

MINUTES OF THE MEETING
STATE ADMINISTRATION COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

February 11, 1985

The meeting of the State Administration Committee was called to order by Chairman Sales at 9:00 a.m. on the above date in Room 317, State Capitol.

ROLL CALL: Seventeen members present with Rep. Pistoria absent.

CONSIDERATION OF HOUSE BILL NO. 542: Rep. Dan Harrington, District #52, sponsor of the bill, explained that this bill would remove the exemptions for residential buildings containing less than five dwelling from the state building construction standards and said that this would be consumer protection wherever they live. He said that building codes are needed to insure that buildings are inspected for all state residences. This would prevent duplication of inspection with the FmHA, FHA and VA and it would be protection for the largest single investment most Montanans make which is their homes.

PROPOSERS: James Kembel, Administrator of the Building Codes Division of the Department of Administration, spoke in support of HB 542 and read his prepared testimony attached as Exhibit #1.

H.S. "Sonny" Hanson, Montana Technical Council, said their group opposed this section of the bill when it was introduced in 1971 and were in support of this bill.

OPPOSERS: Wilbur L. Anderson, General Manager of Vigilante Electric Cooperative, Inc., Dillon, Montana, said that the additional costs of meeting imposed codes and inspections in the range of \$5500/6500 per single family home is punitive in nature and a very poor way to encourage energy conservation. He read his prepared testimony which is attached as Exhibit #2.

Gary Marbut, energy consultant and designer for residential energy conservation, Missoula, Montana, spoke in opposition to the bill and presented prepared testimony which is attached as Exhibit #3.

Terry Carmody, Montana Association of Realtors, in opposition to the bill, said that most facts had been stated by the other opponents but wanted to make one point. If the Model Conservation Standards are adopted this will eliminate approximately 25% of the potential buyers of new homes.

There being no further proponents and no opponents, the hearing was open for questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 542: Rep. Nelson asked Mr. Marbut if he considered this as Federal blackmail, to which

Mr. Marbut replied affirmatively.

There being no further questions from the Committee, Rep. Harrington closed saying that the vast majority of home builders look at the safety and health of the occupants and that single family dwellings and those buildings with less than five dwellings would benefit from this bill.

The hearing was closed on HB 542.

CONSIDERATION OF HOUSE BILL NO. 523: Rep. Bob Raney, District #82, sponsor of this legislation, said it would provide for acquiring easements of abandoned railroad rights-of-way. It is projected that another 229 miles of railroad will be abandoned in the near future. The State cannot afford to buy these abandoned railroads and the purpose is to acquire an easement of those existing rights-of-ways. If the State has acquired the easements they would be able to take over that property at a very low cost if, at some time in the future, that is desirable. In the meantime, the adjacent landowners could continue to use that property basically for agriculture but would have to be responsible for moving any structures that had been constructed on those easements. This would be administered by the Department of State Lands.

PROPOSERS: Rep. Fritz, District #56, appeared before the Committee to enter into the record a letter from the City of Missoula as being in support of HB 523. (See Exhibit #4 attached).

Rep. Cobb had planned to appear but was unable to do so. Rep. Raney explained Rep. Cobb's remarks to the Committee. Rep. Cobb said there are a lot of technical problems with the easements as they don't really know who has the rights to these abandoned rights-of-way.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 523: Rep. Raney said that the railroads don't want the opposition to abandonment and perhaps they would give the State easements to these rights-of-ways. It may be necessary to come back next session for an appropriation. These would include transportation corridors, not necessarily railroads. The State would acquire the right of easement on the property, not on any appurtenances.

Bill Fogarty, Department of Commerce, told Rep. Jenkins in answer to his question concerning an overpass, that in the case of the Geraldine line the highway was going to take out the overpass. The overpass would have to be rebuilt

in the event the railroad was used again or a crossing would have to be established which would be less cost. This would have to be worked out with the highway department. Mr. Fogarty, in answer to Rep. Harbin's question about the projected 229 miles to be abandoned, said this was entirely possible as they already have applications for abandonment.

Without further comment, Rep. Raney closed his presentation on HB 523.

CONSIDERATION OF HOUSE BILL NO. 725: Rep. Francis Bardanouve, District #16, said that this was a very serious bill. He said this bill would provide for the aspiration for the future in some form of art work to be placed in front of the Capitol rather than the statue of General Meagher and provides for Gen. Meagher to be moved to the front of the Veterans' and Pioneer Memorial Building. He said he did not wish to reduce his dignity or position in Montana history and felt it would be appropriate to this statute to be moved to the Memorial Building and have some other type of art work in its place. The funding for this would be about \$15,000 from the cultural fund of the coal tax money for the committee to operate, to advertise throughout America for suggestions and for meeting and travel expenses for the committee. This funding would not come from the general fund. If the bill passes this committee it should be properly referred to Appropriations. There is approximately \$600,000 in this cultural fund at the present time.

PROPOSERS: Rep. Dorothy Bradley appeared and said she shared the enthusiasm of Rep. Bardanouve for this project

OPPOSERS: Robert VanDerVere, Helena, representing the Concerned Citizens, told the Committee that he lived in Helena 12 months of the year and thought that most people in Helena wanted the statue of Gen. Meagher left where it is. If it is moved you never know what might be sitting in its place.

Rep. William (Red) Menahan, spoke against moving Gen. Meagher and submitted two letters to the Committee as testimony. (Exhibits 5 and 6).

Sen. J.D. Lynch, said that as a teacher he thought it very important not to forget our past even though it is very important also to look to the future. He said this has always been a symbol in front of the Capitol and said that a suitable place could be found for the proposed art work.

Bob Lee, former Senator from Butte, and a member of the Ancient Order of Hibernians of Helena, said he was not against the bill but was against moving Gen. Meagher. He suggested that if the Committee passed this bill, the moving of Gen. Meagher be amended out of the bill.

Tom Cheney, Helena, recommended against moving Gen. Meagher's statue.

Hal Stearns, speaking on behalf of preservation of history, said that Gen. Meagher was a symbol of freedom and said that he should be in front of the Capitol.

There being no further proponents or opponents, the hearing was open to questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 725: Rep. O'Connell asked if Gen. Meagher was the first Territorial Governor of the State of Montana. Mr. Lee said he was the first Secretary of State appointed for the Territory, however, there was some discussion concerning just what position he did hold.

Rep. Jenkins asked Rep. Bardanouve about buying the Russell collection from the Elks' Club in Great Falls. Rep. Bardanouve said they have no money for this type of purchase and they are trying to find the money as the art will be sold before the 1987 session. It would cost around \$495,000 to buy that collection. A private donor has given about \$45,000 which would buy one oil painting but the rest of the money is needed immediately as they may have a Sheriff's sale for that collection.

Rep. Fritz said the bill does not define aspirations for the future to which Rep. Bardanouve replied that is a difficult thing to define.

Rep. O'Connell excused from the meeting.

Rep. Moore asked Rep. Bardanouve what the cost would be to move the statue of Gen. Meagher. Rep. Bardanouve replied that the cost would be relatively small and it would not be the majority of the cost.

In closing, Rep. Bardanouve said that the argument from the Butte representatives concerning moving the statue was a very shallow argument as Butte moved the statue of Marcus Daly to the campus of Montana Tech and all this bill would do is move the statue of Gen. Meagher a few 100 feet. There is also no way of knowing the cost until the design was approved by the Legislature.

CONSIDERATION OF HOUSE BILL NO. 555: Rep. Dorothy Bradley, District #79, sponsor, said she introduced the bill because she had never been happy with the electoral college system and was under the impression there was nothing to be done about it. However, after researching the subject, she said it was up to the states to decide how their electoral votes were to be delegated. This bill would change it to a district system rather than winner-take-all. At the present time we vote for four electors. If we went to a district

system, the two congressional votes would come straight from those two districts. The two for the senate would be from the state at large. This is really what was envisioned by the original statesmen of the state and was used by a number of states up until about 1920. In 1969 Maine went back to this kind of system and everybody has been very satisfied. She stated three reasons for the passage of the bill: (1) it is a matter of fairness, (2) would create more activity in the presidential years, and (3) would decrease the chances of putting a person in the White House who loses the popular vote but wins the electoral vote which has happened three times in the past.

PROPOSERS: McKinley Anderson, private citizen, presented his testimony to the Committee, Exhibit #7, in the form of a study by Stuart Whitehair and Dr. Conrad McBride, Montana State University. He also explained three charts he presented to the Committee. He said at the present time that 12 states east of the Mississippi River elect the president. He said this bill would be a means of creating equality.

There were no further proponents.

OPPOSERS: Steve Yeakel, Executive Director of the Republican Party, said this bill was introduced, in his opinion, by a member of the opposite party out of frustration because of the 1984 election and said there is only one other state in the union doing it this way. If this bill is intended to abolish the electoral system, it is too weak to do so. If the intent is to strengthen the electoral college, this is provided for in the Constitution. This Legislature has been very nonpartisan in any past election bills and asked that the Committee continue to do so.

There being no further proponents or opponents, the hearing was open to questions from the Committee.

DISCUSSION OF HOUSE BILL NO. 555: Rep. Fritz asked Rep. Bradley about her reference to Richard Nixon possibly defeating President Kennedy in the election when Kennedy received more popular votes. Rep. Bradley said this could still happen but there would be a smaller chance of that with this bill.

In closing, Rep. Bradley, said this is a matter of fairness and it has a record of working elsewhere.

CONSIDERATION OF HOUSE BILL NO. 515: Rep. Kelly Addy, said that the judicial branch had requested that this bill be tabled in committee in view of the budget restraints this session even though the Salary Commission had recommended pay raises for judges.

CONSIDERATION OF HOUSE BILL NO. 550: Rep. Jan Brown, House District #46, sponsor of the bill, explained the purpose which would be to establish a sick leave fund for employees to draw upon in the event of illness when they had used up their own sick leave. She also had a proposed amendment from the Montana Federation of Teachers which she presented to the Committee. She also told the Committee that she felt the expenses could be cut somewhat on the fiscal note. Rep. Brown also presented written testimony, Exhibit #8.

PROPOSERS: Linda Sprau, employee of the Department of Highways, read her prepared testimony, Exhibit #9.

Doris Siefert, representing the Department of Labor and Industry Committee for Women, read her prepared testimony which is attached as Exhibit 10.

Rhonda Boyle, representing the Interdepartmental Coordinating Committee for Women, suggested an amendment to include one of their representatives. (See Exhibit #11)

Ellen Feaver, Director of the Department of Administration, said they do agree with the bill but have no idea what the usage would be and that the cost would be minimal.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE BILL NO. 550: Rep. Jenkins asked if this was strictly voluntary. Rep. Brown said that the advisory council would work out the procedures for donating sick leave and said they left it open so these different instances could be taken care of but it is strictly voluntary.

Linda Sprau said that employees would not be able to borrow more than what has been donated. If the sick leave fund is empty there would be nothing to borrow. She also said there is no maximum in State employment of the sick leave days that can be accumulated.

In closing, Rep. Brown asked the Committee to look closely at this bill and consider passage.

CONSIDERATION OF HOUSE JOINT RESOLUTION NO. 18: Rep. Earl Lory, District #59, explained that the current limit for construction projects in the University system to be built without approval is \$25,000. The University of Montana has four projects under way that exceed this \$25,000. These are not appropriated funds so they do not need an appropriation but simply a resolution of approval.

PROPOSERS: Neil Bucklew, President of the University of Montana, explained the four projects currently contemplated.

He said that in two cases it is bond proceeds, one is a grant from an individual non-profit organization and one is regent building fees.

PROPOSERS: There were no proposers.

OPPOSERS: There were no opposers.

DISCUSSION OF HOUSE JOINT RESOLUTION NO. 18: Mr. Bucklew said that the Regents have reviewed these projects and have authorized that they be done. The river front property is in excess of \$100,000 - this is 10 acres of property between the campus and the river. This would be \$197,000 of bond proceeds. The Mansfield Center grant from the Mansfield fund is \$60,000; the expansion of parking lot W is bond proceeds and the classroom project would be \$70,000 from the Regents building fee.

Rep. Phillips asked just what a Regents building fee is. Mr. Bucklew said it is fees paid by all students on the campus and this goes back several decades. There is about \$100,000 available per year.

Rep. Cody asked if they would be coming back in a year or two and ask for maintenance and repairs for these projects or if that is taken care of. Mr. Bucklew said this would be taken care of under their current programs such as the river front property being maintained under the grounds program, the parking lot would be maintained as are all the parking lots, etc.

There being no further questions from the Committee, they then went into executive session.

DISPOSITION OF HOUSE BILL NO. 515: Rep. O'Connell moved TO TABLE HB 515, seconded by Rep. Harbin. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 542: Rep. Cody said she disagreed with rural inspections and that most people do not have the cash to construct new homes. They would be financing them and they would be inspected by the lending institutions and people are going to insist on energy efficient housing without the inspections.

Rep. Garcia MOVED TO TABLE until later in the week to look into some of the questions involved with this bill.

Rep. Jenkins made a SUBSTITUTE MOTION DO NOT PASS, seconded by Rep. Moore. Rep. Harbin asked that it be left in the Table situation because the Committee does not really know what it contains and was in support of Rep. Garcia's motion.

The question being called for on the Substitute Motion DO NOT PASS, Motion CARRIED with Reps. Harbin, Garcia and O'Connell voting "no".

DISPOSITION OF HOUSE BILL NO. 523: Rep. Fritz moved that HB 523 DO PASS, seconded by Rep. O'Connell. Motion CARRIED with Reps. O'Connell, Sales and Hayne voting "no".

DISPOSITION OF HOUSE BILL NO. 725: Rep. Nelson moved that HB 725 DO NOT PASS, seconded by Rep. Jenkins. Rep. Compton said that he had talked to two contractors, one from Helena and one from his district and they had told him they would not attempt to move the statue of Gen. Meagher for less than \$100,000 and he did not think this was minimal as suggested by Rep. Bardanouve. Motion CARRIED with Reps. Holliday, Harbin, Kennerly, Fritz and Sales voting "no".

DISPOSITION OF HOUSE BILL NO. 555: Rep. Smith moved that HB 555 DO NOT PASS, seconded by Rep. Phillips. Rep. Fritz said it was creating a problem that it sets out to solve. Motion CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL NO. 550: Rep. Nelson moved that HB 550 DO PASS, seconded by Rep. Cody.

Rep. Smith said that in reality they would be trading 25% for 100% which is brought out on the fiscal note. Rep. Nelson said that he knew of an instance where it was very valuable to someone who needs the sick leave and could see no problems with it. Motion CARRIED with Reps. Phillips, Garcia, Smith, Sales, Compton and Peterson voting "no". The Committee also revised the proposed Statement of Intent. See the attached Committee Report.

Rep. Fritz asked about a Committee bill being introduced pertaining to the paper ballots. Needing a 3/4 vote of the voting members, the motion CARRIED UNANIMOUSLY.

The election subcommittee will report to the full Committee on February 12, 1985 at 8:00 a.m. for executive action on the bills in that subcommittee.

There being no further business, the Committee adjourned at 11:20 a.m.



WALTER R. SALES, Chairman

(Type in committee members' names and have 50 printed to start).

DAILY ROLL CALL

State Administration COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2/11/85

NAME	PRESENT	ABSENT	EXCUSED
Chairman Walter Sales	/		
V-Chairman Helen O'Connell	/		
Campbell, Bud	/		
Compton, Duane	/		
Cody, Dorothy	/		
Fritz, Harry	/		
Garcia, Rodney	✓		
Hayne, Harriet	/		
Harbin, Raymond	✓		
HolliDay, Gay	/		
Jenkins, Loren	✓		
Kennerly, Roland	/		
Moore, Janet	/		
Nelson, Richard	✓		
Peterson, Mary Lou	✓		
Phillips, John	/		
Pistoria, Paul		✓	
Smith, Clyde	✓		

STANDING COMMITTEE REPORT

February 11 19 35

MR. **SPEAKER**

We, your committee on **STATE ADMINISTRATION**

having had under consideration **HOUSE** Bill No. **550**

First reading copy (White)
color

NONREFUNDABLE SICK LEAVE FUND FOR STATE EMPLOYEES

Respectfully report as follows: That **HOUSE** Bill No. **350**

DQ-PASS--

STATEMENT OF INTENT ATTACHED

STATE PUB. CO.
Helena, Mont.

.....
Walter H. Sales, Chairman.

COMMITTEE SECRETARY

This bill requires a statement of intent because section 1 gives the department of administration rulemaking authority to administer the sick leave fund created by the bill.

The department is required to consult with the sick leave advisory council created by the bill in promulgating all rules. It is intended that these rules relate to the following matters:

- (1) procedures for contributing sick leave and applying for loans of sick leave;
- (2) a plan under which individuals must pay back the loaned sick leave;
- (3) the contribution of sick leave to a specific eligible individual rather than to the fund in general;
- (4) definition of the types of illness or other circumstances for which loans or grants may be made;
- (5) maximum amount of sick leave which may be loaned or granted; and
- (6) other matters necessary for the efficient operation of the sick leave fund.

It is further intended that these rules in no way limit the ability of a recognized bargaining agent to negotiate other sick leave provisions for its members.

STANDING COMMITTEE REPORT

February 11

19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 542

First reading copy (white)
color

REVISE BUILDING CODES - INCLUDE RESIDENCES - CONSOLIDATION OF INSPECTIONS

Respectfully report as follows: That HOUSE Bill No. 542

DO NOT PASS

~~DO PASS~~

STANDING COMMITTEE REPORT

February 11 19 25

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 523

First reading copy (White)
color

**STATE ACQUISITION OF INTEREST IN ABANDONED RAILROAD
RIGHT-OF-WAY.**

Respectfully report as follows: That HOUSE Bill No. 523

DO PASS

STANDING COMMITTEE REPORT

February 11

19 65

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE JOINT RESOLUTION Bill No. 19

First reading copy (White)
color

CONSENTING TO CONSTRUCTION OF FOUR PROJECTS AT THE U OF MONTANA

Respectfully report as follows: That HOUSE JOINT RESOLUTION Bill No. 18

~~DO PASS~~

STANDING COMMITTEE REPORT

February 11

1965

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 355

First reading copy (White)
color

CHOOSING A PRESIDENTIAL ELECTOR FROM EACH CONGRESSIONAL DISTRICT AND 2 AT LARGE.

Respectfully report as follows: That HOUSE Bill No. 355

DO NOT PASS

~~DO PASS~~

STANDING COMMITTEE REPORT

February 11 19 85

MR. SPEAKER

We, your committee on STATE ADMINISTRATION

having had under consideration HOUSE Bill No. 725

First reading copy (White)
color

APPROPRIATING FUNDS FOR A SCULPTURE DESIGN FOR FRONT OF CAPITOL

Respectfully report as follows: That HOUSE Bill No. 725

DO NOT PASS

~~FIFTYXX~~
~~DO PASS~~

WITNESS STATEMENT

NAME W. JAMES KEMBEL BILL No. 542

ADDRESS BUILDING CODES DIV. DOA DATE 2/11/85

WHOM DO YOU REPRESENT DOA

SUPPORT Information OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: See Attached Testimony

TESTIMONY ON HB 542

BUILDING CODES DIVISION
DEPARTMENT OF ADMINISTRATION

The purpose of our testimony here today is to provide the committee with background information for deliberating HB 542. Concern has been expressed by the public and other governmental agencies over the lack of inspection of the subject buildings not covered by local government enforcement programs. Therefore, it is proper for legislature to review the topic and decide if such coverage is desirable on a statewide basis.

The proposed bill amends Sec. 50-60-102(1), MCA, by deleting the following wording from the second and third lines:

"residential buildings containing less than five dwelling units or their attached-to structures."

The proposed change will allow the Department to inspect single-family dwellings through four-plexes, in those areas not covered by a local government code enforcement program to insure compliance with the building, mechanical and energy codes. Currently, the Department inspects these buildings for compliance to the electrical code and except for single-family dwellings plumbed by the home owner, to the plumbing code.

The benefits derived from compliance of these buildings with the building, mechanical and energy codes are:

1. Life-safety of building occupants is protected.
2. Building owner's investment is protected by having a better quality building.
3. Property losses due to fire and structural failure are greatly reduced.
4. Energy use is reduced resulting in reduced energy bills for owners.
5. Urban sprawl is reduced by discouraging those persons wishing to build outside of a municipality's jurisdiction to avoid complying with the codes.
6. Encouraging fair competition between contractors by requiring them all to build to the same standard.

The following are examples of a few of the items inspections are intended to assure.

Building Code

1. Adequate separation between buildings to reduce the chances for rapid spread of fire.
2. Emergency escape or rescue exterior openings are provided from all sleeping rooms.
3. Habitable rooms are provided with adequate natural light and ventilation.
4. Bathroom and kitchen facilities are adequate.
5. Ceiling and room dimensions are adequate.
6. Fire-warning systems are provided.
7. Heating system is adequate to heat the building.
8. Building is structurally sound.
9. Conforming exits are provided.
10. Finish materials have proper flame-spread ratings.

Mechanical Code

1. Proper installation of furnaces, wood stoves, boilers, which includes:
 - Clearance of the unit to combustibles.
 - Adequate combustion air.
 - Adequate venting and clearances to combustibles for same.
 - Duct installation from the standpoint of material quality, sizing, and clearances.
 - Clothes dryer exhaust ducts sizing, material, and termination.
2. Proper testing and labeling of mechanical equipment.

Energy Code

1. Building envelope insulation is adequate and properly installed.

2. Water and space heating equipment meet performance standards.
3. Electrical distribution and lighting systems are designed for efficient distribution and use of electrical energy.
4. Building envelope air leakage is within acceptable levels.

The above items demonstrate the hazards to life-safety, chances of substantial property losses and potential for substantial energy losses that can be prevented by code coverage of single-family dwellings through four-plexes. Currently, the only way occupants of the subject category of buildings are afforded protection is if the local government chooses to adopt and enforce the codes.

The model codes currently used in Montana were developed as the result of disasters in this category of building and therefore, reflect a real concern for those building occupants not afforded the protection code enforcement provides.

As of 1982, 25 states have adopted statewide building codes. Nineteen of the 25 states have adopted standards for single-family dwellings through four-plexes.

In addition, the bill provides for state cooperation with federal and local authorities to consolidate permitting procedures, plan reviews, and compliance inspections to reduce duplication of efforts between governmental agencies.

EX 1 # 2
HB 542
2/11/85

V

VIGILANTE ELECTRIC COOPERATIVE INC.

225 E. BANNACK STREET • PHONE 683-2327 • DILLON, MONTANA 59725

POST OFFICE DRAWER 71

STATE ADMINISTRATION COMMITTEE

HEARING

TESTIMONY BY

WILBUR L. ANDERSON
GENERAL MANAGER

VIGILANTE ELECTRIC COOPERATIVE, INC.

AND

WESTERN MONTANA ELECTRIC GENERATION AND TRANSMISSION COOPERATIVE, INC.

February 11, 1985

Mr. Chairman and members of this Committee, my name is Wilbur Anderson. I am General Manager of Vigilante Electric Cooperative at Dillon, Montana; Manager of Western Montana Generation and Transmission Cooperative, and I serve on the Executive Committee of the Public Power Council and the Board of the Northwest Public Power Association.

Our Northwest Public Utilities are very concerned about the Model Home Building Standards and Surcharges being proposed by the Northwest Power Planning Council. We do not feel home owners and new home builders should be required to pay for building standards, and a surcharge on their monthly electric bill for non-compliance in meeting state building standards during construction of their homes. We feel, further, that the additional costs of meeting state imposed codes and inspections in the range of \$5,500. to \$6,500. per single family home, is punitive in nature and a very poor way to encourage energy conservation.

House Bill No. 542 will permit the establishment of such codes, home inspections, and surcharge penalties on electrical users in the service areas of Bonneville Power customer systems in western Montana only.

We feel that such proposed rules and penalties by the Council that apply to electrical users only, and six of the twenty-five Electric Cooperatives in Montana is highly discriminatory and may well be unconstitutional in all of the Northwest States.

The Master Builders Association in the State of Washington has filed suit against the Northwest Power Planning Council challenging the authority of the Council, and the constitutionality of their actions. Building Codes and Surcharge penalties being requested by the Power Council of the northwest states are not mandated in the Northwest Power Planning and Conservation Act. For the past two sessions, the Master Builders have defeated a bill enacting the Council's model conservation code.

The Idaho State Legislature presently in session has introduced resolutions directed to the President, the Congress, and members of the Power Planning Council, condemning actions of the Council:

- "(1) In adopting and promulgating model conservation standards that are not economically feasible to consumers in the state of Idaho,
- (2) In promoting the adoption, implementation, and enforcement of those standards by local governments in the state of Idaho,
- (3) In advocating a plan to impose surcharges on electric customers in local jurisdictions that have not adopted the standards by January 1, 1986."

They further state that these actions "unduly alter, diminish and abridge the rights of the State of Idaho and its citizens with respect to regulation of the energy industry."

The two Northwest Power Planning Council members in Montana claim to represent the BPA customers in our state. However, they totally ignored the resolution passed at our Montana Associated Utilities Annual Meeting in Butte in September, 1984, which states that if building and surcharges are approved, they should apply to all forms of energy used in residential heating. The Council also adopted the building codes and surcharges in spite of a resolution passed by the Public Power Council requesting a two year delay till some factual data on model home savings could be obtained. The Public Power Council represents 114 public utilities in the northwest states.

Members of the Committee, nothing less than your electric bill, already plenty high, is at stake in this legislation. We urge that you defeat House Bill No. 542. The electric consumers in Montana do not need another level of standards, codes, costs, and surcharges on our homes and in our monthly bills.

Thank you for your consideration.

Ex. # 3
HB-542
2/11/85

B. I. T. Enterprises

Gary S. Marbut

P.O. Box 4924
Missoula, Montana 59806
(406) 549-1252

February 11, 1985

State Administration Committee
Montana House of Representatives
Helena, Montana 59620

Mr. Chairman and Members of the Committee:

The House State Administration Committee will receive testimony concerning HB542 today. HB542, revising building codes, would allow the Northwest Power Planning Council's Model Conservation Codes to be applied to the shelter industry administratively. On behalf of myself, and the principals who I represent, I respectfully request that you do not release HB542 out of committee, or if you do, that you release it with a Do Not Pass recommendation.

There has been substantial discussion of the proposed Model Conservation Standards (M.C.S.) among federal and state agencies, the state legislature, and the Montana media. As a residential energy expert, the spokesperson for many consumers, and as an interested party, I am opposed to the imposition of the Model Conservation Standards.

My primary business is as a designer and consultant for residential energy conservation. I vie with a few others to be Montana's leading proponent of energy conservation. I was one of six persons appointed from throughout Montana to the Residential Standards Demonstration Program (R.S.D.P.) Task Force. This task force worked with D.N.R.C. to design a program that would test the Model Conservation Standards in western Montana. I am also Co-chairman of the Energy Task Force of the citizens'/ local government current effort to rewrite the Missoula Comprehensive Plan.

As you may know, the proposed M.C.S. require that a new home, which will heat with electricity, must be built in a way that will consume no more than 3.2 kilowatts per square foot per year for heat.

My opposition to the Model Conservation Standards is multifaceted and is a result of my expertise in energy conservation and my awareness of the value and consequences of the M.C.S. My reasons for objection to the M.C.S. are as follows:

- 1) The proposed M.C.S. are currently in a testing phase. A major testing program, expensive to taxpayers and consumers, was implemented to test the M.C.S. cost and utility, and the process by which they are applied. That testing program will not be concluded for months, at best. There is substantial conjecture that the codes are not currently cost-effective in terms of returning investment quality value to the homeowner who invests in the conservation measures, under the parameters established by the Northwest Power Planning Council (N.P.P.C.). The results simply are not in, however, the testing has demonstrated several ways in which the process of application of the M.C.S. does not work.
- 2) The cost-effectiveness of the M.C.S. is dependent upon a surprising number of variables, the most important of which is the rate of fuel cost escalation. Many of the other variables are gaining a useful amount of definition, but pegging the rate of fuel cost escalation requires either a crystal ball, or accepting promises and forecasts from those who are only guessing, at best. My computer modelling of homes projected to meet the M.C.S. indicates that these homes are only cost-effective if one assumes a rate of fuel cost escalation in the range of 10% to 15%. Current projections by N.P.P.C. and utilities forecast a 2% to 5% rate. At this projected rate, the investment necessary to achieve the 3.2 Kw standard DOES NOT return a useful gain, or pay back over an acceptable period of time. This means that the M.C.S. are only cost-effective at a rate of fuel cost escalation which is substantially higher than the forecasting experts are willing to admit. This conflict must be resolved before the M.C.S. are seriously considered.
- 3) The impetus for implementation of the M.C.S. is the threat by B.P.A. of up to a 50% surcharge on electricity sold into a state which does not adopt the M.C.S. Considering that B.P.A. services only a portion of Montana, and that B.P.A. provides only a portion of the power sold into its service area, my sources of information lead me to believe that the threatened surcharge would apply to only about 10% of the residential electricity consumed in Montana. It is also sensible to think that B.P.A. would not immediately, regardless of rhetoric, impose the maximum allowable surcharge of 50%. Thus, the driving motive for the M.C.S. is, in reality, relatively minor (although it makes good press when stated broadly).
- 4) The proposed M.C.S. do not apply to homes heated with oil, natural gas, propane, wood, solar, biomass, or geothermal, and, thus, targets a discriminatorily small

sector of residential shelter. Additionally, the M.C.S. will not apply to "manufactured housing", thus exempting another shelter sector.

- 5) The M.C.S. require homes to be built which consume less than 3.2 Kw/ sq. ft. / year. In order to determine if a home meets this standard requires an immense number of mathematical calculations. This can only be practically accomplished by computer. There is currently no publicly available computer hardware and software to accomplish this task in Montana. At best, the average citizen builder would be required to acquire about \$3000 worth of computer hardware and software, and take many hours to become proficient in its use, before he would be able to determine if the home he proposed would meet the new standards. Some methods have been proposed to circumvent this quagmire, but, so far, they are all incomplete, constrictive, time consuming, or expensive, or all of these. Also, no public domain methodology has been offered by either B.P.A. or N.P.P.C. to be used to qualify the effects of passive solar gain on M.C.S. home designs.
- 6) As mentioned before, my business is consulting and design for residential energy conservation. In this, I am a member of a fledgling industry in Montana. When a prospective owner of a new home is considering home designs, they bring their home plans to my business, and I coach them about what investments in energy conservation are sensible, useful, and cost-effective. While I applaud the concept of residential energy conservation, the current evolution of the way these standards would be implemented would jerk the rug out from under my fledgling industry. That is, current intended implementation of the M.C.S. would be in direct competition with my private business and private industry.
- 7) One of the basic presumptions of the M.C.S. is that the standards are good for people; that if people are forced to make the investment in energy conservation it will save them money in the long run, and/or will save all of us money in the long run. This logic makes the presumption that common people don't know what is good for them, and therefore government should rush to their rescue and mandate what they should do "for their own welfare". I find this logic absolutely unacceptable. While this rationale may hold some sway with respect to matters of health and safety, it becomes abusive when applied to matters of personal economic choice.

8) Again, the driving force behind the press for the M.C.S. is the threat of the B.P.A. surcharge. This has many parallels and historical precedents, including drinking age and highway funds, air quality control and highway funds, comprehensive land use plans and community development funds, and many others. The essence stated by these programs is, "We (Feds) will give your money back if you do what we tell you." I gather that this is part of what is meant by the term "creeping federalism." If we desire to avoid the ultimate tyranny of the federal government and the federal bureaucracy, there comes a time when states' rights must be forcefully asserted. I believe that the issue of imposition of the Model Conservation Standards would be an excellent point to resist this increasing federal mandate. I suggest that it would be more appropriate for the Attorney General to be in conflict with B.P.A. over the M.C.S., than for the government of the State of Montana to be in conflict with its citizens over the M.C.S. Perhaps an interesting question is raised here. At the risk of sounding simplistic, that question may be, "Does state government choose to work in favor of its citizens, or in favor of B.P.A. and the federal government?"

9) The M.C.S. are based on a philosophy which views energy conservation as a resource, much like a new hydro plant or a new coal-fired generation facility. The presumption is that we need to develop this "resource" in order to provide for our energy needs. In the recent Montana Power Company Colstrip rate case before the Public Service Commission, the P.S.C., and the Montana Supreme Court, decided not to grant M.C.P. their requested rate increase to help pay for Colstrip 3, because there is currently an abundance of electrical power in Montana. Their rationale was that since the power is not needed, that Colstrip 3 is not "used and useful". It is clear that this same standard should be applied to development of the "resource" of conservation. If we don't need more power, we don't need more power, period. Thus, the M.C.S. don't need to be imposed or implemented; this by the same logic which decided the Colstrip decision.

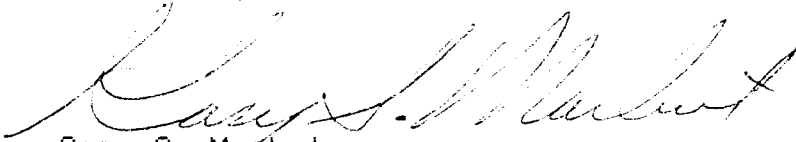
To recap these arguments in short, the Model Conservation Standards are untested, unlikely to be as good for the consumer as predicted, conflict with private business, are presented with unwarranted assumptions, discriminate against site-built homes heated with electricity, represent an abuse of governmental authority over citizens' economic decisions, are in conflict with recent P.S.C. and Montana Supreme Court decisions, and constitute a cave-in to federal mandate. While I am 120% in favor of energy conservation, I am 150%

opposed to the M.C.S. They probably will not accomplish the intended result, but will almost certainly increase bureaucratic intrusion into the lives of the citizens of Montana.

It is conceivable that the M.C.S. would cause a net conservation of electricity, but, if so, it would be because the M.C.S. will act as a tremendous disincentive to the construction of electrically heated homes. This may well exacerbate other problems which will themselves seem to cry out for government solutions, such as the air pollution caused by the increased inventory of homes heated by oil and wood. I am reminded of Ruff's first rule of government, which is, "For every problem government solves, it creates two or more of equal or greater dimensions."

I thank you for your time and concern for this topic, and I urgently request that you defeat HB542.

Sincerely,

A handwritten signature in cursive script, reading "Gary S. Marbut". The signature is written in dark ink and is positioned above the typed name.

Gary S. Marbut
Energy Conservation Consultant
R.S.D.P. task force member



OFFICE OF THE MAYOR

201 W. SPRUCE • MISSOULA, MT 59802-4297 • (406) 721-4700

Ex. #1
HB 523
2/11/85

MEMO

TO: House State Administration Committee
Representative Harry Fritz

FROM: The City of Missoula

RE: HB #523 - AN ACT PROVIDING AUTHORITY FOR STATE
ACQUISITION OF ABANDONED RAILROAD RIGHTS-OF-WAY OR
EASEMENTS THEREIN FOR FUTURE TRANSPORTATION CORRIDORS;
AMENDING SECTION 60-11-111, MCA.

DATE: February 11, 1985

The City of Missoula supports the amendments proposed in HB #523, and suggests an additional amendment to include railroad rights-of way already abandoned (line 13).

The City of Missoula acquired some of the Milwaukee Railroad right-of-way when it was available, but most of the right-of-way was sold by the bankruptcy Court. Acquisition of portions of this corridor, particularly between neighboring communities such as East Missoula and Frenchtown, would provide valuable links for present and future transportation needs.

We hope that recreational uses (hike and bike trails) are included in the meaning of transportation corridors. One of the most popular uses of abandoned railroad rights-of-way around the country is for recreational trails. The Elroy-Sparta trail in Western Wisconsin, for example, is a 35-40 mile long route that has benefited economies of communities along the way. Recreational use of an abandoned railroad right-of-way could begin sooner and at a much lower cost than a fully developed motor vehicle corridor. Development of a roadway or rail route could occur in the future when it is warranted by demand, and sufficient funding is available. The option for future development would be preserved.

The City of Missoula supports a pass vote by the State House Administration Committee.

Respectfully submitted by

Mike Kress

Mike Kress, Transportation Planner
Missoula Office of Community Development



ANCIENT ORDER OF HIBERNIANS IN AMERICA

February 09 1985

Honorable Wm. T. Menahan, Representative
Anaconda-Deer Lodge County
1985 Montana State Legislature
Helena Montana

Re:HOUSE BILL NO. 725

Dear Representative Menahan:

The entire membership of Division #1 of the Ancient Order of Hibernians in this community is deeply concerned and very much upset over the legislation proposed by House Bill 725 to destroy the historic and memorable stature of Thomas Francis Meagher, the first territorial governor in Montana.

As descendants of a long line of Irishmen in this community, our members are in full support of maintaining in its present state the majestic statue of a great military leader, a dedicated government official, and most of all a remarkable American -- THOMAS FRANCIS MEAGHER.

The Ancient Order of Hibernians in Anaconda urges you and other legislators in the House to do everything possible to defeat House Bill 725. Your efforts, and those of fellow legislators, to this end will be much appreciated by the Hibernians.

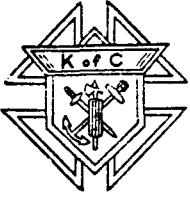
Sincerely

A handwritten signature in cursive that reads 'Leo "Skipper" Kelly'. The signature is written in black ink and is positioned above a horizontal line.

LEO "SKIPPER" KELLY, FINANCIAL SECRETARY
on behalf of the Officers and Members of AOH
Division #1, Anaconda-Deer Lodge County

LVK/s

Ex #6
HB-725



Business and
Social Sessions
First Tuesday

Knights of Columbus

ANACONDA COUNCIL, No. 882

P.O. Box ~~140~~ 586

Anaconda, Montana 59711

February 10, 1985

Rep. William Menahan
State House of Representatives
Helena, Montana 59601

Dear Red:

The Knights of Columbus, Anaconda Council 882, are opposed to House Bill 725, the removal of the statue of our first territorial governor, Thomas Francis Meagher, from in front of the Capitol building.

With so much important work to be accomplished, we hope this can be swiftly defeated so you can move forward on more critical issues.

Yours very truly,

Pete Radonich

GRAND KNIGHT

James A. Ryan
FINANCIAL SECRETARY

Ex. #7
HB-555
2/11/85

ELECTORAL COLLEGE REFORM:

A CASE FOR THE DISTRICT ALTERNATIVE

Stuart Whitehair
December 12, 1983
Dr. Conrad McBride
Political Science 304

House Bill 550 sets up a sick leave bank for state employees. It provides that employees may contribute any amount of their accumulated sick leave to this nonrefundable sick leave fund.

This makes them eligible to draw from the fund if their own accumulated sick leave has been totally used.

The bill sets up an Advisory Council to work with the Dept. of Administration to adopt rules to implement the sick leave bank. As you see by the Statement of Intent, the rules are to include procedures to contribute to and borrow from the fund; to pay back borrowed sick leave; the maximum amount that can be loaned; and other operating procedures.

I introduced a similar bill last session, and it was nit-picked to death. Some legislators wanted to set forth all the operating rules in the bill rather than leave them up to the Advisory Council. Also, last session's fiscal note was huge because it had been figured erroneously.

I think this fiscal note is high, too, because there probably wouldn't be enough participation in the first year or two to warrant modifying the computerized accounting system for \$15,000.

Also, once the fund is set up and procedures are established, the Advisory Council probably wouldn't have to meet as often as 6 times a year. Money could also be saved by having the Advisory Council members all be from Helena and have just 1 person representing the University System instead of one from each unit.

I believe that a sick leave bank could be of great benefit to state employees, and I hope the committee will consider this bill favorably.

I have other proponents to testify for the bill.

Proposed Amendment to
STATEMENT OF INTENT

This bill requires a statement of intent because section 1 gives the Department of Administration rulemaking authority to administer the sick leave fund created by the bill.

The Department would be required to consult with the advisory council created by the bill in promulgating all rules. The rules would relate to the following matters:

- (1) procedures for contributing sick leave and applying for loans of sick leave;
- (2) a plan under which individuals will pay back the loaned sick leave;
- (3) the contribution of sick leave to a specific eligible individual rather than to the fund in general;
- (4) defining the types of illness or other circumstances when loans or grants will be made;
- (5) maximum amount of sick leave which can be loaned or granted;
- (6) other matters necessary for the efficient operation of the sick leave fund.

In no way would these rules limit the ability of a recognized bargaining agent to negotiate other sick leave provisions for its members.

EX. 119
HB-550
2/11/85

HOUSE STATE ADMINISTRATION COMMITTEE

TESTIMONY ON HB 550 - LINDA SPRAU - FEBRUARY 11, 1985

My name is Linda Sprau and I work for the Department of Highways. I am here today in support of HB 550. I am a single parent and cannot get disability insurance. My situation is this: Eight years ago, I was working for the federal government when my youngest daughter was born. Shortly after I returned from maternity leave I discovered that I had cancer. Although I had used all my sick leave as maternity leave the government allowed me to borrow against future sick leave. I was fortunate to make a recovery and was able to return to work and I paid back that sick leave.

I am now divorced. Sometimes I get child support and sometimes I don't. As a practical matter, I am the sole support of my two children. We are normally healthy but among us we have enough bouts with the flu or what have you to use most of my sick leave. I worry about what might happen to us if I have an illness of any length at all. I have tried to get disability insurance on two separate occasions but both times the answer has been the same--no, not until ten years have passed since the incident with the cancer. The state has no provision for borrowing against future sick leave. As it stands today, in case of an illness I would have to go on leave without pay--but then how would we eat? how would I pay for the health insurance which I would desperately need?

HB 550 would provide an avenue of help. If the sick leave fund is created, it would be possible for me to draw upon it during a lengthy illness. I would be able to concentrate on getting well rather than on how we were to eat. This bill creates a voluntary fund. Those people who wish to contribute and participate may do so but no one has to join. The bill

HB 550 - Sprau, p. 2

would allow us to voluntarily fill a void which otherwise could be filled only if the state were to supply us all with group disability insurance.

I urge you to vote Do Pass on HB 550.

HOUSE STATE ADMINISTRATION COMMITTEE

Ex. # 10
HB 550
2/11/85

TESTIMONY ON HB 550 - DORIS SIEPERT - FEBRUARY 11, 1985

My name is Doris Siepert and I am here representing the Department of Labor and Industry Committee for Women. I work at the local Job Service and I have taken vacation time to be here today to tell you why I support HB 550.

My elderly mother and I are the only family members living in Montana. My mother's health has gotten succeedingly worse for the past four years--she has had two heart attacks, a stroke and a broken arm. There is no one else to care for her except me and I have used most of my sick leave doing so. Last year, my own health finally gave out. I was hospitalized with severe high blood pressure. I was off work for 2 months--1½ months on leave without pay because I had no more sick leave. Since I have no one to depend on, several years ago I took out a disability insurance policy. This disability insurance is expensive, \$34.24 a month, but it provided enough money so that I was able to pay for my health insurance while I was on leave without pay. And of course, since I was on leave without pay the insurance company insisted that I pay for my disability insurance 3 months in advance. I will try to make that a little more clear. As soon as my sick leave was exhausted and I was on leave without pay the state stopped paying for my health insurance. Not only did I have no salary, I then had to pay the \$100 a month state contribution toward my health insurance. Because I had no salary, the disability insurance company demanded that I pay the premiums on my disability insurance 3 months in advance. It felt like catch 22. My expensive disability insurance paid a total of only \$600 for the two months I was sick but fortunately this was enough to pay the \$300 in insurance premiums.

Had I not been able to pay these insurance premiums I would have lost my health insurance just when I needed it most. Not only would I have been left without health insurance while I was sick, after I returned to work I would have had to work a "qualifying year" before I could again be covered for high blood pressure. As it is, my disability insurance does not cover my high blood pressure without a year's wait.

If we had a sick leave fund people like me would be able to borrow against it in time of need. Right now with no sick leave fund to borrow against even a simple illness can be a financial disaster as well as a physical and emotional one. I urge you to approve HB 550.

Ex. # 11
HB 550
2/11/85

INTERDEPARTMENTAL COORDINATING COMMITTEE FOR WOMEN

February 11, 1985

TESTIMONY - HB 550

Mr. Chairman, members of the Committee, I am Rhonda Boyle Representative for the Interdepartmental Coordinating Committee for Women known as ICCW.

ICCW supports the passage of HB 550. The concept explored here is concomitant with present socio-economic pressures which have increased the number of stress related illnesses, such as, cardiovascular disease and cancer.

Individuals, men and women, who are afflicted with an extensive illness or serious injury, find that they quickly drain their existing sick leave credits. This, then, places them in a leave-without-pay status causing a critical financial burden. However, generous and compassionate fellow state employees have prompted the writing of HB 550 to provide a sick leave pool which contributing state employees may borrow from in the event of a crisis.

ICCW would like Section 2 of HB 550 to be amended to include a representative from our Committee on the sick leave advisory council.

We ask that you sincerely consider this bill and support the passage of HB 550.

Jan,
I may not be able to get out
of another hearing in time to
testify on HB550. If I don't,
you are free to cite our support
with the amendment to the state-
ment of intent. I will try
my best to attend.

Mike Dahlen
MFT

STATEMENT OF INTENT

HOUSE BILL NO. 550

This bill requires a statement of intent because section 1 gives the department of administration rulemaking authority to administer the sick leave fund created by the bill.

The department is required to consult with the sick leave advisory council created by the bill in promulgating all rules. It is intended that these rules relate to the following matters:

(1) procedures for contributing sick leave and applying for loans of sick leave;

(2) a plan under which individuals must pay back the loaned sick leave;

(3) the contribution of sick leave to a specific eligible individual rather than to the fund in general;

(4) definition of the types of illness or other circumstances for which loans or grants may be made;

(5) maximum amount of sick leave which may be loaned or granted; and

(6) other matters necessary for the efficient operation of the sick leave fund.

IT IS FURTHER INTENDED THAT THESE RULES IN NO WAY LIMIT THE ABILITY OF A RECOGNIZED BARGAINING AGENT TO NEGOTIATE OTHER SICK LEAVE PROVISIONS FOR ITS MEMBERS.

WITNESS STATEMENT

NAME Rhonda Boyle BILL No. HB550
ADDRESS Dpt. of Health DATE 2/11/85
WHOM DO YOU REPRESENT ICW
SUPPORT OPPOSE _____ AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

WITNESS STATEMENT

NAME NEIL BUCKLEW BILL No. HJR 18
ADDRESS Missoula DATE 2/11/85
WHOM DO YOU REPRESENT UNIV. OF MONTANA
SUPPORT OPPOSE AMEND

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

no prepared statement.