

MINUTES OF THE MEETING  
BUSINESS AND LABOR COMMITTEE  
50TH LEGISLATIVE SESSION

January 30, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on January 30, 1987 at 8:00 a.m. in Room 325 of the State Capitol.

ROLL CALL: All members were present with the exception of Rep. Driscoll who had been excused.

HOUSE BILL NO. 302 - Granting PSC Authority to Allow Closure of Certain Railroad Facilities, sponsored by Rep. Dorothy Bradley, House District No. 79, Bozeman. Rep. Bradley stated that she is introducing this bill to correct an outdated law because it requires jobs and facilities to be established by a railroad corporation based on population which she felt was an arbitrary standard. She is proposing to change that standard and not eliminate it, she said, and the new language on in the bill replaces the standard with such decision to be made by the Public Service Commission as to necessity and public convenience and only after a public hearing. She emphasized that this is not an immediate phase out of agency positions in the state of Montana; it would only take place on a case by case basis after careful consideration of each of those agencies and then the Burlington Northern would install a regionalized telecommunications type of system which every transportation system in this country has today.

Rep. Bradley said she had three concerns with this, whether the service to the shippers would be high quality; if a move like this would be a back door approach towards railroad abandonment, and what would happen to the agents. She referred to a letter from a Commissioner with the Public Service Commission in the state of North Dakota that had gone to a centralized system ten years ago, and which had answered her concerns. Exhibit No. 1.

On the second page of the material she had compiled, she showed the work performed by the 62 agencies in the state, which consisted of the bills of lading, the car orders, the demurrages and the match and tracing. She felt in her best estimation that most of the tasks they did could be accomplished by a central agency or the personnel from the train crews. Exhibit No. 2.

She stated that since Montana is the only state with this kind of requirement it is unique in that respect. She

showed the comparison of Montana to surrounding states. Exhibit No. 3.

On the fourth page she showed that there is no relationship between agency closures that have been approved since 1982 and railroad abandonment. Exhibit No. 4.

She stated that as far as her third concern which deals with the agents themselves; she has taken some time to go over the agreements which cover every one of the current employees, and the conclusion she arrived at is that they are protected. She said they are protected in the sense that if they did lose a job if the agency was terminated through a Public Service convenience and necessity standard they could seek another job or continue to be compensated until retirement.

#### PROPONENTS

Bill Francis, Regional Vice President, Burlington Northern Railroad, headquartered in Seattle. Mr. Francis stated that the proposed change in the law is something that would be good for the state of Montana because this change would allow the customer to be the driving force behind whether an agency should be opened or closed which will be done through the Public Service Commission. He said the proposal does not allow for wholesale closure of the agencies; it would be an evolutionary process that would be relatively slow and occur only in the best interest of the customers as dictated by the Public Service Commission. He said the needs have changed and it is hard to equate the population of a location with the need for an agent at that place; the implementation would be slow, the employees affected, if the PSC agrees with it, are protected and are guaranteed job protection by the labor agreements that have occurred since the 1970 merger. He commented, because of the competitive nature of the business they are in, whether or not a location has an agency that is opened should be determined by the customer there, not by the population of the city in question.

John Green, President of the Montana Western Railway. Mr. Green stated that he believes that technology has reached the point now when the need for agencies in small towns is no longer required. He said if the customer does not need the services of an agency, then that is an added expense to the carrier that will be passed on to the customer, and if they are to keep the customers competitive in Montana, costs will have to be lowered.

Russ Ritter, Chairman of the Board of Directors of the Montana Chamber of Commerce. Mr. Ritter stated that his

support for this measure is philosophical and would apply to any business or industry in Montana. He said industries are constantly undergoing modernization and must keep pace, because if they fall behind their competitors, the effort and expense to catch up becomes staggering. For a state government to forbid modernization of any industry is poor economics, and he stated, that the roadblocks to economic development for Montana are the disincentives that have been enrolled into our laws. Exhibit No. 7.

John Palmer, Manager of the Fairview Montana Edible Bean Plant, Fairview. Mr. Palmer stated he was concerned about the billing and ordering of cars, and about the service he would get from Burlington Northern when they were informed that the agency in Glendive would be implementing the centralized system, but they have not had any major problems. He said they do not use the depot in Fairview any longer; it was essential at one time, but it is not fair to force business to maintain a facility where it is not profitable and could end up costing the customer.

Bill Marquart, field representative for Fisher Sand and Gravel, Glendive. Mr. Marquart stated that he deals with Burlington with track crossings, property leases, and shipping, and has been dealing with the Glendive agent, which is the newly centralized agency, and he can see that the system is working. He said the deregulation regarding freight rates on the federal level has been very advantageous to them; and he can say that deregulation is passed on to industry and to consumers as well.

Bill Olson, representing the Montana Concrete and Aggregate Producers Association of Montana. Mr. Olson stated they are in support of this bill because the checks and balances with the Public Service Commission involvement would be there, and it might possibly discourage the Burlington Northern from the proposed sale of the lines from Laurel to Sandpoint, Idaho. He said that anytime there is a transfer on a line that increases the costs it would increase the cost of the cement and aggregate that his members produce.

Mike Strawbridge, Vice President and General Manager, Ideal Cement, Trident. Mr. Strawbridge stated that with the law that is currently on the books they are at a disadvantage with any other state and Canada that they ship to. He said it is time for the government in this state to work with business so that people can stay employed in Montana, and cannot afford laws that protect unproductive work.

Doug Crandell, Manager of Brand S Lumber, Livingston. Mr. Crandell stated he was testifying as a customer of the Burlington Northern. He said since deregulation they have

found that shipping has become more complex and competitive and because of this tightening of competition among shippers and among producers, they find that even small changes in rates, efficiency, service or timing have a dramatic impact on their sales. He said that it isn't fair to expect a company of any size to perform an unneeded and expensive service, and in this deregulated and super competitive world of transportation, it isn't just the BN that loses, but their customers as well.

Michael Evans, Traffic Coordinator, Columbia Falls Aluminum Company. Mr. Evans stated that they consider the Burlington Northern to be an integral part of the Columbia Falls Aluminum Company. He said they believe that it would be mutually beneficial if the BN were able to control the placement and allow flexibility to utilize the workforce to the best of their ability. If the BN is to remain an asset to the existing shipping public in Montana, he commented, restrictions such as this would help the BN control cost and improve service and be an attraction to potential business in Montana. CFAC supports this bill because they are confident that when the realistic need exists, BN will, regardless of the population, provide service necessary to retain business at that compensatory level by establishing communications, and if required, reposition personnel to maintain service at a level that will enable Montana business to grow.

Lorna Frank, representing the Montana Farm Bureau. Ms. Frank stated that the Farm Bureau believes that greater efficiency is the answer to the railroads financial burden rather than increased freight rates. She said that by changing this outdated law, BN would be able to save about \$2.5 million a year and could conceivably reduce freight rates on agricultural products which would help Montana farmers. Exhibit No. 8.

Mark Oberle, Transportation Manager, PB Grain, Bozeman. Mr. Oberle stated he is involved with the preliminary logistics of rail cars and placement of the cars and coordinating the efforts between their elevators and the Burlington Northern. He said they operate out of five primary facilities in the state of Montana and they do not see a need to be working with local agents as they work primarily with the elevators placing cars and working through the central regions. He said they feel that working with these outside agencies and not working with the local agencies, they are getting freight rate savings.

Bob Nelson, Chief Counsel, Public Service Commission. Mr. Nelson stated that the Commission neither supports or

opposes HB 302. He stated he was available to answer any questions.

Mark Dippold, Manager of the Caminco American Phosphate Mine, Garrison. Mr. Dippold stated that their operation has been shut down because of cost competition from Idaho, Wyoming, and Utah. He said this bill would improve efficiency and cost for the BN which will reflect in helping to save their business. Exhibit No. 9.

#### OPPONENTS

James Mular, Legislative Director, Brotherhood of Railway and Airline Clerks. Mr. Mular stated that he believes that a station is what it means, it is a stop; a place to get a service for the public. He said the sponsors of this legislation state that by eliminating the population criterion of an outdated law which is the purpose of this legislation and the amendments, but, the public convenience and necessity is nothing more than the common law doctrine of 300 years.

Mr. Mular referred to the first exhibit he had distributed which showed the population factor of communities over 1,000. Exhibit No. 10.

The historical background of this statute is very clean, he said, and was first recodified in 1969. The transcripts and the record of the Public Service Commission hearings showed when Burlington Northern was directly asked if the cost savings that they allege in their exhibits would be passed on to the customer, the answer was no.

Mr. Mular referred to his second exhibit that showed the applications made for agency removal from 1979 to the present time. Exhibit No. 11.

He stated the third exhibit showed the most recent challenge made by Burlington Northern to close stations in Montana, and was an opinion of the Ninth Circuit Court of Appeals regarding the Montana station law. He referred to page five of the exhibit in which he had highlighted the findings of that court. He said that it should be noted that they admitted that the public convenience and necessity was specifically defined by the population criteria. Exhibit Nos. 12 and 13.

Mr. Mular stated if this legislation passes based on ancient common law doctrine the state will be pushed back 300 years because it is a flexible statute, and would work only for Burlington Northern. He asked where is the cost savings; Burlington Northern sells service, and if one arm of that

service is removed, consideration of the customers would be removed. He said the bill does not provide whether the hearings will be heard in the communities and it says nothing about when a line segment of railroad is sold where that short line operator will have to work the stations, and there is nothing mentioned regarding public convenience and necessity involving profitability.

Joe Brand, Montana State Director, United Transportation Union, Helena. Mr. Brand stated that they oppose the bill because it is a drastic change from the present law. Exhibit No. 14.

Jim Murry, Executive Director, Montana State AFL-CIO. Mr. Murry stated that this bill would amend the present law by allowing the PSC to authorize closure of such facilities in the event that any person, corporation or association demonstrates that a facility is not required. He stated it is their contention that public convenience and necessity are being served through the current statute which insures that service to these communities will be maintained. He said that access to transportation is vital for the future economic growth of Montana's small cities and towns. Exhibit No. 15.

Terry Murphy, representing Montana Farmers Union. Mr. Murphy stated that he is tired of hearing Montana being continually criticized by officials of the railroad, that it is a bad place to do business and about the taxes. He said Montana has negotiated reductions of multiple millions of dollars in property taxes legitimately owed by that railroad; have provided them with a balloon with no interest to rehabilitate some rail line that they committed to as part of an agreement when the Milwaukee Railroad went out of business. He pointed out that the farm organizations have been conferring with the railroad for several years over why they haul unit trains of grain out of Nebraska to the west coast and bring them 600 miles before they enter into the state, then hauled on the same rails as our crops at lower freight rates to the producers for a 600 mile further haul. He said what does that say about freight rates to Montana shippers.

Mr. Murphy said the railroad could do some things to make Montana a better place to do business, and until we see some progress in giving some competitive freight rates with those other shippers from farther away that the railroad serves, why should we give up the last vestige of any control that we have over this railroad.

Cindy Foresman, representing Local 402, Brotherhood of Railway Airline Clerks, Livingston. Ms. Foresman stated she

is a "rubber room" clerk; she is not given any work to do. She is qualified to do the work in the yard office in Livingston, but she has seen BN pay overtime to another clerk, and pay her daily to just sit there with no work.

Dale Van Dale, agent at Columbia Falls. Mr. Van Dale stated he was testifying that they do have work, and explained what he did as an agent and the forms they needed to process.

Richard Van Aken, legislative representative from BRAC Lodge No. 403, and a railway clerk, Missoula. Mr. Van Aken stated that BRAC Lodge No. 43 opposes this bill for all the reasons mentioned and listed some other items. Exhibit No. 16.

Diane Powers, Bozeman. Ms. Powers stated she worked for the Burlington Northern in Livingston, and opposed the bill.

#### QUESTIONS

Rep. Swysgood stated that they have heard that with the elimination of some railway stations it would be a cost saving factor for the railroad and also the shippers and if these people are protected in their jobs as has been testified whether they remain in the area or go to some other part of the railroad, he asked Mr. Francis how this relates to a cost saving measure for the railroad, these people are still being paid and the cost is being disbursed somewhere along the line. Mr. Francis responded that it relates more to the evolutionary process of this coming into effect as opposed to all of a sudden. He said there is an attrition rate of 7 to 10% whereby people drop out of the work force, whether they retire, resign, or for whatever reason, but the present law requires that they fill the positions if the agency is open. He said as the efficiency rate works in, the protected people would drop out of the work force and the jobs would disappear and over a period of time the cost would be realized in savings to the customers in Montana.

Rep. Bachini stated that they have heard that closing the Richey-Lambert line would save the shippers money; this does not actually save the shippers any money because now they have to take their grain into the Richey elevators and it has to be trucked from that elevator to another elevator, which costs those farmers to have it trucked, so the closing of that line is not saving those people any money.

Rep. Pavlovich asked what would happen to the station when the agent is gone, would it be torn down or would they continue to pay taxes on it. Mr. Francis stated they have handled each on an individual basis in other areas; many go

into the community to become libraries, museums, or whatever.

Rep. Pavlovich asked when these agents are moved around, would a repercussion occur someplace down the line and eventually someone is going to lose a job. Mr. Francis stated the agreement that establishes job protection came from a 1970 and 1980 merger so the people who are working in these positions now have that protection; and the railroad is restricted from moving them to where they could be more productive. He said they deal with this on an individual basis, whether that individual wanted to continue to work in a different location or take an early retirement, but with the law the way it is now, the railroad does not have that freedom, and they would still be bound by that agreement.

Rep. Grinde asked Rep. Bradley when this bill would be implemented since there is no effective date in the bill. Rep. Bradley responded it would be October 1, 1987.

Rep. Grinde asked Mr. Francis if this did become law, what his criteria for abandonment of these facilities would be. Mr. Francis responded that they would look at those agencies that do not perform a service for their customers at the present time.

Rep. Grinde asked if there would be lower rates for the consumers of Montana. Mr. Francis stated that in the past when the company has been able to effect efficiencies, those cost savings have been passed on to their customers and have enabled them to keep some of the business; and in fact regroup some of the business that they have lost.

Rep. Brown asked Mr. Nelson about what type of process the Public Service Commission would have for the public hearings. Mr. Nelson responded that it would be the same process that they now use for agencies in areas that have less than 1,000 population. He said they would provide an opportunity for a hearing, a hearing examiner and one staff person would conduct the hearing, and they consider the application for centralization or abandonment based on public convenience or necessity.

Rep. Glaser asked Mr. Francis if it was true that there are two criteria for setting rates, one being what the traffic will bear, and the other, the competitive pressure, such as from truckers. Mr. Francis responded that both statements are true, that was how the business world is, the competition has to be met if the traffic is kept, and you have to make a profit.



Rep. Swysgood asked when Mr. Murphy had attested that grain from Nebraska going through to the west coast goes cheaper than grain from Montana to the west coast, did he know if there was competition with the Burlington Northern for that same grain at the originating point in Nebraska. Mr. Murphy responded that it was the competition with the Union Pacific that makes the difference.

Rep. Pavlovich asked Mr. Francis if Burlington Northern was in the process of either trying to liquidate or trying to sell the southern route. Mr. Francis responded that there are some individuals who have indicated an interest to buy the line from Sandpoint to Laurel and are in the process of making a decision to purchase that line.

Rep. Pavlovich asked if they were planning on terminating the agents on the other line, and if they plan to sell it, and liquidating the rest of the lines. Mr. Francis responded that Burlington Northern has a stated policy that if someone wants to buy their railroad and wanted to offer enough money, then it might be for sale, if they could provide the proper service to their customers.

Rep. Pavlovich asked if Burlington Northern would give back the land grant that is on those lines, or what will happen to it. Mr. Francis responded that Burlington Northern has no intention of giving it back.

Rep. Simon asked Mr. Francis when they sold the Butte to Garrison line to a short line operator, if the railroad was considering abandonment of that line. Mr. Francis responded that it would have been considered.

#### CLOSING

Rep. Bradley stated that she is submitting three other letters from organizations that wished to support this bill, Eissinger Equipment from Circle; Stone Container Corporation, Missoula; and Glendive Forward, Glendive. She said it is her knowledge that there is no other state that has a population requirement like this and when she discussed this matter directly with an agent and asked him if the centralized system would work, he told her it already is for many, and that people would get used to it. She commented that every sector is being forced to streamline and become efficient, it would be odd to maintain a statutory system that requires some jobs to exist even it has been proven in a public hearing that they are not necessary. The proposed standard in this legislation is public convenience and necessity, she stated, and it would go before the Public

Service Commission with a public hearing, and that standard is fair.

At the close of the hearing for House Bill No. 302, the Committee resumed their hearing in Room 312-F at 10:00 a.m.

HOUSE BILL NO. 471 - Providing For Licensing and Regulation of Dietitians and Nutritionists, sponsored by Rep. Paul Darko, House District No. 2, Libby. Rep. Darko stated there is a need for this bill with the increased awareness of health and nutrition in the United States, and because there is a potential for fraud. She said there is always a fear in licensing that a new board would be created, this bill does not provide for a new board but it does allow for the cost of an extra member to sit on the board of medical examiners. She commented that there is always a question of third party reimbursements when a profession is licensed; there is no guarantee for third party reimbursement in this bill, that is up to the insurance company and is not a back door approach to third party reimbursement; pharmacists and nurses are licensed in the state and they do not automatically receive third party reimbursements.

#### PROPOSERS

Cindy Brown, registered dietician, Helena. Ms. Brown stated that a registered dietician is a health care professional working in the area of food and nutrition. She said this bill provides that a person could be licensed as a dietician or nutritionist if that person is a registered dietician according to the laws of Montana, or has a baccalaureate from an accredited college or university.

Mickie Medora, registered dietician, Missoula. Ms. Medora stated nutrition is an integral part of self care and as a result of this there has been a great deal of consumer interest in nutrition and they strongly promote it. She stated the interest in nutrition has also created opportunities for a variety of people to use this interest and start providing it to the consumer whether they are appropriately qualified or not. Health fraud, she said, is a 12 billion dollar industry, nationally, and gave some examples of the types of harmful information that could be given to the consumer. Exhibit No. 1.

Dr. Kenneth Eden, physician practicing internal medicine, Helena. Dr. Eden stated that physicians have come to rely more on registered dietitians over the last several years. He said the advances in dietary counseling and in treatment for the prevention of dietary problems have been spearheaded by registered dietitians who are qualified to counsel patients in balanced diets. He commented the public has a

right to make an informed and safe choice and to know who has the educational background and experience to provide good honest dietary counseling and licensing can provide that knowledge; if the fully informed person then chooses to go elsewhere for dietary counseling, they may do so, that is the issue of the freedom of choice.

Bonnie Tippy, representing the Montana Chiropractic Association. Ms. Tippy said that the chiropractic profession was licensed fifty years ago by public initiative, and they believe the dieticians have the education and the ability to be licensed and it is important for the consumers in Montana. She commented the nutritionist and the dietician have the education and are informed, and the chiropractors have seen many abuses by people that are practicing in their field and are not qualified which can be dangerous; so for those reasons they urge support of the bill.

Dr. Steven Barrett, psychiatrist and medical writer from Allentown, Pennsylvania. Dr. Barrett stated he was in town to give a lecture at Carroll College, and he volunteered to share his views. He said he has been following the issue of nutritionist licensure and the issue of public representation of nutrition information for about 15 years and the reason that licensure has become so important in the last year or two nationwide is that something new and unprecedented has happened in the health field. He commented that about five years ago a number of schools that are not accredited and some of which are not authorized to operate began issuing degrees in nutrition and people with these degrees began promoting themselves to the public as qualified nutritionists, and at the same time other groups began issuing certificates. He said the point of licensing is to identify the people who are qualified.

Eileen Robbins, Montana Nurses Association. Ms. Robbins stated that they support the standardization of education at the baccalaureate level for nurses, dieticians, and other professionals. Exhibit No. 2.

Tony Bastien, owner and operator of Mountain Sun Natural and Specialty Foods, Bozeman. Mr. Bastien stated that he does not think this bill would affect the operation of or the merchandising capabilities of a health food store. He believes that it would be a positive step towards maintaining the integrity of the Montana health food industry and be a positive step in protecting the public. Exhibit No. 3.

Marcia Herrin, Assistant Professor of Nutrition at the University of Montana. Ms. Herrin stated her interest in nutrition began with a natural food store and her interest in the academic study of nutrition began in trying to answer

her customers questions on how to treat their diseases or diagnose their symptoms and through that interest she decided to get academic training. She believes that this bill would actually help the natural food store industry in Montana, because there is tremendous pressure on clerks to answer these kinds of questions for their customers and with this bill they will not be allowed to give them that information.

#### OPPONENTS

Ron Hauge, President of the Montana Pollen and Herbs. Mr. Hauge stated that he opposes this bill because of the certain limiting factors that may have a negative impact on the health food industry. He said this legislation would require considerable expenditure by state government to create full degree programs to provide license opportunities for Montanans. Exhibit No. 4 and 5.

Dr. Russell Mars, a naturopathic physician and acupuncturist, Great Falls. Dr. Mars stated while he supports the licensure in terms of dieticians, he is against the bill, because of the intent of the law to restrict the practice of giving out nutritional counseling by people other than the ones listed in the bill. He said it specifies that only medical doctors, nurses, dieticians, and food service management graduates can counsel people in nutrition. He said medical doctors have very little training in nutrition, but according to this bill they are allowed to practice nutritional counseling. He said he believes that dieticians offer a very valuable source of nutritional information, but feels that this bill would severely limit other alternative areas of nutrition.

Laughing Water, health food retailer, Helena. Mr. Laughing Water listed his objections to the bill. Exhibit No. 6.

George Allen, representing the Montana Retail Association. Mr. Allen stated his concern with this bill as they interpret is that it would require a clerk in a store to become a licensed dietician, and they think this would restrict the availability of merchandise that the consumer could buy in a particular store. He said they are concerned that the public would not be served properly under this.

Claudette Ross, Helena. Ms. Ross stated she is speaking as a consumer, and said that this bill was designed to protect Montana consumers, but in reality she feels it does the opposite by limiting her free choice. She said she is free to choose, under the constitution, the medical doctor that she feels will provide her with the best medical care she can find, and yet under this bill she will not be allowed to

seek nutritional counseling from anyone other than persons designated in the bill. Also, she questioned if the bill meant that she can't take on the responsibility as a parent to provide the health needs and nutritional needs of her children and is asking that this be clarified.

Colleen Pinkney, Mission Mountain Natural Foods Store, Polson. Ms. Pinkney stated she opposes this bill because she feels that it takes away her rights as a business person to freely discuss the products in her store, and agrees with the points raised by the other retailers.

Pat Heydlauff, National Nutritional Foods Association, which represents the retailers in the state of Montana as well as across the country. Ms. Heydlauff stated the Nutritional Foods Association and their membership does not oppose the licensure of dieticians as long as they are licensing their own profession, but legislation such as this, infringes upon many other businesses and services. She said the purpose of this bill is to protect the consumer and the public from fraud and other issues that they deal with, but the licensure act has in no way in any state protected the consumer; it protects the profession asking for the licensure, nor does licensure guarantee a certain quality or level of performance or competency from that organization. She said this bill will not prevent fraud and Montana, like every state in the nation has state laws and federal laws for protection. She said the interpretation of the scope of practice in this bill will become an enforcement problem for the state, and there are also constitutional freedom of speech and choice, at stake, freedom of speech for the retailer, and choice for the consumer. Exhibit No. 7 and 8.

Brooke Medicine Eagle, Crow Tribe. Ms. Medicine Eagle stated that she opposes the bill because the ancient knowledge that has helped humanity down through time will be made illegal and the Indian customs and traditional healers. She said many of the medicines that are recommended by medical doctors are things that are taken from the native practices, so it is a science that needs to be recognized.

Johannah Reilly, Butte. Ms. Reilly stated she opposes the bill as a consumer; she thinks the dieticians are well educated, but she opposes this bill. She quoted from a 15 page report on nutrition published in Time Magazine that she thought was misleading.

Bill Pinkney, operator of health food store, Polson. Mr. Pinkney stated this this bill would limit the nutritional counseling to licensed dieticians or nutritionists. He believes this would hurt the agricultural community of this state; because the dairy industry would not be able to

counsel the public on the nutritional value of dairy products, nor could the beef industry counsel the public on nutritional value of beef, and would follow to the grain, vegetable growers and honey and egg producers, etc. He said this would limit the rights of the agricultural community to fully promote their products.

Melinda Artz, Helena. Ms. Artz stated that she is opposing this bill as a consumer, mother, and a small business owner. She read the language of the bill, and it is needs clarification. She said as a mother she did not want the door shut on her being able to seek naturopathic medicine for her child and for others that standard medical practice is not beneficial to. She said she supports the dietician's interest in regulating themselves, but she does not support this bill in the form it is in.

India Supera, Helena. Ms. Supera stated she is opposing the bill as a consumer. She said there was a lot of fraud in alternative health care, but there was fraud in medical care also. She said this bill would limit her choices in taking responsibility for her health care, in doing her own research. She said she has seen that there are different medical treatments for different people and sometimes it is important to see a medical doctor, and other times you want to treat with naturopathic remedies. She feels there is a place for all of this and this bill doesn't provide for that. She said she does not support licensure for anybody, including medical doctors because it only protects the people who have the licenses.

Nancy Aagenes, second year medical student at the John Bastyr College of Naturopathic Medicine, Seattle. Ms. Aagenes stated she is neither opposing or supporting this bill. She said they are asking that people not be required to get their nutritional advise from only one place. She submitted amendments, and asked that naturopathic doctors be exempted from this bill and allow them to do what they are trained to do. She said they are educated about health, disease and nutrition that neither dieticians nor medical doctors are. Exhibit Nos. 9-13.

#### QUESTIONS

Rep. Bachini asked Mr. Laughing Water if he gave advise and prescribed health food ways in his health food store to correct some diseases Mr. Laughing Water responded that it is difficult to distinguish the providing of information and providing of advice, but in his store, it is his policy to provide only information and not advice.

Rep. Swysgood stated that it seemed that on both sides the big hang up with this bill is the health food stores, some testified that it would not hurt the stores, and others that it would. He asked Mr. Bastien how many of the items he carried were approved by the FDA and would it have a dramatic effect upon his ability to do business if this was left in the bill. Mr. Bastien responded that it stands to reason and it is his opinion, that these products are approved for sale to the general public by the FDA. He said a few of them are FDA restricted and are labeled as such, but the products that are not FDA approved would not be allowed to be sold in his store.

Rep. Swysgood asked if Mr. Bastien would explain if some of the products recognized by FDA were not approved by FDA. Mr. Bastien responded that there are a few products that are FDA restricted and cannot be sold for internal use, and if a product was not approved by FDA or if it violated FDA regulations, he and the whole industry would be nonconvicted felons for selling the products.

Rep. Swysgood asked Rep. Darko if it was the intention of the bill that the items sold in a health food store must be marked as approved by the FDA, or are they going to be sold as recognized as approved, and how are the people going to know the difference. Rep. Darko responded that a lot of the products sold in health food stores are food supplements or sold as food, and they don't have to have the FDA approval, but anything sold as a drug or used as a drug has to have the FDA approval.

Rep. Driscoll asked Mr. Bastien if he had any knowledge of a person being harmed because of an unqualified person giving bad nutritional advise. Mr. Bastien gave some examples of those that had been.

Rep. Swysgood stated that the bill listed the dietitian and nutritionist; and asked why both needed to be licensed. Ms. Medora responded that they have asked to protect both the dietitian and the nutritionist because the dietitian is registered, but most of the problems with misinformation and fraud have been with people using the term nutritionist, much more than dietitian. Therefore, she said, if the term nutritionist is not protected, nothing will be achieved by just protecting the dietitian.

Rep. Swysgood asked what was listed on the degree, dietitian or nutritionist. Ms. Medora stated they get a degree in nutrition.

Ms. Medora stated she wanted to clarify that she did not say they are the only qualified nutritionists, and that is being

clarified in the exemptions. They have said in their exemptions that anybody that has a masters or doctorate degree in nutrition from an accredited school may be exempted and may call themselves a nutritionist, if they wish, and they may not be licensed but they can practice their trade.

Dr. Jacquelyn Olpalka, Associate Professor of Foods and Nutrition at Montana State University. Dr. Olpalka said she is the coordinator of the plan for the dietetics program, and she has been associated with the dietetics program since 1973. She thinks the confusion relates to the different ways that dietetics program and the nutrition people can be trained. She said in this state there is a four year program, all the students are sent to intern, and it is difficult for the students to see enough patients, and enough different types of problems, because the hospitals they intern at are small.

#### CLOSING

Rep. Darko stated that the bottom line is that when people come to expect one thing in a label such as nutritionist or dietician, that is what they should get and this bill assures that. It was brought up that this bill would not prevent fraud, no bill will prevent fraud, she said, and this just gives a means to get at those who are practicing fraud. She said one of the reasons that she will oppose the amendment to exempt the naturopathics from the bill, is that some of the schools they are graduating from are not accredited, and that is the whole problem with licensing them. No matter how good they are, the schools are still not accredited, she said, and they need to be concerned about that. She commented that it is important to note that this bill has passed in 15 other states because from the testimonies of the opponents, it might be perceived that Montana is the only state trying to pass this.

EXECUTIVE ACTION - January 30, 1987 - 11:45 a.m.

#### ACTION ON HOUSE BILL NO. 471

Chairman Kitselman referred House Bill No. 471 to a subcommittee composed of Rep. Simon, Rep. Swysgood, and Rep. Brown, with Rep. Simon as chairman.

#### ADJOURNMENT

The meeting adjourned at 11:45 a.m.

  
\_\_\_\_\_  
REP. LES KITSELMAN, Chairman



## DAILY ROLL CALL

BUSINESS &amp; LABOR

COMMITTEE

LEGISLATIVE SESSION -- 1987

Date January 30, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. LES KITSELMAN, CHAIRMAN	✓		
REP. FRED THOMAS, VICE-CHAIRMAN	✓		
REP. BOB BACHINI	✓		
REP. RAY BRANDEWIE	✓		
REP. JAN BROWN	✓		
REP. BEN COHEN	✓		
REP. JERRY DRISCOLL			✓
REP. WILLIAM GLASER	✓		
REP. LARRY GRINDE	✓		
REP. STELLA JEAN HANSEN	✓		
REP. TOM JONES			
REP. LLOYD MCCORMICK	✓		
REP. GERALD NISBET	✓		
REP. BOB PAVLOVICH			
REP. BRUCE SIMON	✓		
REP. CLYDE SMITH	✓		
REP. CHARLES SWYSGOOD			
REP. NORM WALLIN	✓		



# Public Service Commission

State of North Dakota

EXHIBIT 1  
DATE 1/30/87  
HB 302

## COMMISSIONERS

Leo M. Reinbold  
President  
Dale V. Sandstrom  
Bruce Hagen

State Capitol  
Bismarck, North Dakota 58505  
701-224-2400  
800-932-2400  
Toll Free in North Dakota

January 14, 1987

Secretary, Janet A. Elkin

The Honorable Dorothy Bradley  
Montana State House of Representatives  
Capitol Station  
Helena, MT 59620

Dear Representative Bradley:

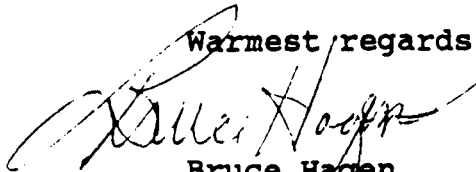
I understand that you have introduced a bill that proposes to modify railroad agency requirements in Montana. I have been a public service commissioner for over 25 years, and I thought you might appreciate my thoughts on the subject.

Both of North Dakota's major railroads now utilize centralized agency services. The initial railroad application to centralize agency services in North Dakota was filed over ten years ago. Our Commission held a hearing on the proposal and, perhaps somewhat reluctantly, granted the application. Since that time, we have considered many proposals and have approved them all, either in whole or in part. Virtually all of North Dakota's agencies have now been "centralized".

If "The proof is in the pudding," I must say that the railroads' approach to centralized agency services is well received. We have had virtually no complaints regarding services. Extended hours, toll-free numbers, etc., have resulted in excellent services to shippers.

Centralized agency service has helped lower our railroads' operating costs in North Dakota, have contributed to obtaining lower freight rates, and have helped retain branchline viability. Our Commission encourages carrier efficiencies if they can be accomplished without adversely affecting services. Centralized agency services have been a success story in this regard.

Warmest regards,

  
Bruce Hagen  
Commissioner

BH/cg

# AGENCY WORK PERFORMED

AGENCIES	Bills of			Car Orders	Demurr.	Match/ Tracing
	None	Lading				
62	36	12		20	8	15

The agents at the agencies sometimes perform other non-agency work. Non agency work includes: train orders, track lineup, completing RUIA claims, handling switching instructions, crew calling, compares reporting and paying utility bills. All this work except compass reporting and Amtrak work could be accomplished from a central agency or by personnel on the train crews.

Eight of the agents who perform no Agency work also have no non-agency work. Four approve their utility bills for payment by St. Paul as the only non-agency work.

## Definitions

Bills of Lading: The agent receives the paperwork for the shipments that are outbound. The initial paperwork on the shipment is completed by the shipper.

Car Orders: The agent orders cars for delivery to shipper at a specific time and location.

Demurrage: The agent logs the cars are "spot time" or delivered time and then the "released time" to determine if a charge is owed for "car rent."

Matching and Tracing Inbound Revenue Waybills: The agent is responsible for identifying that an inbound shipment has the appropriate transportation charges -- matches the revenue waybill with car movement waybill.

Train Orders: Train orders are specific instruction for operation of the train and movement of the train.

OPEN STATIONS

	MONTANA	WASHINGTON	OREGON	WYOMING	NORTH DAKOTA
# OF AGENCIES	62	16	6	8	6
BN MILES OF TRACK	3,137	3,031	643	966	3,246
9 MONTHS OF 1986					
Carloads originated	257,851	249,041	56,215	658,284	115,673
Carloads terminated	<u>31,212</u>	<u>242,991</u>	<u>64,595</u>	<u>45,135</u>	<u>27,968</u>
TOTAL	289,063	492,032	120,810	703,419	143,641

AGENCY CLOSURES SINCE 1982

Closures Approved/Line Remains Open

Fallon	southern mainline
Lodge Grass	secondary line south from Billings
Belt	central secondary
Carter	branchline
St Regis	northern mainline
Poplar	northern mainline
Broadview	central secondary
Redstone/Flaxville	branchline
Manhattan	southern mainline
Twin Bridges	branchline
Sheridan	branchline
Kremlin/Gilford	northern mainline
Joplin/Inverness	northern mainline
Power/Brady	central secondary
Bonner	southern mainline
Ledger/Valier	branchline
Bainville	northern mainline

Agency Closure /Line Closed

Brockway	branchline (agency and line closed at the same time)
Richy/Lambert	branchline (agency and line closed at the same time)

Agency Closure Denied/Line Closed Later

Bridger	branchline
Chappell	branchline
Denton	branchline
Geraldine	branchline



ISSINGER EQUIPMENT, INC.  
P.O. BOX A CIRCLE, MONTANA 59215  
PHONE ( 406 ) 485-2751



EXHIBIT 5  
DATE 1/30/87  
HB 362

**flexi-coil.** **VERSATILE**

January 27, 1987

Montana House of Representatives  
Capitol Station  
Helena, Montana 59620

ATTN: Dorothy Bradley,

Please recieve this letter in favor of repealing the  
Railroad Agency Requirement law.

We have found, up to this point in time, the service  
administered by BN from the Glendive office adequate for  
our business.

Sincerely,

  
Harvey Kirkegard



Stone Container Corporation

January 27, 1987

Representative Dorothy Bradley  
Capital Station  
Helena, Montana 59620

Dear Representative Bradley:

Stone Container Corporation supports passage of House Bill 202 which would grant the Public Service Commission authority to allow closure of certain railroad facilities. As a major shipper of freight on the Burlington Northern we believe it appropriate to accomodate efficiency and cost reduction when possible without causing serious public inconvenience. Access to markets is important to Montana industry and reducing railroad operating costs will, in the long run, help reduce freight costs and help promote interest in serving Montana on the part of the railroads.

Thank you for your interest.

Sincerely,

A handwritten signature in dark ink, appearing to read 'DTP', with a long horizontal flourish extending to the right.

Daniel T. Potts  
General Manager

DTP:plg

# Glendive

## Forward



200 N. Merrill Ave. • P.O. Box 930  
Glendive, Montana 59330  
(406) 365-8612

Of Montana

EXHIBIT 7  
DATE 1/30/87  
HB 302

January 27, 1987

Representative Dorothy Bradley  
Montana House of Representatives  
Capital Station  
Helena, MT 59620

Dear Representative Bradley:

This letter is written in support of HB-302. Glendive Forward is an Economic Development Corporation and as such we are interested in enhancing not only the economic stability and development of Glendive, but the State of Montana as well. We feel HB-302 will, to some degree, be a move toward improving economic conditions in Montana.

Although we all may not always welcome the advent of computerization of businesses, it is here. It is an efficient manner of conducting business and that efficiency translates into reduced costs of operations. Maintaining higher costs of operations, as we all know, are cost burdens that are shouldered by the consumer in most instances, and in this instance, shippers. Should shippers and other users of railroad services be asked to shoulder the burden of additional expense for inefficient and unnecessary costs? Montana's distance from most national markets makes shipping costs an expensive portion of total costs of production for Montana businesses and unnecessary costs should not add further to our geographic handicap.

Many other businesses operating in Montana have consolidated operations for purposes of efficiency made available through telecommunications and computerization. Banking and utilities are but two of such businesses and the purpose and results of such consolidation of operations would, in most instances, be found to be lower costs, or convenience, or both, to consumers. We do not feel that the railroad should be precluded from operating efficiently, nor should they be restricted by a law, written long before these technological advances were available, from utilizing such equipment.



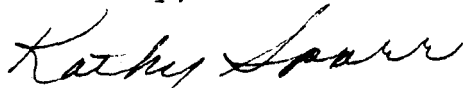
EXHIBIT 7  
DATE 1/30/87  
HB 302

Montana cannot continue to isolate itself and ignore modern methods of doing business to the detriment of our economy.

In this instance, as well as, many others, Montana business must have available and must utilize those modern tools that permit competition in the state, as well as, national level.

We urge you to consider favorably HB-302.

Sincerely,



Kathy Sparr  
Executive Director

cc-John Etchart  
John Delano  
Dorothy Bradley  
House Business and Labor Committee Members

KS/dlh

## **MONTANA'S OUTDATED RAILROAD AGENCY LAW**

Montana is the only state which mandates that railroads maintain agencies on the basis of location and population. This law is a wasteful expense for Montana's shippers, consumers and railroads because the need for service is unrelated to location or population. In all other states, agency functions have been streamlined and consolidated at centralized locations and decisions to do so have been based on service and demand rather than population. For instance, under this law, Burlington Northern has in excess of sixty agents in Montana and fewer than seven in both North Dakota and Nebraska.

When this law is discussed, those who advocate its continuation usually do so on the following beliefs: that when an agency is closed, line abandonment will follow, service will suffer, or the agent will be unemployed.

In each instance, the belief is incorrect.

**Agency closures will not cost agents their jobs, railroad service will not suffer and the action is not a prelude to abandonment.**

If the Montana statute mandating local agencies is changed, the decision on whether or not an agency remains open will be made based on the service that a community needs, not on an artificial population or location standard required by law.

## **QUESTIONS AND ANSWERS ABOUT RAILROAD AGENCIES IN MONTANA**

### **1. WHAT WILL HAPPEN TO LOCAL AGENCIES IF THE PROPOSED LEGISLATION PASSES?**

Under the proposed legislation the Public Service Commission will determine if an agency is required based upon the demands of public convenience and necessity. Business levels at the local agency will determine whether it remains open.

### **2. WHAT IS A LOCAL AGENCY?**

An agency is a local railroad office staffed by an agent responsible for receiving car orders and billing instructions from customers. The agent acts as a middleman in relaying requests for service to a regional customer service center.

### **3. WHAT FUNCTIONS DID THE LOCAL AGENCY HISTORICALLY PERFORM?**

Agencies date back to the era when railroads ran passenger trains and before computers had been invented. Local agents had a multitude of assignments including selling passenger tickets, loading milk cans and baggage and handling U.S. Mail. They were also responsible for loading and unloading merchandise which was shipped in less than full carloads, handling livestock, collecting charges, salvaging and selling damaged freight, and physically checking on all cars. They handled a variety of paper work and delivered and billed Western Union telegrams.

### **4. WHAT EFFECT HAS MODERN TECHNOLOGY HAD ON THE DUTIES OF LOCAL AGENTS?**

Because of changes in society and advances in business technology, the local agent no longer handles Western Union telegraphs and seldom serves passengers or performs most of the functions once necessary. Car orders, record keeping, freight billing and yard handling are, for the most part, computerized and handled through a customer service center.

### **5. ARE LOCAL AGENCIES STILL NEEDED TO SERVE LOCAL CUSTOMERS?**

No. Modern business practices have changed the way railroads operate and the way customers can best be served. Historically, agents ordered cars and provided customers with information about their shipments. Today that information is handled by a customer service center. The customer service center, via computer, can instantly determine the location, content, destination and shipper and receiver on virtually any car on the U.S. rail system. The local agent does not order cars, instead the order is relayed to a regional service center where the order is made.

Now, railroad customers can gain immediate access to the information and service needed by directly phoning regional customer service centers. This is no different than the way people routinely contact the reservation centers of airlines, car rental agencies, hotels or the regional service offices of trucking companies.

**6. WITHOUT A LOCAL AGENCY, HOW DOES A CUSTOMER GET SERVICE OR ASSISTANCE?**

Customers simply call the customer service center using toll-free lines. These centers are on call 24 hours a day to handle requests for service, and inquiries about shipments. If personal contact with a railroad representative is required, staff members at the customer service centers can arrange it.

**7. HOW IS THE CLOSING OF A LOCAL AGENCY RELATED TO TRACK ABANDONMENT?**

The presence of an agency does not assure continued rail service nor does removal of an agency lead to abandonment -- traffic volume and operating costs are the determining factors. Some branch lines are in question because of low traffic volume and high costs. Eliminating local agencies is one way railroads can reduce costs, making the continuation of service feasible. Railroads have closed many agencies in important main and branch line communities and the customers are often better served by customer service centers. Agency closings have NO effect on train schedules or service.

**8. WHEN A LOCAL AGENCY IS CLOSED, WHAT HAPPENS TO THE AGENT?**

There are currently more than 60 agents in Montana. They all have seniority as union members and are guaranteed employment. They might move to other locations with the railroad where jobs are available. Or they might remain in their present location and receive compensation until retirement.

At some agency locations there are also other railroad employees. These employees would remain at those locations and continue the work they now do.

**9. ARE OTHER RAILROADS DOING THE SAME THING?**

Agency consolidations are an industry trend. All major railroads face the same pressure to become more efficient and to better serve their customers. As a result, all railroads are instituting consolidated customer service centers.

**10. DO ANY OTHER STATES MANDATE AGENCY RETENTION BASED ON POPULATION OR LOCATION?**

No, Montana's law is unique. No other state requires that agencies be maintained on the basis of population or location. The cost of maintaining unnecessary agencies imposed by this eighty-year-old law is estimated at more than \$2 million per year -- a cost ultimately borne in part by Montana shippers and consumers. By way of comparison, Burlington Northern maintains six agencies in North Dakota, eight in Wyoming and more than 60 in Montana.

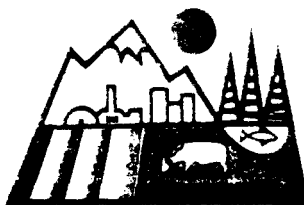


EXHIBIT 7  
DATE 1/30/87  
HB 302

## MONTANA CHAMBER OF COMMERCE

P.O. BOX 1730

• HELENA, MONTANA 59624 •

PHONE 442-2411

Testimony  
of the  
Montana Chamber of Commerce  
by  
Russ Ritter, Chairman of the Board  
to the  
House Labor & Industry Committee  
in support of HB 302  
January 30, 1987

Mr. Chairman, and members of the Committee, my name is Russ Ritter and I am here today to speak in favor of House Bill 302 from personal perspective and in my position as Chairman of the Board of Directors of the Montana Chamber of Commerce.

You have heard data and statistics from proponents, and I'm reasonably certain you'll hear more from opponents. But my support for this measure is philosophical and would apply if we were talking about any business or industry in Montana during these days of economic struggle and collapse.

We do not mine gold as we did earlier this century. In 1987, the mining of gold in Montana requires consultants, computers and engineers -- professions and technologies un-needed or unknown when Helena consisted of Last Chance Gulch.

Industries are constantly undergoing modernization. They must keep pace, for if they once fall behind their competitors the effort and expense to catch up becomes staggering, and often futile.

For a state government to forbid modernization of any industry is poor economics -- at best -- and dictatorship at worst.

Testimony  
by Russ Ritter  
HB 302  
January 30, 1987  
Page 2

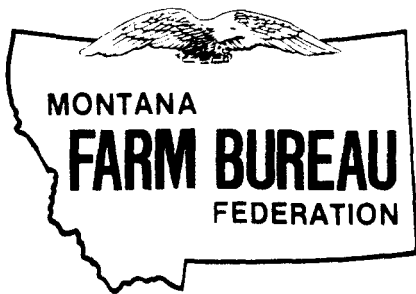
EXHIBIT 7  
DATE 1/30/87  
HB 302

Crippling the transportation of our agricultural and natural resource production threatens today's employment in those industries and jobs for the future of our state.

We strongly believe that the roadblocks to economic development for Montana are the dis-incentives we have enrolled into our laws. Surely, laws that deny an industry the right to keep up with modern technology and change must stand as a prime example of dis-incentive.

I urge your favorable consideration of House Bill 302.

Thank you.



P.O. Box 6400  
~~502 South 19th~~

Bozeman, Montana 59715  
Phone (406) 587-3153

EXHIBIT 8  
DATE 1/30/87  
HB 302

TESTIMONY BY: Lorna Frank  
BILL # HB-302 DATE 1/30/87  
SUPPORT XXX OPPOSE

Mr. Chairman, Members of the committee, for the record my name is Lorna Frank, representing Montana Farm Bureau.

Farm Bureau believes that greater efficiency is the answer to the railroads financial burden rather than increased freight rates. We support closures of stations that do not contribute to the efficient movement of agricultural commodities or related equipment.

By changing this out dated law, Burlington Northern would be able to save about \$2.5 million a year and could conceivably reduce freight rates on agriculture products. This would certainly help Montana farmers and ranchers at a time when they can use all the help they can get.

By passing this bill that does not mean that a station will be closed, there is an opportunity for a public hearing before the Public Service Commission.

Farm Bureau members hope that you will give HB-302 a do pass recommendation. Thank you.

SIGNED: Lorna Frank

WITNESS STATEMENT

NAME EDWARD LANTIER BILL NO. HB 302  
ADDRESS 112 E. 1st St., Missoula, MT 59801 DATE 1-30-87  
WHOM DO YOU REPRESENT? DNA Missoula Road #45  
SUPPORT                      OPPOSE X AMEND                     

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: B.C.C. says "I" approve of the  
for all the railroad maintenance and  
the "main" and others. In addition, we would  
like to point out some items that may have  
been missed.

1) It has been said that the proposed  
change in law will allow the B.C. to de-  
termine the public convenience and  
necessity ~~section~~ standard for each  
station. I submit that it will  
give the B.C. to make such determina-  
tion, and that the B.C. will be  
inundated with applications for  
station abandonments. It best this  
will allow B.R. to railroad such station  
abandonments. The hearings ~~by~~

2) It has been said that the an-  
fringed agency works better ~~section~~  
in the future as that this is  
the best way to handle it.



train cars spot cars and  
or even a week, the presence  
of an agent on site common in  
resources accurate spotting, car  
ordering, and customer satisfac-  
tion. This is particularly  
true of very small shippers  
- those who ship one or two cars  
a week <sup>and employ maybe a dozen people</sup> - the customers the  
company does not seem to want  
to serve, but the customers and  
the agents and clerks want in  
the worst way. They are the  
<sup>and consignees</sup> shippers that make a break are  
very small factories, like ~~the~~ Hammond  
Stevensville and Tabli.

3.) The agents are available to  
do the work they are assigned to  
do. It is the duty of company officials  
to make the most of their resources  
and the small foreign agents are a  
resource. The PR has a responsibility

## WITNESS STATEMENT

EXHIBIT 9  
DATE 1/30/86  
HB 302

NAME Mr. Arthur W. Duggold BILL NO. 302  
 ADDRESS Box 656 GARRISON Mont DATE 1-30-86  
 WHOM DO YOU REPRESENT? Commins Haver Inc.  
 SUPPORT Support OPPOSE \_\_\_\_\_ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## Comments:

Mr. Chairman,

I manage the underground phosphate mine at GARRISON MT for Commins Haver Inc. We employ approx 125 people and export about 2500 <sup>tons</sup> cars per year to Canada, our only market. We ARE presently shut down with reopening questionable because of cost competition from Idaho, Utah, and Wyoming producers. We must become more competitive in delivered cost and we ARE receiving excellent support from BAS in this direction with willingness to pass savings to their customers. HB 302 will improve efficiency and cost for BAS which will result in helping save our business. We support HB 302.

Mr. Arthur W. Duggold

MTRRSTAE 2--

50th LEGISLATIVE ASSEMBLY 1987

Montana Communities withy 1,00 or more inhabitants having open Railroad Station Facilities pursuant to Section 6P-14-202 MCA.  
(Source: 1980 Federal Decennial Census Tables B-4 and 5)

Station	Pop.	RR	Station	Pop.	RR
1. Anaconda	12,518	Rarus	26. Harlem	1,023	BN
2. Belgrade	2,336	BN	27. Havre	10,891	BN
3. Big Timber	1,890	BN	28. Helena	23,938	BN
4. Billings	66,798	BN	29. Kalispell	10,648	BN
5. Bonner	1,742	BN	30. Laurel	5,481	BN
6. Bozeman	21,645	BN	31. Lewistown	7,104	BN
7. Browning	1,266	BN	32. Libby	2,748	BN
8. Butte/ Silver Bow	37,205	Rarus MWRy.	33. Livingston	6,994	BN
9. Chinook	1,660	BN	34. Malta	2,367	BN
10. Choteau	1,798	BN	35. Miles City	9,602	BN
11. Columbia Falls	3,112	BN	36. Missoula	33,388	BN
12. Columbus	1,439	BN	37. Phillipsburg	1,136	BN
13. Conrad	3,074	BN	38. Paradise/ unicorp		BN
14. Deer Lodge	4,023	MWRy	39. Plains	1,116	BN
15. Dillon	3,976	U.P.	40. Polson	2,798	BN
16. E. Helena	1,647	BN	41. Ronan	1,530	BN
17. Eureka	1,119	BN	42. Scobey	1,382	BN
18. Fairview	1,366	BN	43. Shelby	3,142	BN
19. Forsyth	2,553	BN	44. Sidney	5,726	BN
20. Ft. Benton	1,693	BN	45. St. Regis unincop		BN
21. Glasgow	4,455	BN	46. Superior	1,054	BN
22. Glendive	5,978	BN	47. Thompson Falls	1,147	BN
23. Great Falls	56,725	BN	48. Three Forks	1,247	BN
24. Hamilton	2,661	BN	49. Townsend	1,587	BN
25. Hardin	3,300	BN	50. Whitefish	3,703	BN
			51. Whitehall	1,030	BN
			52. Wolf Point	3,074	BN

Note: BN sold to Montana Western Railway Co. 52 miles of track from Butte to Garrison. MWRy maintains and staffs a station facility in Butte, but has ignored to maintain and staff station facilities in Deer Lodge, County Seat Powell County, Montana--Population 4,023 inhabitants.

MTRRSTAZ A-1 CONTINUED:

Montana Communities with less than 1,000 inhabitants having open railroad stations facilities pursuant to Section 69-14-202 MCA.  
 (Source: 1980 Federal Decennial Census Table 5 )

Station	Pop.	RR	Station	Pop.	RR
1.Big Sandy	835	BN	9.Hingham	186	BN
2.Chester	963	BN	10.Hysham	449	BN
3.Circle	993	BN	11.Medicine Lake	408	BN
4.Culberston	887	BN	12.Ophiem	210	BN
5.Darby	581	BN	13.Alder	N/A	BN
6.Drummond	414	BN	14.Stanford(1)	595	BN
7.Dutton	359	BN	15.Terry	929	BN
8.Froid	323	BN	16.Wibaux	640	BN
			17.Silver Bow unincorp)		Rarus
			" " " )		MWRy.
			" " " )		Un.Pac
			18.Garrison	"	MWRy
			" " " )		BN

Note(1): BN maintains a mobile agency know as Direct Service Agency (DSA) Stanford, Montana is the Base Station: One agent drives to Moccasin an unincorporated community thence to Hobson, pop. 261, thence Judith Gap, pop. 213, onto Kolin, unincorporated, and Moore, pop.229. This service was directed by the Montana Pub.Svc. Commission in 1973, and each station listed gets service according to the PSD order.

Note(2) Stations listed above are either the County Seat or the last remaining station in the county pursuant to Section 69-14-202 MCA

B.N. APPLICATIONS FOR AGENCY REMOVAL  
 January 1, 1979 to January 20, 1987

3/6/79	T-4331	Glacier Park Agency	Granted	3/3/80	#5856a
4/23/79	T-4411	Dualize Polson/Ronan	Denied	11/26/79	#2816a
1/18/80	T-4901	Close Fairview agency & use DSA from Watford, North Dakota at Sidney	Denied	4/16/80	#2951a
1/18/80	T-4902	Discontinue Caretaker Service and Remove Depot at Stevensville	Granted	8/12/80	#2933
5/18/81	T-5695	Dualize Eureka/Fortine	Granted	4/26/82	#4247
5/18/81	T-5696	Discontinue Troy Agency	Denied	4/26/82	#4245
11/6/81	T-6081	Lodge Grass Agency Consolidation (Jurisdiction)	Dismissed	3/26/84	#4674
1/8/82	T-6191	Centralize Customer Service Center in Glendive (Circle, Wibaux, & Terry)	Granted in part	10/25/82	#4425
3/17/82	T-6329	Browning consolidation	Dismissed	8/23/82	#4364
3/17/82	T-6330	Poplar consolidation	Granted	2/7/83	#4826
4/9/82	T-6375	Consolidate Belt, Carter, Choteau	Belt/Carter Granted Choteau Denied		#4529
4/9/82	T-6376	Centralized Customer Center Sidney for Richey, Lambert & Fairview	Granted in Part	11/13/82	#4456
5/11/82	T-6452	Whitehall/Three Forks Consolidation	Denied	8/16/82	#4403
5/11/82	T-6453	St. Regis/ <u>Superior</u> Consolidation	Granted	11/29/82	#4457
5/11/82	T-6454	Hamilton/ <u>Darby</u> Consolidation	Withdrawn ---- by Applicant		----
5/13/82	T-6455	Columbus & Rapalje Consolidation with <u>Laurel</u> Agency	Dismissed	11/15/82	#4429
5/18/82	T-6457	Big Timber consol. with <u>Livingston</u>	Denied	8/16/82	#4428

8/2/82	T-6603	Shelby Centralized Service Center	Granted	3/23/83	#4461
8/2/82	T-6604	Glasgow Centralized Service Center	Granted	11/10/82	#4447
8/2/82	T-6605	Laurel Centralized Service Center	Granted in Part	11/15/82	#4429
12/27/82	T-6952	Consolidate Opheim & Glentana, DSA, Richland & Peerless DSA & Four Buttes with Scobey Agency	Denied	4/6/84	#4854a
12/27/82	T-6953	Consolidate Bainville agency with Williston, ND	Withdrawn	----	----
12/27/82	T-6954	Consolidate Froid & Homestead DSA, Medicine Lake, Reserve & Agency TSA, Redstone & Flaxville DSA into Plentywood agency	Grant in part/denied in part	1/4/84	----
4/13/83	T-7203	Dualize Avon/Elliston	Granted	4/10/83	#4088
5/5/83	T-7249	Bainville/ <u>Culbertson</u> Consolidation	Granted	7/30/84	#5025a
5/5/83	T-7251	Turner/Hogeland depot facilitiesn Line Abandonment)	Withdrawn (ICC approved		
5/24/83	T-7284	Manhattan/ <u>Three Forks</u> Consolidation	Granted	3/29/84	#4891
6/8/83	T-7323	Garrison/Deer Lodge Consolidation	Denied	3/21/85	#5285
6/21/83	T-7343	Consolidate Sheridan & Twin Bridges with Alder & Dualize/Alder & <u>Whitehall</u>	Granted	----	#4901
6/21/83	T-7344	Bonner/Missoula Consolidation	Granted	3/5/85	#5268a
7/13/83	T-7377	Havre Centralized Customer Service Cen.	Granted in part/denied in part	4/30/84	#4839
7/26/83	T-7401	Trialyze Conrad with Ledger & <u>Valier</u>	Granted	9/19/84	#5075a
7/26/83	T-7402	Consolidate Dutton, Brady & Power with Gt Falls (into Dutton)	Granted in part	2/4/85	#5284
7/26/83	T-7403	Dualize Harlem/Chinook	Denied	4/30/84	#4810

7/29/83	T-7406	Dualize Polson/Ronan	Granted	3/5/85	#5269a
7/29/83	T-7407	Dualize Belgrade/ Bozeman	Denied	3/26/84	#4871a
7/29/83	T-7408	Trialize Big Timber with Columbus & Rapalje	Granted	1/85	#5189a
9/9/83	T-7503	Consolidate Trident & Toston with Townsend	Withdrawn by Applicant	1/9/84	----
9/9/83	T-7504	Consolidate Silver Bow with Butte	Denied	7/16/84	#4892
5/8/84	T-8018	Trialize Hamilton/ Stevensville and Darby	Pending	----	----
8/5/84	T-8187	Consolidate Trident/ <u>Three Forks</u>	Granted	3/25/85	#5308
10/29/84	T-8400	Discontinue Stanford DSA	Denied	9/20/85	#5625a
12/18/84	T-8502	Dualize Bozeman/ Belgrade	Granted	6/10/85	#5339
3/4/85	T-8689	Dualize Harlem/ Chinook	Denied	10/28/85	#5632
5/7/85	T-8764	Dualize Troy/Libby	Granted	12/16/85	#5655
9/5/85	T-8808	Trialize Sidney, Fairview & Circle	Dismissed	6/6/86	#5705
11/19/85	T-8837	Dualize Silver Bow/ Butte	Denied	2/19/86	#5673
2/7/86	T-8878	Miles City/Terry Dualization	Denied	----	----
4/16/86	T-8908	Dualize Conrad/ Choteau/Close Dutton	Pending	-----	----
4/16/86	T-8909	Dualize Big Sandy/ Fort Benton	Pending	----	----
4/16/86	T-8910	Dualize Chester/ Rudyard	Pending	----	----
4/16/86	T-8911	Dualize Forsyth/Hysham	Pending	----	----
4/16/86	T-8912	Dualize Cut Bank/Brown- ing	Pending	----	----

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JUN 21 1985

**MONT. P. S. COMMISSION UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**PHILLIP B. WINBERRY**  
CLERK, U.S. COURT OF APPEALS

**BURLINGTON NORTHERN  
RAILROAD COMPANY,**

**Plaintiff-Appellant,**

**v.**

**DEPARTMENT OF PUBLIC SERVICE  
REGULATION; PUBLIC SERVICE  
COMMISSION; GORDON E. BOLLINGER;  
CLYDE E. JARVIS; THOMAS E.  
SCHNEIDER; JOHN DRISCOLL; and  
HOWARD ELLIS,**

**Defendants-Appellees.**

**No. 84-3941**

**DC No. CV 82-173-BLG**

**O P I N I O N**

**Appeal from the United States District Court  
for the District of Montana**

**James F. Battin, Chief Judge, Presiding**

**Argued and submitted January 18, 1985**

**Before: GOODWIN and SKOPIL, Circuit Judges, and VUKASIN,\*  
District Judge**

**GOODWIN, Circuit Judge**

**Burlington Northern Railroad Company appeals from a judgment  
for the Department of Public Service Regulation, in which the  
district court, on cross motions for summary judgment, upheld as  
constitutional a Montana statute requiring the railroad to  
maintain and staff certain freight offices in the state of  
Montana. We affirm.**

**Burlington Northern operates in Montana a railroad which is**

**-----  
\*The Honorable Robert P. Vukasin, Jr., United States District  
Judge for the Northern District of California, sitting by  
designation.**



1 regulated by the Montana Public Service Commission pursuant to  
2 statute. Mont. Code Ann. § 60-14-111. The Commission has  
3 statutory authority to compel the railroad to maintain and operate  
4 adequate train service (both freight and passenger), to provide  
5 suitable accommodation for the public and to provide facilities  
6 for passengers and freight at all stations. Mont. Code Ann. § 69-  
7 14-117. Burlington Northern has a virtual monopoly over rail  
8 service in Montana.

9 The statute compels the railroad to maintain and staff  
10 station facilities in towns of at least 1,000 persons.<sup>1</sup>

11 Burlington Northern has challenged the statute by attacking the  
12 regulation promulgated by the Commission. That regulation tracks  
13 closely the statutory language:

14 (1) No railway company now or hereafter  
15 operating within the State of Montana shall:

16 -----  
17 1 Mont. Code Ann. § 69-14-202 provides:

18 (1) Every person, corporation, or association operating a  
19 railroad in the state shall maintain and staff facilities for  
20 shipment and delivery of freight and shall ship and deliver  
21 freight and accommodate passengers in at least one location,  
22 preferably the county seat, in each county through which the  
23 line of the railway passes and at any point upon the line of  
such railway where there is a city or town having a  
population, according to the last federal census, of not less  
than 1000; provided, however, that this section shall not  
require the maintenance and staffing of such facilities in  
any county or at any city or town in which such facilities  
were not maintained and staffed on July 1, 1969.

24 (2) Nothing in this section authorizes the discontinuance of  
25 any facility presently established in any city, town, or  
26 other location having a population of less than 1,000 without  
a hearing before the public service commission, as provided  
by law.

1 (a) Discontinue a station agent who now is or  
2 may hereafter be installed, without first giving  
3 notice thereof to and receiving permission from the  
Public Service Commission of the State of Montana to  
make such change.

4 Mont. Admin. R. § 38.4.301.

5 Burlington Northern filed petitions with the Commission  
6 seeking authority to close, discontinue or consolidate freight  
7 agency operations at a number of towns in Montana including  
8 Browning, Choteau, Whitehall, Big Timber, Columbus, Wibaux, Circle  
9 and Terry. Burlington Northern claims that station agents are no  
10 longer needed in these towns because many of the duties  
11 historically performed by station agents are currently performed  
12 in centralized, computerized service centers. Now that the  
13 railroad no longer handles less-than-carload freight, freight  
14 traffic from these small stations has declined significantly in  
15 recent years, so much so that some station agencies rarely handle  
16 any freight at all. The railroad alleges that operation of the  
17 compelled stations is redundant and economically wasteful.

18 The Commission dismissed all the petitions without a  
19 hearing, taking judicial notice that the population of each of  
20 these communities is 1,000 or more. Citing Mont. Code Ann. § 69-  
21 14-202, the Commission said it had no authority to consider the  
22 petitions and did not, therefore, have to hold a hearing or  
23 consider the financial burden of these stations on Burlington  
24 Northern before denying its petitions.

25 Burlington Northern's suit challenges the constitutionality  
26

1 of the statute and of the Commission regulation under the due  
2 process clause, the equal protection clause and the commerce  
3 clause of the Constitution. The railroad has the burden of  
4 proving unconstitutionality under a rationality review; statutes  
5 are presumed to be constitutional. Brown v. Maryland, 25 U.S.  
6 419, 436 (1827).

7 The standard for judging the constitutionality of a statute  
8 such as Mont. Code Ann. § 69-14-202, which regulates economic  
9 activity, is the same under the due process, equal protection or  
10 commerce clauses. Legislation will be upheld if it bears a  
11 rational relationship to a legitimate state interest. Williamson  
12 v. Lee Optical Co., 348 U.S. 483, 488 (1955) (due process);  
13 Dandridge v. Williams, 397 U.S. 471, 485 (1970) (equal  
14 protection); Southern Pacific Co. v. Arizona, 325 U.S. 761, 781-82  
15 (1945) (commerce).

16 In the context of state regulation of transportation  
17 utilities, it is generally agreed that legitimate state interest  
18 is defined by the state's need to ensure that carriers serve the  
19 public convenience and necessity. See Chicago, M.St.P. & P.R.R.  
20 v. Board of R.R. Comm'rs, 255 P. 2d 346, 349 (Mont.), cert.  
21 denied, 346 U.S. 823 (1953). The public convenience and necessity  
22 may require a railroad to provide adequate and suitable facilities  
23 for the convenience of the communities served by the railroad.  
24 Atchison, T. & S.F.R.R. v. R.R. Comm'n, 283 U.S. 380, 394-95  
25 (1931). See Norfolk & W. Ry. v. Pub. Service Comm'n, 265 U.S. 70,  
26 74 (1924) (state may require railroads to provide stations to

1 serve railroad customers). The scope of permissible regulation  
2 over carriers is comprehensive so long as the regulation is  
3 designed to serve the public convenience and necessity, see  
4 Chicago, M. St. P. & P. R. R., 255 P.2d at 351; such regulation can be  
5 effected either directly through legislation or through a public  
6 service commission. See Atchison, T. & S. F. R. R. v. R. R. Comm'n.,  
7 283 U.S. at 394.

8 It is clear on the face of the statute that Mont. Code Ann.  
9 § 69-14-202, when enacted, was designed to serve the public  
10 convenience and necessity and that the statutory and regulatory  
11 requirements were related, therefore, to a legitimate state  
12 interest. The Montana statute and regulation can withstand  
13 constitutional attack today unless the railroad can prove that the  
14 regulatory scheme is no longer rationally related to that interest  
15 in fostering public convenience and necessity.

16 Montana has had a statutorily defined population criteria  
17 for minimum rail facilities since the turn of the century. See  
18 Sec. 1, Ch. 26 L. 1905 (codified as R.C.M. § 72-627) (railroads  
19 must maintain facilities at any platted townsite along the  
20 railroad route with a population of at least 100 persons). In  
21 1969, the Montana legislature revised this section to require  
22 railroads to maintain any existing station facilities in towns of  
23 at least 1,000 persons. Sec. 1, Ch. 266 L. 1969. The Commission  
24 cites to hearings in the legislative history which suggest that  
25 the legislature considered, but rejected, leaving to Commission  
26 discretion the appropriateness of requiring railroad facilities in

1 towns of at least 1,000 population. In part because Burlington  
2 Northern has a virtual monopoly on Montana rail service, the  
3 legislature apparently wanted to avoid the risk that the railroad  
4 itself would exercise undue influence over what constitutes the  
5 public convenience and necessity.

#### 6 Rationality of Statute and Regulation

7 Current railroad statistics reveal that the Montana statute  
8 today is only imperfectly related to the state's interest in  
9 ensuring that towns receive a minimum level of service. But only  
10 rationality, not a perfect relation is required. See Metropolis  
11 Theatre Co. v. Chicago, 228 U.S. 61, 69 (1913). In Minnesota v.  
12 Clover Leaf Creamery Co., 449 U.S. 456 (1981), the Supreme Court  
13 outlined the analysis which we must follow in determining whether  
14 the railroad station requirement is rational. So long as the  
15 purposes cited or relied upon by the legislature are legitimate  
16 state purposes (as they are here), courts do not challenge the  
17 theoretical correctness of the legislature's conclusion or the  
18 empirical correlation between staffed railroad facilities and  
19 local freight needs. Id. at 463. It is "not our function to  
20 weigh evidence . . . to determine whether the regulation is sound  
21 or appropriate; nor is it our function to pass judgment on its  
22 wisdom." Railway Express Agency, Inc. v. New York, 336 U.S. 106,  
23 109 (1949).

24 Whether in fact the public convenience and necessity are  
25 benefitted by Mont. Code Ann. § 69-14-202 is not essentially a  
26 judicial inquiry; it is enough that the Montana legislature

rationally could have decided that public convenience and necessity require these stations to remain open. Clover Leaf Creamery, 449 U.S. at 466. Among other reasons for restraint, this court should be appropriately cautious about deciding questions of local or regional economic policy in two-party litigation. We do not know what intermediate positions might be presented by other interested parties who are not before this court but who may be equally concerned about operation of Burlington Northern freight stations. Questions of economic policy are appropriate issues for the political arena which spill over into the judiciary only when they implicate constitutional rights. We do not, therefore, express any view on the political or economic merits of the Montana statute; Montana is not required to convince this court of the correctness of its legislative judgment that these towns need freight facilities.<sup>2</sup> On the contrary, Burlington Northern has the burden of showing that the "legislative facts on which [the statute] is apparently based could not reasonably be conceived to be true" by the legislature. Clover Leaf Creamery, 449 U.S. at 464, quoting Vance v. Bradley, 440 U.S. 93, 111 (1979). See In re Lara, 731 F.2d 1455, 1460 (9th Cir. 1984). Burlington Northern has presented no evidence to

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<sup>2</sup> To a court sitting in a major urban center, a town of 1,000 persons may seem inconsequentially small. Recognizing that the populations of many Montana counties are less than even a small suburb in California, we are particularly wary of substituting our social and economic beliefs for those of the Montana legislature. See Ferguson v. Skrupa, 372 U.S. 726, 730 (1963). While a population cut-off of 1,000 persons may no longer be wise, we leave that question to the state legislature.

1 establish that the Montana legislature, in 1969, acted  
2 irrationally when it fixed a statutorily-defined population  
3 criteria for minimum rail-station service. Given our deferential  
4 standard of review, we cannot conclude that the legislature's 1969  
5 decision was arbitrary, or irrelevant to the statute's purpose of  
6 satisfying public convenience and necessity. See Department of  
7 Agriculture v. Moreno, 413 U.S. 528, 534 (1973).<sup>3</sup>

8 The Supreme Court has been ambivalent on whether changed  
9 circumstances can transform a once-rational statute into an  
10 irrational law. Compare Lindsley v. Natural Carbonic Gas Co., 220  
11 U.S. 61, 78 (1911) (a court must consider legislative facts at  
12 time statute was enacted) with Leary v. United States, 395 U.S. 6,  
13 38 n. 68 (1969) (a statute is subject to constitutional attack if  
14 legislative facts upon which statute was based no longer exist).  
15 See also United States v. Carolene Products Co., 304 U.S. 144,  
16 153 (1938) (constitutionality of a statute may be

17 -----  
3

18 In construing statutory language, a court must ordinarily  
19 consider the circumstances at the time of passage, rather than  
20 later interpretations or statements of purpose. United States v.  
21 Wise, 370 U.S. 405, 414 (1962). Accord Murillo v. Bambrick, 681  
22 F.2d 898, 907-11 (3rd Cir. 1982); United States v. Curtis-Nevada  
23 Mines, Inc., 611 F.2d 1277, 1280 (9th Cir. 1980). See 2 Sands,  
24 Sutherland Statutory Construction § 34.05 (Courts must not  
25 abrogate statutes merely on the ground that changed conditions  
26 have rendered them superfluous, and will not intrude upon the  
responsibility of the legislature to clear the statute books of  
such laws, unless enforcement would be inconsistent with the  
original purpose underlying the law's enactment.). Where courts  
have invalidated archaic statutes, there is often an independent  
constitutional basis for so doing (i.e., a belated recognition  
that the statutes were unconstitutional as written). See Reed v.  
Reed, 404 U.S. 71 (1971) (statutory preference for men as estate  
administrators); Loving v. Virginia, 388 U.S. 1 (1967) (anti-  
miscegenation statute).

1 attacked on the basis that the facts upon which it is premised  
2 have ceased to exist); Nashville, C. & St. L. Ry. v. Walters, 294  
3 U.S. 405, 415 (1935) ("[a] statute valid when enacted may become  
4 invalid by change in the conditions to which it is applied");  
5 Chastleton Corp. v. Sinclair, 264 U.S. 543, 547 (1924) ("[a] Court  
6 is not at liberty to shut its eyes to an obvious mistake, when the  
7 validity of the law depends upon the truth of what is declared").  
8 Even if, as Burlington Northern urges, we consider the rationality  
9 of the Montana requirement as of 1985 instead of 1969, Burlington  
10 Northern has failed to meet its burden. The railroad has not  
11 presented evidence sufficient to persuade the court that changes in  
12 rail service in the last 16 years have so drastically altered the  
13 need for stations that the bases for the 1969 enactment no longer  
14 exist. See Brotherhood of Locomotive Firemen & Engineers v.  
15 Chicago, R.I. & P.R.R., 393 U.S. 129, 135-39 (1968) (inconclusive  
16 evidence of changing railroad safety needs insufficient to  
17 conclude that regulation was unconstitutional).

18 Even under our post-Lochner deferential review of state  
19 economic regulation, there remain some constitutional limits.<sup>4</sup>  
20 The Commission cannot make regulations for "the furnishing of  
21 services or facilities which are obviously unnecessary and which  
22 can serve no useful purpose." Ann Arbor R. v. Michigan Pub.  
23 Service Comm'n, 91 F.Supp. 668, 671 (E.D. Mich. 1950). The

24 -----  
25 <sup>4</sup> See Lochner v. New York, 198 U.S. 45 (1905). See generally  
26 Bice, Rationality Analysis in Constitutional Law, 65 Minn. L. Rev.  
1, 33-37 (1980).



1 determining factor, again, is whether the requirement imposed by  
2 the Commission is arbitrary and void or essentially reasonable:

3 The state, in the exercise of its police power  
4 . . . may require railroad carriers to provide  
5 reasonably adequate and suitable facilities for the  
6 convenience of the communities served by them. But  
7 its power to regulate is not unlimited. It may not  
8 unnecessarily or arbitrarily trammel or interfere  
9 with the operation and conduct of railroad  
10 properties and business. . . . [If regulations are  
11 challenged as unconstitutional,] the duty of the  
12 court in light of the facts in the case [is] to  
13 determine whether the regulation is reasonable and  
14 valid or essentially unreasonable, arbitrary and  
15 void . . . . [Railroads] may be compelled by state  
16 legislation to establish stations at proper places  
17 for the convenience of their patrons.

18 Norfolk & W. Ry., 265 U.S. at 74.

19 A public service commission cannot reasonably order a  
20 railroad to engage in a service which results in economic waste  
21 and which is merely incidental to its real obligation to provide  
22 transportation service. Arizona Corp. Comm'n v. Southern Pacific  
23 Co., 350 P.2d 765, 768-69 (Ariz. 1960); Matter of Missouri P.R.R.,  
24 605 P.2d 1152, 1154 (New Mex. 1980). Burlington Northern has  
25 presented uncontradicted evidence that operation of the Browning  
26 station agency results in a loss. Operation of a service at a  
loss is not, however, necessarily dispositive. Chicago, M.St.P. &  
P. R.R., 255 P.2d at 351. See Petition of Town of Grenville, 119  
P.2d 632, 636 (New Mex. 1941); Matter of Missouri P. R.R., 605  
P.2d at 1154; Arizona Corp. Comm'n, 350 P.2d at 767-68.

The evidence Burlington Northern presents about the losses  
incurred from operating the Browning station is not, standing  
alone, enough for the court to conclude that the losses are severe

1 enough to threaten the railroad's operations,<sup>5</sup> cf. In re Chicago,  
2 M.St.P. & P.R.R., 611 F.2d 662, 668-69 (7th Cir. 1979) (railroad  
3 facing "imminent cashlessness" may be allowed to abandon  
4 services); that a "revolutionary [change] incident to  
5 transportation . . . in recent years" has made the statute  
6 invalid, Nashville, C. & St.L. Ry. v. Walters, 294 U.S. 405, 416  
7 (1935); or that the station requirement is "essentially  
8 unreasonable, arbitrary and void." Norfolk & W. Ry., 265 U.S. at  
9 74. We express no opinion on whether further evidence of useless  
10 or underused stations would support an inference that the station  
11 requirement is unconstitutionally arbitrary.

#### 12 Lack of a Hearing

13 Burlington Northern further argues that the regulation is  
14 defective because it does not afford the railroad a hearing on its  
15 petition. The Montana Public Service Commission, however, did not  
16 have discretion to consider the Burlington Northern petitions  
17 because the legislature had already made the determination that  
18 minimum rail service demands a station in all towns of at least  
19 1,000 persons. See Chicago, B. & O. R.R. v R.R. Comm'n, 237 U.S.  
20 220, 226 (1915). The Commission role properly can be seen as  
21 largely clerical, see e.g. Dixon v. Love, 431 U.S. 105, 113-14  
22 (1977), because its only function is to determine whether or not a

---

23 <sup>5</sup>  
24 A court must consider more than just the cost of the small  
25 station operations in evaluating the burden on BN of maintaining  
26 the Browning station. See Brooks-Scanlon Co. v. R.R. Comm'n, 251  
U.S. 396, 399 (1920); Bullock v. R. R. Comm'n. of Florida, 254  
U.S. 513, 520-21 (1921).

1 community has a population of at least 1,000 persons. The  
2 railroad does not challenge the Commission conclusion that all of  
3 the communities involved in the petitions had populations of 1,000  
4 or more. The Commission is not constitutionally obligated to  
5 provide Burlington Northern with a hearing if such a proceeding  
6 would be unnecessary or meaningless. See United States v. Storer  
7 Broadcasting Co., 351 U.S. 192, 205 (1956); Citizens for Allegan  
8 County, Inc. v. FPC, 414 F.2d 1125, 1128 (D.C. Cir. 1969). An  
9 irrebutable presumption is not per se unconstitutional and does  
10 not demand an individualized hearing so long as it is rational.  
11 See Usery v. Turner Elkhorn Mining Co., 428 U.S. 1, 22-24 (1976);  
12 Weinberger v. Salfi, 422 U.S. 749, 768-70, 785 (1975). Once the  
13 legislature has made its determination about which communities  
14 should have stations, the Commission is performing its statutory  
15 duty in enforcing the letter of the statute. See Angelina &  
16 N.R.R. v. Railroad Comm'n, 212 S.W. 703, 705 (Tex. Civ. App.  
17 1919). If the statute is constitutional, the lack of a hearing  
18 does not make it unconstitutional.

19 A state does not violate due process by making a  
20 legislative determination rather than a particularized inquiry if  
21 the subject of the legislation does not interfere with the  
22 exercise of fundamental rights. See Salfi, 422 U.S. at 768-70. A  
23 statutorily defined irrebutable presumption (e.g., that the public  
24 convenience and necessity demand station agencies in all towns of  
25 at least 1,000 persons) is not unconstitutional in statutes which  
26 regulate economic matters. Turner Elkhorn Mining Co., 428 U.S. at

1 23-24 (1976).

2 Because the Commission did not have discretion to consider  
3 the financial impact on Burlington Northern of station operations,  
4 a hearing would have changed nothing. We conclude, therefore,  
5 that the Commission did not deny Burlington Northern due process  
6 by denying the railroad a hearing. Moreover, for the same reasons  
7 that we found that the Montana statute passes constitutional  
8 muster, we conclude that the Public Service Commission regulation  
9 does not violate due process.

#### 10 Equal Protection

11 Burlington Northern also challenges the Montana statute and  
12 Commission regulation on equal protection grounds because similar  
13 requirements are not imposed on other common carriers by Montana  
14 law. The refutation of this claim is almost self evident.

15 Railroads are legitimately treated differently from other  
16 carriers in state regulation because "railroads are a special  
17 class for which there are and should be special laws." Chicago &  
18 N.W.R.R. v. Bishop, 390 P.2d 731, 735 (Wyo. 1964). See e.g.,  
19 Brotherhood of Locomotive Firemen & Engineers v. Chicago, R.I. &  
20 P.R.R., 393 U.S. 129 (1968) (no equal protection violation for  
21 state to attack safety problems in railroad industry without  
22 regulating other competing industries); W. Virginia Motor Truck  
23 Ass'n v. Pub. Service Comm'n, 123 F.Supp. 206 (S.D.W.Va.), aff'd  
24 348 U.S. 881 (1954) (rejecting equal protection challenge by motor  
25 carriers against regulation of railroad). The courts will defer  
26 to a legislative classification if the state interest is

1 unquestionably legitimate and the classification is related to the  
2 statutory purpose. Texaco, Inc. v. Short, 454 U.S. 516, 529-30,  
3 538-40 (1982). Where a regulation or statute affects only  
4 economic and not fundamental interests, and concerns an issue of  
5 intense local importance, the state is free to create a  
6 classification scheme so long as that classification has a  
7 relation to the purpose for which it is made and does not result  
8 in invidious discrimination. Railway Express Agency, 336 U.S. at  
9 110. We reject the railroad's assertion that the Commission must  
10 show compelling government interest to treat railroads differently  
11 than it treats other carriers. See Shapiro v. Thompson, 394 U.S.  
12 618 (1969).

13 On an issue as intensely local as the location and staffing  
14 of rail freight stations, we must allow the Montana legislature  
15 wide latitude in choosing how to regulate the railroads. Railway  
16 Express Agency, 336 U.S. at 109. Because the Montana statute  
17 passes muster under the due process challenge as rationally  
18 related to the public convenience and necessity, and because  
19 railroads are legitimately treated as a special class of common  
20 carriers, the statute also passes equal protection review.

#### 21 Burden on Interstate Commerce

22 Finally, Burlington Northern challenges the statute and  
23 regulation as an undue burden on interstate commerce in violation  
24 of the commerce clause.

25 Although the commerce clause confers on the federal  
26 government the power to regulate interstate commerce, the

1 Constitution does not exclude all state power to regulate  
2 commerce. Southern Pacific Co. v. Arizona, 325 U.S. 761, 766  
3 (1945). The limits on state regulation of commerce "necessarily  
4 [involve] a sensitive consideration of the weight and nature of  
5 the state regulatory concern in light of the extent of the burden  
6 imposed on the course of interstate commerce." Raymond Motor  
7 Transp., Inc. v. Rice, 434 U.S. 429, 441 (1978). Particularly in  
8 matters of local concern, the states may regulate commerce even if  
9 there is an incidental effect on interstate commerce. Southern  
10 Pacific Co. v. Arizona, 325 U.S. at 767. When the regulation of  
11 "matters of local concern is local in character and effect and its  
12 impact on the national commerce does not seriously interfere with  
13 its operation . . . such regulation has generally been held to be  
14 within state authority." Id. at 767; See Railway Express Agency,  
15 336 U.S. at 111 (statute can withstand constitutional attack even  
16 if it materially interferes with interstate commerce).

17 The most cogent argument that the Montana statute burdens  
18 commerce is that egregious economic waste adversely affects both  
19 railroad operating efficiency and rates paid by the public. While  
20 the Commerce Clause does not permit a state to cripple the  
21 interstate operations of a common carrier merely to infuse  
22 railroad money into the local economy, the record on summary  
23 judgment in this case falls short of showing the kind of burden  
24 that would justify striking down the statute.

25 Had Montana restricted the frequency and service of  
26 interstate trains, a restraint on interstate commerce might be

1 found. Chicago, B. & O. R.R., 237 U.S. at 231. The claims by  
2 Burlington Northern that operation of the Browning station results  
3 in a loss to the company does not, without more, suggest that the  
4 Montana statute "impede[s] substantially the free flow of commerce  
5 from state to state" or that the location and staffing of local  
6 rail stations, "because of the need of national uniformity," can  
7 only be regulated by the national government. Southern Pacific  
8 Co., 325 U.S. at 767. It is clear, therefore, that Montana's  
9 regulation of the location of local station agencies is an  
10 intensely local matter, with, at worst, a minimal effect upon  
11 interstate commerce.

12 Burlington Northern has failed to overcome the presumption  
13 of constitutionality by showing that the Montana statute or  
14 regulation are not rationally related to the state's legitimate  
15 interest in ensuring a minimum level of rail service.  
16 Accordingly, the judgment of the district court is affirmed.

EXHIBIT 13  
DATE 1/30/87  
HB 302

B.N. APPLICATIONS FILED WITH THE PSC  
January 1, 1979 to January 20, 1987

1/16/79	T-4260	Carter Track Removal	Granted	4/17/79	#2699
1/16/79	T-4261	Grantsdale Track Rem.	Withdrawn	4/23/79	
3/6/79	T-4331	Glacier Park Agency Service Discontinued	Granted	3/3/80	#5856a
3/6/79	T-4333	Glasgow Stockyard	Granted	4/17/79	#2697
3/28/79	T-4359	Billings Trackage	Granted	5-22-79	#2747
4/23/79	T-4411	Dualize Polson/Ronan	Denied	11/26/79	#2816a
4/3/79	T-4412	Harrison Depot Bldg	Granted	7/2/79	#2758
5/10/79	T-4437	Gt. Falls Track Rem.	Granted	6/18/79	#2752
5/16/79	T-4442	Blackfoot Track Rem.	Granted	7/23/79	#2767
5/16/79	T-4443	Gunsight Track Rem.	Granted	7/23/79	
5/16/79	T-4444	Cascade Stockyard	Granted	11/26/79	#2822a
7/13/79	T-4540	Belton Track Removal	Granted	2/19/80	#2893
7/25/79	T-4547	Sheridan Stockyards	Granted	9/10/79	#2797
7/25/79	T-4548	Twin Bridges Stockyard	Granted	10/29/79	#2825
7/25/79	T-4733	Great Falls Trackage	Granted	11/5/79	#2830
9/19/79	T-4734	Dixon Stockyards	Granted	12/10/79	#2831
10/9/79	T-4761	Helena Stockyard	Granted	11/26/79	#2849
11/16/79	T-4824	Hesper Trackage	Granted	1/21/80	#2878
12/5/79	T-4852	Billings Trackage Rem.	Granted	1/21/80	#2879
1/11/80	T-4897	Great Falls Trkg. Rem.	Granted		
1/18/80	T-4901	Close Fairview agency & use DSA from Watford, North Dakota at Sidney	Denied	4/16/80	#2951a
1/18/80	T-4902	Discontinue Caretaker Service and Remove Depot at Stevensville	Granted	8/12/80	#2933



2/13/80	T-4933	Remove Rapelje Depot Building	Granted	5/6/80	#2924
7/8/80	T-5109	Havre Trackage Rem.	Withdrawn	7/23/80	
7/14/80	T-5167	Murne Trackage Rem.	Granted	9/19/80	#2757
7/18/80	T-5171	Grantsdale Trkg. Rem.	Granted	9/30/80	#3006
8/22/80	T-5253	Removal of timber platform at Antelope	Granted	10/20/80	#3016
10/2/80	T-5321	Blossburg Trk. Rem.	Granted	12/8/80	#3050
2/20/81	T-5520	Great Falls Trkg. Rem.	Granted	4/20/81	#4006
3/4/81	T-5536	Sprole Trackage Rem.	Granted	11/23/81	#4158
5/18/81	T-5693	Removal of Twin Bridges Depot Bldg.	Granted	2/8/82	#4198
5/18/81	T-5694	Removal of Station Facilities in Sheridan	Granted	2/8/82	#4197
5/18/81	T-5695	Dualize Eureka/Fortine	Granted	4/26/82	#4247
5/18/81	T-5696	Discontinue Troy Agency	Denied	4/26/82	#4245
5/20/81	T-5797	Philipsburg Depot	Dismissed	9/7/82	#4364
6/3/81	T-5822	Great Falls Trkg. Rem.	Granted	7/20/81	#4086
6/22/81	T-5855	Cow Creek Siding Rem.	Granted	10/19/81	#4132
7/23/81	T-5884	Niler Spur Trk. Rem.	Granted	10/5/81	#4122
8/14/81	T-5925	Terry Stkyd. Trk. Rem.	Granted	10/19/81	#4134
8/14/81	T-5926	Fee Spur Track Rem.	Granted	10/19/81	#4133
10/2/81	T-6019	Bozeman/Exxon Spur Track Removal	Granted	11/23/81	#4157
11/6/81	T-6081	Lodge Grass Agency Consolidation	Dismissed (Jurisdiction)	3/26/84	#4674
11/18/81	T-6098	Lewistown Depot Building Removal	Granted	1/4/82	#4181
12/10/81	T-6136	Disposal of Depot Building in Billings	Granted	2/1/82	#4196

1/8/82	T-6191	Centralize Customer Service Center in Glendive (Circle, Wibaux, & Terry)	Granted in part	10/25/82	#4425
3/8/82	T-6308	Ballentine Trkg. Rem.	Granted	5/10/82	#4278
3/8/82	T-6309	Forsyth Trkg. Rem.	Granted	5/10/82	#4279
3/17/82	T-6329	Browning consolidation	Dismissed	8/23/82	#4364
3/17/82	T-6330	Poplar consolidation	Granted	2/7/83	#4826
3/22/82	T-6335	Joppa Trkg. Rem.	Granted	5/10/82	#4280
4/9/82	T-6375	Consolidate Belt, Carter, Choteau	Belt/Carter Granted, Deny Choteau		#4529
4/9/82	T-6376	Centralized Customer Center Sidney for Richey, Lambert & Fairview	Granted in Part	11/13/82	#4456
5/11/82	T-6452	Whitehall/Three Forks Consolidation	Denied	8/16/82	#4403
5/11/82	T-6453	St. Regis/ <u>Superior</u> Consolidation	Granted	11/29/82	#4457
5/11/82	T-6454	Hamilton/ <u>Darby</u> Consolidation	Withdrawn by Applicant	----	----
5/13/82	T-6455	Columbus & Rapalje Consolidation with <u>Laurel</u> Agency	Dismissed	11/15/82	#4429
5/18/82	T-6457	Big Timber consol. with <u>Livingston</u>	Denied	8/16/82	#4428
5/20/82	T-6460	Billings/Exxon Spur Track Removal	Granted	7/19/82	#4352
6/22/82	T-6534	Hamilton Spur Track	Granted	8/30/82	#4361
8/2/82	T-6603	Shelby Centralized Service Center	Granted	3/23/83	#4461
8/2/82	T-6604	Glasgow Centralized Service Center	Granted	11/10/82	#4447
8/2/82	T-6605	Laurel Centralized Service Center	Granted in Part	11/15/82	#4429

8/11/82	T-6637	Billings Spur Track Freight House & Platform	Granted	10/4/82	#4392
8/11/82	T-6638	Glendive Spur Track	Granted	10/4/82	#4393
8/11/82	T-6639	Billings Spur Track	Granted	10/4/82	#4394
8/11/82	T-6640	Billings Spur Track	Granted	10/4/82	#4399
8/11/82	T-6641	Billins Spur Track	Granted	10/4/82	#4398
8/11/82	T-6642	Billings Spur Track	Granted	10/4/82	#4426
8/11/82	T-6643	Billings Spur Track	Withdrawn	12/27/82	----
8/11/82	T-6644	Billings Spur Track	Withdrawn	12/27/82	----
8/11/82	T-6645	Billings Spur & Pltfm.	Granted	10/4/82	#4396
8/11/82	T-6647	Glendive Spur Track	Granted	10/4/82	#4397
12/27/82	T-6952	Consolidate Opheim & Glentana, DSA, Richland & Peerless DSA & Four Buttes with Scobey Agency	Denied	4/6/84	#4854a
12/27/82	T-6953	Consolidate Bainville agency with Williston, ND	Withdrawn	----	----
12/27/82	T-6954	Consolidate Froid & Homestead DSA, Medicine Lake, Reserve & Agency TSA, Redstone & Flaxville DSA into Plentywood agency	Granted in 1/4/84 part/denied in part		----
1/19/83	T-7003	Whitefish Livestock Facility Removal	Granted	3/7/83	#4547
2/28/83	T-7091	Remov Hamilton Spr Trk.	Granted	5/9/83	#4597
4/13/83	T-7201	Glacier Park Caretaker	Granted	7/18/83	#4665
4/13/83	T-7202	Belton Caretaker rqmt.	Granted	7/18/83	#4664
4/13/83	T-7203	Dualize Avon/Elliston	Granted	4/10/83	#4088
5/5/83	T-7249	Bainville/ <u>Culbertson</u> Consolidation	Granted	7/30/84	#5025a
5/5/83	T-7251	Turner/Hogeland depot facilities	Withdrawn (ICC approved Line Abandonment)		

5/24/83	T-7284	Manhattan/ <u>Three Forks</u> Consolidation	Granted	3/29/84	#4891
6/3/83	T-7317	Sieben Stkyd. Rem.	Granted	9/6/83	#4714
6/3/83	T-7318	Moore Stkyd. Rem.	Granted	6/11/84	#5024
6/8/83	T-7323	Garrison/Deer Lodge Consolidation	Denied	3/21/85	#5285
6/21/83	T-7343	Consolidate Sheridan & Twin Bridges with Alder & Dualize/Alder & <u>Whitehall</u>	Granted	----	#4901
6/21/83	T-7344	Bonner/Missoula Consolidation	Granted	3/5/85	#5268a
7/13/83	T-7377	Havre Centralized Customer Service Cen.	Granted in part/denied in part	4/30/84	#4839
7/19/83	T-7379	Piche Side Track Rem.	Granted	10/17/83	#4734
7/26/83	T-7401	Trialize Conrad with Ledger & <u>Valier</u>	Granted	9/19/84	#5075a
7/26/83	T-7402	Consolidate Dutton, Brady & Power with Gt Falls	Granted in part (into Dutton)	2/4/85	#5284
7/26/83	T-7403	Dualize Harlem/Chinook	Denied	4/30/84	#4810
7/26/83	T-7404	Wooley Beet Siding Rem.	Granted	10/17/83	#4733
7/29/83	T-7406	Dualize Polson/Ronan	Granted	3/5/85	#5269a
7/29/83	T-7407	Dualize Belgrade/ Bozeman	Denied	3/26/84	#4871a
7/29/83	T-7408	Trialize Big Timber with Columbus & Rapalje	Granted	1/85	#5189a
8/22/83	T-7450	Set Out Track at Ballentine	Granted	10/25/83	#4735
8/22/83	T-7451	Union Stock Track (Billings)	Granted	11/7/83	#4765
8/22/83	T-7452	Billings Freight House Track	Granted	10/17/83	#4736
8/22/83	T-7453	Billings Trackage	Granted	10/17/83	#4737

8/22/83	T-7454	Hardin Beet Spur Rem.	Granted	10/15/84	#5141
8/22/83	T-7455	Hardin Ramp & Trackage Removal	Granted	10/17/83	#4738
8/23/83	T-7458	Babcock/Colburn Siding Rem. (Blgs)	Granted	10/17/83	#4739
9/9/83	T-7503	Consolidate Trident & Toston with Townsend	Withdrawn by Applicant	1/9/84	----
9/9/83	T-7504	Consolidate Silver Bow with Butte	Denied	7/16/84	#4892
9/9/83	T-7505	Miles City Team Track Removal	Granted	1/3/84	#4814
9/9/83	T-7506	Baker Team Trk. Rem.	Granted	1/3/84	#4815
9/9/83	T-7507	Miles City House Trk. Removal	Granted	1/3/84	#4816
9/9/83	T-7508	Baker Stkyd. Track	Granted	1/3/84	#4817
9/16/83	T-7511	Richey Platform Rem.	Granted	1/3/84	#4823
9/16/83	T-7512	Lambert Platform Rem.	Granted	12/22/83	\$4824
9/16/83	T-7513	Fairview Platform Rem.	Granted	1/3/84	#4825
9/16/83	T-7514	Lindsey Platform Rem.	Granted	1/3/84	#4822
9/16/83	T-7515	California Spur Track (Miles City)	Granted	1/3/84	#4818
9/16/83	T-7516	Bluffport House Track Removal	Granted	1/3/84	#4821
10/27/83	T-7617	Ready Mix Spur Track Removal at Polson	Granted	2/14/84	#4881
10/27/83	T-7618	Forsyth Elevator Track	Granted	2/14/84	#4880
10/27/83	T-7619	Miles City Cement Spur Removal	Granted	1/3/84	#4819
10/27/83	T-7620	Missoula Self-Service Track Removal	Granted	2/14/84	#4882
10/27/83	T-7621	Whitehall Stock Track Removal	Granted	2/14/84	#4890
11/7/83	T-7624	Columbus House Track Removal	Granted	2/14/84	#4879

11/7/83	T-7625	Intake Elevator Track Removal	Granted	1/3/84	#4879
11/7/83	T-7626	Columbus Beet Spur Removal	Granted	2/14/84	#4878
11/14/83	T-7641	Butte House Track	Granted	2/21/84	#4889
12/13/83	T-7692	Kuchero Spur Removal at Billings	Granted	2/14/84	#4877
12/13/83	T-7693	Yellow Cab Spur Rem. at Billings	Withdrawn	8/6/84	----
12/13/83	T-7694	Billings Spur Rem.	Granted	2/14/84	#4876
12/19/83	T-7696	Chip Spur Switch Removal- Plains	Granted	2/14/84	#4883
12/19/83	T-7697	Mill Spur Switch Removal - Plains	Granted	2/14/84	#4884
12/19/83	T-7698	Noxon Log Trk. Rem.	Granted	2/21/84	#4885
12/19/83	T-7699	Butte TOFC Unloading Dock Removal	Granted	2/21/84	#4888
12/19/83	T-7700	Butte TOFC Spur Track Removal	Granted	2/21/84	#4887
12/19/83	T-7701	Park City Back Track Removal	Granted	2/14/84	#4875
12/19/83	T-7702	Paradise Log Trk. Rem.	Granted	2/14/84	#4886
12/19/83	T-7703	Whitehall House Trk. Removal	Granted	2/14/84	#4874
12/19/83	T-7704	Avon Stocktrack Rem.	Granted	2/14/84	#4873
12/19/83	T-7705	Moise Spur Trk. Rem.	Granted	2/14/84	#4972
1/11/84	T-7748	Acme Spur Trk. Rem.	Granted	4/30/84	#4979
1/11/84	T-7749	Miles City South Reserv. Trk. Rem.	Granted	4/30/84	----
1/11/84	T-7750	Chaffe Oil Spur Track Removal - Missoula	Granted	4/30/84	----
1/11/84	T-7751	Harlem Beet Spur Trk. Removal	Granted	4/30/84	#4980

1/11/84	T-7752	Butte Middle Yard Trk. Removal	Granted	4/30/84	----
1/17/84	T-7756	Stanford Ore Spur	Granted	4/30/84	----
1/17/84	T-7757	Collins Elev. Trk. Rem.	Granted	4/30/84	#4982
2/2/84	T-7791	Boys Club Spur Trk. Removal - Billings	Granted	4/30/84	#4981
2/2/84	T-7792	Insul. Fiber Track at Billings	Granted	5/14/84	#4983
3/15/84	T-7889	Lindsay Dock Track	Granted	6/4/84	----
3/15/84	T-7890	Oil Spur Track Rem. at Whitehall	Granted	6/4/84	----
4/4/84	T-7940	Butte Depot Bldg	Granted	6/18/84	#5036
5/8/84	T-8018	Tritalize Hamilton/ Stevensville and Darby	Pending	----	----
5/15/84	T-8029	House Track Removal at Avon	Granted	7/30/84	----
5/15/84	T-8030	Stock Track Removal at Charlo	Granted	7/30/84	----
5/15/84	T-8031	House Track Removal at Livingston	Granted	7/30/84	----
5/15/84	T-8032	Stock Track Removal at Polson	Granted	7/30/84	----
5/15/84	T-8033	Old City Oil Spur Track Rem. - Polson	Granted	7/30/84	----
5/15/84	T-8034	JGL Spur Track Rem. at Missoula	Granted	8/6/84	#5087
5/15/84	T-8035	Oil Spur Trk. Rem. at Plains	Granted	9/10/84	----
5/15/84	T-8036	Spring Spur Trk. at Plains	Granted	9/10/84	----
5/15/84	T-8037	Back Track Rem. at Reed Point	Granted	7/30/84	----
5/21/84	T-8039	Missoula Depot	Granted	7/30/84	#5074
6/1/84	T-8055	Polson Spur Trk. Rem.	Granted	7/30/84	----

6/1/84	T-8056	Elliston Yard Spur Track Removal	Granted	7/30/84	----
6/19/84	T-8083	Back Track at Greycliff	Granted	7/30/84	_____
8/9/84	T-8185	Team Trk. Rem.-Bozeman	Granted	12/17/85	#5261
8/5/84	T-8187	Consolidate Trident/ <u>Three Forks</u>	Granted	3/25/85	#5308
9/13/84	T-8238	Miles City Depot	Granted	----	#5387
10/29/84	T-8400	Discontinue Stanford DSA	Denied	9/20/85	#5625a
12/11/84	T-8483	Lovell Clay Spur Trk. at Great Falls	Granted	2/25/85	----
12/12/84	T-8484	Car-Con Spur Removal - at Great Falls	Granted	2/25/85	----
12/14/84	T-8501	Miles City TOFC Track	Granted	2/25/85	----
12/18/84	T-8502	Dualize Bozeman/ Belgrade	Granted	6/10/85	5339
2/6/85	T-8647	Kalispell Depot	Granted	----	----
3/4/85	T-8689	Dualize Harlem/ Chinook	Denied	10/28/85	5632
3/11/85	T-8723	Taylor, McDonald Const. Co. Spur Track Rem. - Butte	Granted	6/21/85	----
3/11/85	T-8724	Remove railroad-owned portion of the Linde Air Spur Trk. - Butte	Granted	6/21/85	----
3/11/85	T-8725	Remove Standard Oil & Community Oil Spur Track - Butte	Granted	6/21/85	----
3/11/85	T-8726	Remove consolidated Petro Chem. Track - Butte	Granted	6/21/85	----
3/11/85	T-8727	Remove Butte Stkyd. Track	Granted	6/21/85	----
3/11/85	T-8728	Remove McCracken Metal Spur Track - Butte	Granted	6/21/85	----
3/11/85	T-8729	Remove upper yard Industry Track - Butte	Granted	6/21/85	----



3/11/85	T-8730	Remove Eddy's Bakery & Artcraft Prntg. Spur Track - Butte	Granted	6/21/85	----
4/29/85	T-8761	Hardy Spur Trk. Rem.	Granted	----	----
5/7/85	T-8764	Dualize Troy/Libby	Granted	12/16/85	#5655
8/13/85	T-8797	Pompey Pillar Spur	Granted	9/16/85	#5630
9/5/85	T-8808	Trialize Sidney, Fairview & Circle	Dismissed	6/6/86	#5705
10/11/85	T-8821	Helena House Trk. Rem.	Granted	12/30/85	----
10/11/85	T-8822	Fish Creek Siding near Rivulet Removal	Granted	12/30/85	----
10/11/85	T-8823	Kessler Spur Trk. Rem.	Granted	12/30/85	#5661
10/23/85	T-8825	Glendive House Track Removal	Granted	12/10/85	----
10/23/85	T-8826	Bailey Insulation Spur Track Removal	Granted	12/30/85	----
10/23/85	T-8827	Butte NP House Tr. Rem.	Granted	12/3/85	----
11/19/85	T-8837	Dualize Silver Bow/ Butte	Denied	2/19/86	5673
12/5/85	T-8845	Removal of Gravel Pit Spur - Chester	Granted	----	----
1/8/86	T-8857	Fairview Depot	Granted	5/6/86	5690
1/22/86	T-8860	Dispose of Lewistown Depot Building	Pending	-----	----
2/7/86	T-8878	Miles City/Terry Dualization	Denied	----	----
2/7/86	T-8884	Dispose of Depot in Hysham	Granted	5/8/86	5696
4/16/86	T-8908	Dualize Conrad/Choteau Close Dutton	Pending	-----	----
4/16/86	T-8909	Dualize Big Sandy/Fort Benton	Pending	----	----
4/16/86	T-8910	Dualize Chester/Rudyard	Pending	----	----

4/16/86	T-8911	Dualize Forsyth/Hysham	Pending	----	----
4/16/86	T-8912	Dualize Cut Bank/Brown-	Pending	----	----
		ing			
4/16/86	T-8913	Remove TOFC Dock at	Granted	7/1/86	----
		Livingston			
5/2/86	T-8923	Remove Industry Track	Granted	6/30/86	----
		on Park at Gt. Falls			
5/2/86	T-8924	Remove 2nd St. So.	Granted	6/30/86	----
		Industry Track at Gt. Falls			
5/2/86	T-8925	Remove Miles City	Granted	6/30/86	----
		Hospital Spur			
10/7/86	T-8995	Remove Beet Spur at	Granted	11/24/86	----
		Maudru			
10/7/86	T-8996	Remove Beet Spur at	Granted	11/24/86	----
		Big Horn, MT			
10/7/86	T-8997	Remove Beet Spur at	Granted	11/24/86	----
		Meyers, MT			
10/7/86	T-8998	Remove Elevator Track	Granted	11/24/86	----
		at Wyola, MT			
10/17/86	T-9002	Remove Home Oil Spur	Granted	12/8/86	----
		at Forsyth, MT			
10/17/86	T-9003	Remove Elk River	Granted	12/8/86	----
		Concrete Spur at Yeagen, MT			
10/17/86	T-9004	Remove Loading	Granted	12/8/86	----
		Platform at Wibaux, MT			
10/17/86	T-9005	Remove Mason Lumber	Granted	12/8/86	----
		Roscoe St. Spur at Billings, MT			
10/17/86	T-9006	Remove Pierce Packing	Pending	----	----
		Spur at Billings, MT			
11/5/86	T-9012	Remove Trio Fruit	Granted	1/12/87	----
		Spur at Missoula, MT			
11/5/86	T-9013	Remove Cannery Tracks	Granted	1/12/87	----
		2,3,4 at Bozeman, MT			
11/5/86	T-9014	Remove Tri-County Bldg	Granted	1/19/87	----
		Supply Co. Spur in Bozeman, MT			

11/5/86	T-9020	Remove Old Gt. Northern Granted House Tracks (Billings)	1/12/87	_____
1/18/87	T-9036	Remove Beet Spur at Custer, MT	Pending	----- _____
1/18/87	T-9037	Remove Western Hide & Wrecking Spur at Glendive, MT	Pending	----- _____
1/18/87	T-9038	Remove U.B.C. Spur at Billings, MT	Pending	----- _____

EXHIBIT 14  
DATE 1/30/87  
HB 302

WITNESS STATEMENT

NAME Joe Bruno BILL NO. 302  
ADDRESS 812 Saddle Drive DATE 1/29/87  
WHOM DO YOU REPRESENT? United Transportation Union, BLE & Maintenance & Repair Employees  
SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

MY NAME IS JOE BRAND, I AM THE MONTANA STATE DIRECTOR OF THE UNITED TRANSPORTATION UNION. I RESIDE IN HELENA, MONTANA. I AM ALSO SPEAKING IN BEHALF OF THE BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES AND THE BROTHERHOOD OF LOCOMOTIVE ENGINEERS.

WE ARE OPPOSED TO H.B. 302 BECAUSE IT IS A DRASTIC CHANGE FROM THE PRESENT LAW. AS A MEMBER OF THE HOUSE IN 1969 SENATOR SHEEHY INTRODUCED LEGISLATION THAT WOULD ALLOW RAILROADS TO DISCONTINUE AGENCIES IN COMMUNITIES UNDER 1,000 POPULATION, AND AMENDED THE OLD LAW WHICH REQUIRED 300 POPULATION. IT WAS DONE TO HELP RELIEVE THE BURDEN ON THE RAILROADS DOING BUSINESS IN MONTANA.

PRESENTLY THE BURLINGTON NORTHERN HAS APPROXIMATELY 94 POSITIONS IN MONTANA AT A WAGE COST OF \$3,881,203, AND PROPERTY TAXES OF \$31,214.78, WHICH DOES NOT INCLUDE 21 STATIONS, BECAUSE NO FIGURES WERE GIVEN. OF THESE, 6 ARE THE ONLY AGENCIES IN A COUNTY WHERE THE RAILROAD TRAVERSES. THE NET SAVINGS TO THE BURLINGTON NORTHERN WOULD HAVE BEEN \$2,448,343, THESE FIGURES ARE TAKEN FROM TESTIMONY IN 1984 OF J. TIMOTHY BICKMORE, WHOSE POSITION AT THAT TIME WAS DIRECTOR OF OPERATIONS ANALYSIS BURLINGTON NORTHERN RAILROAD COMPANY, BEFORE THE UNITED STATES COURT OF APPEALS 9th CIRCUIT IN SAN FRANCISCO. HE SAID THE REASON THAT 60 OF THE STATION AGENCIES PRESENTLY OPERATED BY THE BURLINGTON NORTHERN ARE OPERATED ONLY TO COMPLY WITH MONTANA CODE ANN. S6914-202. IF OPERATION OF THESE DEPOTS WERE NOT REQUIRED BY THE STATUTE, BURLINGTON NORTHERN WOULD CLOSE THEM SINCE THE OPERATION SERVES NO USEFUL FUNCTION.

IN MOST INSTANCES THIS CLOSURE WOULD BE ACHIEVED BY TRANSFERRING THE STATION AGENT TO ANOTHER EMPLOYMENT LOCATION. WHAT HE IS REALLY SAYING, IN MY OPINION, IS THE JUNIOR EMPLOYEES IF NOT PROTECTED WILL BE UNEMPLOYED, AND ONLY 4 OR 6 SENIOR EMPLOYEES WILL HAVE EMPLOYMENT WITH THIS CORPORATION. WHEN THE AGENCIES ARE DISCONTINUED DEPOTS WILL BE DESTROYED AND YOU WILL HAVE THE EROSION OF THE TAX BASE.

I AM VERY DISTURBED THAT BURLINGTON NORTHERN HAS SEEN FIT NOT TO SOLICIT BUSINESS IN THE COMMUNITIES IT SERVES AND TELLS THESE EMPLOYEES TO SIT IN THOSE AGENCIES WITH NOTHING TO DO. IF THE RAILROAD REALLY WANTED TO SERVE THE CUSTOMERS AND THE COMMUNITIES, THEY WOULD SEND THESE AGENTS OUT INTO THE COMMUNITIES TO GET BUSINESS, AND BE COMPETITIVE WITH OTHER TRANSPORTATION SYSTEMS, BECAUSE IT IS ONLY THROUGH THE CUSTOMER AND USER THAT THIS RAILROAD CAN EXIST.

WHEN THOSE EMPLOYEES ARE GONE THEIR HOMES AND FAMILIES WILL HAVE TO LEAVE MONTANA WHICH IS A FURTHER EROSION OF THE TAX BASE THAT MONTANA WILL LOOSE.

I WOULD SUGGEST THAT IF THIS RAILROAD CONTINUES ON THE COURSE THAT IT HAS TAKEN IN THE PAST 10 YEARS, IN THE NEXT 10 YEARS REGRETTABLY WE WILL HAVE NO RELIABLE RAILROAD TO SERVE THE CUSTOMERS WHICH MAKES FOR A VIBRANT BREATHING SYSTEM.

THE TIME IS NOW TO CONSIDER TURNING THIS DYING INDUSTRY AROUND SO THAT MOST COMMUNITIES ARE SERVED WITH A RAIL TRANSPORTATION NET WORK IN MONTANA THAT RUNS MORE TRAINS ON A REGULAR SCHEDULE AS WAS THE CASE 40 YEARS AGO. THIS LEGISLATION JUST DOES THE OPPOSIT.

THANK YOU. JOE BRAND



EXHIBIT 15  
DATE 1/30/87  
HB 302

JAMES W. MURRY  
EXECUTIVE SECRETARY

Box 1176, Helena, Montana

ZIP CODE 59624  
406/442-1708

TESTIMONY OF JIM MURRY ON HOUSE BILL 302 BEFORE THE HOUSE BUSINESS AND LABOR  
COMMITTEE, JANUARY 30, 1987

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Good morning. My name is Jim Murry and I am here today to testify before the House Business and Labor Committee on behalf of the Montana State AFL-CIO in opposition to House Bill 302.

The delegates to the 30th Annual Convention of the Montana State AFL-CIO adopted, through Resolution 26, a position that our labor federation oppose any attempts to amend or repeal Montana's so-called "freight agent" law. This statute requires railroads to maintain and staff at least one freight station facility in each county which the line passes through and any point on the line where there are at least 1,000 people.

House Bill 302 would amend this law by allowing the Public Service Commission to authorize closure of such facilities in the event any person, corporation or association demonstrates that a facility is not required for public convenience and necessity.

Mr. Chairman, it is our contention that public convenience and necessity are being served through our current statute which insures that service to these communities will be maintained. We believe that the existing law not only benefits the communities where these facilities are located but also helps generate more business and revenue for the railroad.

In our difficult economic times, many smaller cities and towns are fighting for their very survival. The presence of rail stations and branch lines may mean the difference between economic solvency or another boarded-up ghost town. Access to transportation is vital for the future economic growth of Montana's small cities and towns and therefore we oppose House Bill 302, which would further isolate rural communities.

WITNESS STATEMENT

NAME \_\_\_\_\_ BILL NO. \_\_\_\_\_

ADDRESS \_\_\_\_\_ DATE \_\_\_\_\_

WHOM DO YOU REPRESENT? \_\_\_\_\_

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

to this state. and HB 362 would  
allow them to side step ~~at~~ that  
responsibility. Until the BR -  
or any other ~~step~~ carrier -  
makes the most of their resources  
and their markets, we don't believe  
we should allow their departure  
from the hinterlands of Montana.  
This state needs the best rail  
service it can get, and the railway  
companies stand ready to provide it  
— if the company will it us.



WITNESS STATEMENT

NAME Ed Jones BILL NO. HB-302  
 ADDRESS 6860 Applegate DATE \_\_\_\_\_  
 WHOM DO YOU REPRESENT? myself  
 SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Burlington Northern is rebuilding the  
 transportation system, as did Penn.  
 Central. — The layoff track repair  
 crew and have about one week  
 a week. It is cheaper to fix  
 than repair — This is the pattern  
 of B.N. operation — Separate  
 land and sink most of the  
 R.R.

## SUMMARY OF PROPOSED MONTANA DIETETIC PRACTICE ACT

Purpose: To protect public health, safety and welfare by providing for the licensure and regulation of persons practicing the profession of dietetics and excluding from the practice of dietetics persons with inadequate training and experience and persons who give false, misleading and/or harmful information.

Administration: One member on the Montana Board of Medical Examiners, who will vote only on issues that affect dietitians and nutritionists.

Terms protected: Dietitian, registered dietitian and nutritionist.

Exemptions:

1. Licensed physicians.
2. Licensed nurses.
3. Students in dietetics completing course requirements.
4. Employees (salaried or contracted) involved with nutrition related programs receiving State or Federal funds.
5. Educators/advisors employed by a nonprofit agency, an accredited educational institution, or elementary or secondary school teachers, insofar as such activities are part of the salaried position.
6. The sale or distribution of FDA approved dietary supplements.
7. Persons licensed in this state under any other law from engaging in the profession or business for which he/she is licensed.
8. Hospitals and long term care facilities (they operate under existing federal and state statutes and regulations concerning the provision of nutrition care services).
9. Furnishing general nutrition information or disseminating literature.

Qualification for Licensure: Minimum baccalaureate degree from an accredited university, 900 hours of clinical training, and passage of the National Dietetic Registration Examination.

Reciprocity: Dietitians and nutritionists with standards equivalent or better, moving to Montana from another state.

Professional Responsibility: Adoption by the Board of Medical Examiners of the Standards of Professional Responsibility for the dietitians/nutritionists, as stated by the American Dietetic Association.

DATE 1/30/87  
HB 471

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## **LICENSING FOR DIETITIANS: Who are they?**

**Why should they be licensed?**

**What will it cost?**

**Who will be affected?**

Montana's 200 Registered Dietitians are seeking to be licensed by the 1987 Montana Legislature. Following is a summary of what a Registered Dietitian is; why licensing is necessary; and the answers to some important and commonly asked questions.

### **WHAT IS A REGISTERED DIETITIAN?**

RDs (Registered Dietitians) have earned a baccalaureate degree from an accredited university where their studies focused on biochemistry, physiology, nutrition, diet therapy, economics and food service management. Besides their degree, they have completed 900 hours of clinical training and have passed the National Dietetic Registration Examination.

### **WHAT DOES AN RD DO?**

An RD is a health professional who translates scientific information about nutrition and diet into relevant terms for individuals. They are uniquely trained to improve health through preventive, as well as therapeutic nutritional care, and provide cost-effective management of food services and clinical dietary care.

RDs provide nutrition counseling for maintaining wellness and therapy in treating heart disease, cancer, allergies, obesity, stroke and other serious conditions. They also provide nutrition education to the public and other health care professionals.

In Montana, RDs work in schools, hospitals, extended care facilities, rehabilitation centers, public health departments, in private offices and on university and college faculties.

### **HOW MANY RDS ARE THERE IN MONTANA?**

The Montana Dietetic Association, which was established in 1934 currently has a membership of 190 Registered Dietitians.

### **WHY DO DIETITIANS WANT TO BE LICENSED?**

Many Montanans are being harmed by wrong, unsafe and unproven nutrition information dispensed by persons who are unqualified to provide such services. There is hard evidence of such wrongdoing in the state. Montana's elderly are the most common victims, but since Montana has no law that prevents unqualified persons from practicing nutrition counseling, this activity continues to grow. Licensure is needed to restrict the practice of nutrition services to only those persons who are qualified to do so. Only then will the consumer be protected.

### WILL DIETITIANS PUT PEOPLE OUT OF BUSINESS IF THEY GET LICENSED?

No. There is no reason for anyone to go out of business when dietitians are licensed. It may be necessary for some persons to modify their type of service or nutrition information given, if they are performing services they are not qualified to provide. In other words, health food store owners can continue to sell products in their store, and to give information about their products. However, they cannot diagnose a person's illness or prescribe treatment for an illness.

### ISN'T THIS REALLY JUST JOB PROTECTION?

Since state and federal regulations now require registered dietitians to be hired in positions requiring clinical nutrition services RDs are already filling those positions. Licensure will not change education requirements for these jobs, and will therefore not create any new jobs for RDs. Since a license does not mandate wage levels, a license will not increase wages for RDs. Presently, some insurers are providing third party payments under some conditions to dietitians. Licensure will in no way mandate these payments. Nurses and Pharmacists are licensed and they don't automatically receive them. Insurance companies will continue to make the decisions for third party payments on a case by case basis.

### WON'T LICENSURE JUST MEAN DIETITIANS HAVE A MONOPOLY?

No, not at all. Under the terms of our proposed legislation health professionals qualified to practice nutrition such as doctors, nurses, persons with a Masters or Ph.D. in nutrition and various people such as home economics teachers, those who work for the state or counties, non-profit organizations and educational institutions whose activities are part of the salaried activity, will be able to continue their work. These people are specifically exempted in the proposed licensure bill.

### WON'T LICENSURE JUST ADD TO THE BUREAUCRACY AND COST THE STATE MORE MONEY?

No. The Montana Dietetic Association has met with the Montana Board of Medical Examiners, who presently have jurisdiction over the physicians, podiatrists, physicians assistants, accupuncturists and the emergency medical technicians. The Board of Medical Examiners has no objection to the legislature mandating that they license and regulate the dietitians. And because the licensees will pay a fee that will cover the costs of their licensing and regulation, there will be no additional cost to the state. In other words, there will be no new board and no new costs to Montana taxpayers.



P. O. Box 939  
Helena, Montana 59624

## CORE KNOWLEDGE REQUIREMENTS FOR ENTRY-LEVEL REGISTERED DIETITIANS

- .. Principles of human anatomy and physiology, microbiology and biochemistry.
- .. Scientific principles of human nutrition in health and disease.
- .. Nutrient composition of food and appropriate sources of data.
- .. Principles of food science and techniques of food preparation.
- .. Principles of menu planning for optimal nutrition of individuals and groups in health and disease.
- .. Principles of behavioral and social sciences.
- .. The influence of socioeconomic, cultural, and psychological factors on food and nutrition behavior.
- .. Fundamentals of nutrition care delivery in community programs.
- .. Principles of effective communication and documentation.
- .. Use of computers for data processing and information management in dietetics.
- .. Basic concepts of research methodology and statistical analysis.
- .. Principles of education and effective methods of teaching.
- .. Techniques of interviewing and counseling.
- .. Principles of organization and management.
- .. Fundamentals of human relations and group dynamics.
- .. Fundamentals and techniques of financial management.
- .. Principles and techniques of human resource management.
- .. Fundamentals of quality assurance.
- .. Principles of nutrition assessment, planning, intervention and evaluation.
- .. The principles of procurement, food production, distribution and service.
- .. Fundamentals of the political and legislative process.
- .. Laws, regulations, and standards affecting dietetic practice.
- .. Fundamentals of merchandising and promoting food and nutrition services.
- .. Nutrient needs for various stages of the life cycle.

## CORE PERFORMANCE REQUIREMENTS FOR ENTRY-LEVEL REGISTERED DIETITIANS

- .. Assures that food service operations meet the food and nutrition needs of clients served and target markets.
- .. Utilizes food, nutrition and social services in community programs.
- .. Provides nutrition care through systematic assessment, planning, intervention and evaluation for individuals and groups.
- .. Provides nutrition counseling and education to individuals and groups for health promotion, health maintenance and rehabilitation.
- .. Applies current research information and methods to dietetic practice.
- .. Utilizes computer and other technology in the practice of dietetics.
- .. Integrates food and nutrition services in the health care delivery system.
- .. Promotes positive relationships with others who impact on dietetic service.
- .. Coordinates nutrition care with food service system.
- .. Participates in the management of cost effective nutrition care systems.
- .. Utilizes menu as the focal point for control of the food service system.
- .. Participates in the management of food service systems, including procurement, food production, distribution and service.
- .. Participates in the management of human, financial, material, physical and operational resources.
- .. Participates in the management of a Quality Assurance (AQ) Program.
- .. Provides education and training to other professionals and supportive personnel.
- .. Engages in activities which promote improved nutrition status of the public and advance the profession of dietetics.
- .. Recognizes the impact of political, legislative and economic factors on dietetic practice.
- .. Complies with the Standards of Professional Responsibility and Standards of Practice for the Profession of Dietetics.
- .. Utilizes effective communication skills in the practice of dietetics.
- .. Engages in a program of self development and continuing education.

# FOODS AND NUTRITION DIETETICS - GENERAL EMPHASIS

1986-1988

3:CAT'L F&N.86

NAME: \_\_\_\_\_

Date entered MSU: \_\_\_\_\_

Date entered Home Economics: \_\_\_\_\_

## FRESHMAN YEAR:

	Qtr	Cr	Grade	Sub/Tr
Chem 131N--General Chemistry	A	3	( )	
Chem 132N--General Chemistry	W	3	( )	
Chem 134--Fund of Organic Chem	S	4	( )	
Chem 135N--General Chemistry Lab	A	1	( )	
Chem 136N--General Chemistry Lab	W	1	( )	
Chem 139--Fund of org Chem Lab	S	1	( )	
Econ 105S--Econ Way of Thinking	W	4	( )	
Econ 204--Microecon Principles	S	4	( )	
Engl 121C--College Writing I	A	4	( )	
Psy 103S--General Psychology	S	4	( )	
SpQm 110C--Intro to Public Comm	W	4	( )	
Home Economics Core	A=7	W=4	( )	
University Core and Electives	S	4	( )	

## SOPHOMORE YEAR:

Acct 221--Principles of Acct I	S	3	( )	
Biol 121N--General Biology--Cells	A	4	( )	
Biol 211N--Physiol & Anatomy I	W	5	( )	
CS 150T--Computer Literacy	W	4	( )	
HEC 221N--Basic Nutrition	W	4	( )	
HEC 226--Food Science I	A	4	( )	
HEC 227--Food Science I Lab	A	2	( )	
HEC 271--Paraprofessional Exp	A	1	( )	
MB 101N--Microbiol Today's World	S	4	( )	
Soc 101S--Intro to Sociology OR Anth 101S--Intro to Anthrplgy	W	4	( )	
Stat 216--Elementary Statistics	S	4	( )	
Home Economics Core	A	4	( )	
University Core and Electives	A=3	S=4	( )	

## JUNIOR YEAR:

Chem 211--Biochemistry I	W	3	( )	
Chem 212--Biochem I Lab	W	2	( )	
Chem 213--Biochemistry II	S	3	( )	
Chem 214--Biochem II Lab	S	2	( )	
HEC 321--Nutr & Hum Life Cycle	A	4	( )	
HEC 322--Food Sys: Prod	W	4	( )	
HEC 323--Food Sys: Prod Exp	W	1	( )	
HEC 324--Food Sys: Purch OR HEC 325--Fod Sys: Mgmt	W	3-4	( )	
HEC 327--Food Science II	S	4	( )	
HEC 333--Household Equip	A	4	( )	
HEC 371--Research Meth in HEC	A	3	( )	
Mgmt 340--Mgmt & Organization	A	4	( )	
Mgmt 341--Human Prob in Org	W	3	( )	
Mgmt 443--Personnel Admin	S	4	( )	
Home Economics Core	W	3	( )	
University Core and Electives	A=3	W=3	( )	

## SENIOR YEAR:

HEC 324--Food Sys: Purch OR HEC 325--Food Sys: Mgmt	S	3-4	( )	
HEC 400--Senior Seminar	A	1	( )	
HEC 421--Physiological Nutr I OR HEC 422--Physiological Nutr II	W	4	( )	
HEC 427--Food Science III	S	4	( )	
HEC 428--Diet & Disease I	W	4	( )	
HEC 429--Diet & Disease II	S	4	( )	
HEC 441--Field Exper Consul	A	1	( )	
HEC 444--Skills for Work/Adults	A	4	( )	
HEC 476--Career Intern in HEC	A=2	W=2	( )	
Phy 321--Behavior Change	S	4	( )	
University Core and Electives	A=8	W=8	( )	



## SELECTED EXAMPLES OF HARMFUL NUTRITION PRACTICE IN MONTANA

- .. Four year old girl with Celiac Sprue, severe absorption, intolerance to wheat gluten, parents unemployed. Told by health food store to take special bread. Child continued with problems. Local dietitian checked contents of the bread - found it was made with wheat flour.
- .. Adolescent male with testicular cancer. Told by a "nutritionist" to apply Aloe Vera to affected testicle. Patient happened to see physician soon after starting Aloe Vera treatment. Was hospitalized, treated by an oncologist and has been cured.
- .. Adult female with cancer of the ovaries. Was advised to use a special diet. Patient was hospitalized but refused to eat anything other than the "diet". Patient lost 40# and eventually died in the hospital. Due to severe malnutrition, the therapy for cancer was ineffective. Patient could have survived if better nourished.
- .. Three year old boy with osteomyelitis of the L radius. Mother was advised by a "doctor" to give the child nothing but garlic and honey for 2 weeks, and to apply garlic compresses to the affected area. Parents were unemployed, lived in a tar paper shack. The child was admitted to the hospital by court order. The infection had spread very deep by this time. The child was in severe pain and was eventually treated and cured.
- .. Fifty-six year old male with congestive heart failure. Patient had been advised by a physician to consume a very low salt diet. Patient had to be hospitalized three times, the third time he was placed in the ICU with life-threatening edema. This time patient stated he had been advised to use "sea salt" and told that it has no sodium.
- .. Seventy-seven year old lady was advised she should take vitamin supplements. The vitamins were "natural", made by a company in California. The lady brought \$200.00 worth of vitamins. Lady's physician became aware of this and requested the local dietitian to check into her vitamin intake to determine if she really needed them. The lady had 20 different bottles of vitamins, steroids, DNA tablets and RNA tablets. She was taking toxic doses of some vitamins. Most other pills were ineffective.
- .. Patient reported to local dietitian regarding an Aloe Vera product she was advised to take for diabetes. Dietitian called the "nutritionist" who is listed as such in the yellow pages, to inquire about this therapy. Dietitian was told that she recommends Aloe Vera for diabetes, as well as for any other illness. Dietitian claimed that aloe Vera also improves digestion. On checking the "nutritionist's" qualifications, it was found she had taken a course in Chemistry and Biology. She also sold her own Aloe Vera for \$14.95 a quart.
- .. Person was advised to buy and use the Herable-life diet from a local dealer. Person developed symptoms of bowel obstruction and was hospitalized. The diet was discontinued and the symptoms cleared. Similar symptoms have been reported in the literature with this diet.
- .. Adult male with chronic lung disease/emphysema was told by a "doctor" to use a special diet. The diet allowed only certain groups of food, and did not allow milk, most fruits and meat. Patient lost weight, became progressively worse, breathing problems increased, person was hospitalized but died 3 weeks after admission.

EXHIBIT 2  
DATE 1/30/87  
HB 471



# Montana Nurses' Association

2001 ELEVENTH AVENUE

(406) 442-6710

P.O. BOX 5718 • HELENA, MONTANA 59604

HB 471

The Montana Nurses' Association supports HB 471, which would provide for the licensing and regulation of nutritionists and dieticians by the board of medical examiners.

The MNA supports the standardization of education at the baccalaureate for nurses, dieticians, and other professionals. Although this <sup>legislative</sup> ~~committee~~ did not send out a bill which would have standardized the education at the baccalaureate for registered nurses, the MNA urges your support for dieticians and nutritionists in their efforts to upgrade their profession through legal regulation.

The 21st century promises to be a very complex industrial society where advances in medicine, health care, and nutrition care will occur at a rapid rate. Montana needs to have health care professionals who are well prepared academically to meet the challenges of today and into the 21st century.

The MNA urges you give HB 471 a DO PASS recommendation.

Respectfully submitted,  
Eileen C. Robbins, R.N.  
January 30, 1987

HOUSE BILL 471

AS BASTIEN PAGE 1 OF 5

## TESTIMONY SUBMITTED BY :

A.J. (TONY) BASTIEN, TESTIFYING IN FAVOR OF HB 471

A.J. BASTIEN  
MOUNTAIN SUN  
NATURAL & SPECIALTY FOODS  
10 EAST MAIN  
BOZEMAN, MT 59715  
PHONE: 586-5511 (W), 586-8700 (H)

MY NAME IS TONY BASTIEN, I AM THE OWNER AND OPERATOR OF MOUNTAIN SUN NATURAL AND SPECIALTY FOODS IN BOZEMAN WHICH IS THE THIRD LARGEST HEALTH FOOD STORE IN MONTANA.

I WOULD LIKE TO TESTIFY IN FAVOR OF HOUSE BILL 471

I HAVE OWNED AND OPERATED MY HEALTH FOOD STORE SINCE 1981, AND I FIRST BECAME CONCERNED WITH THE ISSUES DEALT BY HOUSE BILL 471 ABOUT FOUR YEARS AGO WHEN I REALIZED THERE WAS A LACK OF SELF-POLICING, AND MONITORING WITHIN THE HEALTH FOOD INDUSTRY.

NOW, THIS BILL, AS IT IS WRITTEN WILL NOT IN ANY WAY AFFECT THE OPERATION OF, OR THE MERCHANDISING CAPABILITIES OF MY STORE AS IT IS CURRENTLY MANAGED.

I HAVE DISCUSSED THIS BILL WITH TRICK GOMEZ, OWNER OF THE OAK SPOKE HEALTH FOOD STORE IN LIVINGSTON, AND WITH TRICK ALDRED, BUYER FOR THE GOOD FOOD STORE IN MISSOULA, AND WE ALL AGREE THAT THIS BILL WILL NOT HURT OUR BUSINESS.

→

HOWEVER, WHEN UNQUALIFIED INDIVIDUALS PERFORM NUTRITIONAL EVALUATIONS, AND DICTATE DIETARY PROGRAMS FOR THEIR CLIENTS. DIETARY PROGRAMS THAT NOT ONLY HARM, BUT CAN, IN SOME INSTANCES KILL THEIR CLIENTS,

..... THIS IS WHAT HURTS MY STORE, HURTS ALL HEALTH FOOD STORES AND OUR CREDIBILITY AS HEALTH FOOD RETAILERS.

.... CREDIBILITY, AND REPUTATION FOR WORKING IN THE PUBLIC'S INTEREST AS CAN BE EVIDENCED BY RECENT ADVANCES IN ATHLETIC NUTRITION AND BY OUR NATION'S AWAKENING TO FITNESS AND HEALTH.

HOUSE BILL 471, WILL, IN MY OPINION, BE A POSITIVE STEP TOWARDS MAINTAINING THE INTEGRITY OF THE MONTANA HEALTH FOOD INDUSTRY AND THAT OF THE INDIVIDUALS WE WORK WITH, AND AT THE SAME TIME, HOUSE BILL 471 WILL ALSO BE A POSITIVE STEP TOWARDS PROTECTING THE PUBLIC, ESPECIALLY THE POOR AND THE ELDERLY.

# REASONS WHY HEALTH FOOD RETAILERS OPPOSE THIS BILL:

AS I SEE IT, THERE ARE UNQUALIFIED INDIVIDUALS WHO HAVE A VESTED INTEREST IN PREVENTING THIS BILL'S PASSAGE, BECAUSE THESE INDIVIDUALS ACT AS NUTRITIONAL CONSULTANTS AND AS OUTLETS FOR HIGH PRICED, AND OFTENTIMES WORTHLESS SUPPLEMENTS, NOW THESE INDIVIDUALS HAVE CONVINCED MANY HEALTH FOOD STORE OWNERS THAT HOUSE BILL 471 WILL HURT THEM, WHEN IN FACT, IT IS THESE UNQUALIFIED NUTRITIONAL CONSULTANTS WHO ARE DAMAGING THE CREDIBILITY AND THE GOOD NAME OF HEALTH FOOD STORES. I THINK MANY HEALTH FOOD STORE OWNERS HAVE BEEN MISLED INTO BELIEVING THAT HOUSE BILL 471 WILL ACTUALLY HURT THEIR BUSINESS.

# EXAMPLES OF WHAT I CONSIDER TO BE UNQUALIFIED NUTRITIONAL ADVICE

- A.- MSU FACULTY CAME INTO MY STORE LOOKING FOR EGGS FROM CHICKENS THAT HAD BEEN VACCINATED AGAINST CANCER. NUTRITIONAL CONSULTANT/ PRACTITIONER IN SAN DIEGO RECOMMENDED THESE FOR HIS TERMINALLY ILL WIFE (CANCER) AND THIS MAN HAD BEEN PURCHASING THESE EGGS FOR \$48.00 A DOZEN. (I HAVE NEVER HEARD OF AN ANTI-CANCER VACCINE, FOR HUMANS OR ANIMALS).
- B.- YOUNG WOMAN CAME INTO MY STORE LOOKING FOR SOME CHLOROPHYLL. A NUTRITIONAL COUNSELOR HAD ADVISED A MASSIVE VITAMIN A REGIMEN WHICH HAD, ACCORDING TO HER PHYSICIAN, DONE IRREPARABLE DAMAGE TO HER LIVER. WHEN I ASKED HER, "WHY CHLOROPHYLL?" SHE HAD BEEN GIVEN THIS ADVICE BY YET ANOTHER NUTRITIONAL COUNSELOR. CHLOROPHYLL BY THE WAY, IS ANOTHER HIGH SOURCE OF VITAMIN A WHICH COULD FURTHER DAMAGE HER LIVER.
- C.- OLDER MAN CAME TO MY STORE, WANTED TO SELL ME SOME TWENTY BOTTLES OF SCHIFF DL-CARNITINE AMINO ACID SUPPLEMENTS. ABOUT \$200.00 AT RETAIL. NUTRITIONAL CONSULTANT HAD SOLD HIM TWO CASES (24) OF THESE BOTTLES OF DL-CARNITINE AS PART OF AN IMPROVED DIET PROGRAM, AND NOW THIS OLDER MAN NEEDED THE MONEY, FELT HE WASN'T GETTING ANY BENEFIT FROM THE SUPPLEMENTS.
- D.- I HAD A LUMP ON MY BACK, WENT TO A "NUTRITIONAL CONSULTANT" WHO "READ" MY EYES AND ATTRIBUTED MY AILMENT TO A POOR DIET, AND TOO MANY "TOXINS," RECOMMENDED A DIETARY "CLEANSING" PROGRAM THAT INCLUDED NUMEROUS CAPSULED HERBS WHICH HE, OF COURSE, WAS MORE THAN WILLING TO SELL. LATER ON, MY PHYSICIAN DIAGNOSED AND OPERATED ON MY LUMP WHICH TURNED OUT TO BE A SUB-CUTANEOUS

CONTINUED

INFECTION, ONE THAT VERY WELL COULD HAVE CAUSED ME TO DIE, AND I MEAN DIE, FROM BLOOD POISONING IF IT HAD BURST.

- E.- MY FRIEND LINDA FRANTZ WENT TO A HEALTH CONSULTANT WHO, THROUGH A FEW MUSCLE TESTS (KINESIOLOGY) DETERMINED THAT HER PARENTS DID NOT LOVE HER, AND THAT AS A RESULT, SHE SUFFERED NUMEROUS NUTRITIONAL DEFICIENCIES, WHICH REQUIRED SOME \$70<sup>00</sup> IN SUPPLEMENTS TO CORRECT, SUPPLEMENTS, WHICH THE CONSULTANT WANTED TO SELL HER.
- F.- FRIEND OF MINE WENT TO A NUTRITIONAL CONSULTANT, WHO TOLD HIM HIS "AURA" WAS FULL OF HOLES, ETC. ON ACCOUNT OF HIS POOR EATING HABITS. MY FRIEND WAS PUT ON AN EXTREME "CLEANSING" DIET & SUPPLEMENTATION, THE ILL EFFECTS OF WHICH HE STILL FEELS TODAY, SOME THREE YEARS AFTER TERMINATING THE CLEANSING DIET. ABOUT A YEAR OR SO AFTER HE HAD REVERTED BACK TO HIS "POOR" EATING HABITS, HE RAN INTO THE ABOVEMENTIONED NUTRITIONAL CONSULTANT WHO COMMENTED ON HOW CLEAN AND VIBRANT HIS "AURA" WAS.

WITNESS STATEMENT

NAME TON HAUGE BILL NO. 471  
 ADDRESS Box 1 ARLEE DATE 1/30/87  
 WHOM DO YOU REPRESENT? MONTANA HERBS, Inc.  
 SUPPORT \_\_\_\_\_ OPPOSE X AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I am opposed to this legislation for the following reasons.

1. Montana has a unique opportunity as a supplier of value added nutritional products for the nation's \$2 billion health food industry. Our company alone will sell over \$1.1 million of health food products <sup>in</sup> out of state. In February, hundreds of Montana farmers and ranchers are gathering in Bozeman to learn about producing and marketing health food products such as organic beef and grains and medicinal herbs. This legislation would have a serious impact on free market opportunities for Montana's agriculture industry.

2. Laws and regulations are already in place to protect consumers. This bill restricts opportunities for non-dietetic practitioners while creating a monopoly for dietitians.

3. I checked ~~on~~ with the Montana University system regarding degree opportunities for Montanans to get a baccalaureate degree in



Montana  
Pollen &  
Herbs, Inc.

P.O. BOX 1, HWY. 93 N.  
ARLEE, MT 59821 USA  
(406) 726-3214

EXHIBIT 5  
DATE 1/30/87  
HB 471



MANUFACTURER AND WORLD-  
WIDE DISTRIBUTOR OF  
QUALITY NATURAL PRODUCTS

COPY FOR INFORMATION (Pat Heydlauff)

January 26, 1987

Rep. Joan Miles  
Montana State House of Representatives  
Helena, MT 59620

Dear Representative Miles,

I am writing in regards to your support of LC 748 on dietetic practice.

Aside from my strong objections to this bill on grounds that it is both unnecessary and perhaps even unhealthy for the public's wellbeing, it is also highly impractical and virtually impossible from the implementation standpoint.

This morning I called our universities to see if we even offer an appropriate baccalaureate degree for Montanans to become registered dieticians. The answer was no! Students must go out of state for their final two years of study and the program now in place that provides the first two years of preparatory study is at risk of being eliminated, due to budget restrictions.

I urge you to drop your support of this negative legislation.

Sincerely,

A handwritten signature in cursive script that reads "Ronald O. Hauge".

Ronald O. Hauge  
President & CEO

copy: Rep. Al Meyers, Helena

Nutrition or diet. etc. Currently only a two year  
preparatory course is offered through home  
economics department. With our current  
university budget restrictions - the home ec.  
departments are at the top of the list for  
being cut.

This legislation would require considerable  
expenditure by state government to ~~the~~ create  
a full degree program to provide education  
opportunity for Montanans versus jobs in  
Montana for out of states.

DATE 1/30/87  
HB 471

WITNESS STATEMENT

NAME Laughing Water BILL NO. 471  
ADDRESS 433 N. Main, Helena DATE 1/30/87  
WHOM DO YOU REPRESENT? Health Food Industry - Real Food Store  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

TESTIMONY IN OPPOSITION TO HB 471  
PRESENTED TO THE HOUSE BUSINESS AND LABOR COMMITTEE  
BY LAUGHING WATER, A HEALTH FOOD RETAILER  
FROM HELENA  
JANUARY 30, 1987

PERSONAL BACKGROUND. I am a graduate of the Massachusetts Institute of Technology and a member of Phi Beta Kappa. I was honored at the White House as a Presidential Scholar in 1967. Since 1975 I have operated my own health food store (the Real Food Store) in Helena. In addition to my academic concentration in philosophy and psychology I have studied nutrition informally with some of the world's foremost nutritionists and have taught nutrition for college credit.

OBJECTIONS TO THE BILL

- The bill makes the words "nutritionist" and "dietitian" virtually synonymous. But nutrition is a broad field of which dietetics is but one specialization, and the bill's definition is not in agreement with common public usage. It precludes the emergence of other licensed nutrition specializations that may emerge.
- The restrictions of the bill virtually create a nutritional monopoly for dieticians.
- The bill seems to prohibit the providing of any kind of nutritional advice or assessment by unlicensed individuals. This is overly restrictive and could be applied unfairly against health food retailers (not to mention naturopaths, who are eminently qualified yet unlicensed).
- The exemption for marketing food products does not permit the providing of advice or the assessment of the consumer's needs.
- The bill permits the sale of supplements only in so far as they are recognized by the FDA. This would destroy the health food industry in Montana.
- The need for the protection this bill claims to provide has not been demonstrated by its proponents, and it has not been asked for by a significant number of consumers.
- Consumer input on this bill has been almost entirely opposed. The consumer wants freedom of choice.
- The bill raises serious constitutional issues of privacy and freedom of speech and religion and is written with such unclarity that it is likely to cause a number of court cases.

EXHIBIT 7  
DATE 1/30/87  
HB 471

WITNESS STATEMENT

NAME KAT HEYDLAUFF BILL NO. HB 471  
ADDRESS 175 E BAKER CISTIA MESA CA 92646 DATE 1/26/87  
WHOM DO YOU REPRESENT? NATIONAL NUTRITIONAL FEDS ASSN  
(FED HEALTH FOOD INDUSTRY)  
SUPPORT \_\_\_\_\_ OPPOSE ✓ AMEND \_\_\_\_\_

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

DATE 1/30/83  
HB 471

**BASS & ULLMAN**

COUNSELLORS AT LAW

747 THIRD AVENUE

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MICHAEL P. PESKOE \*

INT'L TELEX 228000 (ETLX UR)  
DOMESTIC TELEX 12041 (XAS NYK)

WASHINGTON ASSOCIATES  
FENSTERWALD, ALCORN  
& BOWMAN, P. C.  
1000 WILSON BOULEVARD  
ARLINGTON, VIRGINIA 22209

LAWRENCE H. ROTH  
IRVING L. WIESEN \*\*  
STEVEN HOROWITZ

January 29, 1987

\*ADMITTED IN NEW YORK AND CALIFORNIA  
\*\*ADMITTED IN NEW YORK AND NEW JERSEY

FEDERAL EXPRESS

Mr. Les Kittelman, Chairman  
House Business and Labor Committee  
Capitol Station, Room 436  
Helena, Montana 59620

**SUBMISSION OF THE NATIONAL  
NUTRITIONAL FOODS ASSOCIATION  
REGARDING MONTANA HOUSE BILL 471**

This submission is made on behalf of the National Nutritional Foods Association ["NNFA"]. NNFA is a non-profit association which has several thousand members, and is comprised of manufacturers, distributors and retailers of health foods and fitness products.

NNFA opposes H.B. 471 unless it is amended. As it is presently drafted, H.B. 471 will seriously damage the fine industry that scores of Montana businesses represent. It will also interfere with the Constitutional rights of the thousands of citizens who believe it their privilege to obtain nutritional information from other than a dietitian.

Similar licensure bills have been amended or voted down in every other state. NNFA is not opposed to having dietitians licensed, but it is inalterably opposed to having dietitians try to take away, and get a monopoly on, what is not theirs to begin with. It is also opposed to new bureaucracies which will increase tax expenditures, increase administration costs, and benefit nobody but the group seeking licensure.

Mr. Les Kitfelman  
January 29, 1987  
Page 2

**MONTANA DOES NOT LET ONLY ONE  
NEWSPAPER REPORT THE NEWS; IT SHOULD  
NOT LET ONE GROUP BE THE ONLY OUTLET  
FOR GENERAL NUTRITIONAL INFORMATION**

The dietitians have testified throughout the country that all groups other than themselves are incapable of providing nutritional information. They accuse all opposing groups, including NNFA, of claiming that there are freedom of speech or consumer choice issues involved "instead of the consumer protection issue" they claim it is. In their "Summary" submitted to this legislature, the dietitians claim that the purpose of this licensing bill is to protect against "wrong, unsafe and unproven nutrition information."

NNFA believes in playing straight. The dietitians want licensure so that they can: (a) get third-party medical insurance reimbursement; and (b) get more professional prestige and shed the image of menu-planners. We are not against this, but why must they pretend a different issue is at stake? The President of the American Dietetic Association herself admitted this and concluded that licensure was bad:

"Those in the profession who have examined honestly the true purpose served by licensure have acknowledged quickly that those professional groups which seek licensure are motivated primarily by the anticipated benefit to members of the profession. Yet, the purported purpose of licensing is to protect the public.

\* \* \*

"Although the stated purpose of licensure is to benefit the public, few pleas for licensure have come from the public. ...Practitioners also observe that licensing increases the potential for third-party payment for professionals..."

Journal of the American Dietetic  
Association  
Vol. 84, No. 4 (April, 1984) page 455.

Mr. Les Kitfelman  
January 29, 1987  
Page 3

This is particularly true when there are only 190 dietitians in the entire State of Montana.

The ADA also notes that licensing won't necessarily work:

"[T]he assurance of competence at entry level is certainly not guaranteed, because licensure examinations are generally designed not to measure competence of examinees but to test basic knowledge."

"Higher incomes for professionals have resulted also accompanied by an increased cost of services to consumers."

Ibid, page 454.

In this case, a person licensed "under any other law" [Sec. 6(3)] is exempted. This is hardly protection for the public.

The public does want to choose its source of nutrition. And health food businesses provide a source where the quality and value of nutritional supplements can be discussed. The public also wants access to lecturers on nutrition who are not necessarily dietitians, including people such as Nobel Laureate Linus Pauling.

It is no fairer to shut out all other nutritional information sources than it is to say that only licensed mechanics can talk to car customers. Although licensed mechanics may be the only people permitted to fix cars in professional settings, it does not mean that people should not have access to information from magazines and automobile salesmen regarding car performance and statistics.

By making dietitians the only people who can give "advice to individuals in the selection of food" [Sec. 2(8)] or "communicate nutrition information to individuals or groups", the door is closed shut on everybody else. Teachers and parents won't be permitted to lecture or counsel on eating balanced breakfasts to avoid illness; football coaches won't be able to tell players to bulk up on protein to avoid body exhaustion. Non-dietitian nutritional lectures will be prohibited. It all makes little sense.

Nor is their proposed set of exemptions adequate [Section 6]. Any person who "represents" himself as a dietitian "is prohibited from giving nutritional information. Section 2 makes anyone who



Mr. Les Kittelman  
January 29, 1987  
Page 4

gives advice on food selection one who represents" himself as a dietitian.

NNFA thus respectfully asks that the bill be defeated or amended properly. Let the dietitians pursue their profession without pushing out everybody else. There is a good reason that the dietitians have failed in thirty states to enact this broad a bill.

### **"DIETITIANS" ARE NOT "NUTRITIONISTS"**

Whereas in other states - indeed, for 50 years in this country - the dietitians have been satisfied with only one name, they now want two: "dietitian" and "nutritionist".

After thirty bites at the apple, the dietitians still have not shown that they are entitled to exclusive use of the term "nutritionist". Twenty other states have declined to insert the word "nutritionist". They all had good reason. Those states are: Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Kentucky, Maine, Maryland, Massachusetts, Missouri, New Jersey, New York, New Mexico, Oregon, Rhode Island and Utah.

"Dietitians" are a subgroup of "nutritionists". Nutrition and dietetics are separate academic disciplines in graduate institutions. It is for good reason that the "American Dietetic Association" has been so named for almost half a century. Indeed, in a recent publication used by the ADA entitled "Glossary, Accreditation Manual for Hospitals, 1985 (Joint Commission on Accreditation of Hospitals)", there is a definition for "dietitian, qualified", but none for "nutritionist".

Most significantly, the term "nutritionist" does not have an established limitation. It is an evolving term whose parameters will doubtless be established within the next decade as more health subspecialties evolve.

It is crucial to re-emphasize that while some dietitians may also be called nutritionists, they are not the only people who can be so labelled. It is wrong to foreclose at this date a title which may very well -- and probably will -- become available to many others in the near future.

The worst alternative would be to establish a definition of "nutritionist" which is the same as "dietitian". It would be as if nurses decided to take on the exclusive use of the title "paramedics" ten years ago, preventing the evolution of a crucial

Mr. Les Kitfelman  
January 29, 1987  
Page 5

health subspecialty. We would also note that the State of Michigan, in a December, 1984 governmental study, recommended a moratorium on the licensure of all new health subspecialties in part for the reasons stated above. New Jersey has followed suit on all licensure because of fiscal implications.

### THE ISSUE OF MONEY

No one can seriously claim that an additional licensing board does not cost money. There are personnel to administer the standards; personnel to supervise licenses; the costs of maintaining a board [Section 10]; and the increased costs to State agencies of paying increased salaries.

As the ADA itself noted, licensing means higher fees. Those fees will be paid by state and private institutions alike.

What is more, if individuals have to pay professional fees in the future in order to obtain advice on selecting foods, costs to the average will skyrocket. As it is said, there is no such thing as a free lunch.

### CONFUSING THE ISSUE OF ENFORCEMENT AGAINST HEALTH FRAUD

Health fraud is a problem. NNFA is staunchly against it. But Montana does not need to demolish the field of nutrition in order to weed out some bad actors.

The FDA has made health fraud its number one enforcement priority. It has a new unit established for this purpose. There are numerous enforcement actions underway at this time.

State Attorneys General and local fraud bureaus have been very active. Montana, as other states, has two potent anti-health fraud measures on its books already: statutes prohibiting the practice of medicine without a license, and fraud laws.

The issue is thus not one of needing more laws. It is one of enforcement. Moreover, H.B. 471 is not an anti-health fraud law in the first place; it is a licensing bill.

Mr. Les Kittelman  
January 29, 1987  
Page 6

**THE FAILURE TO CONSIDER EVEN  
FUNDAMENTAL CONSTITUTIONAL ISSUES**

The final problem with this bill is that it does not even deign to deal with the enormous constitutional free speech issue it raises.

This is a nation founded upon basic rights to free speech. The freedom to choose a source of nutritional information is part of that right. No group has the right to shut the mouths of others who offer legal source of information to the public.

There would be no issue were it not for the fact that people obviously want many sources of information from which they can select what is personally appropriate. Leaving these avenues open is not a question of preference; it is a matter of right.

NNFA respectfully requests that H.B. 471 be so amended or defeated.

Respectfully,

NATIONAL NUTRITIONAL FOODS  
ASSOCIATION

Pat Vazquez  
President

Patricia Heydlauff  
Executive Director

BASS & ULLMAN  
I. Scott Bass



Legal Counsel

DATE 1/30/87  
HB 471

BASS & ULLMAN

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WASHINGTON ASSOCIATES  
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ARLINGTON, VIRGINIA 22209

February 3, 1987

\*ADMITTED IN NEW YORK AND CALIFORNIA  
\*\*ADMITTED IN NEW YORK AND NEW JERSEY

FEDERAL EXPRESS

Mr. Les Kittelman, Chairman  
House Business and Labor Committee  
Capitol Station, Room 436  
Helena, Montana 59620

Re: Montana House Bill 471

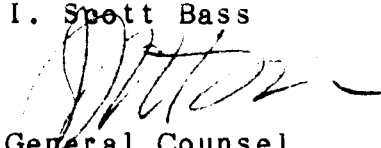
Dear Chairman Kittelman:

I enclose herewith 25 copies of proposed amendments to H.B. 471 reflecting the January 29, 1987 comments of the National Nutritional Foods Association.

Respectfully,

NATIONAL NUTRITIONAL  
FOODS ASSOCIATION

BASS & ULLMAN  
I. Scott Bass

  
General Counsel

ISB: dmr  
Enclosure

**Proposed Amendments  
to  
House Bill No. 471**

<u>Page</u>	<u>Section</u>	<u>Line(s)</u>	<u>Amendment</u>
1	Title	5	Delete "Nutritionists and"
1	1	14	Delete "nutrition assessment, counseling and education" Substitute: "dietetics"
1	1	17	Delete "nutritionists and"
2	2(4)	5-10	Delete Substitute: "providing of nutritional counseling or support in a therapeutic setting, pursuant to licensed medical supervision, and the operation or supervision of institutional nutritional programs"
2	2(6)	13-14	Delete
2	2(7)	15	Re-number as "(6)"
		18-19	Delete "and to recommend appropriate nutritional intake" Substitute: "in a therapeutic setting, pursuant to licensed medical supervision"
2	2(8)	21	Re-number as "(7)"
		22-25	Delete Substitute: in accordance with the definitions of "dietetic practice" and "nutrition assessment" above
3	2(8)	1-4	Delete
		5	Re-number as "(8)"
3	2(9)	6-14	Delete Substitute: "information to individuals or groups consistent with the definitions set forth above in Sections 2(4) and 2(6)"

<u>Page</u>	<u>Section</u>	<u>Line(s)</u>	<u>Amendment</u>
4	2(10)	15	Change to "(9)"
4	3	16	Delete "Nutritionist or"
4	3	18-19	Delete "assessing the nutrition needs of individuals and groups and"
4	3	23	Add: "in the practice areas set forth above"
5	4	5	Delete "or nutritionist"
6	6(3)	21	Add: "medical practice" after the word "other" and before the word "law"
7	6(7)	16-17	Delete "recognized by the United States food and drug administration"
		19	Delete "represents himself to the public as" Substitute: "call himself"
		19-20	Delete "or a nutritionist"
7	6(8)	21	Delete "general"
		23	Delete "represent himself to the public as" Substitute: "call himself"
		23-24	Delete "or a nutritionist"
8	6(9)	4	Delete "or a nutritionist"
8	7	6	Delete "or a nutritionist"
		9	Delete "or a nutritionist"
		9-10	Delete "or a licensed nutritionist"
9	10	11-12	Delete "and licensed nutritionists"
11	12(5)	2	Delete "and nutritionists"

EXHIBIT 9  
DATE 1/30/87  
HB 471

WITNESS STATEMENT

NAME Ernest S. Rogers BILL NO. 1784  
ADDRESS 1000 1st St. N.W. DATE \_\_\_\_\_  
WHOM DO YOU REPRESENT? Legislative Council  
SUPPORT \_\_\_\_\_ OPPOSE \_\_\_\_\_ AMEND X

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

Testimony on HB 471

Nancy Aagenes, '89  
John Bastyr College

For the record my name is Nancy Aagenes. I am not opposing or supporting HB 471 and stand with Dr. Bergkamp to offer amendment to the bill. I want to thank Chairman Kitslman for allowing us the time to do this, and will address the amendment in just a moment.

I am a second year medical student at the John Bastyr College of Naturopathic Medicine in Seattle, Washington. I was born in Wolf Point, am a graduate of Rocky Mountain College in Billings, and currently maintain residency here in Helena. I have worked four sessions for the Montana State Legislature including 1977 when I served as Secretary of the Senate. In 1983 I began my medical education with two years of pre-med at Carroll College. I started at the John Bastyr College in the fall of 1985 and will graduate in 1989 as a naturopathic doctor. It is my intention to then return to Montana to practice both politics and naturopathy and that is why this bill, as written affects me directly.

Naturopathic doctors in Montana made a political mistake not to come before you this session with a licensure bill. Licensure for us would solve this problem.



I am not here to testify on licensure. Nonetheless, to accept our amendment you do need to understand that naturopaths are well trained physicians. For each member of the committee I have a catalogue from my school. The center fold, page 24, outlines the course work I must complete to earn this degree. Please take a moment to look thru that list of basic medical and clinical sciences. This curriculum compares with that of any traditional medical school and is about 80 percent the same.

But there ARE differences and therapeutic nutrition is a very important one. To graduate I must complete 140 classroom hours in therapeutic nutrition alone. That does not include all the biochemistry, diagnostics, physiology, botanical medicines and all those other classes that are related to nutrition. In contrast to this the University of Washington Medical School about two miles from my own requires ZERO hours in nutrition. That is true of most conventional medical schools in the country and those that do offer it have 20 to 30 hours maximum, again, compared to the 140.

Much of the testimony that I chose to delete because of your time considerations related to health care cost. We will be the first to say that there is no research to say that dollars spent in prevention are saved. That kind of research is simply not funded.

So ask people what they think. Ask people if they would rather have surgical intervention or be advised in radical, therapeutic dietary changes.

Ask yourself: If you had a serious medical problem would you want to do surgery and debilitating drugs and chemotherapies? Or do you want to option for an alternative? And even if you don't want that option personally, do your constituents have the right to that option?

If that alternative is to offered we need trained physicians who can address that. Physicians who are educated about health and disease and nutrition in a way that neither dieticians or medical doctors are.

Many of the people we see are preclincial. They are tired, uncomfortable, depressed, have too many colds, digestive problems, headaches, hemmeroids and hypertension--the normal things people always have. We can really help these people. We don't give the valium. We don't give them drugs leading to other diseases--a link that even the straightest medical literature acknowledges over and over.

This is what we are trained to do. Nutrition is a part of how we do it. And that is why we need this amendment.

But I was a politician long before I had ever heard the word naturopath or natureopath or however you pronounce it. I recognize the political reality of exempting a profession that is not yet legally defined in this state. Our amendment then exempts N.D.s from the provisions of the bill and includes a mechanism for defining ~~the~~ N.D.

The amendment would define naturopathic doctor as one who meets two of the following three criteria. These criteria were set up as by the American Association of Naturopathic Doctors as part of our self regulation.

We know there are people out there calling themselves naturopaths who are not well educated and who cannot do the things Dr. Bergkamp and I are talking about. We share the concern of the Registered Dietitians about that. We are more eager than any other group to define what a naturopathic doctor is.

Item one is an N.D. degree from an AANP approved naturopathic college. This approval is done by the Council on Naturopathic Medical Education. I have for the committee a letter from the president of the Council to Chairman Kitselman explaining that and including the handbook used by the council.

This work is very detailed and accreditation is a complex issue I will not discuss here, but will be happy to answer any questions about.

The other two criteria are membership in a Montana state association and licensure to practice in a state where such licensure is offered.

Of course the most preferable alternative would be a committee bill that would grant us licensure in Montana.

Assuming you might prefer a more modest approach, I offer also the specific language for amendment to the bill.

Chairman Kitselman, members of the committee, I thank you for your time and for allowing us the opportunity to rise with this amendment.

EXHIBIT 10

DATE 1/30/87

Council on Naturopathic Medical Education 471

Commission on  
Accreditation

NSIN BOARD MEMBERS

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Executive Director

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9 Da Vinci Drive  
Lake Oswego, Or 97034  
503-636-8656

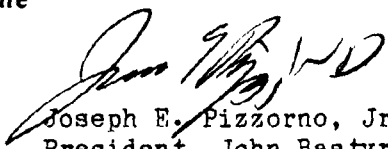
January 28, 1987

Chairman Les Kitselman  
Business and Labor Committee  
Montana House of Representatives  
Capitol Station  
Helena, MT 59601

Dear Chairman Kitselman:

I am writing to inform you about the Council on Naturopathic Medical Education. This accrediting agency was formed by the naturopathic profession in 1978 to establish nationally recognized educational standards for naturopathic medicine and to evaluate and accredit naturopathic colleges. Since that time we have developed comprehensive educational criteria. We have evaluated several colleges and have been working with the Department of Education--going through their review process for consideration for recognition as a federally approved accrediting agency. Accompanying this letter is a handbook which describes the educational standards of the Council on Naturopathic Medical Education. At this time, two colleges--John Bastyr College and National College of Naturopathic Medicine--are involved in the accreditation process with us. National College has been reviewed for Recognized Candidate for Accreditation status and John Bastyr College is being review for Accredited status. We expect to make final decisions on their status in March 1987. If I can provide you with any additional information about the organization or a college's accreditation status, please feel free to contact me.

Sincerely,

  
Joseph E. Pizzorno, Jr., N.D.  
President, John Bastyr College

Office of the President of the  
Council

Dr. J.E. Pizzorno  
C/O John Bastyr College  
144 N.E. 54th Street  
Seattle, Wa 98105  
206-523-9586

Office of the Chair of the  
Commission

Dr. M.C. Shelton  
4814 W. Glendale Avenue  
Glendale, Az 85301  
602-937-9125

Office of the  
Secretary/Treasurer

Dr. C. Calabrese  
C/O National College of  
Naturopathic Medicine  
11231 S.W. Market Street  
Portland, Or 97216  
503-255-4860

# **AMERICAN ASSOCIATION OF NATUROPATHIC PHYSICIANS**

P.O. Box 5086 • New Haven, CT 06526-0386

## **OUTLINE OF ORGANIZATIONAL STRUCTURE**

The American Association of Naturopathic Physicians is a federacy of its constituent state associations and societies. Each individual regular AANP member must meet at least two of the following three requirements:

1. N.D. degree from an AANP approved naturopathic medical college.
2. Licensure to practice naturopathic medicine in a state with a Board of Examiners recognized by the AANP.
3. Active membership in a constituent state naturopathic association or society recognized by the AANP.

The format of a federacy will strengthen the state associations while the AANP addresses itself to issues on the national level.

The governing body of the AANP is the House of Delegates. Delegates are elected by constituent state associations, each association electing at least one delegate, and an additional delegate for every ten AANP members in their jurisdiction. In addition, each recognized Specialty Society, and each College and Student Association may send one delegate. The House of Delegates meets at least annually and elects a President, Vice President and Board of Trustees that will transact business between meetings of the House.

The Board of Trustees has nine members, 3 elected each year, each with a 3-year term, with no more than 3 from any given state. The President, Vice President and Immediate Past President are ex-officio Board members, and the President serves as Chair of the Board.

The term of office of the President and Vice President is 2 years. The Vice President is the Speaker of the House and becomes President-Elect after a vote of confidence at the end of one year in office.

From its membership, the Board appoints the Chairperson of its five major departments:

1. Council on Education. (*Responsible for accreditation of colleges of naturopathic medicine. Supercedes CNME.*)
2. Department of Business Affairs. (*Fiscal control, group health and professional liability insurance, conventions.*)
3. Department of Professional Affairs. (*Membership: individual and constituent associations and societies, credentials, ethics, national directory; Constitution and By-laws.*)
4. Department of Public Affairs. (*Public relations, media exposure, corporate and public sponsorship program, affiliation with other like-minded organizations, newsletter.*)
5. Department of Government/Legal Affairs. (*Legislative initiatives, aid states in upgrading practice acts and introducing new acts in new states, legal clearinghouse, relationship to federal government.*)

The Board also appoints an Executive Director, a Controller and Journal Editor. In addition, there is currently a Special Task Force on National Board Examinations headed by AANP Board members. The Task Force will develop a uniform examination to be used and recognized by all state licensing boards.

The Scientific Assembly is an annual convocation of the AANP members for the presentation of educational subjects pertaining to naturopathic medicine.

The annual convention and meeting of the House of Delegates, the Board and the Scientific Assembly is in October of each year.

The Officers and Trustees are:

President:

*James Sensenig, N.D., New Haven, Connecticut*

Vice President:

*to be elected*

Trustee and Chair of the Council on Education:

*Joseph Pizzorno, N.D., Seattle, Washington*

Trustee and Chair of the Department of Business Affairs:

*Enrico Liva, R.Ph., N.D., Middletown, Connecticut*

Trustee and Chair of the Department of Professional Affairs:

*Allen Gamble, N.D., Bend, Oregon*

*Steven Dubey, N.D., Kauai, Hawaii*

Trustee and Chair of the Department of Public Affairs:

*Michael Cronin, N.D., Phoenix, Arizona*

Trustee and Chair of the Department of Government/Legal Affairs:

*Jared Zeff, N.D., Los Angeles, California*

*Molly Fleming, N.D., New Haven, Connecticut*

Trustee and Chair of the Special Task Force on National Board Examinations:

*Edwin Hoffman-Smith, Ph.D., N.D., Portland, Oregon*

*Cordell Logan, Ph.D., N.D., West Jordan, Utah*

Past Presidents:

*Dr. Bernard Stueber, N.D., Past President of ANMA; resides in Lynnwood, California*

*Dr. Irvin H. Miller, N.D., Past President of NANP; resides in Tacoma, Washington*

A quarterly newsletter will provide needed communication to the profession and facilitate dialogue with the public. A journal is also planned.

The following state naturopathic medical associations and societies are charter constituent members of the AANP. (Other state associations are encouraged to apply for constituent status.):

*Arizona Naturopathic Medical Association*

*Connecticut Society of Naturopathic Physicians*

*Hawaii Society of Naturopathic Physicians*

*Oregon Association of Naturopathic Physicians*

*Utah Association of Naturopathic Physicians*

*Washington Association of Naturopathic Physicians*

The following naturopathic medical colleges are approved by the AANP:

*The John Bastyr College, Seattle, Washington*

*The National College of Naturopathic Medicine, Portland, Oregon*

The following state licenses are recognized by the AANP: Arizona, Connecticut, Hawaii, Oregon, Utah and Washington.

Associate, student and sponsor memberships are available for those individuals ineligible for regular membership. Details will be provided on request.

*Henry Agones*

EXHIBIT 12  
DATE 1/30/87  
HB 451

**THE COUNCIL ON NATUROPATHIC MEDICAL  
EDUCATION**

**Educational Standards and Accreditation Procedures**

**1986 Edition**

**Rev 86.2**



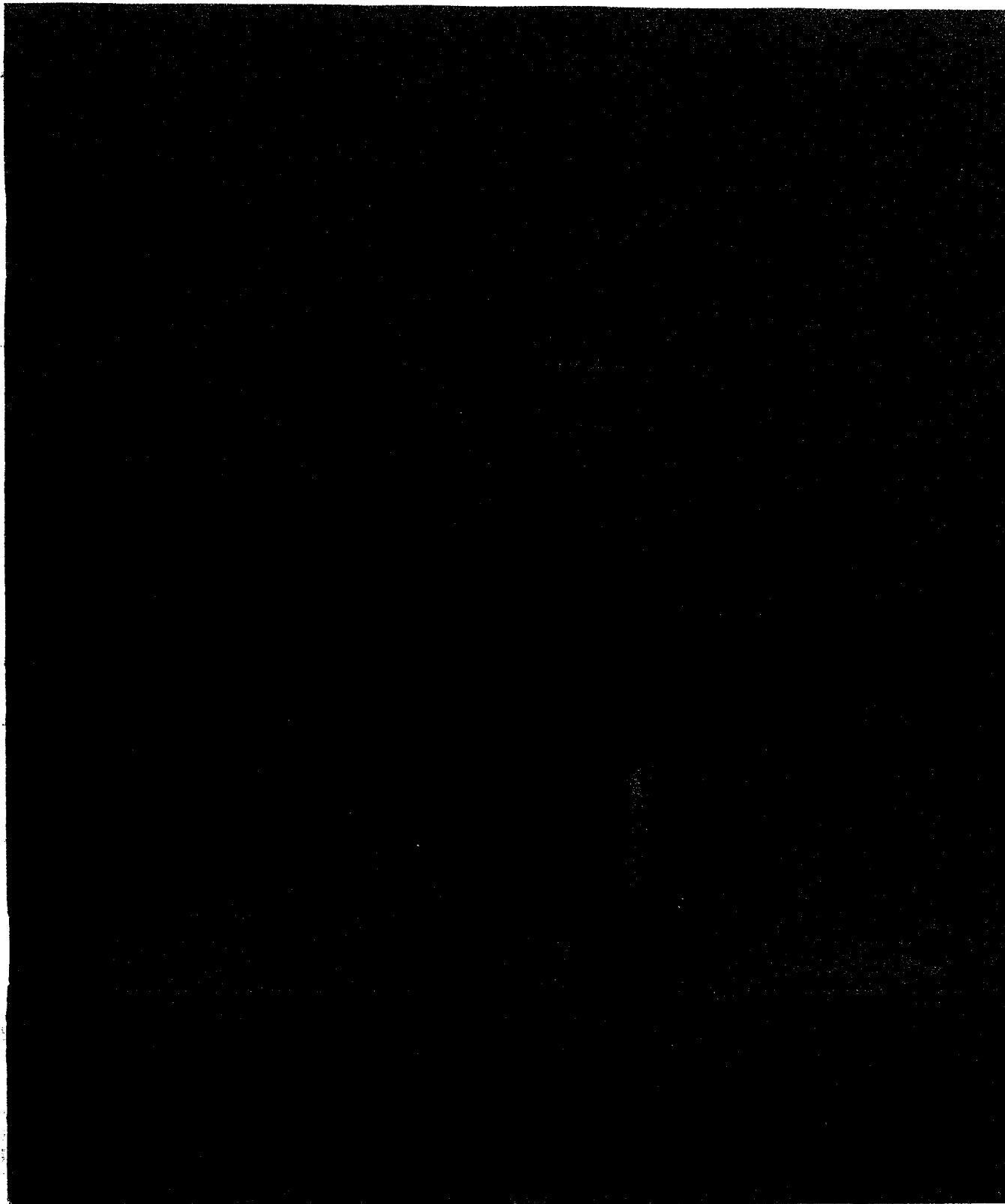


EXHIBIT 14  
DATE 1/30/87  
HB 471

**PAT'S NUTRITION AND HERBS**  
2500 Sixth Avenue South  
Great Falls, Montana 59405

January 29, 1987

Representative Joan Miles  
Montana House of Representatives  
Helena, Montana 59620

Dear Representative Miles:

I am writing in regards to your support of LC 748 on dietetic practice.

Aside from my strong objections to this Bill on grounds that it is both unnecessary and perhaps even unhealthy for the public's well-being, it is also highly impractical and virtually impossible for the implementation standpoint.

This morning I called our universities to see if we even offer an appropriate Baccalaureate Degree for Montanan's to become registered dieticians. The answer was **NO!** students must go out of state for their final two years of study and the program now in place that provides the first two years of preparatory study is at risk of being eliminated, due to budget reductions.

I urge you to drop your support of this negative legislation.

Sincerely,

*Joan Miles*

cc: Representative Al Meyers

EXHIBIT 15  
DATE 1/30/82  
HB 471



## Health Foods Shop

507 - FIRST AVENUE NORTH  
GREAT FALLS, MONTANA 59401  
TELEPHONE (406) 452-0361

My name is BEATRICE HYDE and I am the owner of the HEALTH FOODS SHOP, 507 First Avenue North in Great Falls.

I am writing to you, the members of the Business and Labor Committee to mention some of the concerns I have about House Bill 471, the Dietitians and Nutritionists Licensure Act..

No. 1 Is the restrictive nature of this bill which would take away a person's right to freedom of choice as to where he might wish to get his nutritional information.

No. 2 The added cost of getting nutritional advice from one source only.

No. 3 The bill is self-serving in that it gives one group exclusive authority to dispense nutritional information. Earning a decent living is the bottom line for all of us, but House Bill 471 discriminates against those of us who make our living in an alternate manner.

No. 4 I feel the enforcement of this law would present a problem. It would create a segregated business community of those of us in full free-standing shops, subject to strict enforcement, and of those others, such as beauty shops, health spas, sports arenas, and Avon, Shaklee, Neo-Life sales representatives who sell out of their homes, where enforcement might be uncertain.

No. 5 Before bringing my letter to a close, I want to give you a little background information. My family has owned and operated the HEALTH FOODS SHOP for over thirty-two years, during which time we have built a reputation as a respected member of the business community. I have a yearly payroll of approximately \$45,000.00. I have four clerks, some of whom depend upon their jobs at the shop for almost their entire



# Health Foods Shop

507 - FIRST AVENUE NORTH  
GREAT FALLS, MONTANA 59401  
TELEPHONE (406) 452-0361

PAGE TWO

TO THE BUSINESS AND LABOR COMMITTEE

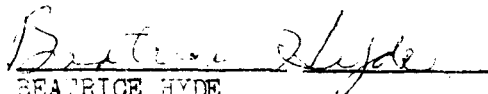
family income.

If this bill becomes law, the restrictions it could place upon how I operate my business will certainly impact the profitability of both me as owner and those of my employees.

I want to thank you for your thoughtful consideration of my concerns.

Please vote "NO" on House Bill 471.

Sincerely,

  
BEATRICE HYDE  
Owner - Health Foods Shop

Dr. Michael Bergkamp  
The Montana Association of Naturopathic Physicians  
25 South Ewing  
Helena, MT 59601

EXHIBIT 16  
DATE 1/30/87  
HB 471

1-30-87

House Bill # 471

Business & Labor Comm.

Dear Rep.

Because of scheduling confusion I was unable to testify at your comm. hearing discussing the dietitians bill. I've told I could testify outside the position of pro or con. This did not happen. So please allow me a brief statement expressing my concerns with this bill.

First I have no objection with the dietitians establishing and regulating their own profession. But this bill does much more. Nutrition is a complex and rapidly changing science. We need more than one voice. Dietitians do not represent clinical or therapeutic nutrition. Traditionally they have been responsible for planning menus at the institutional setting. We need more than this and there is much more available. This bill would restrict this availability.

I was recently asked to lecture at Lewis & Clark county meeting, to consider naturopathy for coverage under their self insured policy. I also was asked this week to lecture at the Rocky Mt. Council to a group of alcoholics discussing acupuncture and nutrition as a treatment choice. Both of these groups represent government programs seeking nutritional advice other than that offered by dietitians. I have since been informed both Lewis & Clark and Missouri counties have included Naturopathy as an insured practice.

This bill would not only restrict my practice but would also restrict people from their freedom to choose the health care they seek.

Please consider this and reject House Bill #471.

Sincerely yours,  
Michael Bergkamp ND

Dr. Michael Bergkamp  
The Montana Association of Naturopathic Physicians  
25 South Ewing  
Helena, MT 59601

EXHIBIT 17  
DATE 1/30/87  
HB 471

1-30-87

House Bill # 471  
Business & Labor Comm.  
Dear Rep.

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I was recently asked to lecture at Lewis & Clark county meeting, to consider naturopathy for coverage under their self insured policy. I also was asked this week to lecture at the Rocky Mt. Council to a group of alcoholics discussing acupuncture and nutrition as a treatment choice. Both of these groups represent government programs seeking nutritional advice other than that offered by dietitians. I have since been informed both Lewis & Clark and Missoula counties have included Naturopathy as an insured practice.

This bill would not only restrict my practice but would also restrict people from their freedom to choose the health care they seek.

Please consider this and reject House Bill #471.

Sincerely yours,  
Michael Bergkamp ND

**PAT'S NUTRITION AND HERBS**  
2500 Sixth Avenue South  
Great Falls, Montana 59405

EXHIBIT 18  
DATE 1/30/87  
HB 471

January 29, 1987

Representative Joan Miles  
Montana House of Representatives  
Helena, Montana 59620

Dear Representative Miles:

I am writing in regards to your support of LC 748 on dietetic practice.

Aside from my strong objections to this Bill on grounds that it is both unnecessary and perhaps even unhealthy for the public's well-being, it is also highly impractical and virtually impossible for the implementation standpoint.

This morning I called our universities to see if we even offer an appropriate Baccalaureate Degree for Montanan's to become registered dieticians. The answer was **NO!** students must go out of state for their final two years of study and the program now in place that provides the first two years of preparatory study is at risk of being eliminated, due to budget reductions.

I urge you to drop your support of this negative legislation.

Sincerely,

*Barbara J. Black*

cc: Representative Al Meyers

TO MONTANA STATE HOUSE REPRESENTATIVES  
IN REWARD TO H.B. 471

THIS IS BUT ANOTHER ATTEMPT BY THE  
AMA THROUGH THE ADA TO CONTROL THE  
MASSES THROUGH DETERMINING WHAT THEY  
FEEL IS THE PROPER MODALITY FOR  
HEALTH THEY LIMIT OUR RIGHTS AS  
AMERICAN CITIZENS TO CHOOSE WHAT  
DIRECTION WE TAKE FOR HEALTH CARE.  
WE ARE BEING UNDERMINED BY THOSE  
FEW WITH THE LARGE FINANCIAL BACKING  
TO IMPOSE THEIR WANTS ON US. THIS  
IS ANOTHER INFRINGEMENT ON PEOPLES  
RIGHTS BY THOSE IN POWER POSITIONS  
I HOPE YOU CAN SEE THIS AND  
VOTE NO ON THIS BILL

Sincerely  
Henry G. Mognet





9 Jan 87  
Members of the Montana  
State House of Representatives

Re: HB 471

I feel that this bill  
is further infringement  
on people's rights.

In the movie "Hawaii"  
the Queen said: "too many  
laws make people mad".

It was true then - it  
is true now.

Please vote against  
HB 471.

Thank you.

Sandra Pastor  
100 Park Blvd.  
Great Falls, MT  
59404

January 29, 1987

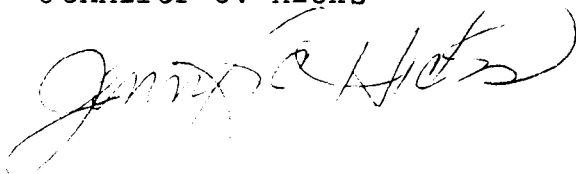
RE: BILL #471

ENTITLED: AN ACT PROVIDING FOR THE LICENSING AND REGULATION OF NUTRITIONIST AND DIETITIANS BY THE BOARD OF MEDICAL EXAMINERS; ADDING A DIETITIAN TO THE BOARD OF MEDICAL EXAMINERS: etc.

In the interest of continued growth and education of the public in the area of nutrition I urge you to withdraw this Bill. This Bill would most certainly mean a backward step for the state and nationwide health awareness movement. Great strides have been made in recent years in regards to promoting more healthful living. The ADA certainly has not kept up with this education and growth. The high fat and sugar content, along with empty calories which are the mainstay of the menus they have supplied our hospitals and public schools, attests to the fact that they have extremely limited knowledge in the field of proper nutrition. I agree that because of the publics increasing awareness of alternative health care, there needs to be regulations. They must not, however, interfere with our freedom of choice. Assigning this responsibility to members of the ADA or AMA is defeatist.

The fact that this Bill is being introduced thru Business Committee contributes to the fact that this is not so much a matter of public safety as it is a matter of money. Consumers are turning to those capable of helping them with their nutritional needs, unfortunately for dietitians this has not been them. Perhaps the real issue is that the ADA must update itself if it wishes to regain credibility with the public.

Jennifer C. Hicks



1003 Fourth Ave North  
Great Falls, MT 59401

727 0710

To Paula Hacks or Whom it may concern,  
This is to inform you that I am  
against bill 471 for providing for licensing  
and regulation of Dieticians and nutritionists.  
I don't feel this is in the best interest  
to the general public including me and  
my family - This bill, I feel would take away  
"free agency".

Thank you.

Renny Stenson  
1700 - 16 Ave S.

Great Falls, Mt.

59401

761-2615

Members of the Business and Professions Committee.  
HB 471 HB 471

I am writing to let you know of my concerns about H.B. 471, Dietitians and Nutritionists Licensure Act, and to ask you for a "No" vote on the proposal.

One of my concerns has to do with the fact that it restricts a person's freedom of choice as to his sources of nutritional material and help, limiting him to just one group who would supply the information.

The health of the nation would be in a sorry state if we had just one type of physician or surgeon to whom we could turn for medical help when it was needed.

We already have a law on the books of Montana which covers almost the same points as H.B. 471, proposes, so I wonder why the same legislation is being proposed at this session of the legislature.

How many violations of the 1985 Dietitians Law have been brought to light and prosecuted? If it still works, please don't change it.

Thanks for your thoughtful consideration of my concerns.

Members of the Business and Labor House Committee <sup>HB</sup> 471

Am writing to ask for your "No" vote on  
H.B. 471, Dietitians and Nutritionists' Licensure  
Act.

My concern about this proposed legislation is the restricting of a person's freedom of choice in the matter of where he gets his nutritional advice and resources.

I wonder how much evidence there is that the public is demanding nutritional advice be given by one select interest group only: The American Dietetic Association? This law will surely make that kind of information more difficult to get and certainly more expensive.

Thank you for your consideration of my concerns.

Sincerely,  
Doris Littlefield

— — — — —

Good morning members of the Business & Economics Program  
DATE 1/30/82  
I am writing to tell you of my concerns about  
H.B. 471, the Dietitians and Nutritionists'  
Licensure Act.

This bill gives me some concern in that  
it is a very restrictive measure,  
allowing only those classified as  
licensed dietitians and nutritionists to  
provide nutritional information.

It would limit a person's freedom of  
choice as to where and from whom he  
might want to get some nutritional help.

The bill that was passed in 1985  
covers nearly the same things.

Please vote No on this proposed  
legislation.

I want to thank you for listening  
to my thoughts about H.B. 471.

Sincerely,  
Sheila Knudsen

Members of the Business and

EXHIBIT 21  
DATE: Aug 30/87  
HB 471

I am writing to ask you to vote  
"No" on H B. 471, Nutritionists and  
Nutritionists' Licensure Act.

I am concerned that this proposed  
legislation will restrict my  
personal freedom of choice in the  
matter of where I can get  
nutritional advice and resources.

This law will surely make it  
more difficult and certainly much  
more expensive to obtain.

Thank you for listening, and  
again, please vote "NO."

Sincerely,  
Margaret A. Ludwig  
Rte. 2 So.  
Great Falls, Mt.  
59405



EXHIBIT 2018-17  
DATE 1/30/87  
HB 471  
Canter 187  
5

Dear Rep Joan Mills,

Thank you for not voting  
on House Bill 471.

Karen Kiehl  
Rt. 2 Box 4300  
Dutton, Mt. 59433

EXHIBIT 29  
DATE 1/30/87  
HB 471  
Jan 28, 1987

Dear House of Representatives,

Since there is no way to become a registered dietitian in the State of Montana, I feel it is highly impractical to pass such a bill as House Bill 471.

Thank you for not supporting House Bill 471

Sincerely,

~~Teresa~~ Davis

910 2nd ave. S.W.

St. Pauls, MT 59404

EXHIBIT 30  
DATE 1/30/87  
HB 471

June Krischel

1125 21<sup>st</sup> Ave S.W

Great Falls

Montana

59404

Jan 28<sup>th</sup> 1987.

Dear Representative,

We thank you for voting against House  
Bill 471.

Sincerely June Krischel

Dear Representative,

We thank you for voting against House Bill  
471.

Sincerely Dave Krischel

Dave Krischel

1125 21<sup>st</sup> Ave S.W

Great Falls, MT

(406) 761-1968 59404

28 Jan 87

Dear Rep. Call:

This concerns House Bill #71 -  
this is a BAD bill. And  
there some things we can  
still be free to make a choice.

The public is still able  
to make good decisions.

Sincerely

Wanda Nelson

Vaughn, Int 59487

## COMMITTEE

DATE January 30, 1987

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
E. B. WHITE	2nd Falls MT.		X
JT Muller DRR	Butte MT		X
W W FRANKS	SEATTLE, WASH	X	
John Corcoran	Butte MT	X	
Bill Mangum	Clevidence, MT	X	
John B Palmer	Fairview MT	X	
MIKE CLARK	WHITEFISH MT	X	
MALCOLM STONE	P.O.C.		
Dirk Simpson	MISSOULA	X	
D. G. SWANSON	" "		X
Norm Faxon	Bozeman MT		X
Ch. Johnson	LIVINGSTON MT		X
I D. WATKINS	GREAT FALLS	X	
John A. Elliott	Helena	reorganized	
John Blodgett	HELENA	X	
John H. H. H.	Bozeman	X	
Don J. J.	Bozeman		
King Mungley	MT Jumbo		X
Bill Green	MT Lundy Mts Helena	X	

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 471DATE January 30, 1987SPONSOR Rep. Paula A. Darko

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<del>Charles A. Connor</del>	Billings, MT	✓	
Joanne Shearer	Helena MT	✓	
<del>Dorinda Johnson</del>	Billings MT	✓	
India Supena	Helena MT		✓
Linda Goode	Louisian, MT	✓	
<del>Anna Ralston</del>	Helena MT	✓	
Brooke Medicine Eagle	Helena mt		✓
Joye Sleicher	Billings MT	✓	
Joan Vachon	Missoula MT	✓	
Patricia Harris	Bozeman MT	✓	
Johannah Reilly	Butte MT		✗
Robert Murray	BUTTE MT		✗
<del>Russell</del> Russell Marz	Great Falls MT		✓
Breanne G. Darn	Great Falls MT		✓
Shelby G. Darn	Idaho	✓	
Deidre Hazen C.A.	Helena MT		✓
Thomas Bump C.A.	Helena MT		✓
Claudette Ross	Helena MT		✓
<del>Linda L. Lode</del>	Helena MT		✓
<del>Marta P. Murray</del>	Helena MT		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Carol Heppner Great Falls MT ✓

Leo F. P. M. 503

St. Falls

5/12/22

X

Robert ...

Robert

Tasha ...

Robert

✓

William ...

St. Falls

✓

John ...

John

✓

Robert ...

Robert

X

John ...

John

✓

Sam ...

Sam

✓

John ...

John

✓

John ...

John

X

John ...

Kalispell

X

Mar ...

Mar

✓

John ...

Don ...

Don

X

Rocky ...

Rocky

X

John ...

John

✓

John ...

John

✓

John ...

John

✓

John ...

John

X

John ...

Helena

X

Pat ...

Pat

X

John ...

John

X

John ...

John

John ...

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 471DATE January 30, 1987SPONSOR Rep. Paula A. Darko

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Laughing Water	Helena, MT		✓
POLLY JUNKERMEIL POOLE	GREAT FALLS, MT	✓	
WILLIAM WENDALL	Great Falls, MT	✓	
RON HAUGE	ARLEE, MT		✓
Pat Heydlaiff	California/Representing Retirees		✓
Colleen Pinkney	Polson, MT		✓
William PINKNEY	Polson, MONTANA		X
TROY HOLTER	BOX 790, GREAT FALLS		✓
ART KAUTZEN	103 ALBANY BILLINGS, MT		✓
Delores Kautzen	103 ALBANY ELYS MT.		✓
DELORES CHRISTENSEN			✓
A. Ragener	800 South Parkway, Helena	amend	
Sonnie Tippy	Helena, MT	✓	
MARIE WELSH	Muskegon, MI	✓	
Maria K. Hedera	Massachusetts	✓	
Messie Plenderhall	Bozeman, MT	✓	
Car Ann	Helena	✓	
Steve Barnett MD	Albany PA	✓	
A. J. BASTIEN	ALBANY	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.



## BUSINESS AND LABOR

BILL NO.

DATE \_\_\_\_\_

SPONSOR

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. 471DATE Jan 30

SPONSOR \_\_\_\_\_

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dori's Biersdorf	Billings	X	
Tamie Stewart	Kalispell	X	
George [unclear]	[unclear]	X	
Kathleen [unclear]	[unclear]	X	
Kay Johnson	Phoen	X	
Mary [unclear]	Phoen, [unclear]	X	
Philip [unclear]	Canyon Ferry, MT	X	X
Elaine [unclear]	Canyon Ferry, MT	X	X
Keri Eden	Helena	X	
Hilary [unclear]	Helena		X
George [unclear]	MT. Pleasant, [unclear]		X
Nancy [unclear]	Helena	X	
Margaret [unclear]	Helena		X
Martha [unclear]	Helena	X	
Angela [unclear]	Helena		X
Beth [unclear]	Butte	X	
Pat [unclear]	Helena	X	
Liz [unclear]	Helena	X	
Alma [unclear]	Helena		X

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 302DATE January 30, 1987SPONSOR Rep. Dorothy M. Bradley

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Robert A. Nelson	PSC -		
Joe Brand	HEL-100, MAINT		X
Richard Van Allen	BETH C. MESSICK, MT.		X
Wally R. Danks	W. H. T. SH. MT.		X
John R. B. B.	MISSOURI MT.		X
John E. MEARNS	BIZ-100 MT.		
John C. MEYER			
John M. Shetty	John Shetty	✓	
Laura Frank	7131 Marie Avenue	✓	
Doug Crandell	Livingston	✓	
Carl Kuntz	Glenn -		X
Mark Chish	Brown	✓	
Russ Ritter	Mt. Chamber	✓	
Martin Dippold	Cambridge Inc	✓	
Mike Murray	MLIC - MT.		X
Mike Fox	MSCA - MT.		X
Mike Meier	WE-12	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.