

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

February 20, 1987

The meeting of the Business and Labor Committee was called to order by Chairman Les Kitselman on February 20, 1987 at 8:00 a.m. in Room 312-F of the State Capitol.

ROLL CALL: All members were present.

HOUSE BILL NO. 823 - Rep. Carolyn Squires, House District 58 Missoula, introduced HB 823. She said the bill would revise the law relating to group disability insurance. She said this would clarify the coverage under group policies.

PROPONENTS

Mr. Throssell, of the State Auditor's office, explained the bill by the Insurance Commissioner to clarify some provisions of the group disability insurance law. He said there was a question whether newborn infants of children that are under a parents' policy are covered. The 1981 legislature made it clear that it was covered in the individual disability insurance law. Section 1 of this bill extends the coverage to group disability insurance. He said section 2 of the bill is the conversion rights that people enjoy under group disability policies. Currently if the employer ceases business or a member ceases to be a part of the group, there is a conversion right to an individual policy. He said there is a situation where employers have dropped the coverage without having a conversion right. Section 2 would add this as a contingency allowing conversion. Section 3 of the bill amends the law on preexisting conditions that must be covered when a conversion takes place. Sections 4, 5, 6 deal with mandated coverage of mental illness, alcohol and drug addiction treatment. He pointed out that multi-state employers headquartered out of state purchase group insurance for employees in that state that conforms to other state laws. He said that it is legal but residents do not have the benefits of the mandated mental illness, alcohol and drug addiction coverage. He pointed out that the language being proposed in the bill came from the state of Massachusetts. He said the mandated coverage would be applicable upon the issuance, delivery or renewal of any group disability policy in the state.

PROPONENTS

Steve Waldron, executive director of the Montana Council of Mental Health Centers, spoke in support of the bill. He said it was the intent of the legislature when the law was written to cover all group plans. He pointed out that some group plans are under it and some are not. He said an out of state company would not have to comply with this. He pointed out emergency situations where people are suicidal or other emergencies and have group coverage insurance and find out later because of a kink in the law they are not covered. He said there were a number of complaints to the Legislative Auditor's Office by consumers.

Ann Scott, administrator of Rocky Mountain Treatment Center of Great Falls, discussed the difficulty of deciding whether to give free beds to people who do not have insurance. She pointed out the high cost per year to the treatment center. She said there was a need to force the big out-of-state employers to have benefits that are comparable to other in-state employers.

Mike Murray, representing 37 chemical dependency programs in Montana, spoke in support of the bill. He said that 7 of them are in-patient programs that would be impacted by the legislation. He pointed out that programs are finding that Montana residents are working for a major out-of-state corporation but their insurance does not cover the illness of alcoholism. He said this imposes a hardship on the family.

Pat Callbeck Harper, representing the Montana Psychological Association, supports HB 823. She stated that HB823 was a key issue of concern for the association. She said that coverage for mental illness, alcoholism and drug addiction treatment appears to be offered to all Montanans, but in effect it is not if policies are written out-of-state. She said the MPA supports the closing of loopholes in Sections 4, 5, and 6. (Exhibit 1)

CLOSING

Rep. Squires summarized that HB 823 was a clarification of the existing laws regarding what group disability insurance covers. She said the bill is worded to provide the same protection the majority of Montana insureds enjoy. She asked for a do pass recommendation from the committee to provide equity to all Montanans.

HOUSE BILL NO. 828 - Rep. Ben Cohen, House District 47 Whitefish, presented HB 828. He explained the bill was an act to provide a means for compensation for persons who intervene in Public Service Commission proceedings. He said that interveners represent various consumers

who have a particular interest in the result of a rate setting case. He submitted amendments to the bill. He pointed out that when a utility goes into the Public Service Commission for a hearing to adjust their rates, they are allowed to take all their costs of preparation, presentation, and expert witnesses in that hearing. If the Commission accepts and gives them the rate increase, the costs are added into the rate base so the utility recovers the cost of presentation and the hearing. He said intervenors who provide substantial contribution to the findings of the Public Service Commission may have their costs also added into the rate base but paid by the utility. He said that the bill made it clear that both parties, opponent and proponent, would recover their costs if they make substantial contributions. He pointed out that the utility could not sue the intervenor to pay their costs.

PROPONENTS

Jim Morton, executive director of District 11 Human Resource Council in Missoula, spoke in support of the bill. He said that the Human Resource Council has intervened formally for over a decade in front of the Public Service Commission. He pointed out the intervenor has a lot of costs. The utility passes the costs on to the rate payer. If an intervenor has an idea and they go to the expense of presenting that formally and substantially contributed then he should be reimbursed. He said the question of substantial contribution should be left to the Public Service Commission.

Joseph Moore, legislative coordinator for Montana People's Action, testified in support of the bill. He said interest in the bill was based on participation as an expert witness. He said it was important for the people whose lives are affected to present their viewpoints to the PSC.

John Mottell, attorney from Helena and member of the board of directors of Common Cause of Montana, spoke in favor of the bill. He said the bill would increase the opportunities for citizens to participate.

Russ Brown, Northern Plains Resource Council, testified in support of HB 828. He said the council intervened in 1983 in the Colstrip Unit 3 rate case. (Exhibit 2) He said the council had presented expert testimony by a utility economist on the issue of excess capacity. He said the council argued successfully on the question of need on whether MPC had made a prudent decision on building Colstrip Units 3 and 4. He discussed other decisions and input by intervenors. He said that

intervenors were not able to make the same compelling arguments as the first time due to the financial burden. He pointed out the ability of the utility to come in time and time again for rate increases can have a devastating impact on resources of consumer groups. He said because of the financial impact this keeps low-income, senior, and other consumer groups from continually going in presenting a full-blown case that might be necessary to insure that consumers get the best deal possible.

Danny Oberg, a member of the Public Service Commission, supported the bill. He said the bill was a reasonable approach in bringing information before the commission. He said the Commission is bound by the record of the case in making decisions. He said this would help expand the record and preserve the Montana Consumer Council as the primary witness for the consumers of Montana and preserve the rights of the utility and the rate-payer by abuse by intervenor groups. He presented amendments proposed by the Commission. He said that the PSC wanted to insure that intervenor funding only went to groups who can prove financial hardship. He said another amendment would protect the utility and the customers from excessive awards. He pointed out the changes occurring with pricing. He said the bill would ensure that other customers have the opportunity to make their case known in front of the Commission. Consumers would be protected from duplication payments by the fact that the Consumer Counsel has to turn down those parties.

Earl Riley, Montana Senior Citizens Association, testified in support of the bill. He pointed out that senior citizens were on a fixed income. He said the residential consumer is not represented on a consumer council. He said the room is overwhelmed by well paid lobbyists from the utilities. He said it was time the residential consumer was represented in the rate hearings and the proceedings.

OPPONENTS

John Alke, representing Montana Dakota Utilities Company, in opposition to the bill. He pointed out that the bill was a rewrite of rules the commission already had. He said the rules were invalidated because of abuses of the system. He said they were unnecessary and had undesirable effects. He pointed out a case when the rules were in effect. He said in the first rate case, the Human Resource Council was an intervenor who sought compensation. The intervention failed but the PSC awarded the Human Resources Council \$6,600 for appearing at the hearing. In the next case

they succeeded. During a one day hearing their legal counsel filed 8 pages of brief. The bill they charged was \$13,080. He said there was \$5,300 in attorney fees despite the fact the attorney was a fully salaried employee of the Montana Legal Services Corporation. He said the Human Resource Council was required to fund a salaried staff person for the resource council whose job was to obtain federal grants, required to pay for office supplies, printing, and no money was reduced from the award. He said the resource council received a \$7,500 grant to specifically fund the intervention plus prior money. He said the rules proposed are almost a verbatim rewrite of the earlier rules. He said the bill was unnecessary. The Montana Consumer Council is a fully funded office, funded by a tax on public utilities. He said the Montana Consumer Council represents the interests of the consumers. The cases typically arise on rate design. On the revenue requirement phase the Montana Consumer Council represents all customers. The revenue requirement on a rate case affects every customer in the state. The Human Resources Council want subsidized rates and the Consumer Council will not support that because whatever they obtain for their special group costs another group of rate payers money. He noted that the rate design which the Human Resource Council proposed and the Montana Consumer Council accepted resulted a 100 percent rate increase for consumers who heat their homes electrically. The people who heat their homes electrically had no choice but to pick up all the expenses of a subsidy. That is what they also had to pay for in their rates for terms of funding for intervention of the Human Resources Group. He said the bill would be subject to rampant abuse.

Jim Hughes, representing Mountain Bell, pointed out that intervenor funding would be paid by the consumer.

Karla Gray, representing the Montana Power Company, spoke in opposition to HB828. She presented information drafted by their legal staff. (Exhibit 3) She said that intervenors would get into the rate payers' pocket books. She said the consumers are represented by elected commissioners who are responsive to constituents. She added that rate payers are paying utility taxes to fund the Public Service Commission. She said the bill suggested that only intervenors who substantially contribute to a decision of the commission be eligible for compensation, but the definition of substantial contributions is someone who has presented views, testimony, or arguments that have been considered by the commission to make a decision. She pointed out that the commission is obligated to consider all matters of record.

Pam Miller, Pacific Power and Light and Northwestern Telephone System, spoke in opposition to HB828. She said the Montana Consumer Council represents consumers adequately.

QUESTIONS

Rep. Swysgood asked if the bill was a consumer bill and an intervenor has presented testimony in a case and the rate is not granted who pays the cost of the contribution by the intervenor. Danny Oberg replied that it would result in a rate increase for the consumer.

Rep. Driscoll asked Jim Morton for comments. Jim Morton pointed out that similar arguments have been heard in District Court cases. The courts have said there was substance to the case and awarded intervenor fees. He said that nobody wanted rate payers to have continuing escalating costs.

Rep. Driscoll asked Jim Paine from the Consumer Council about money in the budget to intervene in all the cases filed in the PSC. He replied they did so far.

Rep. Simon asked Rep. Cohen about being eligible for award compensation, an intervenor who is not a public utility, common carrier, railroad or other industry regulated by the commission may apply. He asked if information handed out showing 17 intervenors if they would be eligible to be compensated. Rep. Cohen replied that unless the amendments by Commissioner Oberg prove financial hardship. He said the committee would have to consider all intervenors or some restrictions. Rep. Cohen said there were all classes of consumers and all should have an opportunity to be intervenors.

CLOSING

Rep. Cohen pointed out that last year a quarter of a million dollars was added to the consumer rate base because of Montana Power's representations before the PSC. He pointed out that Northern Plains spent \$44,000 and as the result of their intervention saved \$92 million for consumers.

HOUSE BILL NO. 810 - Rep. Dan Harrington, District 68, presented HB 810. He explained the bill would change Head Start Schools that do have collective bargaining rights, would put them under the Board of Personnel Appeals. He pointed out that the problem is that the NLRB deals with inter-state commerce.

PROPOSERS

Terri Minnow, representing the Montana Federation of Teachers, spoke in support of HB 810. She explained the Head Start program and that employees already have the right to collectively bargain. She said the bill would put Head Start under the jurisdiction of the Montana Board of Personnel Appeal. She said under the NLRB, the union and/or the employer have to call Seattle and wait for a hearings examiner to come to Montana. She said the bill would improve access to a board and speed the process of resolving labor questions.

QUESTIONS

Rep. Swysgood asked why the private head start agencies were included in the bill. Terri Minnow explained that in Missoula the Head Start was under a private nonprofit corporation which is formed for administering the Head Start grant.

Rep. Simon asked about private nonprofit organizations getting mixed in with governmental public employees. Terri Minnow responded that it makes sense to have the same board have jurisdiction when considering all the Head Starts in the state.

Rep. Glaser pointed out that there were three Head Starts involved and questioned if all had collective bargaining through the same agent. Terri Minnow said that every single Head Start is administered by a different grantee and have different employers. She said the Montana Federation of Teachers represent the employees.

Rep. Simon asked if the Billings Head Start was represented. Terri Minnow said all of the Head Start programs would be affected, however the three mentioned had formed a union.

CLOSING

Rep. Harrington pointed out that units have chosen a bargaining agent. He said the bill would put public employees under the Board of Personnel Appeals which other employees in the state of Montana are now under. He said it would speed up decisions and has nothing to do with which agency governs these. He said if any other units unionize they would fall under the same pattern.

HOUSE JOINT RESOLUTION 37 - Rep. Bill Glaser, House District 98, introduced HJR 37.

PROPONENTS

Doug Campbell, state board member of the Montana Senior Citizens Association from Missoula, spoke in favor of HJR 37. He said that good health care should be the right of all citizens regardless of age or ability to pay. He said the Montana elderly are paying \$1,036 per year out-of-pocket for medical costs above what Medicare and supplemental insurance covers. He pointed out the increase of premiums for supplemental insurance and is already out of reach for many. He said this bill would encourage Montana physicians to become participating members in the Medicare assignment program. He said there were incentives for physicians such as a 4 percent bonus in their fees granted to participating members. He proposed an amendment that the physicians of Montana be urged to enroll in a participating physician program during the 1987 enrolling period. He said to strike out the word "consider" and make it "enroll" instead of "enrolling". He said the program has been in effect for three years and is sufficient time for consideration. He proposed to amend on number 20 "all" citizens instead of "old". He pointed out that there are 37 million younger people who have no health care coverage. He said all citizens should be represented.

Earl Riley, representing the Montana Senior Citizens Association, spoke in support of the bill. He discussed the 2-tier system. He said that physicians can not get some people to pay so the people that can, pay higher to cover the services.

Ann Light presented testimony for Judy Carlson of the Montana Senior Citizens Association. (See Exhibit 4)

OPPONENTS

None.

QUESTIONS

Rep. Driscoll questioned the one percent inflation.

CLOSING

Rep. Glaser said the needs of the senior citizens' well being must be considered.

EXECUTIVE ACTION - February 20, 1987

ACTION ON HOUSE JOINT RESOLUTION 37

Rep. Glaser moved DO PASS. Rep. Cohen moved that the first amendment to change the words "considering going to" should be "urged to enroll". Rep. Brandewie said

he did not agree with this and it was socialized medicine. He said the state could barely afford to help out the people on Medicare. The question was called. The motion carried unanimously.

Rep. Driscoll moved the amendment on page 1, line 18, strike "seven" and insert "three", line 20 strike "three" insert "six". Rep. Simon suggested "several" times since the numbers were not known. The question was called on the amendment to insert "several" instead of the numbers. The motion carried unanimously.

Rep. Glaser moved DO PASS AS AMENDED. The motion carried with Rep. Driscoll opposed.

ACTION ON HOUSE BILL 810

Rep. Brown moved DO PASS. Rep. Swysgood moved to amend the bill, line 19, page 1, strike "or private". He said that this is not referred to anywhere else in the bill. Rep. Wallin said to strike "nonprofit" also. Rep. Driscoll said that the private nonprofit agency has been the Head Start agency. He said if "nonprofit agency" was struck out that was the main part of the bill. He said all these organizations put in place by federal and state government were nonprofit corporations.

Rep. Cohen said if the amendments were accepted it would be the same as a do not pass recommendation. He said these agencies are private nonprofit.

Rep. Driscoll said that the bill would have unions go through the Montana Labor Act instead of the National Labor Act.

Rep. Simon commented that he did not know that the effect of the bill would be on the seven Head Start programs.

The question was called on the amendments. The motion carried 10-8.

Rep. Cohen moved to TABLE the bill. The motion carried unanimously.

ACTION ON HOUSE BILL 828

Rep. Cohen moved DO PASS. Rep. Cohen moved the amendments with his changes to amend 1, 2, 3, 6, 7, 8, 10, 11, 12, 13 and to change "within 10 days" to "20 days". The motion carried with 4 opposed.

Rep. Smith said the expenses incurred would be paid but would increase the rates. He said the large consumers

would really pay the bill. Rep. Smith moved to TABLE. The motion carried 11-7 with 7 opposed.

ACTION ON HOUSE BILL 823

Rep. Driscoll moved DO PASS. The question was called. The motion carried with Reps. Swysgood and Brandewie opposed.

ACTION ON HOUSE BILL 66

Rep. Pavlovich explained the changes made by the Department of Revenue. He said the previous document did not show the changes. Rep. Pavlovich moved DO PASS HB 66. He moved the amendments to replace the old bill with the new bill. He said this would give the authority to the department of video poker machines to find out how many manufacturers and distributors there are in the state. He said the bill includes a \$1,000 licensing fee. He said new machines must be checked and the manufacturer will pay for the checking by the department. The motion carried on the amendments unanimously.

Rep. Glaser said he was concerned that it was too broad. He said the department came up with an amendment on page 1, line 17, after the word "all" to add the word "proprietary". The motion carried unanimously.

Rep. Pavlovich moved DO PASS AS AMENDED. Rep. Simon asked about a licensed manufacturer getting approval and then the machine is not OK. What would the position be of the state. Rep. Pavlovich said the department would ask the manufacturer to remove the machine and fix it.

Rep. Driscoll clarified that the state checks machines to make sure they fit under the law. He said new machines can't be sold here until the department looks at them. If they fit under the law, the machine will be certified.

The question was called. The motion carried with Rep. Simon voting NO.

ACTION ON HOUSE BILL 623

Rep. Pavlovich moved to DO PASS. The motion failed on a 9-9 tie vote.

ACTION ON HOUSE BILL 719

Rep. Pavlovich moved to lift the bill off the table. He explained he had amendments that needed to be added. Rep. Simon said he did not see how the bill would work. Rep. Grinde said the amendments would disclose too much about people and in small communities nothing stays confidential. The motion FAILED.

ACTION ON HOUSE BILL 810

Rep. Driscoll moved to reconsider action on HB 810. The motion FAILED 8-10.

ADJOURNMENT:

The meeting was adjourned at 10:40 a.m.

A handwritten signature in black ink, appearing to read "Les Kitseleman", written over a horizontal line.

REP. LES KITSELMAN, Chairman

DAILY ROLL CALL

BUSINESS & LABOR

COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date February 20, 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	✓		

STANDING COMMITTEE REPORT

February 20

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 823

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☐ as amended
☐ statement of intent attached

REP. LES KITSELIAN

Chairman


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STANDING COMMITTEE REPORT

February 20

19 87

Mr. Speaker: We, the committee on BUSINESS AND LABOR

report HOUSE BILL NO. 66

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS

1) Page 1, line 6

Strike: "MANUFACTURERS AND DISTRIBUTORS"
Insert: "MANUFACTURERS-DISTRIBUTORS"

2) Page 1, line 9

Following: "INVESTIGATION,"
Strike: "ACHIEVING,"

3) Page 1, line 17

Following: "all"
Insert: "proprietary"

4) Page 1, line 14 through page 2, line 3

Strike: subsection (3) in its entirety
Re-number: subsequent subsections

5) Page 2, line 14

Strike: "Manufacturer"
Insert: "Manufacturer-distributor"

6) Page 2, line 13

Following: "produces,"
Strike: "or"
Insert: "and"

7) Page 2, line 14

Following: "makes"
Insert: "or supplies"

8) Page 2, line 16 through page 3, line 2

Strike: subsection (7) in its entirety
Re-number: subsequent subsections

9) Page 3, line 17

Strike: "Manufacturer or distributor"
Insert: "Manufacturer-distributor"


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10) Page 3, line 12

Strike: "manufacturer's or distributor's"

Insert: "manufacturer-distributor's"

11) Page 3, lines 14 and 15.

Following: "or" on line 14

Strike: ";

Strike: "(a) \$1,500"

Insert: "\$1,000"

12) Page 4, line 1

Strike: "Manufacturer's"

Insert: "Manufacturer-distributor's"

Following: "license"

Strike: "; and"

Insert: "."

13) Page 4, lines 2 and 3

Strike: subsection (b) in its entirety

14) Page 4, lines 5 and 6

Following: "one-time" on line 5

Strike: "manufacturer's or distributor's"

Insert: "manufacturer-distributor's"

15) Page 4, line 9

Strike: "Manufacturer's and distributor's"

Insert: "Manufacturer-distributor's"

16) Page 4, line 16

Strike: "security --"

17) Page 4, lines 17 and 18

Following: "s" on line 17

Strike: "manufacturer's or distributor's"

Insert: "manufacturer-distributor's"

18) Page 4, line 23

Strike: "manufacturer or distributor"

Insert: "manufacturer-distributor"

19) Page 5, line 2 through page 7, line 6

Strike: subsections (2), (3), (4), (5), and (6) in their entirety

Renumber: subsequent subsection

721

20) Page 7, line 13

Strike: "manufacturer or distributor"
insert: "manufacturer-distributor"

21) Page 7, lines 17 and 18

Following: "equipment" on line 17

Strike: "manufactured or distributed by the applicant"
insert: "produced by the manufacturer-distributor"

22) Page 7, line 19

Following: line 18

insert: "(b) the department may revoke a license for a machine produced by that manufacturer-distributor and owned by a person in the state of Montana, at the time revocation of the manufacturer-distributor's licensure only if, after a reasonable length of time, the machine remains out of compliance with state requirements; and"
ReNUMBER: subsequent subsection

23) Page 7, line 19

Strike: "manufacturer or distributor"
insert: "manufacturer-distributor"

24) Page 7, lines 21 through line 24

Following: "equipment" on line 21

Strike: the remainder of line 21, lines 22 and 23 in their entirety, and line 24 through "equipment"

25) Page 7, line 25

Following: "(2)"

Strike: "An"

insert: "Any association or"

Following: "between"

Strike: the remainder of line 25

insert: "the manufacturer-distributor"

26) Page 8, lines 3 and 4

Following: "that the" on line 3

Strike: "manufacturer or distributor"

insert: "manufacturer-distributor"

27) Page 8, line 9

Strike: "manufacturer or distributor"

insert: "manufacturer-distributor"

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28) Page 8, line 12

Following: "of"

Strike: "a video draw poker machine license"

Insert: "the licensee's video draw poker machine licenses"

29) Page 8, line 13 through page 9, line 1

Strike: subsection (4) in its entirety

30) Page 9, line 2

Strike: "(1)"

31) Page 9, line 3

Following: "finds"

Strike: "reasonable cause to believe"

Insert: "after a hearing conducted pursuant to the Montana Administrative Procedure Act, that"

32) Page 9, line 7

Strike: "(a)"

Insert: "(1)"

ReNUMBER: subsequent subsections

33) Page 9, line 14

Strike: "(a)"

Following: "through"

Strike: "(1)(c)"

Insert: "(4)"

34) Page 9, lines 15 through 20

Strike: subsection (2) in its entirety

35) Page 9, line 21

Following: "of"

Insert: "new"

36) Page 9, line 23

Following: "approve"

Insert: "new"

37) Page 10, line 2

Following: "is"

Strike: "placed into play or use"

Insert: "played or used"

38) Page 10, line 5

Strike: "manufacturer and distributor"

Insert: "manufacturer-distributor"

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39) Page 10, line 6

Following: "equipment"

Strike: "are"

Insert: "is"

40) Page 10, lines 7 and 8

Following: "inquire the"

Strike: the remainder of line 7 and line 8 through
"license"

Insert: "manufacturer-distributor"

41) Page 10, line 9

Following: "is"

Insert: "new"

42) Page 10, lines 13 through 14

Strike: Section 7 in its entirety
Number: subsequent sections

43) Page 11, line 13

Following: "section"

Strike: "9"

Insert: "6"

44) Page 11, line 15

Following: "through"

Strike: "8"

Insert: "7"

45) Page 11, line 18

Following: "through"

Strike: "9"

Insert: "7"

46) Page 11, line 21

Following: "through"

Strike: "8"

Insert: "7"

47) Page 11, line 23

Strike: "9"

Insert: "8"

Strike: "10"

Insert: "9"

48) Page 11, line 25

Strike: "8"

Insert: "7"

Strike: "11"

Insert: "10"

Handwritten initials

STANDING COMMITTEE REPORT

February 20

19 87

Mr. Speaker: We, the committee on **BUSINESS AND LABOR**

report **HOUSE JOINT RESOLUTION NO. 37**

☒ do pass
☐ do not pass

☐ be concurred in
☐ be not concurred in

☒ as amended
☐ statement of intent attached

REP. LES KITSELMAN

Chairman

AMENDMENTS AS FOLLOWS:

1) Page 1, line 18
Strike: "seven"
Insert: "several"

2) Page 1, line 20
Strike: "three"
Insert: "several"

3) Page 2, lines 7 and 8
Following: "to" on line 7
Strike: "consider enrolling"
Insert: "enroll"


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WITNESS STATEMENT

EXHIBIT 1
DATE 2-20-87
HB 823

NAME Dr. Wilbur Harper BILL NO. HB 823
ADDRESS 301 S. Gates Helena, MT 59601 DATE 2-20-87
WHOM DO YOU REPRESENT? Montana Psychological Assoc
SUPPORT ✓ OPPOSE _____ AMEND _____

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

The HB823 is a key issue of concern for the MT. Psychological Assoc. because of the practicing psychologists' concern that mandated coverage for mental illness, alcoholism and drug addiction treatment appears to be offered to all Montanans, but in effect it is not if (group) policies are written out of state. This has caused hardship to clients later.

The MPA particularly supports the closing of these loopholes in Sections 4, 5 and 6.

Thank you.

MPA is an association of ^{about} 100 psychologists practicing in public and private sectors across the state.

A Presentation of The Issues Compiled By The Montana Public Service Commission

Thomas Schneider, Chairman
John Driscoll
Howard Ellis
Clyde Jarvis
Danny Oberg

The Issues Reviewed

The Colstrip case is the most significant and complex rate case ever filed in Montana. In this case, as in all other rate cases, the Public Service Commission is charged by Montana law with the duty to hear impartially all the evidence brought before it.

The basic issue in the Colstrip case is whether the Company is entitled to an increase in its electrical rates. The Commission must finally determine whether the Company is entitled to all, part or none of the \$96,367,013 sought from Montana retail customers. In that determination, one important issue the Commission must decide is whether the Colstrip plant is "used and useful" to Montana consumers. Under Montana law, utilities can earn profits only on investments which are required to provide service to Montana customers. MPC argues that the PSC is foreclosed or prohibited from considering whether the Colstrip plant is "used and useful" because a determination of need was made by the Montana Board of Natural Resources during the Siting Act process. The issue of whether Colstrip was built as economically as possible will also be reviewed in the case. Finally, these questions must be addressed: (1) At what level should the Company be allowed to earn profits? and, (2) How would any rate change be distributed among residential, commercial and industrial customers?

Technical Testimony Offered

During the Colstrip hearing process, the testimony from Montana Power Company and the 23 intervenors (formal parties) will address the above issues through extremely technical testimony relating to the facts surrounding those issues. Several theories and methods of accounting, economics, marketing and rate design will be presented and considered before conclusions are reached. These sometimes opposing theories and methods may be the basis for differing testimony from the various parties.

Law Sets Commission Role

In the hearing process, the Commission sits as a quasi-judicial body, and by law, may only consider the sworn testimony presented by the utility, the general public and the intervenors in the case. Hearsay, rumors, assumptions, off-the-record remarks or other forms of information may not be considered by the Commission. Montana law also forbids Commissioners from making comments upon the merits of the case until after all the evidence has been presented and a decision has been made. Ultimately, each Commission decision must be capable of meeting the final, acid test: holding up under the courts' scrutiny.

The Commission's role is one of striking a balance between opposing viewpoints. By law, the Commission is required to make fair decisions which allow the utility to remain capable of delivering energy to its customers. Because each Commissioner is aware of the impact such decisions have upon every Montanan's economic well-being as well as the utility's economic well-being, each feels a heavy responsibility to make the best decision possible based upon the evidence gathered in the hearings.

Public Participation Urged

The Commission urges public participation in the rate process. Although some Commission decisions are pre-determined by the law and thus cannot be changed or influenced by public opinion (unless the law itself is changed), the public's participation and comments nevertheless are important factors in the Commission's decisions. Since only sworn, "on-the-record" testimony can be considered, it is important that consumers testify.

The Commissioners are confident that through public participation and the participation of intervenors and all other witnesses, they will have the full range of information available in order to make a well-reasoned decision. The Commissioners appreciate your support in this critical case.

Montana Power

Outlines Its Case

On September 30, 1983, the Montana Power Company filed with the Montana Public Service Commission for authority to increase its electric rates. The request is for an increase in rates to Montana retail customers of approximately \$96 million in annual revenues. The average annual increase for all retail customers is approximately 55%, the increase to the residential class of customers approximately 60%, and the increase to industrial customers is approximately 65%.

A large part of the need for an increase in rates results from the fact that a major new generation plant (Colstrip Unit #3) as well as associated transmission facilities have been completed and are now providing electric service to Montana consumers. The Company owns 30% of Colstrip Unit #3 which provides approximately 210 megawatts of additional generating capability to Montana Power's system. The balance of the need for the revenue increase results from various increases in the Company's expenses since the Company's rates were last approved by the Commission.

The major positions of the Company in this case are:

1. The 1982 level of expenses, normalized and adjusted for known and measurable events, demonstrate a need for the full rate increase;
2. The costs of Colstrip Unit #3 are reasonable as illustrated by the fact that the project was completed under budget and on schedule;
3. The Company's cost of money in today's world is higher than the Commission determined in the last case;
4. The need for Colstrip Unit #3 and transmission facilities has been fully demonstrated to the State of Montana after extensive siting proceedings held before the plant was constructed.
5. The percentage rate increase proposed by the Company to the various customer classes is based upon the Company's support of a movement toward basing rates upon the costs of serving the various customer classes;
6. The Company's rate design proposals are based on marginal cost considerations.

(Courtesy of Montana Power Company)

The Montana

Consumer Counsel Protests

The Montana Consumer Counsel opposes MPC's request for a 16.50 percent return on common equity. Consumer Counsel witness, Dr. Caroline Smith, recommends a Commission finding as regards cost of equity of 12.75%. When combined with MPC's cost of debt and preferred stock, MCC recommends an overall return of 11.06% for the Company.

The MCC, through its expert witness, George F. Hess, recommends that 100 megawatts of the 210 megawatt share that MPC has in Colstrip 3

be disallowed. This and other adjustments result in a recommended \$34,309,000 increase in annual revenues as contrasted with the \$96 million requested by MPC. This would result in about a 15% increase.

MCC witness, Dr. John W. Wilson, has presented four different methods of spreading whatever, if any, rate increase is granted amongst the customer classes.

(Courtesy of Montana Consumer Counsel)

Other Intervenors Speak Out

L.I.G.H.T.

Montana Senior Citizens Butte Community Union

These three groups, represented by Montana Legal Services, filed as intervenors because they are critical of MPC's marginal cost allocation studies.

Human Resource Council District XI, Missoula

Just as the investors of Montana Power Company profit from wise management, so should they bear the costs of management mistakes. Montanans should pay only for plants which are used and useful in Montana.

Each class of customers should pay its fair share of the costs of producing electricity. Residential customers and small businesses should not subsidize the inefficient use of electricity by large industrial customers.

A lifeline inverted rate structure would assure that the basic needs of customers are met at an affordable price, that conservation is encouraged, and that the costs of future utility expansion are minimized.

Montana Irrigators

Montana Irrigators will sponsor testimony which demonstrates that Colstrip #3 is not used and useful per Montana law, that this recommendation when coupled with \$10,000,000.00 of other necessary rate adjustments should result in a rate decrease.

Regarding rate structure, Montana Irrigators will show that the irrigation class is not being subsidized by other customer classes but has always paid its fair share of utility costs. Further, that if there is any rate increase, the increase to the irrigation class should be less than the average percentage increase authorized by the Commission.

Northern Plains

The NPRC is a private non-profit citizen's group which has worked on energy and natural resource issues since its inception in 1972 and is primarily concerned about the effects of large scale industrialization on Montana agriculture. NPRC formally intervened before the Montana Board of Natural Resources and Conservation opposing the original permitting of Colstrip Units 3 and 4 in 1975-76. NPRC contended then that the plants were not needed, were a too-expensive alternative and would result in large scale social and environmental impacts and should only be built at the load centers, not at the mine-mouth.

NPRC offers technical and policy testimony in this proceeding to show that evidence introduced in the 1975-76 siting hearings should have demonstrated to MPC that Colstrip 3 & 4 would not be "used and useful" when completed. NPRC argues that power plant capacity and transmission capacity which is not used and useful should be paid for by investors, not ratepayers. NPRC's analysis shows that at most 32 megawatts of MPC's 210 megawatt share of Colstrip is "used and useful" to Montana ratepayers. This would allow an increase of \$15.5 million or about 9%. NPRC believes this much may be needed only because the MPC transmission system has losses double the regional average. NPRC believes MPC's conservation activities have been inadequate and should be more aggressive. Finally, NPRC will show Colstrip 3 to be far more expensive than other similar power plants.

Champion International

Champion argues that the rate hike would increase its Frenchtown mill's electricity bill by \$4.5 million a year and would necessarily have an effect upon production costs and their competitive position in the wood product market. The Missoula firm also points out what it sees as inconsistencies in MPC's rate base tests and concludes that industrial rates should be lower than those proposed by MPC.

Intervenors, Continued

U.S. Air Force

The Air Force contends it is the single largest user of electricity in the Great Falls area and that a rate hike of this size would be a detriment to its operations in the state. The military argues that its main air bases should not be removed from MPC's general schedule rate and that all outlying Air Force facilities should be added to the general schedule.

Missoula County

The County contends that none of the power is "used and useful" and that if Montana Power had pursued an aggressive conservation program, Colstrip 3 wouldn't have been needed. It suggests that MPC sell its share of Colstrip 3.

Ideal

ASARCO

Ideal and ASARCO believe MPC's proposed rate increase is excessive and should be disallowed in whole or in part, particularly as it relates to Colstrip No. 3. If the Commission determines that MPC has built excess capacity, the cost should be borne by the Company; customers should not be required to subsidize mistaken investments, even investments undertaken in good faith. The Commission should also carefully examine whether the requested return on equity is not excessive under current economic circumstances. Finally, the proposed 65% rate hike for industrial class customers is much higher than for some other groups and amounts to an unjustifiable "rate shock." That discrepancy should be at least reduced.

Direct Service Industries

This organization represents the industrial customers of the Bonneville Power Administration, but it filed no testimony with its petition to intervene.

EXXON

Stauffer Chemical Anaconda Minerals

These three companies have all challenged MPC's embedded cost-of-service studies and the proposed design of industrial contract rates for large customers. They claim that MPC's classification of production costs aren't based on sound data.

Conoco Oil

Conoco argues that a rate increase of the magnitude proposed by MPC would jeopardize the competitive position of its refinery in Billings and threaten the future of its operations there. Conoco said it would be forced to "squeeze about \$1 million per year out of the operating and maintenance budget or accept the consequences of higher production costs." That could force the Company to freeze wages, hiring and promotions and eliminate some benefits.

Great

Falls Gas

The Great Falls Gas Company, which purchases all its electricity from MPC, claims that electricity sold by MPC is their chief competition in the gas business. The firm filed to protect its competitive interests.

Montana People's Action

The group filed as an intervenor but offered no initial testimony.

(Intervenor positions courtesy of Kelly Simmons and Tom Cook, Lee State Bureau and of listed intervenors.)

EXHIBIT 3

DATE 2-20-87

HB 828

February 20, 1987

HOUSE BILL NO. 828 - FUNDING PSC INTERVENORS

The first and most important problem with the Bill is that Montana has already established a means for assuring participation by the consuming public in Public Service Commission hearings. That means is, of course, the constitutionally-mandated Office of the Consumer Counsel. This office intervenes in all significant utility proceedings before the Public Service Commission. It is well-funded and well-supported by the State in that it has attorneys and analysts on its staff, and it routinely hires experts to analyze utility rate filings and testify in hearings. In 1986, Montana Power was liable for \$238,785 as its tax which funds the Consumer Counsel. Consumers pay for this tax in their rates. Passage of this bill, therefore, would only provide for redundant representation of consumer interests in PSC proceedings. One has to ask whether consumers can afford to devote more resources to representation of consumer interests before the PSC.

In addition to this serious objection to the purpose of the Bill, the Bill itself is poorly drafted and would allow almost every intervenor in a PSC proceeding to recover its costs of intervention.

The Bill provides that an intervenor is entitled to compensation for its costs of intervention if the PSC determines that the intervenor substantially contributed to the decision. Section 5(3). "Substantial contribution" is defined as "presenting views, testimony, or arguments that are considered by the Commission in making its decision." Since all testimony, evidence and briefs must be "considered" by the PSC, virtually every intervenor would be eligible to compensation under this standard.

Furthermore, intervenors of every kind would be entitled to funding--not just intervenors who could not afford to appear otherwise. Thus, industrial customers, business customers and low income customers alike could be eligible for compensation simply

by providing evidence or argument in the proceeding. Assuring compensation to almost any intervenor would result in more congested PSC proceedings. It also places additional burdens on the PSC in administering the payment procedures.

Finally, the need for intervenor funding is questionable. In recent Montana Power electric rate cases, there have been as many as ten intervenors (in addition to the Consumer Counsel) which were fully represented by attorneys and witnesses. Included in the total were five parties representing residential or low income consumers. This representation was funded without the need for this Bill.

THE MONTANA POWER COMPANY

PAMELA K. MERRELL

TESTIMONY ON HJR 37 REGARDING MEDICARE AND MONTANA HEALTH CARE PROVIDERS
HOUSE BUSINESS AND LABOR COMMITTEE

FEBRUARY 20, 1987

My name is Judith H. Carlson of the Montana Senior Citizens Association.

I urge your support of this resolution. As you recall, we were here

~~last week~~ ^{FEB 4} supporting HB 415 sponsored by Representative Harry Fritz.

The intent of that bill was to require health care providers to accept

medicare assignment or risk a penalty under the Consumer Protection Act.

The Montana Medical Society testified against that bill saying that it:

1. would shift costs to younger patients,
2. would cause health providers to drop out of the medicare program and leave some areas in Montana uncovered,
3. would prohibit them charging over medicare rates to seniors who are well able to pay more.

In talking with a number of committee members about this bill, it was

clear that the primary objection to the bill was because seniors able

to pay should pay the doctors usual and customary fees. That seems to

make alot of sense. None of us like to tell people what they should

or should not charge for their services. If people cannot pay for

the service, then they can ask for a discount, find someone to perform

the service at a cheaper rate, or go without the service.

Physicians, I am sure, do really try to take into account the income of their patients. They often will take the medicare rate or provide the service at a reduced rate. However, that puts the medicare program in the position of being a "means tested" program - that is, one based upon a person's ability to pay. It puts the health provider, e.g., the physician, in the position of being a welfare worker. Medicare was not intended to be a "means tested" program. Medicaid is our means tested program. It is based upon ability to pay.

It is our health care payment method for those who have almost no assets and little income. Medicare, on the other hand, was established as an insurance program based upon the participant's payment of a premium monthly similar to other insurance programs. My understanding of the purpose of the program is that it is to provide health care for the participants. You can tell it was intended to pay for total costs of eligible procedures because the payment system is set up for the patient to pay 20% and medicare will pay 80%. That adds up to 100%.

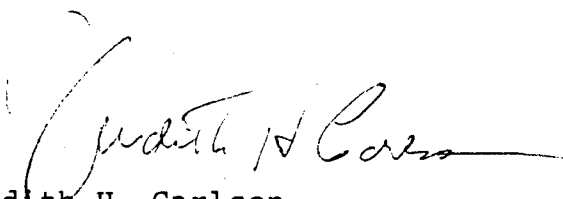
However, because medicare rates were not rising at the same rate as health care providers thought they should, many began charging on top of the medicare rates. There may well be some adjustments that are needed. Those are mentioned in the second part of the THEREFOREs.

One of the points MSCA has been trying to make with HB 415 and now in supporting this resolution is this: we think that health care providers are financially able to provide their services at the medicare rates. We have no way of absolutely knowing this - except by judging the average income levels of physicians and other health care providers. We think they could probably afford to take the medicare rates and NOT pass it on to other patients. However, we apparently did not make that case well enough to convince the majority of this committee!!

Another point we were trying to make was that people should not have to be in the position of a beggar if they can't afford medical charges over and above what medicare - their insurance program - allows. They know they have to pay the coinsurance of 20%. They don't want to ask the doctor to charge them less than other people. All of you must have dealt with older folks who simply DO NOT discuss money with anyone.

They will pay the same as everyone else and they will go without some other essential of life.

In an effort to join with the committee in solving what we all think is a serious problem in our nation and our state, we encourage your support of this resolution. We hope you will amend it to include the stronger language for requesting physicians to enroll in the Participating Physicians Program. I have a hunch they've all already "considered it."



Judith H. Carlson
Montana Senior Citizens Association

WITNESS STATEMENT

EXHIBIT _____
DATE 2-20-87
HB 828

NAME Carl Mallet BILL NO. 700
ADDRESS 1320 E. Lyndale DATE 2/20/87
WHOM DO YOU REPRESENT? Western Cooperation
SUPPORT ☒ OPPOSE ☐ AMEND ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments:

I Carl Mallet have lived in Minn. all my life. But I support the Bill and I would like to see the thing completed that would be keeping something like to pay the people that we could have these experience whether for or against the bill - But whether for with ever way it comes out they will have to pay the person giving testimony.

and being a mother and kind of housewife. At one time I was working by job. That put me where I didn't see much of my family. But I was not a welfare recipient. I have been there for years and I have paid my utility, have paid for my insurance -

H13
823
DP

GROUP Disbalt, Law
SQUIRES - PRO Roger Gennell in attor
 office. Steve Waldron ex of mental health
 Marie Scott, Americanized G.F. Mike Murray 37
 Chemical dependency program in Mt. Judy Calsow
 Social, Pat Craker member of Psy - opposed
NONE Questions Proposed

HB 828
TABLED

Cohen PRO Jim Martin Dist II. HRDC,
 Joseph Moore, Mt. Joy, Anthony Solara mental
 Common Sense, Russ Brown Northern
 Plains, Danny O'berg -
PRO Earl Riley - Mt. Joy, opposed
 Tom Hille MDU, Jim Hughes Mt.
 Beth, Karla Gory, MT Joy, Pam Miller
PRO, Quesada, Sysgood, Neshitt,
Jim Pain Consumer Council

HB 210
TABLED

Harmon and Terry Meadows Mt. Joy
 Teachers Union opposed NONE Questions
Sysgood, Simon, Waldron

✓ HR 37
DP A

GLASER PRO Doug Campbell, musician
 Earl Riley, Mt. Joy, Citizens Assoc., Anne Felt
 Mt. Joy, Citizens Assoc., Son of Mt. Joy
Quesada: NONE Questions Proposed

HB 66 DP A

~~HB 623~~

VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill No. 828DATE February 20, 1987SPONSOR Rep. Ben Cohen

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>Paul Wood</i>	<i>People's Alliance</i>	✓	
<i>Jim DeLoach</i>	<i>Association 300</i>		✓
<i>J. Wood</i>	<i>Delect 81 NPRC</i>	✓	
<i>Elizabeth</i>	<i>Madison-Baptist</i>	✓	
<i>Paula, Mary</i>	<i>MFSC</i>		✓
Paul Russell Brown	NPRC	✓	
<i>Kym Wilks</i>	<i>Common Cause</i>	✓	
<i>Jon McH</i>	<i>" "</i>	✓	
<i>Mary Cary</i>	<i>MFSC</i>	✓	
<i>ETRI/Bill</i>	<i>M. S. C. I.</i>	✓	
<i>Mary Wood</i>	<i>MF Proprietary</i>	✓	
<i>Art Little</i>	<i>NPRC</i>		X

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

BUSINESS AND LABORCOMMITTEEBILL NO. House Joint Res. 37DATE February 20, 1987SPONSOR Business and Labor Committee

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
EARL J. Remy	M.S.C.A.	✓	
Paul Thompson	MSCA	✓	
Mike Light	Concerned citizen	✓	
Judith H. Cameron	MSCA	✓	

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. 823

DATE February 20, 1987

SPONSOR Rep. Carolyn Squires

[illegible]

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

BUSINESS AND LABOR

BILL NO. House Bill No. 810

SPONSOR Rep. Dan Harrington

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

CS-33