

MINUTES OF THE MEETING  
STATE ADMINISTRATION COMMITTEE  
MONTANA STATE SENATE

February 14, 1985

The twenty-sixth meeting of the State Administration Committee was called to order by its Chairman Jack Haffey in Room 331, Capitol, at 10 a.m. on Thursday, February 14, 1985.

ROLL CALL: All the members were present with Senator Lynch, Senator Manning, Senator Hirsch and Senator Tveit arriving late.

CONSIDERATION OF SENATE BILL 300: Senator Matt Himsl, Senate District 3, Kalispell, is the sponsor of this bill entitled, "AN ACT REQUIRING THE LEGISLATIVE AUDITOR TO CONDUCT AN AUDIT OF EACH STATE AGENCY EVERY 2 YEARS AND TO CONDUCT SPECIAL AUDITS WHEN DETERMINED NECESSARY; AMENDING SECTION..., MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE." This bill is at the request of the Legislative Audit Committee. This bill is to codify the state's practice of doing its audit of all the state agencies every 2 years. Senator Himsl said if we have received over \$100,000.00 in a fiscal year, we shall have an audit unless state law calls for an audit every biennium or every two years. Some audits must be done annually, but most of them can be done every two years and that's what this bill proposes to do.

PROPOSERS: Jim Gillett, Deputy Legislative Auditor, supports this bill and he will be glad to answer any questions.

OPPOSERS: There were no opponents.

COMMITTEE QUESTIONS: Senator Mohar asked if there was a reason for the immediate effective date. Mr. Gillett said that the reason was the government's requirement that it be done every year, and if they didn't have an immediate effective date, they would have to explain why it was not being done.

Senator Himsl said he was closed. SENATE BILL 300 is closed.

EXECUTIVE ACTION ON SENATE BILL 300: Senator Lynch moved that Senate Bill 300 do pass. Question was called and the Committee voted unanimously that SENATE BILL 300 DO PASS.

CONSIDERATION OF SENATE BILL 259: Senator Fred Van Valkenburg, Senate District 30, Missoula, is the sponsor of this bill entitled, "AN ACT REMOVING THE REQUIREMENT THAT THE STATE PRISON RANCH REPAY GENERAL FUND LOANS BY THE END OF THE FISCAL YEAR; AMENDING SECTION ..., MCA; AND PROVIDING AN EFFECTIVE DATE.

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Senator Van Valkenburg said that this bill was introduced at the request of the Department of Institutions, to give authority to repay loans obtained for the prison ranch and to pay them off at the ends of the fiscal year. Most of the income for the prison ranch is made in the fall of the year and that is a unique situation and that is why this bill is here.

PROPOSERS: Carroll South, Department of Institutions, supports this bill. We have changed our operation, and it has hurt us to collect disposable income in October. We still have the same expenses, etc. We have a ranch advisory board which consists of four legislators and they will not let us spend this money wrong.

OPPOSERS: There were no opposers.

COMMITTEE QUESTIONS: Senator Conover asked how long they have been doing it this way. Mr. South replied that they have been doing it this way one year. He said they used to buy the cattle, slaughter them and sell them and they were selling underweight cattle. Now they do it in the fall of the year.

EXECUTIVE ACTION ON SENATE BILL 259: Senator Manning moved that SENATE BILL 259 do pass. Question was called and the Committee voted unanimously that SENATE BILL 259 DO PASS.

CONSIDERATION OF SENATE BILL 262: Senator Shaw, Senate District 12, is the sponsor of this bill entitled, "AN ACT EXEMPTING CERTAIN STRUCTURES COSTING LESS THAN \$250,000 FROM BUILDING CONSTRUCTION STANDARDS; AMENDING SECTIONS ..., MCA; AND PROVIDING AN APPLICABILITY DATE AND AN IMMEDIATE EFFECTIVE DATE." Senator Shaw said that he drew this bill up because in Baker a group of people built a clubhouse and they built it with volunteer labor and materials. The state came by and condemned the building. I don't think the state should have jurisdiction over buildings under \$250,000. After I drew this bill up, there were some problems, so I'm entering these amendments. (Amendments attached hereto marked Exhibit "A" and by this reference made a part hereof.) I feel the state codes are a bunch of paper.

James Kembel, Building Codes Division, Department of Administration explained the amendments to the Committee. He said he was not an opposer nor a proposer. He was simply here for their information. (See Exhibit "B" for explanation.)

PROPOSERS: There were no proposers.

OPPOSERS: Dave Emerson, Plumbers & Fitters Local 139, opposes this bill. Mr. Emerson said that the major part of the construction in Montana is less than \$250,000, and this would give unscrupulous contractors a license to do shoddy work. He felt

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small commercial restaurants and fast food places would be exempt. To exempt plumbing permits and inspections and proper plumbing installations from structures of \$250,000 and less, would indicate that we are not the least bit interested in public health and safety. (For more of Mr. Emerson's testimony see Exhibit "C" attached hereto and by this reference made a part hereof.)

Mike Walker, Montana State Firemen's Association, opposes this bill. Mr. Walker feels that buildings must come up to fire codes or they are death traps. He told of many instances where buildings outside the city limits did not come up to fire codes. And the fire codes, he said, go hand in hand with the building codes.

James B. Brown, Montana Technical Council, opposes this bill. Mr. Brown feels that we must have codes or we are allowing a potentially dangerous situation to exist. (For more of Mr. Brown's testimony see Exhibit "D" attached hereto and by this reference made a part hereof.)

Bill Verwolf, City of Helena, opposes this bill and the amendments, for all the reasons listed above, and because of the growth of the cities. Some of those buildings in the outskirts will some day be part of the cities.

Bruce Houston, Deputy Fire Marshall, opposes this bill and the amendments, for all the reasons stated above.

Stewart E. Pearson, City of Great Falls, opposes this bill and the amendments for all the reasons stated above. (For more of Mr. Pearson's testimony see Exhibit "E" attached hereto and by this reference made a part hereof.)

Dennis Fullerton, APHCC of Montana, opposes this bill for all the reasons stated above, and he feels that if you do not want the state in the code inspection business, you should tell them so.

Gene Vuckovich, Ironworkers, opposes this bill for all the reasons listed above.

John Forkan, Local Union out of Butte, opposes this legislation for all the reasons listed above.

Larry Persinger, Montana State Building Trades, opposes this bill and amendments for all the reasons listed above.

COMMITTEE QUESTIONS: Senator Conover asked Senator Shaw if what we have now is working why fix it. Senator Shaw said that he feels that it is not working. Not when for any little

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violation they can condemn a building. Senator Lynch asked what they condemned the building for, and Senator Shaw said there was some problem with the floor trusses, but they fixed that. And then there was something wrong with the sills and other things, but he forgot to bring it.

Senator Haffey mentioned that Ellen J. Knight, League of Women Voters entered written testimony opposing this bill. Attached hereto marked Exhibit "F" and by this reference made a part hereof.

Senator Shaw closed by saying that he hoped the Committee would not defeat his bill just because of all the opponents there today. He feels that we really need this type of legislation. SENATE BILL 262 is closed.

EXECUTIVE ACTION ON SENATE BILL 262: Senator Mohar moved that SENATE BILL 262 do not pass. Question was called and the Committee voted unanimously that SENATE BILL 262 DO NOT PASS.

CONSIDERATION OF SENATE BILL 275: Senator Eck, Senate District 40, Bozeman, sponsors this bill entitled, "AN ACT GENERALLY REVISING THE LAWS RELATING TO THE REGULATION OF THE PRACTICE OF ARCHITECTURE; CLARIFYING CERTAIN DEFINITIONS AND EXEMPTIONS RELATING TO THE PRACTICE; ESTABLISHING THE CONFIDENTIALITY OF CERTAIN ARCHITECT EXAMINATION RECORDS; REQUIRING THAT THE MONTANA LICENSE NUMBER BE CONTAINED ON AN ARCHITECT'S SEAL; PERMITTING ONE SEAL PER ARCHITECT FIRM; AND CLARIFYING GROUNDS FOR LICENSE DISCIPLINE; AMENDING SECTIONS ..., MCA." Senator Eck went through the amendments to the legislation. She discussed how she thought this clarified the law and that it was high time we had this clarified. Senator Eck said that Geoff Brazier would answer any questions.

PROPOSERS: Jerrell D. Ballas, Board of Architects, supports this bill. Mr. Ballas said that in this bill, the Board of Architects is requesting several modifications to Montana's Architectural Licensing Laws in order to further protect the health, safety and welfare of the people of Montana. One of the changes is to take out the word public building and use the word building used by the public. Mr. Ballas also went through the list of changes to the bill. (For more of Mr. Ballas' testimony see Exhibit "2" attached hereto and by this reference made a part hereof.)

James Kembel, Building Codes Division, Department of Administration, supports this bill, for all the reasons stated above. (For more of Mr. Kembel's testimony, see Exhibit "3" attached hereto and by this reference made a part hereof.)

Riley Johnson, Montana Homebuilders, supports this bill and has no objections to it.

George Page, Board of Architects, supports this bill for all the reasons above, but especially for the testing portion.

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He feels that if you fail to pass the test enough times, you should have to take the whole test over.

Marty Crennan, Architect, supports this bill, for all the reasons above, and he felt that the seal was very important.

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: Senator Farrell asked if public buildings referred to all kinds of buildings, steel, prefab, etc. Mr. Ballas said that they did. Senator Mohar wanted to know what would happen in a place like Libby where there are no Architects. Would they not be allowed to have any public buildings. Mr. Kembel said the laws on the books relate to public funded buildings only. Senator Mohar said that if he built a restaurant, that would be a public building and he would still have to go through a design professional. Mr. Kembel said that's what he understands. Mr. Brazier said that's right. This is a problem of enforcement. Senator Hirsch asked what the bill meant by prerequisite and Mr. Ballas explained that that was five years of school with a B.A. and a three year apprentice program. Senator Hirsch said that on page 8 line 5 and one other place, they were circumventing the Administrative Procedures Act. Mr. Brazier said that was not their intention. There was more discussion regarding the changes, then Senator Haffey asked if it was a make-work bill for Architects. He was assured that it was not. Mr. Kembel said the bill was for the public safety. Senator Haffey then asked if this bill needed a statement of intent. Senator Eck said that she was given one, but she didn't think it needed it. She passed out the statement of intent to the Committee. (Statement of Intent is attached hereto marked Exhibit "5" and by this reference made a part hereof.)

Senator Eck closed by saying that this bill was long overdue and she felt it was a necessary piece of legislation. SENATE BILL 275 is closed. Senator Eck also told the Committee that she had a conflict of interest as her husband is an Architectural teacher.

EXECUTIVE ACTION ON SENATE BILL 275: Executive action on Senate Bill 275 will be deferred until after adjournment on Friday, February 15, 1985.

CONSIDERATION OF SENATE BILL 276: Senator Ethel Harding, Senate District 25, Polson, is the sponsor of this bill entitled, "AN ACT INCREASING THE TIME IN WHICH AUDIT REPORTS OF POLITICAL SUBDIVISIONS BY THE DEPARTMENT OF COMMERCE MUST BE ISSUED FROM 60 DAYS TO 120 DAYS OF COMPLETION OF FIELD WORK: AMENDING SECTION...,MCA" Senator Harding said the only thing changed

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is the requirement that the audit be done in 60 days. This was changed to 120 days. Senator Harding said that having been an auditor she knows how impossible it is to get all the work done in 60 days. She asked that the Committee allow them to have 60 more days.

PROPONENTS: Don Dooley, Department of Commerce, support this bill for all the reasons that Senator Harding listed. Mr. Dooley felt that 60 days was unrealistic.

OPPONENTS: There were no opponents.

COMMITTEE QUESTIONS: There were no committee questions.

EXECUTIVE ACTION ON SENATE BILL 276: Senator Manning made a motion that SENATE BILL 276 do pass. Question was called and the Committee voted unanimously that SENATE BILL 276 DO PASS.

EXECUTIVE ACTION ON SENATE BILL 263: Valencia Lane, staff Attorney said that this allows that a license cannot be renewed if it has elapsed for more than three years. Valencia had made some amendments to the bill and she explained them to the Committee. (For amendments see Standing Committee Report attached.) Senator Manning moved that the amendments do pass. Question was called and the amendments passed unanimously. Senator Manning made a motion that SENATE BILL 263 DO PASS AS AMENDED. Question was called and the Committee voted unanimously that SENATE BILL 263 DO PASS AS AMENDED.

EXECUTIVE ACTION ON SENATE BILL 274: Valencia Lane, staff Attorney, said that there were still some amendments to be worked out on this bill. Action was deferred until Friday, February 15, 1985, on adjournment.

EXECUTIVE ACTION ON SENATE BILL 207: Valencia Lane, staff Attorney, said that Senator Mazurek had given her some amendments from Mr. Schneider. Senator Manning said that he had received a lot of letters from the Great Falls area and everyone feels it is a bad bill. Senator Mohar moved that SENATE BILL 207 do not pass. Question was called and the Committee voted unanimously that SENATE BILL 207 DO NOT PASS.

EXECUTIVE ACTION ON SENATE BILLS 222, 274, 275, and 210 will be deferred until Friday, February 15, 1985, on adjournment.

The meeting was adjourned at 12:10.

  
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SENATOR JACK HAFFEY, CHAIRMAN

ROLL CALL

STATE ADMINISTRATION

COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date 2-14-85

NAME	PRESENT	ABSENT	EXCUSED
SEANTOR JACK HAFLEY, Chairman	✓		
SENATOR LES HIRSCH, Vice-Chairman	Late	—	
SENATOR JOHN ANDERSON	✓		
SENATOR MAX CONOVER	✓		
SENATOR WILLIAM FARRELL	✓		
SENATOR ETHEL HARDING	✓		
SENATOR J. D. LYNCH	Late	✓	
SENATOR DICK MANNING	Late		
SENATOR JOHN MOHAR	✓		
SENATOR LARRY TVEIT	Late		

DATE 2-14-85

COMMITTEE ON

## VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
DAVID EMERSON	Plumbers & Fitters Local 139	262		X
LEONARD WILKERSON	Plumbers & Fitters Local 139	262		X
MAETIN NELSON	Plumbers & Fitters Local 139	262		X
Stewart Pearson	City of Great Falls	262		X
Jim Kambel	Bldg Codes Div DCA	275 262	Support Amend	
MONTY E. TATERSON	ST. BOARD OF PLUMBERS	262		X
JOHN M. HARRIS	E.F. LINK & ASSOC	262 275	X	X
M. J. HUNT	MT. ST. FIREMAN'S ASSOC	262		X
JERRY BALLAS	BOARD OF ARCHITECTS	275	X	
GEORGE PAGE	BOARD OF ARCHITECTS	275	X	
R. K. HILLES	MISSOURI SOCIETY OF ARCH	275	X	
Richard A. Hanson	Plumbers & Fitters Local 459	262		X
Mike W. Colton	Mont. State Fireman's Assoc	262		X
John Palmerist	C.W.G. ARCHITECTS.	262		X
John Palmerist	" " "	275	X	
Gere Vuckovich	Ironworkers' IATC	262		X
Robert G. G. G.	Boilermakers	262		X
James B. Brown	Montana Tech Council	262		X
Wayne Whitray	CWG Architects	262		X
"	"	275	X	
Raymond G. G.	IREW Local 185	262		X
Ray Johnson	C.W.G. Architects	262		X
Ray Johnson	C.W.G. Architects	275	X	
Don J. J.	Ironworkers Local 708	262		X
Paul H. H.	IRONWORKERS LOCAL 81	262		X
Don H. James	Ironworkers Local 81	262		X

(Please leave prepared statement with Secretary)



1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

\_\_\_\_\_

## VISITORS' REGISTER

[illegible]

(Please leave prepared statement with Secretary)

Exhibit 11  
SB-300  
2-14-85

## EXPLANATION OF SENATE BILL 300

INTRODUCED BY: SENATOR HIMSL

BY REQUEST OF THE LEGISLATIVE AUDIT COMMITTEE

Senate Bill 300 codifies the state's current practice of performing a financial-compliance audit of each state agency every two years. The current audit cycle was established in fiscal year 1981-82 in response to federal regulations and legislative interest.

Codification is necessary in order to respond to the federal government's "Single Audit Act of 1984" which requires:

"(a)(1)(A) Each State and local government which receives a total amount of Federal financial assistance equal to or in excess of \$100,000 in any fiscal year of such government shall have an audit made for such fiscal year in accordance with the requirements of this chapter and the requirements of the regulations prescribed pursuant to section 7505 of this title.

"(b)(1) Except as provided in paragraphs (2) and (3), audits conducted pursuant to this chapter shall be conducted annually.

"(2) If a State or local government is required--

"(A) by constitution or statute, as in effect on the date of enactment of this chapter, or

"(B) by administrative rules, regulations, guidelines, standards, or policies, as in effect on such date, to conduct its audits less frequently than annually, the cognizant agency for such government shall, upon request of such government, permit the government to conduct its audits pursuant to this chapter biennially, except as provided in paragraph (3). Such audits shall cover both years within the biennial period.

"(3) Any State or local government that is permitted, under clause (B) of paragraph (2), to conduct its audits pursuant to this chapter biennially by reason of the requirements of a rule, regulation, guideline, standard, or policy, shall, for any of its fiscal years beginning after December 31, 1986, conduct such audits annually unless such State or local government codifies a requirement for biennial audits in its constitution or statutes by January 1, 1987. Audits conducted biennially under the provisions of this paragraph shall cover both years within the biennial period.

The Office of the Legislative Auditor does not believe performing annual "Single Audits" would be cost beneficial. Therefore, we recommend the adoption of Senate Bill 300.

Exhibit "A"  
SB-262  
2-14-82

Proposed Amendments to Senate Bill 262  
(substitute bill)

1. Title, lines 4 through 8.  
Following: "AN ACT"  
Strike: lines 4 through 8 in their entirety  
Insert: "DELETING STATE ENFORCEMENT OF THE STATE BUILDING CODE; LEAVING STATE ENFORCEMENT OF THE STATE ELECTRICAL CODE, STATE PLUMBING CODE, STATE FIRE CODE, AND STATE ELEVATOR CODE AS IS; LEAVING STATE ENFORCEMENT OF STANDARDS AND CODES COVERING FACTORY-BUILT BUILDINGS AND RECREATIONAL VEHICLES AS IS; LEAVING PROCEDURES FOR THE ADOPTION OF THE STATE BUILDING CODE BY THE STATE AND CERTIFICATION OF MUNICIPAL AND COUNTY BUILDING CODES BY THE STATE AS IS; OTHERWISE GENERALLY REVISING THE STATE BUILDING CODE LAWS; AMENDING SECTIONS 50-60-102, 50-60-103, 50-60-104, 50-60-105, 50-60-108, 50-60-109, 50-60-110, AND 50-60-205, MCA; REPEALING SECTION 50-60-206, MCA; AND PROVIDING AN EFFECTIVE DATE."
2. Pages 1 through 5.  
Strike: everything following the enacting clause  
Insert: "Section 1. Section 50-60-102, MCA, is amended to read:  
  
"50-60-102. Applicability. (1) The state building codes do not apply to residential buildings containing less than five dwelling units or their attached-to structures, any farm or ranch building, and any private garage or private storage structure used only for the owner's own use, located within the municipality's or county's jurisdictional area, unless the local legislative body or board of county commissioners by ordinance or resolution makes the state building code applicable to these structures. ~~The state may not enforce the state building code under 50-60-205 for the aforementioned buildings.~~ Local governments that have made the state building codes applicable to the aforementioned buildings may enforce within their jurisdictional areas the state building code as adopted by the respective local government. The state may not enforce the state building code ~~under 50-60-205 for these buildings~~ against any building or structure; except that the state may enforce the state building code and recreational vehicle standards against factory-built buildings and recreational vehicles under part 4. The state may also enforce the provisions of the state building code applicable to elevators against elevators

under part 7; and may also enforce the state plumbing and electrical codes against all plumbing and electrical installations as provided for in parts 5 and 6. The state fire marshal may also enforce the state fire code as provided in chapter 3 of this Title.

(2) Where good and sufficient cause exists, a written request for limitation of the state building code may be filed with the department for filing as a permanent record.

(3) The department may limit the application of any rule or portion of the state building code to include or exclude:

(a) specified classes or types of buildings according to use or other distinctions as may make differentiation or separate classification or regulation necessary, proper, or desirable;

(b) specified areas of the state based upon size, population density, special conditions prevailing therein, or other factors which make differentiation or separate classification or regulation necessary, proper, or desirable."

Section 2. Section 50-60-103, MCA, is amended to read:

"50-60-103. Administration by department. The department shall administer ~~parts 1 through 4~~ this chapter and for that purpose shall: (1) issue orders necessary to effectuate ~~the purposes of parts 1 through 4~~ its duties under this chapter and enforce the orders by all appropriate administrative and judicial proceedings;

(2) enter, inspect, and examine buildings or premises necessary for the proper performance of its duties under ~~parts 1 through 4~~ this chapter;

(3) study the operation of the state building code, local building regulations, and other laws related to the construction of buildings to ascertain their effects upon the cost of building construction and the effectiveness of their provisions for health and safety;

(4) recommend tests or require the testing and approval of materials, devices, and methods of construction to ascertain their acceptability under the requirements of the state building code and issue certification of such acceptability;

(5) appoint experts, consultants, and technical advisers for assistance and recommendations relative to the formulation and adoption of the state building code;

(6) advise, consult, and cooperate with other agencies of the state, local governments, industries, and interested persons or groups."

Section 3. Section 50-60-104, MCA, is amended to read:

"50-60-104. Inspection fees. The department shall establish a schedule of fees and may collect fees for the inspection of plans and specifications and for ~~the inspection of buildings,--factory--built--buildings,--recreational vehicles,--tramways,--or--any--other--facility--or~~ structure all inspections required to be performed by it in the proper performance of its duties under this chapter."

Section 4. Section 50-60-105, MCA, is amended to read:

"50-60-105. Hearings authorized. The department may hold hearings relating to the administration of ~~parts--1--through--4~~ this chapter in accordance with the Montana Administrative Procedure Act."

Section 5. Section 50-60-108, MCA, is amended to read:

"50-60-108. Construction permit required. Any person who desires to construct a building which is subject to the provisions of parts 1 through 4 must apply for a permit from the appropriate authorities. A construction permit from the department is not required."

Section 6. Section 50-60-109, MCA, is amended to read:

"50-60-109. Injunctions authorized. (1) The construction or use of the building in violation of any provision of ~~the state or a municipal or county~~ building code or any lawful order of a state--building--official--or a local building department may be enjoined by a judge of the district court in the judicial district in which the building is located. The department may not file an action for injunction under this subsection.

(2) This section will be governed by the Montana Rules of Civil Procedure.

(3) The department may file an action for an injunction under this section only to enforce the state building code and recreational vehicle standards against factory-built buildings and recreational vehicles under part 4."

Section 7. Section 50-60-110, MCA, is amended to read:

"50-60-110. Violation of a misdemeanor. (1) Any person served with an order pursuant to the provisions of parts 1 through 4 who fails to comply with the order not later than 30 days after service or within the time fixed by ~~the department-or~~ a local building department for compliance, whichever is the greater, or any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, their agents, or any person taking part or assisting in the construction or use of any building who knowingly violates any of the applicable provisions of ~~the-state-building-code~~ or a municipal or county building code is guilty of a misdemeanor.

(2) Any person who fails to comply with a lawful order of the department issued under part 4 not later than 30 days after service or within the time fixed by the department for compliance, whichever is the greater, is guilty of a misdemeanor."

Section 8. Section 50-60-205, MCA, is amended to read:

"50-60-205. When state building code applies - health care facility doors. (1) If a municipality or county does not adopt a building code as provided in 50-60-301, the state building code applies within the municipal or county jurisdictional area ~~and-the-state-will-enforce the-code-in-these-areas~~ as a building construction standard only, but there will be no enforcement of the state building code in those areas.

(2) Any provision of a building code requiring the installation or maintenance of self-closing or automatic closing corridor doors to patient rooms does not apply to health care facilities as defined in 50-5-101."

NEW SECTION. Section 9. Repealer. Section 50-60-206, MCA, is repealed.

NEW SECTION. Section 10. Extension of authority. Any existing authority of the department of administration to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 11. Effective date. This act is effective on July 1, 1985."

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

*Exhibit "B"*  
SB-262  
2-14-85

NAME: W. JAMES KEMBEL DATE: 2/14/85

ADDRESS: BUILDING CODES DIVISION DOA

PHONE: 444 - 3933

REPRESENTING WHOM? DOA

APPEARING ON WHICH PROPOSAL: SB 262

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

COMMENT: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

## TESTIMONY

### PROPOSED AMENDMENTS TO SB 262 (substitute bill)

#### BUILDING CODES DIVISION DEPARTMENT OF ADMINISTRATION

The bill as currently drafted:

- Eliminates state and local inspections of building construction and plumbing installations in all buildings costing \$250,000 or less to construct.
- Requires state and local governments to refund all building and plumbing permit fees collected on the exempt buildings since January 1, 1984.
- Leaves the inspection of recreational vehicles, factory-built buildings, and elevators in place.
- At the state level this means 90% of the buildings currently covered by building and plumbing inspections would be exempt from coverage.

The proposed amendments would:

- Reinstates local government's authority to issue building and plumbing permits for all types of buildings.
- Eliminate the retroactive provisions, thus eliminating the need to refund building and plumbing permit fees collected since January 1, 1984, on the designated exempt buildings.
- Reinstates plumbing inspections of the exempt buildings at the state level.
- Eliminates the state level enforcement of the building code with the exception of school buildings not covered by local government.
- Maintains the state's authority to regulate recreational vehicles and factory-built buildings.
- Maintains the state's authority to inspect passenger elevators not covered by local government inspection programs.
- Maintains a uniform statewide building code adopted at the state level.

Our purpose is not to support or oppose the legislation but to find out what legislature wants us to do concerning code enforcement.



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

Exhibit 401  
SB-262  
2-14-85

NAME: DAVID EMERSON DATE: 2-14-85

ADDRESS: 317 22ND Ave N.W. GT Falls

PHONE: 452-2540

REPRESENTING WHOM? PLUMBER & FITTER LOCAL 139

APPEARING ON WHICH PROPOSAL: SB 262

DO YOU: SUPPORT?        AMEND?        OPPOSE? X

COMMENT: I HAVE A PREPARED STATEMENT  
TO READ.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME DAVID M. EMERSON BILL NO. 262

ADDRESS 317 - 22ND AVENUE NORTHWEST, GREAT FALLS, MONT. DATE 2-14-85

WHOM DO YOU REPRESENT PLUMBERS & FITTERS LOCAL #139 UNION

SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ XXX \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I firmly oppose Senate Bill 262 on the following grounds:

The major part of the construction in Montana is made up of projects of less than \$250,000. To exempt structures of less than \$250,000 is to say that each person having a home, or small commercial project, built has to be an expert in every construction phase of the building, to be assured that they are getting a good job. With many unscrupulous contractors working within our State the chance of getting a good job will almost be accidental.

The checks and balances now in use in Montana assure that the unknowing individual who has to have some building done will get a good job and that building construction standards will be maintained.

Most people build one, or maybe two, homes in a life time. I believe that it is imperative to do all we can to assure them that they are getting a good job. The costs of permits and inspections are very small when these charges insure a good job to an unsuspecting buyer.

To exempt plumbing permits and inspections and proper plumbing installations from structures of \$250,000 and less would indicate that we are not the least bit interested in public health and safety.

There are many small commercial restaurants and fast food places that would not cost \$250,000 to build and would be exempt. We have seen many plumbing cross connections installed by unqualified people, and the only way this would ever be caught is with permits and inspections and good construction standards, as we have now.

Do we really need to have a law which would allow contractors to fleece the public with unsafe buildings, sub-standard materials and poor installation practices?

Will we wake up only after a few people are dead from poor plumbing, or shoddy construction. One of those people could be you, because you should remember you will be using these same homes, restaurants and other light commercial buildings, as well as I will.

Please heed the opponents of this bill, recommend a **DO NOT PASS** when you vote. The vote will be for the citizens of Montana, your family, your friends and for yourself. Do not let the selfishness of a few building contractors deprive the people of Montana of their rightful heritage to get good construction and good plumbing for their hard earned dollars.

Respectfully Submitted,

DAVID M. EMERSON  
Business Manager - Local #139

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

Exhibit A D  
SB-262  
2-14-85

NAME: JAMES B. BROWN DATE: 2-14-85

ADDRESS: P.O. Box 1198 HELENA

PHONE: 443.2340

REPRESENTING WHOM? MONTANA TECHNICAL COUNCIL

APPEARING ON WHICH PROPOSAL: SB. 262

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

COMMENT: See attached sheet

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.


Testimony in opposition to SB 262  
February 14, 1985

Two points of consideration:

- A. The only definition of "public buildings" relating to construction is contained in the architect's license statute. This definition relates to only those buildings constructed with public funds. There is no requirement that a private owner must have a professional designer. Thus, the only protection that the public has from a potential disastrous situation is a good cohesive and capable code enforcement program. Any person entering a building where the public has a right to be or where the public is invited in, to conduct commerce or business, has the right to expect that he or she is in a reasonably safe structure. The only way to ensure that is through the use of design professionals or good code enforcement.
- B. There seems to be a double standard with regards to public safety. There are currently laws on the books and bills in this Legislature protecting me from myself, i.e., smoking bills, seat belt bills, etc.

This bill removes the only protection the general public has relating to building safety where the potential for a significant disaster can exist.

Sincerely,

  
James B. Brown, A.I.A.  
Montana Technical Council

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

Exhibit "E"  
SB-262  
2-14-85

NAME: Stewart E Pearson DATE: 2/14/85

ADDRESS: City of Great Falls  
P.O. Box 5021 Great Falls 59403

PHONE: (406) 727-5881 x 316

REPRESENTING WHOM? City of Great Falls.

APPEARING ON WHICH PROPOSAL: S.B. 262

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

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

See Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

CITY OF GREAT FALLS

RESPONSE TO

S.B. 262 - Exempting building under \$250,000  
in value from Building and Plumbing Codes.

Hearing: February 14, 1985, Room 331, 10:00 a.m., Capitol Building

The City of Great Falls Opposes S.B. 262

Basis of Opposition: 1. Adverse budget impact and  
2. Negative public safety impact

BUDGET

The effective date of January 1, 1984, is in a prior fiscal year for the City. To refund permits issued between January 1, 1984 and June 31, 1984, will require \$72,750 additional appropriation for the current fiscal year. Our current budget did not anticipate this expenditure nor the reduced work load and revenue in the current year. We feel the retroactive date is totally inappropriate and in direct conflict to the fiduciary responsibility of proper management of the public's tax dollars.

PUBLIC SAFETY

S.B. 262, as proposed, eliminates building and plumbing permits on 98% of the construction activity in Great Falls. This local government has made great strides in recent years in implementing fire separation barriers, providing handicapped access, insuring that drinking water systems are safe, providing structural integrity, and generally insuring that where the public eats, sleeps or spends its leisure time is relatively hazard free.

The results of these efforts are not usually obvious to those outside the public safety area but smoke detectors for early warning, installation of fire resistive materials and fire suppression devices supported by an able fire department have been able to keep property damage and loss of life to a minimum in Great Falls. To eliminate 98% of the building activity from basic safety precautions that have developed over a period of almost 60 years is to make a sham of the law and deserving of total repeal rather than a 98% repeal.

Stewart E. Pearson  
City Engineer  
City of Great Falls



*Exhibit "F"*  
*SB-262*  
*2-14-85*

To: State Administration Committee -- Senate  
From: Ellen Knight, Energy Chair, Mt. LWV  
Re: SB 262, exempting structures under \$250,000 from  
compliance with building codes  
Oppose

The League of Women Voters of Montana strongly opposes this bill. We urge you to vote against it.

Our concern with this bill derives from our interest in seeing energy efficient building codes adopted by the Building Codes Division in a comprehensive administrative hearing and review process. If the codes do not apply to residences and smaller commercial buildings, then adequate levels of energy conservation in those buildings is not likely to occur. We have reiterated the advantages of energy conservation over and over -- it is cheaper, very available, environmentally benign, produces jobs. If the purpose of this bill is to end the discussion of energy efficient codes prior to their consideration in the administrative process, then it seems a drastic method. There are, after all, health and safety reasons to have codes applied to other aspects of the building codes -- structural integrity and wiring for example.

We urge you to kill this bill. If you want to address energy conservation, then we suggest that the administrative process would be the best and most direct opportunity to do this because there will be more time to address all aspects of the issue.

*Ellen J. Knight*

Ellen J. Knight  
Energy Chair, LWV/Mt.  
5800 Rattlesnake  
Missoula, Mt. 59802

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

Exhibit "2"  
SB-275  
2-14-85

NAME: JERRELL D. BALLAS DATE: 2/14/85

ADDRESS: 618 So. HILLINS, MISSOULA MT.

PHONE: 721-5120

REPRESENTING WHOM? BOARD OF ARCHITECTS

APPEARING ON WHICH PROPOSAL: SB-275

DO YOU: SUPPORT? ✓ AMEND?        OPPOSE?       

COMMENT: SEE PREPARED STATEMENT

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.



February 14, 1985

P. O. Box 7547  
Missoula, Montana 59807-7547

To: Senate  
State Administration Committee

Dear Senators:

Section 37-65-101 of the Architectural Licensing Law states the purpose of the Registration Law - It reads:

"It is hereby declared, as a matter of legislative policy in the State of Montana, that the practice of architecture is a privilege granted by legislative authority and is not a natural right of individuals and that it is necessary, as a matter of such policy and in the interests of the health, safety, and welfare of the people of Montana, to provide laws covering the granting of that privilege and its subsequent use, control, and regulation for the purpose of protecting the public from the unprofessional, improper, unauthorized, and unqualified practice of architecture."

In Senate Bill 275, the Board of Architects is requesting several modifications to Montana's Architectural Licensing Laws in order to further protect the health, safety and welfare of the people of Montana.

The Board is requesting modification of the definitions of "Building" and "Practice of Architecture" in order to clarify their meaning and intent.

The Board is requesting the definition of public buildings to be deleted since the term is readily defined within other existing law and in Black's Dictionary. Also, retainage of this term could be used to inhibit disciplinary action against a licensed architect in connection with a private building.

We have proposed to delete Paragraph 3 under Section 37-65-103 because it is redundant and simply restates what the preceeding paragraphs say.

We are requesting modifications of Sub-Paragraph (c) and (d) under new Paragraph 3 to help us to resolve the subject on which we receive the most complaints. That subject involves the preparation of designs and working drawings for private buildings by unqualified, unlicensed persons. This unlicensed practice of architecture results in buildings that are not safe for public occupancy.

Modifications of Paragraph 1 under Section 37-65-303 clarifies procedures for admission to the registration examination. The addition of Paragraph 2 has been made to insure the Board's access to the national examination produced by the National Council of Architectural Registration Boards (NCARB).

Modification of Paragraph 1, Section 37-65-304 clarifies an applicant's right to re-examination but limits the number of tries. The current exam is divided into nine parts. This proposal would give an applicant four years to pass all nine divisions before retaking the entire exam.

February 14, 1985

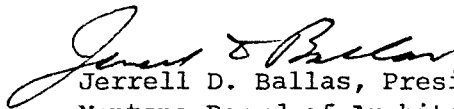
Modification of Section 37-63-306 would provide for the payment of a late renewal fee. The current statute does not allow the Board to establish a late renewal fee and could unreasonably force an unsuspecting licensee to go through the entire examination/licensing process.

Modification of Section 37-65-308 clarifies the information that must be contained on a seal and how that seal is to be used. The addition of Paragraph 2 allows a business entity to have one seal with the name of each member on it. That seal must be signed to identify the person directly responsible for the drawings and specifications.

Modification of Section 37-65-321 clarifies conditions under which the Board may take disciplinary action against a licensee or an applicant. The revision of this section has been recommended by legal council who has experienced serious problems enforcing professional standards in actual case history. The Board intends to adopt unprofessional conduct rules. The "Administrative Conduct Rules" provide due process protections.

There are other members of the Board and past members present here today who will honestly try to respond to any questions that you may have.

Respectfully submitted

  
Jerrell D. Ballas, President  
Montana Board of Architects

JDB:jm

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

Exhibit 13  
SB-275  
2-14-82

NAME: W. JAMES KEMBEL DATE: 2/14/85

ADDRESS: BUILDING CODES DIV DOA

PHONE: 444 3933

REPRESENTING WHOM? \_\_\_\_\_

APPEARING ON WHICH PROPOSAL: SB 275

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

COMMENT: Attached

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

Exhibit "5"  
SB-275  
2-14-85

49th Legislature

LC 968

STATEMENT OF INTENT

Senate BILL NO. 275

This is a bill for the general revision of the laws relating to regulation of the profession of architecture. It contains delegations of rulemaking authority to the board of architects and therefore requires a statement of intent.

Section 3 of the bill authorizes the board to prepare materials for license applications and to approve applicants for licensure.

Section 5 of the bill authorizes the board to prescribe by rule renewal fees and late renewal fees for licenses.

Section 7 of the bill authorizes the board to define "unprofessional conduct" by rule for the purposes of establishing conduct and practice standards for license disciplinary purposes and for the purposes of rejecting undesirable applicants for licensure.



TESTIMONY SB 275

BUILDING CODES DIVISION  
DEPARTMENT OF ADMINISTRATION

The Department's position on SB 275 is to provide information concerning its impact on the operation of the Building Codes Division.

Currently, 90% of the project plans submitted to the Division for review are prepared by unlicensed persons. Many of these plans are very difficult to review for compliance with applicable codes.

As a result, reviews require much more time and in many instances the review process places the Division in the role of designer which is not proper in order to insure compliance with the code for protection of the building's occupants. The role of any review agency should be that of spot checking plans and construction to insure compliance with the codes.

The difficulties do not stop at the plan review stage. On occasion what is actually constructed in the field does not match the plans submitted for review and approval. The results are after-the-fact corrections which are costly.

The unfortunate result of the above is that those customers submitting properly prepared plans are paying the added costs needed to review and inspect projects having inadequate plans. In addition, to obtain compliance with all applicable codes can be difficult if not impossible on those projects having inadequate plans.

In closing, any improvements that can be made in the licensing program will have positive effects on those state and local agencies enforcing construction codes.

1. Page 2, lines 14 through 17.

Following: "(5)" on line 14

Strike: the remainder of line 14 through  
"product" on line 17

Insert: "

The ~~Publications and Graphics Division of the State Department of~~  
~~Administration~~ <sup>department</sup> shall ~~not deny~~ <sup>include, when feasible,</sup> typesetting, design, paste-up, reprographics  
or other pre-press work on state printing jobs that are sent out for  
competitive bid through the ~~Division's~~ <sup>department's</sup> competitive bid-letting  
process. This does not apply to pre-press work necessary for state  
duplicating jobs duplicated by the ~~Division~~ <sup>department</sup> or other state agencies  
and not sent out for competitive bid.

(6)

The ~~State Department of Administration~~, through the Publications and Graphics  
Division, shall create a review committee to investigate <sup>state</sup> new purchases of  
printing or pre-press equipment by state agencies and increases in personnel  
for printing or pre-press work. This committee shall be advisory and include  
two representatives of the printing industry from Montana, one representative  
from the ~~Publications and Graphics Division~~ <sup>department</sup> and one representative from ~~the~~  
a state agency that is extensively involved in printing, and one representative  
from the university system. Purchase of printing or pre-press equipment or  
addition of personnel to do printing or pre-press work shall be allowed until  
a written analysis is reviewed by this committee and a appraisal given by this  
committee."

# STANDING COMMITTEE REPORT

February 14 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 263

first reading copy ( white )  
color

**PROVIDING FOR TERMINATION DATE FOR LAPSED OCC. OR PROP. LICENSE**

Respectfully report as follows: That SENATE BILL No. 263

**be amended as follows**

1. Page 1, line 12.

Following: "provided by"

Strike: "law"

Insert: "statute or rule"

2. Page 1, line 16.

Following: "obtained"

Insert: "by passing a qualifying examination and paying the appropriate fee"

AND AS AMENDED

DO PASS

~~XXXXXXXXXX~~

Chairman.



# STANDING COMMITTEE REPORT

February 14 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 300

first reading copy ( white )  
color

**LEGISLATIVE AUDITOR TO AUDIT STATE AGENCIES EVERY 2 YEARS**

Respectfully report as follows: That SENATE BILL No. 300

DQ-PASS

~~XXXXXXXXXX~~

Chairman.

# STANDING COMMITTEE REPORT

February 14, 1985

MR. PRESIDENT

We, your committee on **STATE ADMINISTRATION**

having had under consideration **SENATE BILL** No. **259**

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

**ALLOW PRISON RANCH LOANS TO EXTEND BEYOND FISCAL YEAR**

Respectfully report as follows: That **SENATE BILL** No. **259**

DO PASS

~~XXXXXXXXXX~~

Chairman.

# STANDING COMMITTEE REPORT

.....February 14..... 1935.....

MR. PRESIDENT

We, your committee on.....STATE ADMINISTRATION.....

having had under consideration.....SENATE BILL No. 262.....

first reading copy ( white )  
color

**EXEMPT LOW COST STRUCTURES FROM BUILDING CODES**

Respectfully report as follows: That.....SENATE BILL No. 262.....

~~DO NOT PASS~~

DO NOT PASS

.....  
Chairman.

# STANDING COMMITTEE REPORT

February 14 19 35

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 207

first reading copy ( white )  
color

**REQUIRE STATE PRINTING BE DONE BY CONTRACT; INCREASE RESID BID  
PRES TO 10%**

Respectfully report as follows: That SENATE BILL No. 207

**DO NOT PASS**

DO NOT PASS

Chairman.

# STANDING COMMITTEE REPORT

February 14 19 85

MR. PRESIDENT

We, your committee on STATE ADMINISTRATION

having had under consideration SENATE BILL No. 276

first reading copy ( white )  
color

**ELIMINATE 60-DAY DEADLINE FOR ISSUING AUDIT REPORTS OF LOCAL GOVERNMENTS**

Respectfully report as follows: That SENATE BILL No. 276

DO PASS

~~XXXXXXXXXX~~

Chairman.