MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE SENATE

March 1, 1983

The thirty-seventh meeting of the Senate State Administration Committee was called to order by Senator Pete Story, Chairman on March 1, 1983 at 10:00 a.m. in room 331 of the State Capitol Building in Helena, Montana.

ROLL CALL: All members were present with the exception of Senators Tveit and Stimatz.

The meeting was called to order to hear H.B.35, H.B.46, H.B.36, H.B.92, H.B.47, H.B. 37, and H.B.59.

CONSIDERATION OF HOUSE BILL 35: This bill had been heard once in January so the sponsor was excused with the promise that executive action would be taken on this bill soon.

CONSIDERATION OF HOUSE BILL 59:
"AN ACT TO REQUIRE THE ADMINISTRATIVE CODE COMMITTEE TO REVIEW ALL RULES ADOPTED BY CERTAIN AGENCIES PRIOR TO APRIL 14, 1975 FOR COMPLIANCE WITH SECTION 2-4-305, MCA; PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A TERMINATION DATE."

REPRESENTATIVE HARPER, District 30, Helena, introduced this bill. The rules that have been adopted and have come out since 1975 have met minimum standards but the ones adopted all the years before that are still on the books have never been subjected to the kind of review that those since 1975 have, which was the time the administrative code committee was established. The code committee thinks that basically three purposes would be served, though it would cost some money. First it would protect the agency, second it would protect the legislature and thirdly it would give public protection. In four years it would come off.

PROPONENTS:

SCOTT CURRY with the Department of Labor and Industry stated they support the bill with the amendment that they propose. EXHIBIT 1 is Mr. Curry's testimony and EXHIBIT 1(a) is the proposed amendment.

OPPONENTS: None.

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked why shouldn't the rule be changed to conform to the new substantive requirement.

MR. CURRY said the rule could be a good rule because it was adopt-

ed with the statutes that existed at the time.

SENATOR TOWE said if the statutes have changed so should the rules.

MR. CURRY said if the substantive statutes have changed that is true but not if the procedural.

SENATOR TOWE said if something goes back that far you look at the rules that existed at that time not at the changes in 1983.

REPRESENTATIVE HARPER stated there has been a change of emphasis over the years. He said that he would like to know for instance, how many rules are they talking about that have to be changed and how much legislation will be necessary. He stated if the bill is limited as it is put before the committee now, he does not know what the bill does. There has to be a uniform standard established and get these things in compliance with that standard.

SENATOR STORY advised the committee that the staff that drew up the codes were in the room.

SENATOR MARBUT asked David Ness his opinion of the amendment.

DAVID NESS, stated that the problem Mr. Curry mentioned is not caused by anything in this bill but by the fact in 1977 after the administrative procedure act had already been adopted, Dec. 31, 1972, the legislature changed the criteria of rule making authority for rules that would have a force in affect of law from any authority expressed or implied in the statutes, to only express rule making authority. He said that he believes even without the amendment there would have to be a differentiation in the staffs mind and the committee as the study progressed. The committee would have to make the distinction that is embodied in the amendment.

SENATOR MARBUT said that does not mean the rules under force of law are exempt from these reviews, they would be repealed regardless of their date of inactment.

DAVID NESS said that any court reviewing any rule adopted in 1974 or 1978 would have to apply the standard on the date the rule was adopted or the standard on the date it was amended or repealed.

The meeting closed on H.B.59.

EXECUTIVE ACTION ON H.B.59.

SENATOR TOWE MOVED THAT H.B.59 BE CONCURRED IN.
MOTION PASSED.

The hearing opened on House Bill 37.

CONSIDERATION OF HOUSE BILL 37:
"AN ACT TO REQUIRE THAT NOTICES OF PROPOSED RULEMAKING UNDER THE MONTANA ADMINISTRATIVE PROCEDURE ACT BE MAILED TO ~~CERTAIN SOCIETIES WHOSE MEMBERS WOULD BE DIRECTLY AFFECTED BY THE PROPOSED RULE AND TO ORGANIZATIONS THAT HAVE DEMONSTRATED AN INTEREST IN AN AGENCY'S ACTIVITIES EVERY PERSON SELECTED BY AN AGENCY FROM A LIST PROVIDED BY THE ADMINISTRATIVE CODE COMMITTEE~~: AMENDING SECTION 2-4-302, MCA."

REPRESENTATIVE JIM SCHULTZ, District 48, Lewistown, introduced H.B.37 saying that this bill was amended very heavily by the House and asked that the committee table this bill. The purpose of this bill was to get notice to the people in the state of the rule making process. See EXHIBIT 2 and 2(a).

In reference to Senator Story's question regarding the changes, REPRESENTATIVE SCHULTZ reviewed the changes made.

PROPONENTS:

DAL SMILIE representing the Social and Rehabilitation Services stated as the bill stands now the public can write the codes committee rather than trying to find each and every agency that would cover the rule covering that person. He stated that he supports the bill as is.

SCOTT CURRY with the Department of Labor and Industry stated that he supports the bill as shown, amended, and offers another amendment, EXHIBIT 3 which is brought out because of cost consideration. He stated that it might be cheaper to publish the statement rather than publish hundreds of names.

JOHN MOTL, representing Common Cause said they thought the amendments put in by the house improved the bill.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked why REPRESENTATIVE SHULTZ did not like the bill.

REPRESENTATIVE SCHULTZ said that he likes the bill just fine, but

not as amended. He said that they really wanted to accomplish what we started out to. We felt that when a person filed their name with the administrative codes committee we would have to go out and get those

SENATOR TOWE said that from what he hears this morning that unless you serve notice on the office of any reasonable identifiable professional prey or industrial society whose members would be directily affected then you could jeopardize the validity of the rule. There could be an opening for a challange. He said that he as an attorney could put his name on the list and they in the administrative codes committee more versed than he could be sure and send me what is needed in the agencies that would affect me.

REPRESENTATIVE SCHULTZ said it would possible help what they were trying to do.

SENATOR TOWE questioned the language under C(II) page 2, line 20, and is it that they have huge lists they do not want published.

SCOTT CURRY said that they were afraid the list from the administrative codes committee would be huge.

REPRESENTATIVE SCHULTZ closed on H.B.37 by saying he does take back his suggestion to table this bill since there are so many in support of it.

The meeting closed on H.B.37.

CONSIDERATION OF HOUSE BILL 47:
"AN ACT TO REQUIRE THE PUBLICATION OF A STATEMENT, WITH EVERY RULE PROPOSED AND ADOPTED UNDER IMPLIED RULEMAKING AUTHORITY, THAT THE RULE ~~LACKS THE FORCE AND EFFECT OF LAW IS ADVISORY ONLY~~."

REPRESENTATIVE SCHULTZ introduced this bill as shown in EXHIBIT 4 and reviewed the bill stating that the amendment he is submitting EXHIBIT 5, would make the bill affective not only on the rules in the past but also in the future. He expressed that there is no statuatory requirement that rules having a force in affect of law have any different form or look any different than the rules that are advisory only, thus the two types of rules are easily confused. This bill address that problem.

PROPONENTS: None

OPPONENTS:

MONA JAMISON, legal counsel in the Governor's office stated that they oppose this bill for a number of reasons. She said

in Section 2 the committee asks the statement to be published that is required by Section 1 on any proposed or adopted rule. We suggest any rule is a legal conclusion and outside of the administrative confines of the administrative codes committee. This is something that belongs to the courts.

Looking at the bill as a whole, Ms. Jamison said that they feel that the way it has been amended it is no longer clear what is going to happen here. Section 1 says the agency "shall"; subsection 2 says it's upon the request of the committee. This shows an inconsistency. Another problem is shown in subsection 2 about the committee having the ability to ask a committee to do something rather than a recommendation. Subsection 2 shows a request that is a mandatory action. It is also unconstitutional when the committee can determine whether the rule is interpretive or not and also the committee not requesting but that it says the agency "shall" publish the statement. If "shall" were changed to "may" it would eliminate that constitutional problem.

There were no other proponents.

QUESTIONS OF THE COMMITTEE:

SENATOR HAMMOND asked David Ness what his feelings were on this.

DAVID NESS said that he does not agree with Mona Jamison's conclusion that the request to publish the statement is a violation of the doctrine of the separation of powers was an infringment by the legislature upon the duties of the courts of the state. The jobs of courts is to make finding of facts, conclusion of law, issue judgements having force of effective law and that is not what it is doing in here. When the statement is required to be published it is merely a notice to the people who read the bill that we the agency or the administrative code committee believe that there was only implied authority for the law.

SENATOR TOWE asked him what he thinks about the suggestion that Mona makes in that whenever the agency itself determines the rule is interpretive that they should so state and further state that the rules of advisory only may be question of interpretation of the law.

DAVID NESS stated that that is the purpose of subsection 1.

SENATOR TOWE said, suppose section 2 was changed to state upon the request of the administrative code committee a agency shall publish a statement indicating in the administrative code committee that this rule is interpretive and advisory only.

In other words, if the administrative codes committee believe it to be interpretive they should submit a statement to that effect should be published with the rule.

DAVID NESS stated that that should accomplish what they are after. There is a conflict between subsection 1 and subsection 2. The language on 13 and 14 would have to be changed.

SENATOR TOWE questioned striking line 19 through 22 and asked if that was added because they were afraid they have to go back and publish all existing laws at a huge cost.

REPRESENTATIVE SCHULTZ said that there would not be any reprint on this.

SENATOR TOWE asked if it was the intent of the administrative code committee that there would be a review of all existing laws or rules to determine if they are interpretive and re-publish if they are. How much was contemplated.

DAVID NESS said he does not think the committee discussed a wholesale review of the rules. The committee intended that that subsection authorizing the committee requesting the statement be used in the manner that most of the committee's authority is used.

The hearing on H.B.47 closed.

CONSIDERATION OF HOUSE BILL:46
"AN ACT TO ELIMINATE THE REQUIREMENT THAT AGENCIES REPORT TO THE ADMINISTRATIVE CODE COMMITTEE THEIR RECOMMENDATIONS FOR LEGISLATION CLARIFYING GRANTS OF RULEMAKING AUTHORITY; AMENDING SECTION 2-4-314, MCA."

REPRESENTATIVE STOBIE, District 23, introduced this bill by saying it eliminates the requirement of agencies to report to the administrative code committee their recommendations for legislation clarifying grants of rulemaking authority which is the requirement now. Some do and some don't.

PROPONENTS:

MONA JAMISON, Legal council for the Governor's office, stated that she was here to testify in support of the bill although they had no problem in complying.

OPPONENTS: None

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked if this is intended to go beyond recommended

legislation.

MONA JAMISON stated that she was on leave when notice came out and when she got back they started reviewing all the post legislation for policy acceptance and for legalities and for rule making. By the time that this is done and the agencies are still in the development stage of their legislative proposals and by the time it is actually required to get the bills in for introduction into the sponsors, some of these never end up materializing and they don't need rulemaking here. This is tabbing somewhere in time.

ACTION ON HOUSE BILL 46:
SENATOR TOWE MOVED THAT HOUSE BILL BE CONCURRED IN.
MOTION PASSED.

CONSIDERATION OF HOUSE BILL 36:
"AN ACT TO REDUCE THE NUMBER OF COPIES OF THE ADMINISTRATIVE RULES OF MONTANA TO BE PROVIDED TO COUNTIES; GIVING THE GOVRNING BODY OF THE COUNTY DISCRETION ON DISTRIBUTION; AND REDUCING THE NUMBER OF COPIES PROVIDED TO THE LEGISLATIVE COUNCIL; AMENDING SECTION 2-4-313, MCA."

REPRESENTATIVE STOBIE, District 23, introduced this bill and said that it is a simple bill that does just what the title says. The Secretary of State's Office took a poll of county courthouses in Montana and found that they must by law keep up two sets of the ARMS, one in the Clerk and Recorders' Office and one in the Clerk of Court's Office and they are very seldom used.

PROPONENTS:

BOB MC CUE with the Secretary of State's Office testified in favor of this bill. There poll showed that the administrative rules were not being used or updated and they would like to see the county commissioners designate a place in the county for that ARMS to reside, the county attorney's office may be a good place.

No other proponents.

OPPONENTS: None

Representative Stobie closed on H.B.36.

QUESTIONS OF THE COMMITTEE:

SENATOR TOWE asked if under this bill the clerk of court would no longer receive any copies.

REPRESENTATIVE STOBIE said it would be up to the governing body to give it to whom they decide.

SENATOR TOWE pointed out the second section that says, "the secretary of state, each county in the state, and the librarians for the state law library.." and what he is worried about is that it will get somewhere where it would not be available to the public.

REPRESENATIVE STOBIE said he did not think that was a concern.

BOB MC CUE said that it is rarely used now in the Clerk of Courts office. The Clerk and Recorders office will probably keep theirs but the important thing is that they are not updating them and when the public comes in and uses them they are not using updated material.

The hearing closed on H.B.36.

CONSIDERATION OF HOUSE BILL 92:
"AN ACT TO AUTHORIZE THE ADMINISTRATIVE CODE COMMITTEE TO OBJECT TO ANY RULE UPON THE GROUND THAT IT WAS ADOPTED IN SUBSTANTIAL VIOLATION OF THE PROCEDURAL OR SUBSTANTIVE AUTHORITY DELEGATED TO THE AGENCY; REQUIRING THE AGENCY, AFTER OBJECTION BY THE COMMITTEE, TO PROVE THE LAWFULNESS OF THE RULE; AWARDING COSTS AND ATTORNEY FEES AGAINST THE AGENCY IF THE RULE IS INVALIDATED BY COURT JUDGMENT; AMENDING SECTION 2-4-506, MCA."

REPRESENTIVE STOBIE, District 23, introduced this bill by saying that it is a codes committee request which gives the committee the authority to object on a rule they think is unlawful. Under this law a two part procedure is used to give an objection a legal affect, one the committee votes whether or not to object to a rule and send a written letter of objection to the agency then the agency has 14 days to respond to that, and if they do and the committee does not withdraw its objection they have a second codes committee meeting where they may vote to send their objections to the Secretary of State for publication in the register. It is the publication of objection that shifts the burden of proof to the agency to prove validation. The committee cannot make that judgement. This is only a challange and it goes to court for the decision

PROPONENTS: None

OPPONENTS:

Mona Jamison, legal council for the Governor's office testified.

She stated that with the publication, whenever anyone looks at it it is like a red flag. With every rule that regulates there are regularities,there are people that are going to be bound by the rules and requirements. We must believe that the rules are adopted in good faith but someone will pick-up the red flag, under this bill, and go running off to court, then it will be the agency's responsiblity of burden of proof. This will cause agency time, court time and money as well as legal consideration.

Subsection 1 allows the committee to determine and this gives them the rule of authority.

DAL SMILIE, representing SRS, said that H.B.93 changes the test, the one that the attorneys tell us that we are doing in their mind. He said that on page three, line 7 it strikes evidenced by documented legislative intent and he said he is not sure the legislature would want this. He stated that burden of proof is crucial. See EXHIBIT 6 and 7.

SCOTT CURRY representing Labor and Industry said he also agrees with Dal Smilie. He said the decision making authority does belong to the courts. They are also affecting the decisions that the administrative codes committee may be making that affect the substantial rights and responsibilities of parties, not only government agencies but private parties with no repeal.

REPRESENTATIVE STOBIE closed by saying that there intention is to put up a red flag to the public. He stated that he believes the committee does act in a responsible way but they will be more careful. He stated they did not think this up it was part of the national conference of commissioners on uniform state laws, and Montana has three commissioners on that staff, Diana Dowling, Robert Sullivan and former Senator Steve Brown

QUESTIONS OF THE COMMITTEE:

SENATOR MARBUT asked Mona Jamison about her statement that implied that the only ones that acted in good faith was the agencies and not the committee.

MONA JAMISON said that she did not intend it to sound that way.

SENATOR MARBUT asked if she didn't think this would establish a good dialogue between the agencies and the administrative code committee.

MONA JAMISON said that she did not think that this bill does that.

SENATOR TOWE said that he believes that if the committee says something is outside the scope of the agency's authority everyone ought to know about it.

DAVID NESS spoke to the current standards and submitted EXHIBIT 8.

EXHIBIT 9 was also presented as testimony.

SENATOR TOWE mentioned the language duplication that is in the statutes on page 3, lines 12 thru 15, and asked if it is constitutional. If you have a constitutional problem it seems that it is in subsection 4 on page 2.

MONA JAMISON said that that point is well taken and there is no way they can see everything.

SENATOR HAMMOND stated that when he was home the people were concerned about regulations but did not seem there was anyway they could head it off. If an agency writes a rule they should be responsible.

There was no further business and the meeting closed at 11:55 a.m.

Pete Story

CHAIRMAN, Senator Pete Story

ROLL CALL

STATE ADMINISTRATION COMMITTEE

48th LEGISLATIVE SESSION -- 1983 Date 3/1/83

NAME	PRESENT	ABSENT	EXCUSED	SENATE SEAT #
SENATOR PETE STORY, Chairman	X			45
SENATOR H. W. HAMMOND, Vice Ch	X			34
SENATOR REED MARBUT	X			44
SENATOR LARRY TVEIT				33
SENATOR R. MANNING	X			48
SENATOR LAWRENCE STIMATZ				7
SENATOR THOMAS TOWE	X			26

Each day attach to minutes.

DATE March 1, 1983

COMMITTEE ON _____

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Jon Meredith	DOR	35+92		✓
Jon Meredith	DOR	37	✓	
Dick Smith	SRS	37	✓	
Dick Smith	SRS	35, 92, 47		✓
Bob McCue	Sec of State	35, 36, 92, 37, 46, 47		
Jay Bruck	LWV of Montana	HB 92		✓
Mona Jamison	GOV'S. OFFICE	HB 92, 46, 47	✓(47)	✓ 92, 46

(Please leave prepared statement with Secretary)

EXHIBIT 1

Testimony on HB-59
Submitted to the Senate State Administration Committee
March 1, 1983

State Admin.
March 1, 1983

Mr. Chairman and Members of the Committee:

The Administration, in general, supports the review of rules to assure that they are consistent with statutory authority. However, there is a hidden ambiguity in HB-59 which should be clarified. Prior to the 1977 amendments to the Administrative Procedure Act which established the present definitions of legislative and interpretive rules (2-4-103(11), MCA), rules adopted pursuant to <u>implied</u> authority had the full force and effect of law. Subsequent to the 1977 amendments, that was no longer the case. However, rules duly adopted prior to 1977 pursuant to implied authority should still be valid and enforceable. The question is, when rules are reviewed pursuant to Section (1) of this bill for consistency with 2-4-305(5) and (6), will that determination of consistency be based on the definition of "rule" as it exists now, or as it existed at the time the rule was adopted? Specific language should be added to the bill to clarify that the validity of a rule will be determined <u>as of the time it was adopted</u>.

We have prepared an amendment which would achieve that clarification.

Thank you.

AMENDMENT TO HB-59

EXHIBIT 1a
State Admin.
3/1/83

Page 2,
Following: line 11
Insert: "Section 3. Nothing in [this act] is intended to call into question the validity of any rule which is consistent with current substantive statutory provisions, and which, at the time of its adoption, complied with all prerequisites for validity then in effect."
Renumber subsequent sections.

Mr. Chairman & Members of the Committee

EXHIBIT 2
State Admin.
3/1/83

OVER THE PAST TWO YEARS, THE LEGISLATIVE ADMINISTRATIVE CODE COMMITTEE HAS HELD PUBLIC HEARINGS AT THE REGULAR MEETINGS AND SELDOM DO WE HAVE LESS THAN 2-3 GROUPS THAT ARE CONCERNED WITH RULES AND REGULATIONS PROMULGATED BY THE VARIOUS AGENCIES IN STATE GOVERNMENT.

FREQUENTLY, THE COMPLAINT IS THAT THEY DID NOT KNOW OF THE HEARING FOR CHANGING THE RULES. WE ALL KNOW THAT IGNORANCE OF THE LAW IS NO EXCUSE, BUT IT HAPPENS.

LARGE CORPORATIONS AND PROFESSIONAL ORGANIZATIONS HAVE THEIR LEGAL COUNCIL TO WATCH FOR THE HEARINGS BUT THE SMALL BUSINESSMEN, FARMERS AND RANCHERS DO NOT HAVE THE TIME OR DON'T TAKE THE TIME TO RUN TO THE COURTHOUSE EVERY WEEK OR TWO TO SEE WHAT IS HAPPENING TO THE RULES AND REGULATIONS AFFECTING THEIR BUSINESS.

I ASKED THE REPRESENTATIVES AROUND MY DESK IF THEY FOLLOWED THE HEARINGS AND THE RULE MAKING BY READING THE MONTANA ADMINISTRATIVE REGISTER. SEVERAL HAD NEVER SEEN AN ISSUE OF IT.

WE FEEL THAT IT IS THE RESPONSIBILITY OF STATE GOVERNMENT TO MAKE EVERY EFFORT TO NOTIFY THE PEOPLE CONCERNED BY THE RULE MAKING PROCESS.

THAT IS WHAT HB 37 DOES.

JMS/MAC

HOUSE BILL 37 - STATE ADMINISTRATION

EXHIBIT 2a
State Admin
March 1, 1983

1/6/83
9:00 A.M.

MAPA - MONTANA ADMINISTRATIVE PROCEDURE ACT- ALL STATES HAVE PROCESS SIMILAR TO MONTANA.

MAR - MONTANA ADMINISTRATIVE REGISTER - CONTAINS HEARING DATES, NEW, AMENDED AND REPEALED RULES AND REGULATIONS.

ARM - ADMINISTRATIVE RULES OF MONTANA - LOOSELEAF FILE CONTAINING ALL THE RULES OF STATE DEPARTMENTS.

AD. CODE COMMITTEE - REVIEWS ALL PROPOSALS FOR ADOPTION OF NEW RULES OR AMENDMENTS. COMMITTEE HAS AUTHORITY TO MAKE RECOMMENDATIONS TO AN AGENCY REGARDING THE ADOPTION, AMENDMENT OR REPEAL OF A RULE. IT CAN REQUEST THE AGENCY FOR STATEMENT OF THE ESTIMATED ECONOMIC IMPACT OF A PROPOSAL.

JMS/MAC Rep Jim Schultz

EXHIBIT 3
State Admin.
3/1/83

AMENDMENT TO HOUSE BILL 37

Page 2.
Following: Line 25.
Strike: "."
Insert: "or at the Agency's discretion, the Agency may publish in the MAR a statement that it will mail rulemaking notices to all persons who have filed the above information with the Administrative Code Committee.

#3 p3

other rules based on the same statute. (See, citations to 61-10-121, MCA, underlined in Attachments 3 and 4) (NOTE: "Imp" does not mean and is not the same as "IMPLIED", but rather is a citation to the statute being implemented by the rule.)

4. The problem is that there is no distinguishing feature to tell people, including agency administrators and lawyers, when a rule does not have the force and effect of law unless that person has access to the state statutes, looks up the statute, and properly interprets the statutory authority for the rule.

Therefore, the bill can accurately be described as a public notice requirement.

DSN:ee
Attachments
DAVID6:Rep. Schultz 1/4/83

a

EXHIBIT 4a
State Ad.
3/1/83

Montana Legislative Council
State Capitol
Helena, MT. 59620
(406) 449-3064

TO: Rep. James Schultz

FROM: David Niss

RE: Background material for presentation of HB 47 to Judiciary Committees

DATE: January 4, 1983

Current Law

1. Section 2-4-102(11) of the Montana Administrative Procedure Act (MAPA) states that when authorized by express authority (example: "The department shall adopt rules to implement this section"), administrative rules have the force and effect of law just like a statute: i.e., the rules are enforceable by civil and criminal penalties.

2. The same MAPA section also provides that rules adopted under implied authority (example: "The department may take all necessary acts to administer this law"), a rule does not have the force and effect of law but is "advisory" or "advice" only.

3. There is no statutory requirement that rules having the force and effect of law have any different form, or look any different, than rules which are advisory only. Thus, the two types of rules are easily confused.

House Bill 47

not going back in History.

1. Section 1 of HB 47 requires that all rules authorized by implied rulemaking authority which are proposed or adopted after the effective date of the bill (October 1, 1983), include a statement in the history note of the rule that the rule is only impliedly authorized by law and therefore does not have the force and effect of law.

So that the montana Businessman, Farmer, Miner, trucker or other citizens may know if a rule a regulation has the force of law or is only advisory or recommended.

2. Subsection (2) of bill section 1 would allow the Administrative Code Committee to require that the statement be published with any proposed or adopted rule. The purpose of this requirement is to resolve disputes that will inevitably arise between the Committee and an agency over whether a rule is expressly or impliedly authorized by statute.

3. HB 47 is based on similar provisions contained in Section 3-109 of the 1981 revision to the Model State Administrative Procedure Act drafted and published by the National Conference of Commissioners on Uniform State Laws. The prefatory note to the 1981 MSAPA states that "more than half of the states have an administrative procedure act based, at least in part, on either the original Model Act or its 1961 revision.

Argument

1. On past occasions the Administrative Code Committee has objected to rules on the basis that there was no express statutory authority for the rules or that there was no authority at all (see letter of September 30, 1981, to Mr. Gary Wicks, attached as Attachment 1). The authority relied on by the Highway Department for the promulgation of a GVW rule, Section 61-10-121, is a good example (attached as Attachment 2).

2. In the case of the Highway Department, and some other agencies as well, Legislative Council lawyers serving as staff to the Administrative Code Committee have been successful in convincing state agencies to somehow designate that a rule is only impliedly authorized and not expressly authorized; note the word "IMPLIED" (circled) at the bottom of the rules attached hereto as Attachment 3, but there is currently no legal requirement that the agency distinguish between rules as law and rules as "advice".

3. Even in those cases when the Administrative Code Committee has objected to proposed rules on the ground that they lack express authority and advised an agency that it probably doesn't have implied authority to adopt a rule either, the agency has gone ahead and adopted the rule and made no distinction in the fact that the rule does not have the force and effect of law, when it has agreed to make that distinction for

EXHIBIT 5
State Admin.
3/1/83

AMENDMENTS TO HOUSE BILL 47

1. Page 1, lines 13 and 14.
Strike: "PRIOR TO THE EFFECTIVE DATE OF THIS ACT"
Insert: "or to be adopted"

2. Page 1, lines 19 through 22.
Strike: "WHERE APPLICABLE" through "FOR REPRINTING."

DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES

EXHIBIT 6
State Admin.
March 1, 1983

TED SCHWINDEN, GOVERNOR

P.O. BOX 4210

STATE OF MONTANA

HELENA, MONTANA 59604

February 28, 1983

To: Senate Committee on State Administration

From: Dal Smilie, SRS

Re: HB 92

SRS must oppose HB 92. Section 2-4-506(3), MCA currently allows the Administrative Code Committee to object to an agency rule that was adopted with arbitrary or capricious disregard of authority. Once the Administrative Code Committee has so objected the burden falls on the agency to prove that the rule was not arbitrarily or capriciously adopted in disregard of authority.

HB 92 changes the current criteria for rule adoption from "arbitrary or capricious" to "in substantial compliance". This bill goes further in that it does away with proofs of legislative intent based on documented legislative intent. Under HB 92 the agencies will have a much higher standard of proof and the proofs allowable will not be based on documented legislative intent. The legislature surely cannot want courts to base decisions on legislative intent on anything less than documented intent.

Besides changing the test for rulemaking to a much higher standard HB 92 provides that the notice of the Code Committee objections be printed in the ARM. Such notice by the Committee is notice that a lawsuit is invited. The notice element provides a functional veto of administrative rules by a standing legislative committee. The decision of one committee can override the intent of the legislature as a whole, such a power is clearly unconstitutional.

DS/rr

rule may be effective for a period not longer than 120 days, but the adoption of an identical rule under 2-4-302 is not precluded.

(2) The sufficiency of the reasons for a finding of imminent peril to the public health, safety, or welfare is subject to judicial review.

History: En. Sec. 4, Ch. 2, Ex. L. 1971; amd. Sec. 5, Ch. 410, L. 1975; amd. Sec. 1, Ch. 482, L. 1975; amd. Sec. 8, Ch. 285, L. 1977; R.C.M. 1947, 82-4204(2); amd. Sec. 5, Ch. 243, L. 1979.

2-4-304. Informal conferences and committees. (1) An agency may use informal conferences and consultations as a means of obtaining the viewpoints and advice of interested persons with respect to contemplated rulemaking.

(2) An agency may also appoint committees of experts or interested persons or representatives of the general public to advise it with respect to any contemplated rulemaking. The powers of the committees shall be advisory only.

(3) Nothing herein shall relieve the agency from following rulemaking procedures required by this chapter.

History: En. Sec. 4, Ch. 2, Ex. L. 1971; amd. Sec. 5, Ch. 410, L. 1975; amd. Sec. 1, Ch. 482, L. 1975; amd. Sec. 8, Ch. 285, L. 1977; R.C.M. 1947, 82-4204(4).

2-4-305. Requisites for validity — authority and statement of reasons. (1) The agency shall consider fully written and oral submissions respecting the proposed rule. Upon adoption of a rule, an agency shall issue a concise statement of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption. If substantial differences exist between the rule as proposed and as adopted and the differences have not been described or set forth in the adopted rule as that rule is printed in the Montana administrative register, the differences must be described in the statement of reasons for and against agency action. When no written or oral submissions have been received, an agency may omit the statement of reasons.

(2) Rules may not unnecessarily repeat statutory language. Whenever it is necessary to refer to statutory language in order to convey the meaning of a rule interpreting the language, the reference shall clearly indicate that portion of the language which is statutory and the portion which is amplification of the language.

(3) Each proposed and adopted rule shall include a citation to the specific grant of rulemaking authority pursuant to which it or any part thereof is adopted. In addition, each proposed and adopted rule shall include a citation to the specific section or sections in the Montana Code Annotated which the rule purports to implement.

(4) Each rule proposed and adopted by an agency implementing a policy of a governing board or commission must include a citation to and description of the policy implemented. Each agency rule implementing a policy, as used in the definition set forth in 2-4-102(10), and the policy itself must be based on legal authority and otherwise comply with the requisites for validity of rules established by this chapter.

(5) To be effective, each substantive rule adopted must be within the scope of authority conferred and in accordance with standards prescribed by other provisions of law.

(6) Whenever by the express or implied terms of any statute a state agency has authority to adopt rules to implement, interpret, make specific, or otherwise carry out the provisions of the statute, no rule adopted is valid or effective unless consistent and not in conflict with the statute and reasonably necessary to effectuate the purpose of the statute.

(7) No rule is valid unless adopted in substantial compliance with 2-4-302 or 2-4-303 and this section and unless notice of adoption thereof is published within 6 months of the publishing of notice of the proposed rule. If an amended or supplemental notice of either proposed or final rulemaking, or both, is published concerning the same rule, the 6-month limit must be determined with reference to the latest notice in all cases.

History: Ap.p. Sec. 4, Ch. 2, Ex. L. 1971; amd. Sec. 5, Ch. 410, L. 1975; amd. Sec. 1, Ch. 482, L. 1975; amd. Sec. 8, Ch. 285, L. 1977; Sec. 82-4204, R.C.M. 1947; Ap.p. 82-4204.1 by Sec. 9, Ch. 285, L. 1977; Sec. 82-4204.1, R.C.M. 1947; R.C.M. 1947, 82-4204(part), 82-4204.1(part); amd. Sec. 6, Ch. 243, L. 1979; amd. Sec. 2, Ch. 381, L. 1981.

Compiler's Comments

1981 Amendment: Inserted the provision relating to substantial differences between the proposed and adopted rule, which must be described in an agency's statement of reasons, in (1); inserted "proposed and adopted" before "rule" in two places in (3); added subsection (4); added the last sentence concerning the 6-month limit as to notice to (7).

Severability: Section 8, Ch. 381, L. 1981, was a severability section.

2-4-306. Filing, format, and effective date — dissemination of emergency rules. (1) Each agency shall file with the secretary of state a copy of each rule adopted by it.

(2) The secretary of state may prescribe a format, style, and arrangement for notices and rules which are filed pursuant to this chapter and may refuse to accept the filing of any notice or rule that is not in compliance therewith. He shall keep and maintain a permanent register of all notices and rules filed, including superseded and repealed rules, which shall be open to public inspection and shall provide copies of any notice or rule upon request of any person. Unless otherwise provided by statute, the secretary of state may require the payment of the cost of providing such copies.

(3) In the event that the administrative code committee has conducted a poll of the legislature in accordance with 2-4-403 or the revenue oversight committee has conducted a poll in accordance with 5-18-109, the results of the poll shall be published with the rule.

(4) Each rule shall become effective after publication in the register as provided in 2-4-312, except that:

(a) if a later date is required by statute or specified in the rule, the later date shall be the effective date;

(b) subject to applicable constitutional or statutory provisions, an emergency rule shall become effective immediately upon filing with the secretary of state or at a stated date following publication in the register if the agency finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare. The agency's finding and a brief statement of reasons therefor shall be filed with the rule. The agency shall take appropriate measures to make emergency rules known to every person who may be [illegible] by them.

[illegible] Ex. L. 1971; amd. Sec. 10, Ch. 285, L. 1977; amd. Sec. 2, Ch. 561, [illegible] 7, Ch. 243, L. 1979; amd. Sec. 12, Ch. 268, L. 1979.

EXHIBIT 8a
State Admin.
March 1, 1983

SECTION 3-204. [Administrative Rules Review Committee Review of Rules.]

(a) The [administrative rules review committee] shall selectively review possible, proposed, or adopted rules, and prescribe appropriate committee procedures for that purpose. The committee may receive and investigate complaints from members of the public with respect to possible, proposed, or adopted rules, and hold public proceedings thereon.

(b) Committee meetings must be open to the public. Subject to procedures established by the committee, persons may present oral argument, data, or views at those meetings. The committee may require a representative of an agency whose possible, proposed, or adopted rule is under examination to attend a committee meeting and answer relevant questions. The committee may also communicate to the agency its comments on any possible or proposed rule, and require the agency to respond thereto in writing. Unless impracticable, in advance of each committee meeting notice of the time and place of the meeting and the specific subject matter to be considered must be published in the [administrative bulletin].

(c) The committee may recommend enactment of a statute to improve the operation of one or more agencies. The committee may also recommend that a particular rule be superseded in whole or in part by statute. The [speaker of the house and the president of the senate] shall refer those recommendations to the appropriate standing committees. This subsection does not preclude any committee of the legislature from reviewing a rule on its own motion or recommending that it be superseded in whole or in part by statute.

[(d) (1) If the committee objects to all or some portion of a rule because the committee deems it to be beyond the procedural or substantive authority delegated to the adopting agency, the committee may file that objection in the office of the [secretary of state]. The filed objection must contain a concise statement of the committee's reasons for its action.

EXHIBIT 8b

(2) The [secretary of state] shall affix to each objection a certification of the time and date of its filing and as soon thereafter as possible shall transmit a certified copy thereof to the agency issuing the rule in question, the [administrative rules editor, and the administrative rules counsel]. The [secretary of state] shall also maintain a permanent register open to public inspection of all committee objections.

(3) The [administrative rules editor] shall publish and index an objection filed pursuant to this subsection in the next issue of the [administrative bulletin] and indicate its existence adjacent to the rule in question when that rule is published in the [administrative code]. In case of a filed committee objection to a rule subject to the requirements of Section 2-101(g), the agency shall indicate the existence of that objection adjacent to the rule in the official compilation referred to in that subsection.

(4) Within [14] days after the filing of a committee objection to a rule, the issuing agency shall respond in writing to the committee. After receipt of the response, the committee may withdraw or modify its objection.

[(5) After the filing of a committee objection that is not subsequently withdrawn, the burden is upon the agency in any action for judicial review or for enforcement of the rule to establish that the whole or portion thereof objected to is within the procedural and substantive authority delegated to the agency.]

(6) The failure of the [administrative rules review committee] to object to a rule is not an implied legislative authorization of its substantive or procedural lawfulness.]

(e) The committee may recommend to an agency that it adopt a rule. [The committee may also require an agency to publish notice of a committee recommendation as a proposed rule of the agency and to allow public participation thereon,

EXHIBIT 8c

according to the provisions of Sections 3-103 through 3-104. After those proceedings, however, an agency is not required to adopt such a proposed rule.]

(f) The committee shall file an annual report with the [presiding officer] of each house and the governor.

COMMENTS

Subsection (a) and (b) are a combination of modified Iowa Act, Section 17A.8(6) and Nebraska Act, Sections 84-908 and 84-908.01.

Subsection (c) is an extended and substantially modified Iowa Act, Section 17A.8(8). Most importantly, it provides that a lawful rule may only be legislatively overcome or altered by statute. That is, legislative suspension or repeal of a particular agency rule, in whole or in part, should ultimately be determined only by joint legislative action subject to the veto of the governor of the state or the overriding of a veto. In many states a one house or two house veto or suspension of a particular agency rule, or a legislative committee veto or suspension of a particular agency rule, may raise serious state constitutional questions. See e.g. Taylor, "Legislative Vetoes and the Massachusetts Separation of Powers Doctrine," 13 Suffolk L. Rev. 1 (1979) and State of Alaska v. A.L.I.V.E. Voluntary, 606 P.2d 769 (Alaska 1980).

There are three principal arguments for the unconstitutionality under many state constitutions of a legislative veto or suspension mechanism by means other than statute. First, it would improperly impinge upon the governor's veto power. Second, it consists of legislation by an unconstitutional means. Third, it empowers a part of the legislative branch to perform an executive function. In addition, when such a veto or suspension authority is vested in a legislative committee or only one house of the legislature it is alleged to be an undue delegation of legislative power. Despite these arguments, a number of states have enacted statutes authorizing legislative vetoes or suspensions of administrative rules by means other than statute. See National Conference of State Legislatures, Restoring the Balance: Legislative Review of Administrative Regulations 31-44 (1979). A few states have even expressly done so in their constitutions, thereby avoiding any possible constitutional issue. See e.g. Michigan Constit. Art. IV, Section 37 and South Dakota Constit. Art. III, Section 30.

Even if there are no constitutional impediments in a particular state to the use of a one house or two house veto or suspension of a particular agency rule, or a legislative committee veto or suspension of a particular agency rule, they are still undesirable. On the policy reasons against the use of such devices see generally Bruff and Gellhorn, "Congressional Control of Administrative Regulation: A Study of Legislative Vetoes," 90 Harv. L. Rev. 1369 (1977). There are many reasons why legislative vetoes or suspensions of administrative rules by means other than statute should be avoided. In the first place, schemes of this sort aggrandize the legislature's authority at the expense of the executive branch's countervailing independence. By cutting out the veto power of the governor present in the usual legislative process, such mechanisms weaken the state chief executive's bargaining power with the legislature and disable him from checking unsound legislative action. They also facilitate over-involvement of the legislative branch in the day-to-day administration of programs it

EXHIBIT

cr[illegible]s by statute and induce an unhealthy split in perceived authority over purely administrative matters.

Furthermore, a legislative mechanism for veto or suspension of state agency rules will be useful primarily as a check against unwise rules that are otherwise clearly lawful. For an effective check against most unlawful rules is provided by judicial review, particularly if it is coupled with the reversed burden of persuasion that accompanies the legislative committee objection mechanism proposed in subsection (d) of this section. Therefore, legislative veto or suspension of particular state agency rules will have its primary practical impact on lawful rules and, in effect, would constitute a pro tanto narrowing of the authorizing legislation under which they were otherwise properly issued. Such a narrowing of the authorizing legislation should be executed in the same manner as the legislation was initially adopted. Otherwise, a committee, one house, or two houses of the state legislature, would continually be in a position to subvert proper authorizing action of a more representative and authoritative lawmaking process with built-in checks and balances. A part of the usual statute-making process should not be able to nullify action of the more representative and more authoritative whole, with its built-in checks and balances, lest the very virtues of the whole process be lost. Therefore, all efforts to nullify otherwise lawful agency rules should be executed by joint legislative action, subject to the veto of the governor.

In addition, legislative committee veto or suspension of rules, or one house or two house veto or suspension of rules, may be more susceptible to undue influence by special interest groups acting contrary to the public interest than is veto or suspension by the usual legislative process of statutory enactment. This is another policy reason against veto or suspension of state agency rules by any means other than joint legislative action submitted to the governor. It should also be noted that in some cases the existence of a legislative mechanism to veto or suspend rules by a means that is easier to invoke than the usual statute-making process may have the following undesirable consequence. That mechanism may encourage people to reduce their participation in the rule-making proceeding before the agency and, instead, concentrate their efforts on the alternative legislative veto or suspension mechanism.

If a legislature wishes to vest its administrative rules review committee with more than purely recommendatory authority, it should enact bracketed subsection (d). Subsection (d) is a substantially modified Iowa Act, Section 17A.4(4)(a)-(b). This provision provides an effective legislative check, by means less than statute, on unlawful agency rules. It authorizes a legislative committee to file a formal objection to a rule on the ground that it is procedurally or substantively unlawful. That objection would detail the precise reasons why the committee believes the rule to be unlawful. Notice that such an objection has been filed would be printed adjacent to the rule wherever it is published, and the objection itself would be made available for public inspection. The formal committee objection would then shift to the particular agency the burden of establishing that the rule is procedurally and substantively lawful in any subsequent proceeding for judicial review or for enforcement of the rule. If the agency fails to meet its unusual burden of persuasion in that case, the court would invalidate the entire rule, or the relevant portion thereof.

The filing of a formal objection to a rule by the appropriate legislative committee will place the adopting agency in a dilemma. The agency can rely upon the rule as it is, thereby accepting this special burden of demonstrating

that the rule is wholly lawful in a future court case, or the agency can change the rule in order to reinstate the usual presumption of validity that attaches to an agency rule. The extent to which an agency will be amenable to modifying the rule to eliminate any objection of the committee will obviously depend upon the extent to which the agency thinks it needs the challenged rule in its original form, and the agency's confidence that it can overcome its special burden of persuading the court that the rule in that form is lawful in all respects. If the rule's validity is doubtful because it is not clearly procedurally and substantively lawful, the agency will usually modify the rule: for the reversed burden of persuasion will result in the invalidation of many rules of doubtful legality when they are challenged in court. Of course, the legislative committee's objection authority would not interfere with the operation or effectiveness of clearly valid agency rules. The committee is only authorized to alter one aspect of the procedure by which the legality of the rule will be finally determined by the courts.

As a consequence, a legislative committee with authority to object to agency rules in the manner described in subsection (d) will be a credible check on illegal agency rule making. The committee-objection mechanism proposed here may be justified, therefore, on the ground that its mere existence is likely to make agencies act more responsibly in exercising their rule-making powers; for they will know that the shift in the burden of persuasion after a committee objection will, in close cases, make judicial invalidation of the rule much more likely than at present. Actual exercise of its objection authority by a legislative committee will also have the added benefit of inducing agencies which have issued rules of doubtful or clear illegality to withdraw them, thereby sparing the public the cost of complying with those rules or contesting them in the courts. Finally, it seems desirable to provide a means by which members of the public who are aggrieved by allegedly illegal agency rules can, in those cases where their claims are especially credible, be aided in their efforts to secure a judicial invalidation of those rules. A good way to separate the credible claims deserving such help from those that do not is by securing an evaluation of the legality of the rules in question by an independent responsible body external to the agency. And a good way to aid such aggrieved persons whenever that independent evaluation agrees with their contention is to shift the burden of persuasion in any subsequent judicial proceeding involving the validity of those rules from the assailant, who had to convince the court they were unlawful, to the agency, which is then required to convince the court that they are lawful.

It is also logical to shift to the agency the burden of demonstrating the validity of a rule in subsequent litigation when a more politically accountable and independent body objects thereto. Unlike the agency, the legislative committee members are directly accountable to the public and represent the body that created the agency and invested it with whatever authority the agency may lawfully exercise. The usual presumption of validity accorded an agency rule, therefore, may reasonably be deemed inappropriate when a legislative committee believes the rule to be unlawful. Furthermore, legislatures have always been assumed to have the authority, which they have often exercised, to allocate the burden of persuasion in court litigation, so long as they act "reasonably" when they do so. And a shift in the burden of persuasion as to the validity of a particular rule in these circumstances certainly seems "reasonable." Note also that there is a clear standard against which the committee is to operate when it objects: "beyond the procedural or substantive authority delegated to the adopting agency." And the committee must include the specific reasons for its

action in the objection so that courts and others who wish to examine the specific grounds supporting an objection may easily do so.

In addition, it should be noted that the reversed burden-of-persuasion mechanism is a fair compromise between the extremes of authorizing one house of the legislature or a legislative committee to veto, temporarily or permanently, rules issued by an agency, and authorizing a legislative committee merely to recommend to the legislature that it overrule such regulations by statute. The undesirability of such a one house or a committee veto was discussed above.

Of course, as paragraph (6) of subsection (d) states, the failure of the appropriate legislative committee to file a formal objection to a rule should not be construed by a reviewing court as an implied legislative authorization of the rule. Time constraints will often prevent the appropriate committee from carefully reviewing all agency rules; and an affected party may decide to seek judicial relief directly rather than a legislative committee objection. Therefore, it would be unfair to imply negatively legislative authorization for any rule merely because no objection to it had been filed by the committee.

Currently, only Iowa and Montana provide for a scheme whereby the burden of persuasion as to the validity of a rule is reversed after an objection has been filed to the rule by a legislative committee. See Iowa Act, Section 4(4), and Montana Act, Section 2-4-506(3). The constitutionality of that scheme has been upheld in Iowa. In doing so, the Iowa Supreme Court voided certain agency rules solely because the agency, after those rules were formally objected to as unlawful by the appropriate legislative committee, could not meet its burden of persuading the court that they were lawful in all respects. The court intimated that if the objection had not been filed it might have held the rules valid. See Schmitt v. Iowa Dept. of Social Services, 263 N.W.2d 739 (Iowa 1978). In another Iowa case, the court upheld an agency rule after an objection to it had been filed by the appropriate legislative committee, because the agency successfully met its burden and persuaded the court that the rule was lawful. Iowa Auto Dealers Ass'n v. Iowa Dept. Revenue, N.W.2d (1981).

See Bonfield, IAPA at 905-924, for a discussion of the desirability and operation of this reversed burden-of-persuasion mechanism after an authorized legislative committee formally objects to a rule.

Though not provided for in the text of subsection (d), a state enacting it might also consider adding a provision providing as follows. Whenever a rule is invalidated because an agency fails to meet its legislative committee imposed special burden of persuasion under subsection (d)(5), judgment shall also be rendered against the agency for court costs, including a reasonable attorney's fee. Reimbursement of this sort would encourage aggrieved persons to litigate the validity of rules that are tainted by a formal, legislative committee objection, and would thus remove one obstacle -- financial expense -- that discourages persons from seeking judicial review of unlawful agency rules. The Iowa Act has such a provision in its Section 4(4). If it is desired to add a provision of this type to Section 3-204(d)(5) it might be added at the very end and provide:

> and render judgment against the agency for court costs. Court costs include a reasonable attorney's fee and are payable by the [state comptroller] from the support appropriations of the agency that adopted the rule.

EXHIBIT 9
State Admin.
March 1, 1983

TESTIMONY OF JON A. MEREDITH, ADMINISTRATOR,
DEPARTMENT OF REVENUE, LEGAL & ENFORCEMENT DIVISION
ON HOUSE BILL #92

An Act To Authorize The Administrative Code Committee To Object To Any Rule Upon The Ground That It Was Adopted In Substantial Violation Of The Procedural Or Substantive Authority Delegated To The Agency; Requiring The Agency, After Objection By The Committee, To Prove The Lawfulness Of The Rule; Awarding Costs And Attorney Fees Against The Agency If The Rule Is Invalidated By Court Judgment; Amending Section 2-4-506, MCA, before the Senate State Administration Committee on 3/1/83.

While the Administrative Code Committee may indeed need a method to object to they way in which a rule has been adopted HB #92 is a poor way to achieve it. This primarily is due to the fact the bill does not set forth any objective standards by which the term "substantial compliance" (found in subsection (1) of section one of this bill) may be construed. Thus, just because the ACC may object to the procedural validity of rules and then publish its objections to the rules in the Montana Administrative Register or the ARM, agencies could face a proliferation of litigation.

It is our opinion passing this bill without adequately defining what constitutes "substantial compliance" would not only precipitate litigation but create the potential for abuse of the rulemaking process.

JAM/ilb

STANDING COMMITTEE REPORT

MARCH 1 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 59

Respectfully report as follows: That HOUSE Bill No. 59

BE CONCURRED IN

~~XXXXXXXX~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.

STANDING COMMITTEE REPORT

MARCH 1 19 83

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 46

STOBIE (Towe)

Respectfully report as follows: That HOUSE Bill No. 46

BE CONCURRED IN

~~XXXXXX~~

SENATOR PETE STORY Chairman.

STATE PUB. CO.
Helena, Mont.