456, THIRD READING COPY

1. Page 2, line 12.
Following: "POWER"
Insert: "or natural gas"
2. Page 2, line 16.
Following: "EQUIPMENT"
Insert: ", or other cost-effective measure"
3. Page 2.
Following: line 23
Insert: "(2) The commission may directly allow a rate of return on conservation investments made by a private conservation company."
Renumber: subsequent subsection
4. Page 2, line 25.
Following: "in"
Strike: "subsection"
Insert: "subsections"
Following: "(1)"
Insert: "and (2)"
5. Page 4, lines 5 and 6.
Following: "APPROVE"
Insert: "cost-effectiveness"
Following: "criteria"
Strike: the remainder of line 5 through "criteria," on line 6

WITNESS STATEMENT

Name Don Reed Committee On B & I
Address P.O. Box 1184 Date 3/18/83
Representing MEIC Support
Bill No. SB 456 Oppose _____
Amend

AFTER TESTIFYING, PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

1. support with amendments to include natural gas and make the 2% greater return on equity permissive for the PSC to decide.
2. Existing arrangement is already permissive; that is, utilities can already rate-base conservation.
3. Support conservation acquisition program amendment proposed by AFRO
- 4.

Itemize the main argument or points of your testimony. This will assist the committee secretary with her minutes.