

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

January 18, 1985

The sixth meeting of the State Administration was called to order at 10 a.m. on January 18, 1985, by Chairman Jack Haffey, in Room 331 of the Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF SENATE BILL 59: Senator Tom Towe, District 46, is the sponsor of this bill. This bill is a request presented by some important individuals who are concerned that the state is not doing enough to make sure that public buildings are accessible to handicapped people. Senator Towe said that the statute that requires changing is Section 50-60-201 MCA, located on page 2, line 10, "where practicable and feasible." This language is a way of saying if it is going to cost too much, we won't do it, and we should have some tougher standards for accessibility. Instead of the new language shown on the bill, Senator Towe said that it should read "Part II, Uniform Federal Accessibility Standards, as it reads in the Federal Register dated August 7, 1984" according to Phil Hauck, State Architect for the Department of Administration. Senator Towe further said that this bill does not affect existing buildings. He had originally intended this, but upon checking into the matter, he found that if this covered existing buildings, it would cost about 5 million dollars. He said it would be a good idea to bring our codes up to standard so it doesn't cost us that much later on to comply with the federal codes.

PROPONENTS: Representative Ray Peck, representing the Havre DAV, supports this bill. He felt the state was not meeting its obligations to handicapped people the way the code now reads.

Richard Clark, Clark's Orthopedics, supports this bill. He said that he talks to hundreds of handicapped people who run into this problem every day. (For more of Mr. Clark's testimony see Exhibit "A" attached hereto and by this reference made a part hereof.)

George Post, DAV and State, supports this bill. We feel that something should be done to allow handicapped people accessibility to these public buildings, even the existing ones.

Phil Hauck, State Architect and Department of Administration, supports this bill. He said this is the latest code and it should be on the books in the State of Montana. Please give this bill your favorable consideration.

Chip Erdman, Montana School Board Association, supports this bill.

Boyd Peterson, representing the Disabled Students of Montana State University, supports this bill. He said there are 350 disabled students at the Montana State University. It is important that we update our codes so they have access to the buildings.

OPPONENTS: There were no opponents.

Senator Haffey asked for questions from the Committee. Senator Harding said that she knows that according to a new federal law, polling places have to be accessible to handicapped people. Is this the same law? Senator Towe said no. He thinks they are separate. Senator Manning asked Phil Hauck, if there is a building that is in the process of being built, would this apply to this building? Mr. Hauck said that they have been using the federal codes, so they would already be in effect on buildings being built. Senator Haffey asked for clarification, and Mr. Hauck said yes, they were already using the federal codes and putting this in our codes would legitimize it. Senator Harding asked where in the statute it says it applies only to new buildings. Senator Towe answered that the first part of the statute refers to Section 60-50-101 which would clearly define that it affects only new buildings. Senator Hirsch asked if the October 7, 1984 standard is more or less stringent. Mr. Hauck replied that he received it just 4 days ago, and it is modeled after the ANSI Code. He said this was a better codes--a good code. Senator Conover then asked if it would also be included in remodeling of buildings. Mr. Hauck replied yes. Senator Harding then asked Senator Towe if he would have a problem if they inserted newly constructed or remodeled buildings in the language of the code. Senator Towe replied that he would not have a problem with it, but it could conceivably alter other statutes and we should proceed with caution. Senator Haffey mentioned that line 16 read, "and as the Department may amend by rule.." is that the Department of Administration? Why is that there? Senator Towe replied that that is an out so that the Department of Administration can amend it without coming back to the legislature to ask for an amendment. Jim Campbell, Department of Administration, said no fiscal note was needed. Senator Towe then closed SENATE BILL 59.

During Executive Action, Senator Harding again raised the question regarding changing the statute to read newly constructed or remodeled buildings. Valencia Lane assured her that this would not be necessary as it is already spelled out in the other sections, and because new laws do not apply retroactively. Senator Manning made a motion that SENATE BILL 59 BE AMENDED as Senator Towe suggested. Senator Lynch called question and the amendment was passed unanimously. Senator Manning made a motion that SENATE BILL 59 DO PASS AS AMENDED, Senator Lynch called question and it was passed unanimously.

EXECUTIVE ACTION ON SENATE BILL 10: Chairman Haffey opened the meeting to discussion. Senator Farrell has reservations about this bill. He seemed to feel that the state of Montana has invested its money wiser than any other state because of this list of investments. He felt that the state should not be in the investment

business and he was concerned by the fact that the Constitutional Convention looked at this very idea and rejected it. Senator Conover said that being on the Con-Con, this very same thing came up and that one man said that they should be allowed to invest in the stock market and make a killing, and that that was unanimously voted down. He said that this is why the list was made. He said that during the Con-Con they found a lot of agencies had money that was only invested at 3% interest and this is why they made the prudent man rule. Senator Tveit felt that explaining to his constituents would be a problem with the prudent expert principle. Senator Manning said that he was not necessarily in favor of this bill, but that the fire districts and others at one time could only invest in certain investments and they were getting practically no return at all on their money. The Board of Investments should be allowed more flexibility. Senator Mohar felt that the fact that the Board of Investments have done such a good job should not overshadow the fact that maybe they could have done a better job. Senator Lynch said that he supports this bill. He feels that Jim Howeth and his fellow workers are very wise investors and they will not make wild and foolish investments because they have to answer to the whole state. Senator Hirsch agreed with Senator Lynch. Senator Tveit felt that the word expert would be a hard one to sell. Senator Farrell felt that the best argument against this bill was the Board of Investment's record. Senator Haffey told the committee that he wouldn't look at this as a partisan bill, and that he felt it should be put before the Senate as a whole for debate and before the people for a vote. He agreed with Senator Tveit that the word expert is a connotation problem, but felt that could be overcome. He further stated that the Board of Investments is a very responsible board.

Senator Lynch moved that SENATE BILL 10 do pass, Senator Manning called question, and Senator Haffey asked for a roll call vote. The vote ended in a tie. Senator Haffey decided that we would hold this in committee until Monday or Tuesday and think about it before we take action on it. This, of course, applied to SENATE BILL 11, which is a companion bill, as well.

CONSIDERATION OF SENATE JOINT RESOLUTION 5: Joe Mazurek is the sponsor of this Resolution. He explained that it was a Resolution entitled, A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA COMMEMORATING THE 75TH ANNIVERSARY OF CARROLL COLLEGE. He said that Carroll College contributed a lot to the education of Montana. He said there were 1,300 students at Carroll and 3,124 living alumni who reside in the State of Montana. Senator Mazurek further stated that this is a way to thank the college for all the things it does for the senators while they are here.

PROPOSERS: Frank Kerins, President of Carroll College, said that he would like to have the Committee's support for this. He further said they were very proud of Carroll College and all it has accomplished.

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Russ Ritter, Mayor of Helena, Montana, said that the City of Helena passed a similar resolution and he hoped we would pass this one.

Bill Lannon, of the Montana University System, said that he was an alumni of Carroll College and was appearing on behalf of the Board of Regents and Community Colleges in congratulating Carroll on its 75th anniversary.

Ernie Gene, Superintendent of Schools in Opine, said that he was an alumni of Carroll. He said that Carroll turns out high quality teachers and is an integral part of the education system in Montana. He said Carroll sits on capitol hill where the capitol was originally supposed to sit.

Senator Haffey withdrew from the committee in order to appear as a proponent. He said he was the third alumni from Carroll present in the room and that both Carroll and Western Montana College turn out excellent teachers.

OPPONENTS: There were no opponents.

Senator Mazurek closed by saying that they would appreciate the committee's favorable consideration.

Senator Lynch made a motion that SENATE JOINT RESOLUTION 5 DO PASS. Senator Manning called question and it was passed unanimously.

The meeting was adjourned at 11:26 a.m.

  
\_\_\_\_\_  
SENATOR JACK HAFFEY CHAIRMAN



# ROLL CALL VOTE

SENATE COMMITTEE STATE ADMINISTRATION

Date 1-18-85 Bill No. SB-10 Time 10:45a.m.

NAME	YES	NO
SENATOR ANDERSON		✓
SENATOR CONOVER		✓
SENATOR FARRELL		✓
SENATOR HARDING		✓
SENATOR LYNCH	✓	
SENATOR MANNING	✓	
SENATOR MOHAR	✓	
SENATOR TVEIT		✓
SENATOR HIRSCH, Vice-Chairman	✓	
SENATOR HAFHEY, Chairman	✓	
	5	5

Glenda Pennington  
Secretary, Glenda Pennington

Jack Haffey  
Chairman, Senator Jack Haffey

Motion: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE January 18, 1985

COMMITTEE ON State Administration

# VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Scott M. Fischman	UM	59		
Wm Smith	AS'm	59		
PHIL HAUCK	DEPT. OF ADMIN	59	✓	
W. JAMES KEMBEL	DOA	59	Information if Needed	
Mark Brewett	ASCUA			
George Poston	DAV	59	✓	
Bob Burt	Mt. Ass. of Counties	59		
Proctor Patterson	HS FSUM	59	✓	
Beryl Peterson	M.S.U.	59	-	
Rep Ray Beck	House	59	✓	
Bill Lannan	Mont Uni Syst	STR5	✓	

(Please leave prepared statement with Secretary)

NAME: Richard J. Clark - Clark's Octagonville SB-59 DATE: 1/18/85

DATE: 1/18/85

ADDRESS: 513 1st Ave So. Great Falls.

PHONE: 452-5425

REPRESENTING WHOM? Clark's Orthopedic

APPEARING ON WHICH PROPOSAL: 59

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

[illegible]



STATE ADMINISTRATION COMMITTEE

TESTIMONY FOR SENATE BILL 59

INTRODUCED BY: SENATOR TOM TOWE

As a Certified Prosthetist-Orthotist, I deal with the handicapped and disabled citizens of our State. As a handicap equipment dealer, I deal with the problems this bill addresses. Therefore, I wish to testify in its behalf.

My company has dealt with handicap problems in Montana for 28 years. We have sold and installed handicap equipment for over 21 years. In the last three years we have seen a tremendous increase in the desire, on the part of the handicapped and owners, to eliminate the barriers in both private and public buildings. I have in my files 82 documented inquiries made to my company in 1984 for one product line alone. Thirty nine of those inquiries were for public access. Several were for schools and many were for churches. We logged thousands of miles this last year alone following up on these inquiries.

The handicapped citizens of Montana are expressing a desire to take part in society along with the rest of us and carry on every day living and business just as we do. Unfortunately we have made that desire nearly impossible to fulfill in the way we have designed buildings and structures.

There are methods with which we can overcome these obstacles. However, our State building codes need to be reviewed and upgraded so that they themselves are not a formidable obstacle in the path of progress for our handicapped citizens.

Until last May, we were almost totally prohibited by State building codes from installing any mechanical device for handicapped transport in a public building with the exception of standard elevators.

At that time Mr. Kembel of the building codes division tentatively accepted the newly revised A.N.S.I. elevator codes. These new codes allowed more freedom to use specific mechanical devices designed for handicapped use. Needless to say, this opened a whole new door for those people and organizations wishing to eliminate the barriers for the handicapped.

At this point as I and my representatives began to visit various locations to ascertain the feasibility of eliminating barriers, we discovered that even within the newly revised codes there were barriers.

Example 1:

A.N.S.I./A.S.M.E. Supplement A17.1b 1983

Rule 2000.7A Last sentence

"The travel shall not exceed 12 ft. (3.66 m) nor penetrate a floor."

What is of most concern to us is the clause against penetration of a floor. What this is saying is that we cannot go into an existing structure and cut a hole through the ceiling to allow a lifting device to pass from the lower floor up through the ceiling to the upper floor. The only alternatives are:

1. Install a device in an existing shaft way such as a stair well or light shaft.
2. Build a shaft structure on the outside of the building to house the device and pass through the wall at the various levels of desired access.
3. Install an expensive standard public elevator.

This little clause can make installations needlessly expensive, if not prohibitive.

Example 2:

Installation Costs:

1. Cost to build an outside structure to house a wheel-chair lifting device to travel from the basement to the main level with an intermediate stop at the ground level. \$24,000.00
2. Approximate cost to do the same installation using a floor penetration and staying within the existing structure. \$12,000.00
3. Minimum cost of a standard public elevator. \$40,000.00

To our inquiry at the Building Codes Division, we could not get a reasonable answer as to why such a restriction existed. This is just one example of several problems that we have experienced as a result of the regulations that now exist.

I therefore strongly support Bill 59 to eliminate restrictive unnecessary regulations, and encourage elimination of all barriers where possible in government buildings. I would also suggest some sort of time frame in which this action might be expected to be accomplished.

RICHARD L. CLARK, C.P.O.  
President  
Clark's Orthopedic Supply, Inc.  
513 1st Avenue South  
Great Falls, Montana 59401  
452-8428

(This sheet to be used by those testifying on a bill.)

Exhibit B  
1-18-85  
SB-59

NAME: Boyd Peterson DATE: 1-18-85

ADDRESS: 101 E Blainegan Ct, Bozeman, Mt.

PHONE: 587-3833

REPRESENTING WHOM? M.S.U.

APPEARING ON WHICH PROPOSAL: S.B. 59

DO YOU: SUPPORT? X AMEND?        OPPOSE?       

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "C"  
1-18-85  
SB-59

(white)  
S.B. 59 Introduced by Sen. Towe

1. Page 2, Lines 13 through 15.

~~Line 13 thru 15, Page 2, STRIKE AS FOLLOWS:~~

~~Following: " issued as " on line 13~~

~~Part III, Architectural and Transportation Compliance Board,  
Minimum Guidelines and Requirements for Accessible Design, as it reads  
on October 1, 1985, and...~~

Insert:

AND INSERT.

"  
Part II, Uniform Federal Accessibility Standards, as it reads in  
the Federal Register dated August 7, 1984,"

(This sheet to be used by those testifying on a bill.)

1-18-85

SB-59

NAME: FRANK KERINS DATE: \_\_\_\_\_

ADDRESS: CARROLL COLLEGE

PHONE: 442-3450

REPRESENTING WHOM? CARROLL COLLEGE

APPEARING ON WHICH PROPOSAL: SJR 5

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

COMMENT: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "E"

1-8-85

SB-10 & 11

SENATE BILL NO. 11, introduced (white), be amended as follows:

1. Page 2, line 24.

Following: line 24

Insert: "Nothing contained herein shall prevent the investment in any business activity in Montana, including activities that continue existing jobs or create new jobs in Montana, if the investment meets the standard of care required by this section. In discharging its duties, the board of investments and the Montana economic development board shall consider the preservation of purchasing power of capital during periods of high monetary inflation."

2. Page 8, line 15.

Strike: "banks"

Insert: "financial institutions"

Sen. Haffey -  
these are proposed amendments - I'll  
give copies to Lynch, Harris, Towe, Howeth,  
+ Neumann for input before Friday.

WJ

# STANDING COMMITTEE REPORT

January 18

1985

MR. PRESIDENT

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE JOINT RESOLUTION** No. **5**

**first** reading copy ( **white** )  
color

**CARROLL COLLEGE 75TH ANNIVERSARY COMMEMORATION RESOLUTION**

Respectfully report as follows: That **SENATE JOINT RESOLUTION** No. **5**

DO PASS

**DOUBLED**

Chairman.



# STANDING COMMITTEE REPORT

January 18 1985

MR. PRESIDENT

We, your committee on **STATE ADMINISTRATION**

having had under consideration..... **SENATE BILL** No. **59**

**first** reading copy ( **white** )  
color

## **ACCESSIBILITY OF PUBLIC BUILDINGS BY HANDICAPPED PERSONS**

Respectfully report as follows: That..... **SENATE BILL** No. **59**

**be amended as follows:**

1. Page 2, lines 13 through 15.

Following: **"issued as"** on line 13

**STRIKE: "Part III, Architectural and Transportation Compliance Board, Minimum Guidelines and Requirements for Accessible Design, as it reads on October 1, 1985"**

**INSERT: "Part II, Uniform Federal Accessibility Standards, as it reads in the Federal Register dated August 7, 1984"**

**AND AS AMENDED**

**DO PASS**

**DO NOT PASS**

Chairman.