

MINUTES OF THE MEETING
PUBLIC HEALTH, WELFARE & SAFETY COMMITTEE
MONTANA STATE SENATE

February 20, 1987

The meeting of the Senate Public Health, Welfare and Safety Committee was called to order by Chairman Dorothy Eck on February 20, 1987, at 12:40 P.M. in Room 325 of the State Capitol.

ROLL CALL: All members were present, except for Senator Tom Hager.

FURTHER CONSIDERATION OF S.B. 353: Sen. Tom Rassmussen explained the action of the subcommittee and stated that the subcommittee blended the two bills together.

Karen Renne explained the new amendments to S.B. 353, which included recommended sections of S.B. 349. See amendments on attached Standing Committee Report.

David Evenson, Montana University System, stated that Commissioner of Higher Education foresees problems with Section 29 on dual choice. Younger, healthy people would probably choose to join an HMO, while older people would stay in the same indemnity program at an increased cost to the employer. They would like to see employers have the ability to negotiate with HMO's and place them into a bid situation.

Sen. Rassmussen: I would like Blue Cross to comment on the last amendment.

Ans: Chuck Butler: The Federal HMO Act, under which HMO's seek to be federally qualified, can go in and mandate that the University system consider their program. Under this act, any state HMO could do that, too.

Mona Jamison, Lobbyist, Rocky Treatment Center, stated that the committee should think about the Federal Government requiring that HMO coverage be mandatorially offered. If this bill passes, all employers with twenty-five employees or more will have to offer HMO coverage. Because the young and healthy will probably choose an HMO and the older, less healthy will need to stay with the regular health insurance industry, this could have quite an impact on the Montana health insurance industry. The committee needs to consider this. No one has yet had an opportunity to examine this.

Sen. Eck: Does this mean that every employer group must offer this?

Kathy Irigoin: Yes, if the employer has twenty-five or more employees. The Federal HMO Act does have this provision, which the Federal Government provided to get HMO's off the ground. The Federal Act may be repealed.

Sen. Rassmussen: I would like to move the additional amendments: Page 53, lines 5-20. We should have the option in our law of not mandating employers, but providing them with flexibility.

Chuck Butler: You would not have to offer a Federally qualified HMO, if you have a choice.

Sen. Eck: Would employers have to offer HMO's to employers, if they have twenty-five employees?

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Chuck Butler: If HMO's are operating in the area, yes.

Sen. Jacobson: I would like to speak in favor of Sen. Rassmussen's amendment. I am more comfortable with it.

Chairman Eck called for the question and the amendments on Page 53 were adopted unanimously.

Sen. Norman: Concerning Amendment 33, P. 52, Section 37, what is the intent of the committee? Who will decide quality care? Is the state going to do that? They don't want to and can't. It doesn't work.

Ans: Dr. John Drynan, DHES: Dr. Norman is correct. The Department of Health would have to contract with a group, probably from a hospital anyway. The DHES is not qualified to do quality care checks, and it is very expensive for them to contract this out. The DHES does quality control on facilities now when they apply for licensing, so they would be duplicating work now done by peers.

Kathy Irigoin: Quality of care is critical in regulation of HMO's, if the goal is to cut costs. The quality is important to the consumer, and if you cut the amount and quality of services, you can endanger the consumer. An outside observer needs to oversee an HMO, like the Department of Health. The State Auditor realizes that the Dept. of Health may not have the staff to do quality control. P. 52, Section 27, lines 1-7 gives the Dept. of Health the authority to contract out.

Sen. Eck: Are there any HMO's operating in Montana using facilities not licensed by the Dept. of Health?

Ans: Chuck Butler: No.

Sen. Norman: We are all interested in quality. Will this bill and the Dept. of Health provide quality supervision?

Kathy Irigoin: The Department of Health can contract with someone, if not the Department of Health, then there is a national organization who will come in and look at facilities and services, which other states are using.

Dr. Drinan: This bill requires the Dept. of Health to put on a staff of at least two auditors, and these need to be funded by this committee.

Steve Brown: There is also a problem with Section 21 in that an HMO has no grounds to challenge the DHES on denial of a certificate of authority.

Sen. Eck: I have a question on Sec. 15, Amendment # 25?

Karen Renne: That is controversial.

Chuck Butler: That is the guts of an HMO, and # 25 takes the guts out of the program.

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This section eliminates any risk, especially the provision that HMO's could eliminate all financial risk element. HMO's would be unable to provide this as an incentive to the health community.

Chairman Eck adjourned further consideration of S.B. 353 until one hour after adjournment of the Senate.

CONSIDERATION OF SENATE BILL NO. 215: Senator Judy Jacobson, sponsor of the bill, District # 36, opened by introducing attorney Wm. Laraby of Missoula, who supervises several guardian programs in MT, who explained the reason for the bill and some of its provisions. The language of the bill is to simplify and clarify the existing law, especially subsections D and E. Mr. Laraby emphasized that if a child is abandoned six months or more, the intent to return by the parents does not alleviate abandonment when it has caused harm to the child. The bill thus eliminates vague language in intention.

Sen. Eck: There is no one here from SRS?

Mr. Laraby: SRS has no position.

Sen. Eck: Is it the state's intent to find adoptive parents if the child has been abandoned?

Mr. Laraby: Subsection 8 addresses this; the child is placed in an SRS adoption plan.

Sen. Eck: If a parent is having mental health or alcoholism problems, what is the court's intention?

Wm. Laraby: Another part of the code addresses these circumstances, which are considered differently.

ACTION ON S.B. NO. 215: Sen. Rassmussen moved that the bill receive a do pass. S.B. 215 received a unanimous DO PASS.

CONSIDERATION OF SENATE BILL NO. 351: Sen. Mike Walker, District # 20, sponsor of the S.B. 351, stated that the purpose of the bill is deal with radioactive materials transportation management over the Pacific states area in an organized and coordinated manner. Six states are participating in the compact now. This bill could help Montana to synchronize our regulations with other state's regulations and the federal regulations, and it could synchronize ports of entry and exit into the states. The bill asks for an EQC member to be designated to participate in meetings; the EQC is a present legislative body and would thus provide the appropriate representative. The cost would be \$3000 in 1987 and \$2000 in 1989. Regulations should be coordinated as we enter into this phase of U.S. industry.

PROPOONENTS: Tim Bergstrom, Montana State Fireman's Association, stated that the bill not only will help with standardization of transportation, but will also help in the standardization and development of equipment for emergencies such as fires.

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George Ochenski, Montana Environmental Information Center, stated that the bill gives the state the machinery to work with problems now and in the future. We will see nuclear wastes crossing the state and we should work on good and safe routes now.

Kathleen Wilkerson, National Physicians for Social Responsibility, stated that Chernobyl reminds us that we are not a technologically perfect society, but that our neighbors and children expect us to behave responsibly as possible. There is a true magnitude of potential danger in the number of shipments on our highways. There could be as many as 120 shipments per day, if Hanford were chosen to be a nuclear waste site. We need to think of public health and safety, and prevention is one of the best answers.

Exhibits # 1,2 & 3.

Adrian Howe, DHES, stated that according to the Montana Code Annotated, an agreement is already in place that corresponds to the intent of S.B. 351. He suggested, then, that the member to be appointed should be from the DHES, because they would have a qualified member. He stated that Article 4, Section 1 calls for two functions of the official and is inconsistent with Article 6, Sec. 2, which lists only one function for the official. The fiscal note is also a problem, in that it was not anticipated in the DHES budget.

DISCUSSION OF S.B. 351: Sen. Jacobson: Mr. Howe, you would like money to come with the bill?

Mr. Howe: Yes.

Sen. Himsel: The bill calls for a state official; is the EQC staff considered a state official? There is also a difference between an interstate compact and an interstate agreement. The compact that is in place is federally approved. This gives a push to initiate these types of actions.

Sen. Eck: Two city commissioners from Bozeman, which lies on Interstate 90, have spoken with a city commissioner from Spokane who is very concerned about transportation.

Sen. Williams: What are the methods of transportation?

Sen. Walker: Some is done by rail and some is done by truck.

Sen. Himsel: how do you respond when there are several agreements already in place?

Sen. Walker: Some of the agreements cover slightly different areas. For example, the Western States Energy Compact is for the enhancement of use of nuclear energy. This legislation chooses the EQC to handle this because they are a legislative body. This is a co-ordinated bill that gets the transportation job done.

Sen. Eck: I assume that DHES is involved in the Western Inter-

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state Energy board?

Mr. Howe: Yes, we are involved.

Sen. Eck: How is that funded?

Mr. Howe: The governor's office is involved through Brock Haydon. The board has several committees, one dealing with nuclear waste; and the governor's budget does provide monies, about \$15,000 toward support.

Sen. Eck: has Montana been asked previously to participate in this pact?

Sen. Walker: The pact originated with Washington, Oregon and California.

Sen. Eck: Hugh Zackheim from the EQC has participated.

Sen. Williams: Is ther a contact in other states?

Sen. Walker: Yes, the departments of health and others.

Sen. Rassmussen: How many states that are eligible participate now?

Sen. Walker: Six.

Sen. Rassmussen: Does this do the same thing as the Western Interstate contract?

Dr. Drinan: This organization is a more independent organization. Other agreements have been contracted out by the Department of Energy.

Sen. Eck: I would like to call Hugh Zackheim to the committee. We will take executive action on this this evening.

Sen. Walker closed by stating that the bill offers a good concept. It determines who is going to handle the transportation problem. The Western Energy Compact has not been working on this. This group does work and participate.

CONSIDERATION OF SENATE BILL NO. 371: Sen. Regan, District # 47, sponsor of S.B. 371, stated that the purpose of the bill in developing preferred providers is to develop an efficient system of health care delivery. Preferred providers fees are generally less and the state can enter into agreements with preferred providers. They provide 100% coverage of lesser fees as opposed to 80% coverage of higher fees.

PROPOSERS: Tom Hopgood, Health Insurance Association of America, stated that they offer full support of the benefits to the consumer that the Preferred Providers concept offers.

Jerome Loendorf: Montana Medical Association, stated that they had not had a chance to review the bill, but that it seems to be a contractual arrangement between a preferred provider and an organization.

William Leary, Montana Hospital Association, stated that they are in support of the bill because it seems to be permissive, not mandatory. It will probably be utilized only in communities with two or more hospitals. There is no signigicant advantage in com-

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munities with only one hospital. The bill seems to be well written.

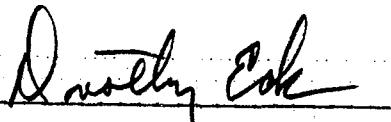
Chuck Butler, Blue Cross-Blue Shield, stated that the bill makes it possible for commercial companies to do what Blue Cross has been doing for the last forty years. He suggested that the title on Line 6, P. 7, should include incentives or limit reimbursements, because that is also in the HMO statute. If the intent of the bill is to let insurers contract with providers to offer services, then that should be included in other legislation.

Sen. Rassmussen: What about freedom of choice provisions? If A,B, & C can get in, can D? How do you determine who gets to be in the preferred provider group?

Sen. Regan: The bill doesn't speak to all that yet. Karen Renne has proposed an amendment to make an effective date.

ACTION ON S.B. 371: Sen. Meyer moved that the amendment DO PASS. The vote in favor was unanimous. Sen. Himsl moved that the bill DO PASS AS AMENDED. The vote in favor was unanimous. Sen. McLane moved that the statement of intent DO PASS. The vote in favor was unanimous.

The meeting was adjourned at 2:55 P.M.



Dorothy Ede

CHAIRMAN

ROLL CALL

Public Health, Welfare and Safety COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date 2-20-87

NAME	PRESENT	ABSENT	EXCUSED
Dorothy Eck	X		
Bill Norman	X		
Bob Williams	X		
Darryl Meyer	X		
Eleanor Vaughn	X		
Tom Rasmussen	X		
Judy Jacobson	X		
Harry H. "Doc" McLane	X		
Matt Himsel	X		
Tom Hager			

Each day attach to minutes.

DATE 2-20-87

COMMITTEE ON

VISITORS' REGISTER

TESTIMONY ON SENATE BILL #351
Presented by Adrian C. Howe

EXHIBIT

DATE

2-20-87

BILL

SB 351

The Department of Health and Environmental Sciences is in agreement with the basic concept of Senate Bill #351. However the department does have some concerns that this legislation would duplicate the provisions contained in the Western Interstate Nuclear Compact (WINC) which Montana entered into and adopted in 1975 by virtue of the MCA 90-5-201 through 90-5-203 and the provisions currently regulated by the U.S. Department of Transportation.

The provisions in Senate Bill #351, Article III, Section 1 and Section 2; (3), (4) and (6) are currently regulated by the U.S. Department of Transportation.

The Western Interstate Nuclear Compact is coordinated by the Western Interstate Energy Board which Montana participates in. In fact, all eligible party states to the Pacific States Agreement on Radioactive Materials Transportation Management are already members of the Western Interstate Nuclear Compact.

The provisions in Senate Bill #351, Article III, Section 2: (5)(a)(b)(c), (8) and Section 3 are provided for in Article V and Article VI of the Western Interstate Nuclear Compact (MCA 90-5-201 through 90-5-203). Since the mechanism is already in place, it is logical that agreements between the Rocky Mountain states relating to the transportation of radioactive materials, cooperative emergency response, etc. be made under the Western Interstate Nuclear Compact. Because WINC is administered by the Western Interstate Energy Board (WIEB) this would maintain a centralized focus on the issues, prevent duplication of committees and efforts, and be more economical for participating states.

Senate Bill #351 also authorizes the Environmental Quality Council to appoint a staff member to serve on the Pacific States Radioactive Materials Transportation Committee. Since the Executive Branch of state government is responsible for the administration of state law and negotiations with political entities of other states, the intent of Senate Bill #351 would best be served if the committee member were appointed by the Director of the Department of Health and Environmental Sciences as a person familiar with the radioactive materials' policies of Montana. The department proposes amendments to Senate Bill #351, as introduced, which will allow the Director of the Department of Health and Environmental Sciences to appoint a qualified person to the committee. The proposed amendments are attached.

The Department would like to point out an apparent inconsistency in Senate Bill #351. Article IV Section 1 delineates two functions of the official who is appointed to the committee, one being the conference with other officials of the state and the other being responsibility for the administration of the agreement. Article VI Section 2 indicates only one function of the official and that is to confer with appropriate legislative committees and state officials responsible for managing transportation of radioactive materials.

The Department would also like to point out that the fiscal note attached to this bill is not anticipated in the Department of Health and Environmental Sciences' budget.

SENATE HEALTH & WELFARE

EXHIBIT NO. 1

DATE 2-20-87

BILL NO. SB 351

Proposed amendments to Senate Bill 351, as introduced:

1. Title, lines 6 and 7.

Following: "AUTHORIZING THE"

Strike: "ENVIRONMENTAL QUALITY COUNCIL"

Insert: "DIRECTOR OF THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES"

2. Page 7, line 8.

Following: line 7

Strike: "environmental quality council"

Insert: "director of the department of health and environmental sciences"

in any one election up to 1 mill upon the taxable value of all the property in the county, city, or town subject to taxation for the purpose of economic development for a period not to exceed 5 years.

(2) Funds derived from this levy may be used for purchasing land for industrial parks, constructing buildings to house manufacturing and processing operations, conducting preliminary feasibility studies, promoting economic development opportunities in a particular area, and other activities generally associated with economic development. These funds may not be used to directly assist an industry's operations by loan or grant or to pay the salary or salary supplements of government employees.

(3) The governing body of the county, city, or town may use the funds derived from this levy to contract with local development companies and other associations or organizations capable of implementing the economic development function.

History: En. 11-4111 by Sec. 1, Ch. 311, L. 1975; amd. Sec. 32, Ch. 566, L. 1977; R.C.M. 1947, 11-4111.

Cross-References
Counties — additional mill levies, 7-6-2532, 7-6-4432, 7-6-4434.
Tax levies to be made in mills and tenths and hundredths of mills, 15-10-201.

90-5-113. Advice and information by department of commerce.
The department of commerce shall furnish advice and information in connection with a project when requested to do so by a county or municipality.

History: En. Sec. 10, Ch. 51, L. 1965; amd. Sec. 56, Ch. 348, L. 1974; amd. Sec. 21, Ch. 213, L. 1975; R.C.M. 1947, 11-4110; amd. Sec. 6, Ch. 274, L. 1981.

Compiler's Comments

1981 Amendment: Substituted "department of commerce" for "department of commerce" among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

History: En. Sec. 3, Ch. 653, L. 1985.

90-5-114. Preference of Montana labor. Any contract to construct a project financed pursuant to this part must require all contractors to give preference to the employment of bona fide Montana residents, as defined in 18-2-401(4), in the performance of the work on the projects if their qualifications are substantially equal to those of nonresidents. "Substantially equal qualifications" means the qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are significantly better suited for the position than the qualifications held by the other persons.

History: En. Sec. 3, Ch. 653, L. 1985.

WESTERN INTERSTATE NUCLEAR COMPACT

Article I. Policy and Purpose

The party states recognize that the proper employment of scientific and technological discoveries and advances in nuclear and related fields and direct and collateral application and adaptation of processes and techniques developed in connection therewith, properly correlated with the other resources of the west and substantially in the industrial progress of the west and the region, can assist substantially in the further development of the economy of the region. They also recognize the further development of the economy of the region and contribute to the individual and community that optimum benefit from nuclear and related scientific or technological resources, facilities, and skills requires systematic encouragement, guidance assistance, and promotion from the party states on a cooperative basis. It is the policy of the party states to undertake such cooperation on a continuing basis. It is the purpose of this compact to provide the instruments and framework for such a cooperative effort in nuclear and related fields, to enhance the economy of the west and contribute to the well-being of the region's people.

Article II. The Board

(1) There is hereby created an agency of the party states to be known as the "western interstate nuclear board", hereinafter called the board. The board shall be composed of one member from each party state designated or appointed in accordance with the law of the state which he represents and serving and subject to removal in accordance with such law. Any member of the board may provide for the discharge of his duties and the performance of his functions thereon, either for the duration of his membership or for a lesser period of time, by a deputy or assistant, if the laws of his state make specific provisions therefor. The federal government may be represented without vote if provision is made by federal law for such representation.

(2) The board members of the party states shall each be entitled to one vote on the board. No action of the board shall be binding unless taken at a meeting at which a majority of all members representing the party states are present and unless a majority of the total number of votes on the board are cast in favor thereof.

(3) The board shall have a seal.

(4) The board shall elect annually, from among its members, a chairman and vice-chairman, and a treasurer. The board shall appoint a director who shall serve at its pleasure and a general manager who shall also act as secretary, and who, together with the treasurer and the other personnel as the board may direct, shall be bonded in such amounts as the board may require.

(5) The executive director, with the approval of the board, shall appoint and fix the compensation of an executive director who shall serve at its pleasure and a general manager who shall serve at its pleasure and a general manager who shall also act as secretary, and who, together with the treasurer and the other personnel as the board may direct, shall be bonded in such amounts as the board may require.

(6) The board may establish and maintain, independently or in conjunction with any one or more of the party states or their institutions of super-employees, a suitable retirement system for its full-time employees. Employees of the board shall be eligible for social security coverage in respect of old age as follows:

Part 2

Western Interstate Nuclear Compact State Nuclear Policy

Part Cross-References

Nuclear regulation, Title 75, ch. 3.

90-5-201. Western interstate nuclear compact adopted — text.
The Western Interstate Nuclear Compact is entered into and adopted as follows:

survive insurance provided that the board takes such steps as necessary pursuant to federal law to participate in such program of insurance as a governmental agency or unit. The board may establish and maintain or participate in such additional programs of employee benefits as may be appropriate.

(7) The board may borrow, accept, or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm, or corporation.

(8) The board may accept for any of its purposes and functions under this compact, any and all donations and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any state or the United States or any subdivision or agency thereof, or interstate agency, or from any institution, person, firm, or corporation, and may receive, utilize, and dispose of the same. The nature, amount, and conditions, if any, attendant upon any donation or grant accepted pursuant to this paragraph or upon any borrowing pursuant to paragraph (7) of this article, together with the identity of the donor, grantor, or lender, shall be detailed in the annual report of the board.

(9) The board may establish and maintain such facilities as may be necessary for the transacting of its business. The board may acquire, hold, and convey real and personal property and any interest therein.

(10) The board shall adopt bylaws and rules for the conduct of its business and shall have the power to amend and rescind these bylaws and rules. The board shall publish its bylaws and rules in convenient form and shall file a copy thereof, and shall also file a copy of any amendment thereto, with the appropriate agency or officer in each of the party states.

(11) The board annually shall make to the governor of each party state a report covering the activities of the board for the preceding year and embodying such recommendations as may have been adopted by the board, which report shall be transmitted to the legislature of said state. The board may issue such additional reports as it may deem desirable.

Article III. Finances

(1) The board shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that jurisdiction for presentation to the legislature thereof.

(2) Each of the board's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. Each of the board's requests for appropriations pursuant to a budget of estimated expenditures shall be apportioned equally among the party states. Subject to appropriation by their respective legislatures, the board shall be provided with such funds by each of the party states as are necessary to provide the means of establishing and maintaining facilities, a staff of personnel, and such activities as may be necessary to fulfill the powers and duties imposed upon and entrusted to the board.

(3) The board may meet any of its obligations in whole or in part with funds available to it under Article II, paragraph (8) of this compact, provided that the board takes specific action setting aside such funds prior to the incurring of any obligation to be met in whole or in part in this manner.

Except where the board makes use of funds available to it under Article II, paragraph (8) hereof, the board shall not incur any obligation prior to the disbursement of funds by the party jurisdictions adequate to meet the same.

(4) Any expenses and any other costs for each member of the board in attending board meetings shall be met by the board.

(5) The board shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the board shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the board shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become a part of the annual report of the board.

(6) The accounts of the board shall be open at any reasonable time for inspection to persons authorized by the board and duly designated representatives of governments contributing to the board's support.

Article IV. Advisory Committees

The board may establish such advisory and technical committees as it may deem necessary, membership on which may include but not be limited to private citizens, expert and lay personnel, representatives of industry, labor, commerce, agriculture, civic associations, medicine, education, voluntary health agencies, and officials of local, state, and federal government and may cooperate with and use the services of any such committees and the organizations which they represent in furthering any of its activities under this compact.

Article V. Powers

The board shall have power to:

- (1) encourage and promote cooperation among the party states in the development and utilization of nuclear and related technologies and their application to industry and other fields;
- (2) ascertain and analyze on a continuing basis the position of the west with respect to the employment in industry of nuclear and related scientific findings and technologies;
- (3) encourage the development and use of scientific advances and discoveries in nuclear facilities, energy, materials, products, byproducts, and all other appropriate adaptations of scientific and technological advances and discoveries;
- (4) collect, correlate, and disseminate information relating to the peaceful uses of nuclear energy, materials, and products, and other products and processes resulting from the application of related science and technology;
- (5) encourage the development and use of nuclear energy facilities, installations, and products as part of a balanced economy;
- (6) conduct or cooperate in conducting programs of training for sale and local personnel engaged in any aspects of:
 - (a) nuclear industry, medicine, or education, or the propagation or regulation thereof;
 - (b) applying nuclear scientific advances or discoveries and any industrial commercial or other processes resulting therefrom;

(c) the formulation or administration of measures designed to promote safety in any matter related to the development, use, or disposal of nuclear energy, materials, products, byproducts, installations, or wastes, or to safety in the production, use, and disposal of any other substances peculiarly related thereto;

(7) organize and conduct, or assist and cooperate in organizing and conducting, demonstrations or research in any of the scientific, technological, industrial fields to which this compact relates;

(8) undertake such nonregulatory functions with respect to nonnuclear sources of radiation as may promote the economic development and general welfare of the west;

(9) study industrial, health, safety, and other standards, laws, codes, rules, regulations, and administrative practices in or related to nuclear fields;

(10) recommend such changes in or amendments or additions to the law, codes, rules, regulations, administrative procedures and practices or local laws, or ordinances of the party states or their subdivisions in nuclear and related fields as in its judgment may be appropriate. Any such recommendations shall be made through the appropriate state agency with due consideration of the desirability of uniformity but shall also give appropriate weight to any special circumstances which may justify variations to meet local conditions.

(11) consider and make recommendations designed to facilitate the transportation of nuclear equipment, materials, products, byproducts, wastes, and any other nuclear or related substances, in such manner and under such conditions as will make their availability or disposal practicable on an economic and efficient basis;

(12) consider and make recommendations with respect to the assumption of and protection against liability actually or potentially incurred in any phase of operations in nuclear and related fields;

(13) advise and consult with the federal government concerning the common position of the party states or assist party states with regard to individual problems where appropriate in respect to nuclear and related fields;

(14) cooperate with the atomic energy commission, the national aeronautics and space administration, the office of science and technology, or any agency successor thereto, any other officer or agency of the United States, and any other governmental unit or agency or officer thereof, and with any private persons or agencies in any of the fields of its interest;

(15) act as licensee, contractor, or subcontractor of the United States government or any party state with respect to the conduct of any research activity requiring such license or contract and operate such research facility or undertake any program pursuant thereto, provided that this power shall be exercised only in connection with the implementation of one or more other powers conferred upon the board by this compact;

(16) prepare, publish, and distribute, with or without charge, such reports, bulletins, newsletters, or other materials as it deems appropriate;

(17) ascertain from time to time such methods, practices, circumstances, and conditions as may bring about the prevention and control of nuclear incidents in the area comprising the party states, to coordinate the nuclear incident prevention and control plans and the work relating thereto of the appropriate agencies of the party states and to facilitate the rendering of aid by the party states to each other in coping with nuclear incidents. The board

may formulate and, in accordance with need from time to time, revise a

regional plan or regional plans for coping with nuclear incidents within the territory of the party states as a whole or within any subregion or subregions of the geographic area covered by this compact. Any nuclear incident plan in each party state covered by the plan who shall coordinate requests for aid pursuant to this paragraph shall designate the official or agency in each party state covered by the plan and the furnishing of aid in response thereto.

Article VI of this compact and the furnishing of aid in response thereto, unless the party states concerned expressly otherwise agree, the board shall administer the summoning and dispatching of aid, but this function shall be undertaken directly by the designated agencies and officers of the party

undertaken directly by the designated agencies and officers of the party state pursuant to this paragraph states. The plan or plans of the board concerning the occurrence of nuclear accidents and the requests for aid on account thereof, together with summaries of the actual working and effectiveness of mutual aid in particular instances. From time to time, the board shall analyze the information gathered from reports of aid pursuant to Article VI and such other instances of mutual aid as may have come to its attention, so that experience in the rendering of such aid may be available.

(18) prepare, maintain, and implement a regional plan or regional plans for carrying out the duties, powers, or functions conferred upon the board by this compact;

(19) undertake responsibilities imposed or necessarily involved with regional participation pursuant to such cooperative programs of the federal government as are useful in connection with the fields covered by this compact.

Article VII. Mutual Aid

(1) Whenever a party state or any state or local governmental authorities therein request aid from any other party state pursuant to this compact in coping with a nuclear incident, it shall be the duty of the requested state to render all possible aid to the requesting state which is consonant with the maintenance of protection of its own people.

(2) Whenever the officers or employees of any party state are rendering outside aid pursuant to the request of another party state under this compact, the officers or employees of such state shall, under the direction of the outside aid personnel, have the same powers, duties, rights, privileges, and immunities as comparable officers and employees of the state to which they are rendering aid.

(3) No party state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on their part while so engaged or on account of the maintenance of equipment or supplies in connection therewith.

(4) All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on or under the laws of the aiding state or under the laws of a third state or under the laws of the requesting state.

(5) Any party state rendering outside aid pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment answering a request

and the maintenance of officers, employees, and equipment incurred in connection with such requests; provided that nothing herein contained shall prevent any assisting party state from assuming such loss, damage, expense, or other cost or from loaning such equipment or from donating such services to the receiving party state without charge or cost.

(6) Each party state shall provide for the payment of compensation at death benefits to injured officers and employees and the representatives of deceased officers and employees in case officers or employees sustain injuries or death while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within the state by or in which the officer or employee was regularly employed.

Article VII. Supplementary Agreements

(1) To the extent that the board has not undertaken an activity or project which would be within its power under the provisions of Article V of this compact, any two or more of the party states, acting by their duly constituted administrative officials, may enter into supplementary agreements for the undertaking and continuance of such an activity or project. Any such agreement shall specify the purpose or purposes, its duration, and the procedure for termination thereof or withdrawal therefrom, the method of financing and allocating the costs of the activity or project, and such other matters as may be necessary or appropriate. No such supplementary agreement entered into pursuant to this article shall become effective prior to its submission to and approval by the board. The board shall give such approval unless it finds that the supplementary agreement or activity or project contemplated thereby is inconsistent with the provisions of this compact or a program or activity conducted by or participated in by the board.

(2) Unless all of the party states participate in a supplementary agreement, any cost or costs thereof shall be borne separately by the states party thereto. However, the board may administer or otherwise assist in the operation of any supplementary agreement.

(3) No party to a supplementary agreement entered into pursuant to this article shall be relieved thereby of any obligation or duty assumed by said party state under or pursuant to this compact, except that timely and proper performance of such obligation or duty by means of the supplementary agreement may be offered as performance pursuant to the compact.

(4) The provisions to this article shall apply to supplementary agreements and activities thereunder but shall not be construed to repeal or impair any authority which officers or agencies of party states may have pursuant to other laws to undertake cooperative arrangements or projects.

Article VIII. Other Laws and Relations

Nothing in this compact shall be construed to:

- (1) permit or require any person or other entity to avoid or refuse compliance with any law, rule, regulation, order, or ordinance of a party state or subdivision thereof now or hereafter made, enacted, or in force;
- (2) limit, diminish, or otherwise impair jurisdiction exercised by the atomic energy commission, any agency successor thereto, or any other federal

department, agency, or officer pursuant to and if otherwise impair operative act of congress or limit, diminish, affect, or otherwise impair jurisdiction exercised by any officer or agency of a party state, except to the extent that the provisions of this compact may provide therefor; (3) alter the relations between the respective internal responsibilities of the government of a party state and its subdivisions; (4) permit or authorize the board to own or operate any facility, reactor, installation for industrial or commercial purposes.

Article IX. Eligible Parties, Entry into Force and Withdrawal

(1) Any or all of the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming shall be eligible to become party to this compact.

(2) As to any eligible party state, this compact shall become effective when its legislature shall have enacted the same into law, provided that it shall not become initially effective until enacted into law by five states.

(3) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until 2 years after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

(4) Guam and American Samoa or either of them may participate in the compact to such extent as may be mutually agreed by the board and the duly constituted authorities of Guam or American Samoa, as the case may be. Such participation shall not include the furnishing or receipt of mutual aid pursuant to Article VI, unless that article has been enacted or otherwise adopted so as to have the full force and effect of law in the jurisdiction affected. Neither Guam nor American Samoa shall be entitled to voting participation on the board, unless it has become a full party to the compact.

Article X. Severability and Construction

The provisions of this compact and of any supplement~~ary agreement~~ entered into hereunder shall be severable and if any phrase, clause, sentence, or provision of this compact or such supplementary agreement is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact or such supplementary agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected. If this compact or any supplementary agreement entered into hereunder shall be held contrary to the constitution of any state participating therein, the compact or such supplementary agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. The provisions of this compact and of any supplementary agreement entered into pursuant thereto shall be liberally construed to effectuate the purposes thereof.

History: En. Svc. I, Ch. 258, L. 1973; R.C.M. 1947, 82-4401.

Cross-References

Montana Major Facility Siting Act
approval by popular vote of certificate for
nuclear facility, 75-20-201.

Provision of bond resolutions.
Purchase of notes and bonds — cancellation.
Personal liability.
Validity of pledge.

6-112.

6-113.

6-114.

6-115.

6-116.

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6-118.

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Allocation of state limit.

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ATTACHMENT K
Western Interstate Nuclear Compact

The attached Western Interstate Nuclear Compact contains provisions related to Mutual Aid (Article VI) and Supplementary Agreements (Article VII).

The Mutual Aid section states that whenever a compact state (or any of its state or local government authorities) request assistance in "coping with a nuclear incident" it is the duty of other compact states to provide "all possible aid to the requesting state which is consonant with the maintenance of protection of its own people." (Art. VI (a)) The states providing assistance are absolved of all liability, while the state requesting assistance assumes all liability. (Art. VI (c) and (d)) The state requesting assistance is to reimburse the assisting states for all of their costs (including materials, transportation, salaries, equipment damage), although the assisting states can donate these services if they so choose. (Art. VI (e)) All of the compact states agree that if their officers and employees are injured or killed while rendering mutual aid under the compact, workers' compensation and death benefits will be paid in the same manner as if the injury or death had not occurred outside of the state. (Art. VI (f))

The Supplementary Agreements section allows two or more compact states to enter into agreements to conduct activities which the Board has not undertaken, but which are within the Board's authority. (Art. VII (a)) Two such agreements have been formed. Western Sun was formed under a supplementary agreement to study issues related to solar and renewable energy and energy conservation. In the nuclear area, Washington and Oregon entered into a supplementary agreement in 1974 to "cooperate in the environmental surveillance of and in responding to any radiological incidents resulting from operation of fixed nuclear facilities located at or near boundaries of the party States." (See copy of agreement following the compact.)

EXHIBIT NO. 1DATE 2-20-87BILL NO. SB 351

OREGON - WASHINGTON

RADIOLOGICAL ACCIDENT ASSISTANCE AGREEMENT1. Statement of Policy

WHEREAS The party States recognize the desirability of cooperation, joint planning, and mutual aid in coping with radiological incidents affecting the citizens or territory of both party States and the political subdivisions thereunder; and

WHEREAS The party States seek to develop and implement procedures for immediate notification to appropriate State, local, and other authorities and to otherwise provide for protective additions in the event of radiological incidents involving or potentially involving both of the party States; and

WHEREAS The party States recognize the desirability of cooperation and information exchange in surveillance of radioactive effluents from fixed nuclear facilities located at or near boundaries of the party States;

THEREFORE, BE IT RESOLVED That the parties hereby agree to cooperate in the environmental surveillance of and in responding to any radiological incidents resulting from operation of fixed nuclear facilities located at or near boundaries of the party States; and

BE IT FURTHER RESOLVED That the parties hereby enter into this agreement for accomplishing the above objectives.

2. Purposes and Scope

This agreement shall be for the purpose of: (a) providing procedures for cooperation between the party States in contingency planning for nuclear incidents which potentially affect both States; (b) providing a system for notification of proper authorities in the other party State in the event of a nuclear incident affecting or potentially affecting both party States; (c) coordination of protective actions, public notification, and other emergency response activities for those nuclear incidents affecting both States; and (d) fostering exchanges of information among the parties concerning environmental radiation surveillance of fixed nuclear facilities which affect the airsheds or watersheds common to both States.

This agreement shall not limit, diminish, or otherwise impair authority or jurisdiction exercised by the party States, the other parties to the Western Interstate Nuclear Compact, the federal government, or any other office or agency of a party State. Nothing in this agreement shall impinge upon the powers

SENATE OF THE STATE OF WASHINGTON
EXHIBIT 1
DATE 2-20-87
BILL NO. 83351

other provisions of the Western Interstate Nuclear Compact; nor shall the parties to this agreement be relieved of their duties under Article VI ("Mutual Aid") of the Western Interstate Nuclear Compact.

3. Cooperative Activities

The parties agree to cooperate, to the extent possible and permissible under State law, as follows:

- a. Provide for mutual compatibility in the party States' radiological emergency response plans to permit a coordinated response to those nuclear incidents affecting both States;
- b. Authorize owners and/or operators of nuclear facilities located at or near State boundaries to make immediate notification to State and/or local authorities pursuant to the general Radiological Response Plans and their appendices of the States of Oregon and Washington concerning any releases of radioactive or toxic effluents which might affect the citizens or property of both States. Such notification shall be performed concurrently with and be supplemental to any notification required under each party State's radiological emergency plan.
- c. Coordinate emergency response activities among the owners of nuclear facilities, State, local, and other authorities in coping with nuclear incidents affecting or potentially affecting both States. Such activities may include, but not be limited to, protective actions, public notification, decontamination, and exchange of information.
- d. Foster interstate cooperation in the environmental surveillance of fixed nuclear facilities located in airsheds or watersheds common to both party States. Such cooperation may include, but not be limited to, exchanges of information and joint monitoring programs conducted in cooperation with the owner/operators of nuclear facilities and/or other public or private organizations.

4. Authority

This agreement is entered into by the party States under the authority of Articles V and VII of the Western Interstate Nuclear Compact, which was ratified by the party States through enactment of ORS 453-810 by the State of Oregon and Chapter 9, 43.31 RCW by the State of Washington. Federal sanction is granted to the Compact via Public Law 91-461.

5. Funding

The party States agree to bear, in accordance with the provisions of Articles V, VI, and VII of the Western

DATE

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Interstate Nuclear Compact, the costs of executing this agreement, and shall be authorized to receive and disburse funds, gifts, and grants from any public or private sources in implementing activities specified herein.

6. Period of Performance

This agreement shall become effective upon approval by the party States and the Western Interstate Nuclear Board, and shall remain in full force and effect until terminated by mutual agreement of the party States. Any party shall provide written notification to the Western Interstate Nuclear Board and the other party State of their intentions to withdraw at least six (6) months prior to termination of this agreement.

Approved by:

STATE OF OREGON

STATE OF WASHINGTON

Signed

Signed

State Health Division

Department Of Social &
Health Services

Signed

Signed

Nuclear & Thermal Energy Council

Department of Emergency
Services

Signed

Signed

Emergency Services Division

Signed

Signed

Governor, State of Oregon

Governor, State of Washington

WESTERN INTERSTATE NUCLEAR BOARD

Signed

Date 8-12-74

Chairman

STANDING COMMITTEE REPORT

FEBRUARY 20..... 1987.....

MR. PRESIDENT

We, your committee on..... SENATE PUBLIC HEALTH, WELFARE AND SAFETY.....

having had under consideration..... SENATE BILL..... No. 215.....

First reading copy (White)
color

REDEFINE CONCEPT OF AN ABANDONED CHILD

Respectfully report as follows: That..... SENATE BILL..... No. 215.....

DO PASS

~~DO NOT PASS~~

Dorothy Eck

Chairman.