

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Jan Brown, on February 10, 1989, at 9:00 a.m.

ROLL CALL

Members Present: All except,

Members Excused: Reps. Compton and Nelson

Members Absent: None

Staff Present: Judy Burggraff, Secretary; Lois Menzies, Staff Researcher

Announcements/Discussion: Chairman Brown announced that the Committee would meet Tuesday at 8:30 to take executive action before the 9:00 a.m. hearing.

HEARING ON HB 474

Presentation and Opening Statement by Sponsor: Rep. Ben Cohen, House District 3, Whitefish, introduced HB 474. This bill provides a mechanism for a consumer or a ratepayer organization to receive compensation for participating in a utility hearing before the Public Service Commission (PSC). To receive compensation, the intervenor must submit an application to the PSC; the PSC must determine that the intervenor made a substantial contribution to the proceedings to receive compensation. If the PSC awards compensation to the intervenor, the utility or utilities initiating the proceeding or whose rates, charges or practices are reviewed in the hearing must pay the compensation. If the utility does not make payment, the intervenor may seek enforcement of the payment order in district court. The compensation paid to an intervenor by a utility is a regulatory expense; the PSC may order a rate increase to cover the compensation paid by the utility. The bill appropriates \$50,000 from the general fund to the PSC for intervenor compensation.

Rep. Cohen said this bill is a consumer's bill. It is for consumer groups who would like to be represented in hearings before the PSC, but who do not have the means to go out and hire expert witnesses and attorneys and do all the other things necessary in order to provide meaningful testimony. This bill would provide the means for them to be compensated

for their cost. The bill has a statement of intent because the PSC would have some rule-making authority. Rep. Cohen distributed the following to the Committee: a sponsor's amendment (Exhibit 1); "COLSTRIP 3 A Presentation of The Issues Compiled By The Montana Public Service Commission" (Exhibit 2); a report entitled "1987 Regulatory Expenses," prepared for Rep. Cohen by the PSC (Exhibit 3) and attached testimony by Phyllis A. Bock, the attorney that represented low income people through Action for Eastern Montana in the case against Montana-Dakota Utilities. Rep. Cohen summarized and presented her testimony since she was not able to attend the hearing on this bill.

Testifying Proponents and Who They Represent:

Jeanne Charter, Northern Plains Resource Council

C. B. Pearson, Common Cause/Montana

Jim Morton, Executive Director, District 11, Human Resource Council

Virginia Jellison, Montana Low Income Coalition

Chet Kinsey, Golden Nugget's Chapter of the Senior Citizens' Association

Joseph Moore, Rainbow Coalition

Earl Reilly, Montana Senior Citizen's Association

Jim Jensen, Executive Director, Montana Environmental Information Center

Pam Marshall, Montanans For Social Justice

Proponent Testimony:

JEANNE CHARTER presented written testimony (Exhibit 5).

C. B. PEARSON presented written testimony (Exhibit 6). Attached to his testimony are two documents. One document is from the Director of the Colorado Office of Consumer's Counsel and the other is from the Executive Secretary of the Public Utilities Commission of Colorado.

JIM MORTON said he has been involved with the subject of the bill for 11 years. The District 11 Human Resource Council has been appearing before the PSC for over 12 years in various rate cases. The decision to intervene is a difficult decision due to the expense. Rep. Cohen has tried in this bill to insure the safeguards of the utilities to guard the rate payers' pocketbook. An intervenor must first participate, after that participation, the elected

commissioners of the PSC must decide if the participation was substantial. If it wasn't, the organization will not receive compensation. The public utilities regulatory policies act did award fees to District 11 after we went to court because the PSC could not issue us that award directly. We are not here to get at the rate payer's pocketbook but to encourage participation.

VIRGINIA JELLISON presented written testimony (Exhibit 7).

CHET KINSEY said that the Golden Nuggets' Chapter of Senior Citizens discussed this bill yesterday. They feel it is a very necessary tool to protect the interests of the seniors. He said that their ability to oppose utility rate increases is strictly limited by a lack of funds. This type of bill is overdue and should have been in effect many years ago. It is a silly condition where the consumer is financing both sides of the fight -- financing his own doom because the power company can hire all sorts of experts.

JOSEPH MOORE said he is the legislative coordinator for the Montana State Rainbow Coalition and they want to go on record as urging a do pass on this legislation. We feel it is in the best interests of the vast majority of the citizens of Montana when they come before the PSC to make their case during a rate case hearing.

EARL REILLY said he is retired with a fixed income. He said he moved into a cabin east of Helena four or five years ago. At that time, his phone bill was around \$8 a month base rate; it is now \$25, which is a 300 percent increase. Mr. Reilly said, "This will probably go up the next few years. I don't know what it will be then. The power company has doubled their bill. It looks like a bleak future. I bought the cabin for change when I retired. It looks like the phone company is going to get the change and the Montana Power company is going to get the rest." He urged the Committee's support of this bill. Mr. Reilly presented information on the bill (Exhibit 8).

JIM JENSEN said that having been a former member of the Legislature, he is aware that there is a significant distinction between the way the PSC hearings are held and the way our hearings are held in the Legislature. The PSC hearings are quasi-judicial hearings. Witnesses and citizens are not able to just come up and speak their point of view or opinion and then sit down. They are subject to cross examination by some of the country's most sophisticated experts and attorneys. It is an intimidating setting. That is an important difference. Representation needs to be sophisticated and able to deal with the quasi-judicial setting. This bill will enable those least able to have that expertise to provide it to the process to help all of the citizens of the state obtain the best deal on rates.

PAM MARSHAL presented written testimony (Exhibit 9).

Testifying Opponents and Who They Represent:

Rep. Joe Quilici, Legislative Consumer Committee

John Alke, Montana-Dakota Utilities

Dennis Lopach, U. S. West Communications

Gene Phillips, Pacific Power & Light and Northwestern Telephone

Cal Simshaw, Montana Telephone Association of Great Falls

Opponent Testimony:

REP. JOE QUILICI is a member of the Legislative Consumer Committee. He said he has a record in this assembly of backing up low income groups. This type of legislation has come before this body before. He said he has problems with it as the Consumer's Counsel is mandated by Article 13 of the state Constitution to represent consumers' interests before both the PSC and the court. Rep. Quilici said that he thinks they have done a creditable job. The intervenors want to be funded exactly the way the Legislative Consumer Committee (LCC) is funded right now, which is a tax on the regulated utilities. That tax ultimately is paid for by the rate payers. He said he can show statistics where we have gone before the regulatory bodies in Montana, the FERC and the courts, and not once has our committee been overturned by the courts. When you hire people in regulatory matters, you have to have the best you can get. The LCC hires some of the best. We do not need another agency like this.

JOHN ALKE said that he represents the Montana-Dakota utilities and is appearing in opposition of the bill. He is the lawyer who invalidated the rules at the administrative level, which permitted the compensation of intervenors. There are two entities now that are charged with representing the consumer interest: The PSC and the Legislative Consumer Committee. The appropriation for the PSC is \$1.8 million per year. No one has ever accused the PSC of feathering the nests of the utility in this jurisdiction. They are considered from our perspective "one of the worst in the nation." The Consumer Counsel is a position controlled by the Legislature. Their budget is \$800,000 a year. The intervenors that desire compensation are really saying that these two groups aren't doing a good job. Where these disputes typically arise is where the Consumer Counsel is charged with the unenviable task of representing the best interests of all consumers. They will not take positions which favor one group of consumers to the disadvantage of others. That is the only time where there would be a divergence of interests represented by the Consumer Counsel and the interests of the intervenors who

seek compensation. They want something special, which the Consumer Counsel cannot justify as a matter of state policy. An example of the last time an intervenor group came before the Montana PSC in a rate case and they received intervenor compensation was over the establishment of a lifeline rate. The intervenor wanted a subsidized rate. To the extent that their group is subsidized, clearly the other consumers must pay those costs. The PSC accepted their proposal and the lifeline rate was instituted. Outrage occurred in eastern Montana because the effect of the proposal in some homes was to turn a fairly substantial rate increase, because of the rate design, into a 100 percent increase in rates for people who heated their home electrically. The total cost to the consumer was a 30 percent rate jump in rates. But because of the subsidy feature of the rate design, the people who heated their homes electrically received a 100 percent rate increase. That is why the Consumer Counsel would not represent their interest. That is the type of issue where there is a divergence of the position of the Consumer Counsel and the position of these intervenors who now want compensation individually.

The inherent abuse factor in the bill is when the elected officials on the PSC could compensate people who come before them as in rate hearings. Would you tell your constituent who asked for \$200, that you thought their presentation was only worth \$100? You wouldn't do this because you would offend your constituent. It is difficult to say no. The Colorado Commission is appointed, not elected. They do not face the same problem as a politically elected person.

DENNIS LOPACH said that the bill is not well drafted and there are conflicts in a number of areas. He said he wanted to focus on the technical points as the policy points have already been discussed. The statement of intent focuses on a very narrow aspect of the issues addressing only the question of documentation that an intervenor would be required to produce. The rules will be far more complex than that. The type of proceedings in which compensation could be permitted is described on the top of page 3. We are talking about a lot more than rate cases if you look at the definition of hearing. In fact, we are including rule making, which is essentially a legislative type of proceeding being conducted by an agency. The definition of substantial contribution on page 3, subsection (6), basically says that compensation can be awarded when arguments are made that are considered by the Commission. That is the Commission's job: to consider the evidence and arguments that are offered. That is in direct conflict with section 5, which talks about meritorious and deserving of compensation. I believe an argument could be made that under the bill as drafted an industrial intervenor could be compensated. In section 9, it is completely unclear. The utility is paying, but there is an appropriation to the PSC and no mechanism by which that appropriation will be paid

out by the PSC as opposed by the utility.

GENE PHILLIPS said that he is representing the Pacific Power and Light Company. This is a utility that operates in seven northwest and northern Rocky Mountain states. He assured the Committee that what the utilities face before the Montana PSC with the expertise of their own in-house staff, as well as the experts hired by the Consumer Counsel that oppose them at the rate hearing proceedings, is among the best that they face in any of the seven states in which they operate. The consumer is very well represented in Montana. One of the problems that they foresee with the act is the question of whether or not an industrial customer is entitled to compensation under this act. He said that based on the language contained in the bill as drafted, an industrial customer could be compensated. For example, W. R. Grayson Company is one of their large industrial consumers in northwestern Montana. Their interest is obviously opposite to that of their residential consumers. Under the provisions of this act, the Grayson Company can participate in one of the rate design proceedings and petition the commission for payment for having taken a position opposite to the residential rate payers. The residential rate payers will be funding the people that opposed them.

CAL SIMSHAW presented written testimony (Exhibit 10).

Questions From Committee Members:

REP. WHALEN asked Gene Phillips about large corporations, such as W. R. Grayson Company. He asked whether this type of legislation would make Montana an attractive place for these companies to come into. Mr. Phillips said that could well be. W. R. Grayson has regularly participated at the hearings with their in-house people.

REP. WESTLAKE said the bill includes an appropriation of \$50,000 to pay for the bill. He asked Gene Phillips if this amount would be sufficient to fund the bill. Mr. Phillips said it would take more than that. Rep. Cohen said that in his proposed amendment, the appropriation would be removed. The way the payments would be made is if the PSC approved them, the company in the hearing would pay the intervenor. Rep. Cohen said that the Committee received from Common Cause a handout which showed some information from Colorado as to exactly how much their intervenors' bill cost. They listed all the payments that were made to the two intervenors from the power companies since 1984.

REP. SPRING asked Rep. Cohen if he feels that the organization Rep. Quilici represents is doing a satisfactory job. Rep. Cohen said that John Alke did a good job of pointing out in his testimony the limits that our

Legislative Consumer Committee has to abide by. They cannot look at the structure of the rates.

REP. PHILLIPS said that the consumer is ultimately going to pay for anything that happens here. REP. COHEN said that is right. The consumers have been paying for what has been going on. They paid \$3 million in one year that was added to the consumer's costs. He is not concerned about the \$12,000 to \$13,000 that the consumers will have to pay to the intervenors. What he is concerned about is that the group will make a significant contribution and utility rates will be lowered. The consumer, in fact, will save money.

REP. WHALEN asked Mr. Alke if he is being paid to testify before the Committee by Montana-Dakota Utilities and if that is being passed onto the rate payers. Mr. Alke said no, the only costs that are permitted to be passed to the utilities' rate payers are the costs associated with complying with regulation. Mr. Alke said he was here today lobbying. His lobbying expenses are not a rate case expense. They are in no way reflected in the rates.

REP. CAMPBELL asked Rep. Cohen if the Consumer Counsel could only look into the rates of all the people. Rep. Cohen said the Consumer Counsel cannot represent one consumer group versus another. They can only look at the total costs of producing power and leaving the rate structure alone.

Closing by Sponsor: Rep. Cohen said that most of the rebuttals he wished to make were covered by the Committee's questions. He read some more of Phyllis Bock's testimony (Exhibit 3). He read the following quote from the director of the Colorado Consumer Council: "Critics often have argued that intervenors can cause delays in the regulatory process. My experience is the opposite. Intervenors' participation often results in a better decision because the Commission has a better record before it." We want to give the Commission the best possible record so that it can make the best possible decision for all of the consumers.

DISPOSITION OF HB 474

Chairman Brown stated that the Committee would not act on this bill until early in the week.

HEARING ON HB 513

Presentation and Opening Statement by Sponsor: Rep. Jim Rice, House District 43, Helena, introduced the bill. This bill requires the Legislative Auditor to maintain a toll-free hotline for the reporting of illegal, improper, dangerous or wasteful actions by state government. The Legislative Auditor must review all telephone calls and conduct a preliminary review of any matter as he considers

appropriate. If the Auditor determines that there is reasonable cause to believe that improper governmental action has occurred, he must report the activity to the head of the agency involved, the Attorney General, or another appropriate authority. The auditor must include in his report to the legislature a summary of calls received. The bill also permits an employee who has reported an alleged improper governmental action to seek judicial review in district court of any reprisal or retaliatory action taken against him (e.g., demotion, reduction in pay, dismissal).

Rep. Rice said he had just signed the fiscal note for the bill, and he distributed it to the Committee (Exhibit 11).

Rep. Rice said that a report was prepared in regard to the federal government's waste and fraud hotline. They have had the hotline in place for nine years prior to making this report in 1988. Copies of this report were distributed to the Committee (Exhibit 12). Rep. Rice called the Committee's attention to page 8, the paragraph at the bottom, entitled, "Misspent Funds and Savings Under the Program."

Rep. Rice said that the state would probably not be able to measure the amount of money saved with this bill, but what it would do is to provide an incentive to those managers who are managing those programs to run them in the most efficient manner so someone doesn't call in requesting a review.

The federal government reported 10 to 15 percent of the calls that come in are very legitimate.

Rep. Rice distributed sponsor's amendments (Exhibit 13), which are to clarify language and to delete the section in the statute that was written to protect employees against retaliation from making a call. Rep. Rice said this was a provision taken from the Oregon statute. After talking to a number of state government attorneys regarding this statute, he found out there are already statutes in the law to protect that employee.

Testifying Proponents and Who They Represent:

John Northey, Legal Counsel, Legislative Auditor's Office

Proponent Testimony:

JOHN NORTHEY, said he was neither an opponent nor a proponent. The Legislative Auditor's Office worked with Rep. Rice on this bill. His office prepared the fiscal note and believe that this procedure can be integrated into their existing procedure on how they handle complaints. Mr. Northey said that complaints come into their office at the present time, and they screen them. The Legislative Auditor's Office would anticipate that this bill would cause a significant

increase, at least initially, in the number of calls they receive.

Testifying Opponents and Who They Represent:

Nadiean Jensen, Executive Director, Montana State Council
No. 9

Rep. Bob Gervais, House District 9

Beate Galda, self

Opponent Testimony:

NADIEAN JENSEN said that she had come originally to be a proponent of HB 512 because of the protections for the employees starting on page 6. This is a bill so employees can call anonymously. However, the only way that they can be protected is if they give their name, because on page 5, line 19 it says: "an employee may seek judicial review in district court of a reprisal or retaliatory action, whether or not there has been an administrative review of the action, if the employee provides his name." So if you are calling anonymously, you cannot be protected. If you do give your name, there is another "catch 22" on page 3, line 8, which says: "During the review, the identity of the person who provided the information initiating the review must be kept confidential unless the Legislative Auditor determines that the information has been provided other than in good faith." Ms. Jensen said she thinks it should be kept confidential from the employer anyway.

REP. GERVAIS said he is opposed to this bill because one of his friends was personally involved in a whistle-blowing incident. He reported misuse of government vehicles and equipment. He had pictures and all of the documentation and facts. He did not do this anonymously but came right out with it. In the end, he lost his job. Not only his job was lost, but it also took about eight others in order to reach him in a reduction-of-force action. This incident really raised problems with his family and a lot of others. Nothing was done. There is no need for this bill. If a citizen sees anything that is not done properly, it is his duty to report it. We don't need a whistle-blower hotline.

BEATE GALDA said that she works for the Department of Highways as a lawyer but is appearing on her own time and on her own behalf. She believes there is no need for this bill as there are methods of dealing with this sort of problem in state government. She said this is not simply a waste bill; it includes a lot more than allegations of public waste. It talks about violations of state law or rule, abuse of authority, substantial, specific danger to public health and safety, and an inefficient or gross waste of public funds. She said that one of the reasons she has always been proud to be a Montanan is that Montanans are willing to stand up

and speak out for their rights and speak against abuses." Ms. Galda said that she had been in state government since 1978 and has found state government very responsive to citizen complaints and those of employees. Some of her duties have been in handling complaints and dealing with investigations. Ms. Galda has not found any great attempt to cover up problems or discourage employees from reporting problems. In this bill there is no protection for the person accused of something. If the newspapers want to look at the calls that the Legislative Auditor got, there is nothing to stop that. If they want to publish an anonymous allegation, they can do so. If two or three weeks later the Legislative Auditor finds that there is no merit behind this, the newspapers will probably put a small paragraph on page 8 saying there was insufficient evidence to support the allegations. There may be a cloud over a state employee's career and life simply because somebody made a false and malicious statement anonymously. If the Committee wants this sort of protection through the Legislative Auditor, then she asked that the Committee take out the anonymous provision and provide that the caller would have to identify himself and that he is subject to penalties for the accusations. These can still be kept confidential from newspapers or whatever, but the caller should have an obligation to stand up and say what he believes and stand behind it with his name.

Questions From Committee Members:

REP. COCCHIARELLA said that as a state employee, she has concerns that are not answered in the bill. She asked Rep. Rice how the bill addresses the concern of "big brother's watching us" and employees being pitted against each other, and management not having to be responsible for what they do anymore. Rep. Cocchiarella said that this bill creates a very negative environment for state employees to work in and under. Rep. Rice said that those are natural questions that would arise from this bill. We would not be doing anything new as these calls are now coming in. The Legislative Auditor could give lots of examples of where waste or fraud were uncovered because an employee made a phone call. We want to encourage that. We are saying there is a centralized place to make these calls that would be much more efficient in reviewing and managing them.

REP. MOORE said that she directs constituents to the Citizens' Advocate Office with their problems and that seems to be working just great. Rep. Rice said that the Citizens' Advocate is not the proper place for the call. If the call is confidential and anonymous, you are involving more people than you need to. Anonymity is very important to many people who call in.

REP. SQUIRES said she has a problem with the negative aspect of saying "stop state government waste." This perpetuates

and festers the attitudes of the public against state employees.

REP. PHILLIPS said that he has worked under this type of system for years and it does work. But wondered if there would be enough teeth in the bill to fix anything.

REP. COCCHIARELLA asked Rep. Rice if he would consider amending his bill to make it a positive statement. Rep. Rice said he had no objection to that.

REP. WHALEN asked what the four other forms of remedies that are available to protect employees are. Rep. Rice said the remedies are the collective bargaining process, the human rights remedies, civil remedies in torts and he said he couldn't remember the fourth one. REP. WHALEN said that he read that at the federal level they were stripping the protection that whistle-blowers have. That is why he is concerned as to whether the available remedies are state or federal remedies.

REP. SQUIRES voiced concern over the remedy of collecting bargaining and the grievance procedure due to the timeframe elements. The person that is found guilty would have no recourse due to timeliness being of utmost importance when a grievance is filed.

Closing by Sponsor: Rep. Rice thanked the Committee and addressed some of the concerns raised in testimony. There was testimony that said Montanans aren't afraid to speak out and that the anonymity provisions should be dropped. On the other hand, there was an objection because the anonymity provisions weren't tough enough. Rep. Rice said he finds the contrasting testimony interesting. There were objections raised that allegations might end up on the front page of the paper; that was the reason for the first amendment that was distributed to the Committee. The names of the callers are kept confidential. Statistics say that 70 percent of the people who call on these lines will not give their names. If they do give their name is kept confidential, along with any information that is given. This information will not be on the front page of the paper. Ms. Jensen raised concern about the giving of the name on page 3, section 4. The reason we had that good faith section in there is because the Legislative Auditor cannot disclose the name unless he feels it was not given in good faith. This was included in case the person calling in was the criminal. There would be the option of taking care of that situation. Mr. Rice said he would have no objection to the Committee amending that part out. He thinks the Attorney General has sufficient ways to run down that person.

Chairman Brown asked Rep. Cocchiarella if she would have time in the next couple of days to talk to the sponsor of this bill, and see if there is a way to make the bill more positive. Rep. Cocchiarella agreed to talk to Rep. Rice.

DISPOSITION OF HJR 7

Hearing Date: February 3, 1989

Motion: Rep. Campbell moved HJR 7 DO PASS. Rep. Cocchiarella made a substitute DO NOT PASS motion.

Discussion: Rep. Cocchiarella said that she has a petition containing 1,039 student signatures in support of MontPIRG collected in one day, yesterday. She said that it seems to her that this is an issue that the students of the University of Montana should have control over. We, as a Legislature, have no right interfering in their local process. If they choose to tax themselves or access themselves a fee of \$2 and decide to do this as a group, it is up to them. If there are students who wish not to pay the \$2, they have the right to mark that off.

REP. DEBRUYCKER said he opposes killing this resolution. He said he is really disappointed it wasn't a bill. He said he doesn't know anything about MontPIRG, but he does know about the Wheat Commission. The Wheat Commission also uses a negative checkoff system to generate revenue. It is very difficult and time-consuming to receive a refund from the Commission. He opposes the use of negative checkoffs for any organization.

REP. O'CONNELL said she had talked to some students about this and they said that this resolution did not belong before the Legislature.

Amendments, Discussion, and Votes: None

Recommendation and Vote: REP. SQUIRES made a substitute motion TO TABLE HJR 7. A roll call vote was taken. The motion CARRIED 10 - 7 (see roll call vote).

DISPOSITION OF HB 440

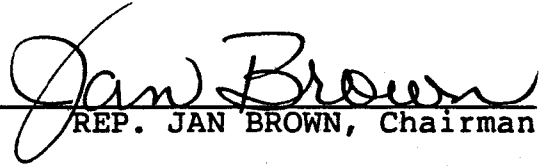
Motion: Rep. Campbell moved HB 440 DO PASS.

Amendments, Discussion, and Votes: Lois Menzies distributed supplemental information on the bill (Exhibit 14) and said that Sheriff O'Reilly was here to answer any questions.

Recommendation and Vote: The motion CARRIED 11 - 2 with Reps. Squires and Westlake voting no.

ADJOURNMENT

Adjournment At: 11:25 a.m.



REP. JAN BROWN, Chairman

JB/jb

3514.min

DAILY ROLL CALL

STATE ADMINISTRATION COMMITTEE

51th LEGISLATIVE SESSION -- 1989

Date February 10, 1989

NAME	PRESENT	ABSENT	EXCUSED
Rep. Jan Brown, Chairman	✓		
Rep. Helen O'Connell, Vice Ch.	✓		
Rep. Vicki Cocchiarella	✓		
Rep. Ervin Davis	✓		
Rep. Floyd "Bob" Gervais	✓		
Rep. Janet Moore	✓		
Rep. Angela Russell	✓		
Rep. Carolyn Squires	✓		
Rep. Vernon Westlake	✓		
Rep. Timothy Whalen	✓		
Rep. Bud Campbell	✓		
Rep. Duane Compton			✓
Rep. Roger DeBruycker	✓		
Rep. Harriet Hayne	✓		
Rep. Richard Nelson			✓
Rep. John Phillips	✓		
Rep. Rande Roth	✓		
Rep. Wilbur Spring, Jr.	✓		

STANDING COMMITTEE REPORT

February 10, 1989

Page 1 of 1

Mr. Speaker: We, the committee on State Administration report
that HOUSE BILL 440 (first reading copy -- white) do pass .

Signed: _____

Jan Brown, Chairman

EXHIBIT 1
DATE 2-10-89
HB 477

Amendments to House Bill No. 474
First Reading Copy

Requested by Representative Cohen
For the Committee on State Administration

Prepared by Greg Petesch
February 9, 1989

1. Title, line 7.

Following: ";

Strike: "AMENDING SECTION 69-1-403,MCA;"

2. Page 8, line 14 through Page 9, line 22.

Strike: Sections 9 and 10 in their entirety

Renumber: subsequent sections

COLSTRIP 3

EXHIBIT 2
DATE 2-10-89
HB 474

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.

EXHIBIT 3
DATE 2-10-89
HB 474
1067

re: HB 474

1987 Regulatory Expenses

Montana Power Company	\$2,551,283
U S WEST Communications	247,113
Pacific Power & Light	99,060
Montana Dakota Utilities Company	195,000
TOTAL	<u>\$3,092,456</u>

Name of Respondent The Montana Power Company	This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission	Date of Report (Mo, Da, Yr) Dec. 31, 1987	Year of Report DATE 2-10-89 Dec. 31, 1987
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REGULATORY COMMISSION EXPENSES

1. Report particulars (details) of regulatory commission expenses incurred during the current year (or incurred in previous years, if being amortized) relating to formal cases before a regulatory body, or cases in which such a body was a party.

2. In columns (b) and (c), indicate whether the expenses were assessed by a regulatory body or were otherwise incurred by the utility.

Line No.	Description (Furnish name of regulatory commission or body, the docket or case number, and a description of the case.) (a)	Assessed by Regulatory Commission (b)	Expenses of Utility (c)	Total Expenses to Date (d)	Deferred in Account 186 at Beginning of Year (e)
1	FERC administrative charges				
2	allocated to generating				
3	stations under proj. licenses	361,413		361,413	
4					
5	FERC annual charges under				
6	the Omnibus Budget Reconcili-				
7	ation Act of 1986.				
8	Order No. 472	172,711		172,711	
9					
10	Expenses in connection with the				
11	Order to Show Cause - 1986				
12	Tax Reform Act.				
13	Docket #86-11-62		22,870	22,870	
14					
15	Expenses in connection with				
16	Electric Rate Case - Cost of				
17	Service and Rate Design 1987				
18	Docket No. 87.4.21		141,642	141,642	
19					
20	Expenses in connection with				
21	the 1987 Gas Rate Case -				
22	Cost of Service and Rate				
23	Design. Docket No. 87.8.38		44,807	44,807	
24	Miscellaneous (17 Items)		25,141	25,141	
25					
26					
27					
28					
29					
30					
31					
32					
33					
34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46	TOTAL	534,124	234,460	768,584	

Name of Respondent The Montana Power Company			This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr)		Year of Report Dec. 31, 1987	
REGULATORY COMMISSION EXPENSES (Continued)								
3. Show in column (k) any expenses incurred in prior years which are being amortized. List in column (a) the period of amortization.				5. List in column (f), (g), and (h) expenses incurred during year which were charged currently to income, plant, or other accounts.				
4. The totals of columns (e), (i), (k), and (l) must agree with the totals shown at the bottom of page 223 for Account 186.				6. Minor items (less than \$25,000) may be grouped.				
EXPENSES INCURRED DURING YEAR				AMORTIZED DURING YEAR				Line No.
CHARGED CURRENTLY TO			Deferred to Account 186 (i)	Contra Account (j)	Amount (k)	Deferred in Account 186, End of Year (l)		
Department (f)	Account No. (g)	Amount (h)						
Electric	928	361,413					1	
							2	
							3	
							4	
							5	
							6	
							7	
							8	
							9	
							10	
							11	
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							42	
							43	
							44	
							45	
		768,584					46	

EXHIBIT 3
DATE 2-10-89
HB 474

307

THE MONTANA POWER COMPANY
Regulatory Commission Expenses
Report to the Montana Public Service Commission
12 Months Ended December 1987

1987 Summary of Expenses Reported Without Duplication:	TOTAL
Revenue Requirements Department Budget Report - 12 Months Actual	\$1,436,829
Less: Regulatory Expenses Account Nos. 928 and 2928	<u>154,130</u>
Revenue Requirements Department Other Expenses	1,282,699
Add: FERC Form 1 Regulatory Expense	<u>768,584</u>
Total	\$2,051,283
 Add: Cost of work on regulatory matters by employees outside of Revenue Requirements Department: 12 Months Ended December 1987 Estimate	 <u>500,000</u>
Total 12 Months Ended December 1987 Estimate	\$2,551,283



EXHIBIT 3
DATE 2-10-89
15 474

Mountain Bell

A US WEST COMPANY

560 North Park Avenue
Helena, Montana 59601
Phone (406) 441-2240

L. F. Cooper
Director-Regulatory

September 30, 1987

Dan Elliott
Administrator - Utility Division
Montana Public Service Commission
2701 Prospect Avenue
Helena, Montana 59620

Dear Dan:

Following is our mid-year report for 1987 listing regulatory expenses directly assigned to our Montana Operations.

<u>CATEGORY</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUNE</u>	<u>TOTAL</u>
Salaries	\$19868	\$22088	\$19880	\$22843	\$19447	\$20286	\$124,412
Travel Exp.	783	237	116	247	252	179	1,814
Admin. Svc. (Includes contracts & house svcs.	73	576	702	470	714	154	2,697
Other Direct Expenses -postage -printing -data processing -material purchases -training	1448	401	435	296	362	325	3,267
TOTAL							\$132,190

As stated in previous reports salaries do not include Social Security taxes, relief, and pensions.

Please feel free to call if clarification of any of these categories is needed.

Yours Truly,

Director
Regulatory Relations



EXHIBIT 3
DATE 2-10-89
HB 474

Mountain Bell

A US WEST COMPANY

560 North Park Avenue
Helena, Montana 59601
Phone (406) 441-2240

L. F. Cooper
Director-Regulatory

February 29, 1988

Dan Elliott
Administrator - Utility Division
Montana Public Service Commission
2701 Prospect Avenue
Helena, Montana 59620

Dear Dan:

Following is our year-end report for 1987 listing regulatory expenses directly assigned to our Montana Operations.

<u>CATEGORY</u>	<u>JUL</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>TOTAL</u>
Salaries	\$21124	\$19483	\$16146	\$16944	\$16361	\$17775	\$107,833
Travel Exp.	177	445	211	343	348	199	1,723
Admin. Svc. (Includes contracts & house svcs.	585	299	182	286	193	699	2,244
Other Direct Expenses -postage -printing -data processing -material purchases -training	368	328	281	1461	512	173	3,123
TOTAL							\$114,923

As stated in previous reports salaries do not include Social Security taxes, relief, and pensions.

Please feel free to call if clarification of any of these categories is needed.

Yours Truly,

L. F. Cooper
Director
Regulatory Relations

Name of Respondent PacifiCorp dba Pacific Power & Light Company		This Report Is: (1) <input checked="" type="checkbox"/> An Original (2) <input type="checkbox"/> A Resubmission		Date of Report (Mo, Da, Yr)	Year of Report HB Dec. 31, 19 <u>87</u>
REGULATORY COMMISSION EXPENSES					
<p>1. Report particulars (details) of regulatory commission expenses incurred during the current year (or incurred in previous years, if being amortized) relating to formal cases before a regulatory body, or cases in which such a body was a party.</p> <p>2. In columns (b) and (c), indicate whether the expenses were assessed by a regulatory body or were otherwise incurred by the utility.</p>					
Line No.	Description (Furnish name of regulatory commission or body, the docket or case number, and a description of the case.) (a)	Assessed by Regulatory Commission (b)	Expenses of Utility (c)	Total Expenses to Date (d)	Deferred in Account 186 at Beginning of Year (e)
1					
2	Oregon Public Utility Commission:				
3	Electric Rate Case Costs				312,155
4					
5	Washington Utilities and Transportation				
6	Commission:				
7	Electric Rate Case Costs				422,426
8					
9	Idaho Public Utilities Commission:				
10	Electric Rate Case Costs				83,729
11					
12	Montana Public Service Commission:				
13	Electric Rate Case Costs				99,060
14					
15	Wyoming Public Service Commission:				
16	Electric Rate Case Costs				102,078
17					
18	California Public Utilities Commission:				
19	Electric Rate Case Costs				-0-
20					
21	Federal Energy Regulatory Commission:				
22	Wyoming 1984-1985 Test Period Costs				30,202
23					
24					
25					
26					
27					
28					
29					
30					
31					
32					
33					
34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46	TOTAL				1,049,650

627

EXHIBIT 3
DATE 2-10-89
HB 474
7017

Montana Dakota Utilities Co.
Regulatory Commission Expenses
Report to the Montana Public Service Commission
12 Months Ended December 1987

Total 12 Months Ended December
1987 Estimate

\$195,000

Phyllis A. Bock
915 S. Black
Bozeman, MT 59715

Honorable Representative Ben Cohen
Capitol Station
Helena, MT. 59620

EXHIBIT 4
DATE 2-10-89
HB 474 1462

Re: The bill to provide for intervenor compensation in Public Service Commission (PSC) hearings

I was the attorney, who represented low income people through Action for Eastern Montana (HRDC), in the PSC hearing entitled In the Matter of the Application by Montana-Dakota Utilities to Adopt Increased Rates for Electric Service in Montana, Docket No. 81.1.2 Phase II in 1981. We began the case by making a formal request to the office of Consumer Counsel to present expert testimony on lifeline/inverted rate structure on our behalf. This was required by the intervenor compensation rules adopted by the PSC pursuant to the Public Utilities Regulatory Policies Act(a federal law). The reply was that the Consumer Counsel would not be presenting lifeline rate structure testimony.

The office of Consumer Counsel is charged with representing all of the consumers of the State of Montana. We all know that this would be a financial impossibility, unless the Legislature were to give the Consumer Counsel unlimited funds to represent all the different consumer interests in the State. Consumer Counsel is limited currently in the hiring of experts for utility cases by its bipartisan House of Representatives/Senate Committee. It usually hires a rate of return and revenue expert to present testimony cutting back the total amount of revenue sought by the utilities. This means that the total amount of revenue/cost to be divided among the various customer classes is less, which benefits all utility customers in Montana. Consumer Counsel is unlikely to be able to sponsor experts on rate structure.

The utility has experts and the corporations have theirs. The commercial customers have a different interest than the residential customers. All the interests are in conflict, because the bottom line is which class of customers will pay the greater share of the pie (the revenue sought by the utility). It is usually the residential customers, who pay the greatest share, and their position is usually not represented in these hearings.

The low income group had a position to present. An expert was hired and I was their attorney. This would not have been done, but for the prospect of reimbursement at the culmination, if our position was adopted by the Commission. Our position was adopted by the Commission. We requested reimbursement, which MDU fought every inch of the way. The Commission granted us reimbursement. The attorney's fees were comparable to what MDU paid for outside counsel to represent them, approximately \$5,000. An appeal ensued to the District Court, which we lost. The Commission decided not to appeal the case and we could not afford to appeal it. The money would have gone into a pool to help hire experts for future PSC cases.

I urge the passage of the intervenor compensation bill.

Angela A. Rock

NORTHERN PLAINS RESOURCE COUNCIL

102

Field Office
Box 858
Helena, MT 59624
(406) 443-4965

Main Office
419 Stapleton Building
Billings, MT 59101
(406) 248-1154

Field Office
Box 886
Glendive, MT 59330
(406) 365-2525

TESTIMONY BY JEANNE CHARTER
ON BEHALF OF NORTHERN PLAINS RESOURCE COUNCIL
CONCERNING H.B. 474

February 10, 1989

I would like to thank the State Administration Committee for the opportunity to provide testimony on behalf of the Northern Plains Resource Council (NPRC) on House Bill 474. NPRC is a membership based, non-profit organization with substantial interest in energy policy and therefore significantly impacted by proceedings before the Public Service Commission. Many of our members live near the Colstrip Unit powerplants and other coal regions and are significantly impacted by energy policy in their daily lives. The environmental effects of the powerplants have permanently impacted their ranch operations, though these people do not receive electricity from Montana Power Company for their ranches. Nearly all of our members are residential, small business and/or irrigation ratepayers.

For these reasons, NPRC has intervened in two ratecases before the Montana Public Service Commission. In both cases in which we have intervened, the decision to do so has been very carefully made. Because of the complexities of rate cases, we have had to be selective in the issues that we were able to address. Our intention in ratecase intervention has been to provide information, perspective and data to the PSC that would result in a reasoned decision, and thus a reasoned energy policy that people living near strip mines and powerplants as well as ratepayers can live with.

NPRC has intervened in ratecases because we felt our members interests needed to be represented. We have done so without any thought or hope that we could recoup any expenses. Over the years NPRC has spent in excess of \$50,000 on legal counsel and expert witnesses. This does not include the resources it takes to do public education or mobilize public participation. This money is almost exclusively from our membership. Donations generally range from \$1 to \$500. It is fair to say the fundraising has been difficult and very costly to our members.

As you may or may not know, NPRC is currently involved in a ratecase before the PSC. Because we have limited resources, we were only able to address some issues in the case. MPC has filed

a rebuttal statement that is so different from their original filing that NPRC and other intervenors have filed for a continuance so that we are able to make data requests to analyze how MPC came up with their new numbers. It now appears as though we will not be able to put this case to bed this Spring as we had hoped, but will now take much longer and require more extensive analysis. MPC can play this game because they have a team of attorneys and experts on staff. Non-profit public interest organizations cannot play this game. This maneuver will cost us thousands more in hard earned dollars and could easily discourage other intervenors. It should also be noted for the record that NPRC did attempt to negotiate with MPC, outside of the PSC proceedings, but negotiations amongst all intervenors broke down on November 9, 1988 and the case was resumed.

I would like to state that if this bill should pass, in no way would it mean that NPRC would then jump to intervene in every case involving MPC. These cases are difficult, expensive, time consuming and something we would only do upon thorough consideration and deliberation. It would suit us just fine to never have to intervene again before the commission and not ever have to request compensation.

It is also important to note that this bill, as stated, will not allow NPRC to recoup any of its expenses in our current case. We support it because we believe it will encourage meaningful and important public input in proceedings that ultimately determine energy policy in Montana. Thank you.



COMMON CAUSE/MONTANA

P.O. Box 623
Helena, Montana 59624

(406) 442-9251

EXHIBIT 6
DATE 2-10-89
HB 474
108 10

TESTIMONY OF COMMON CAUSE IN SUPPORT OF

HOUSE BILL 474

2 FEBRUARY 1989

Madame Chairwoman and members of the House State Administration Committee, for the record, my name is C.B. Pearson, Executive Director of Common Cause in Montana. I am here today on behalf of the members of Common Cause.

Common Cause would like to go on record in support of House Bill 474.

In our opinion HB 474 is a needed reform. The nature of this bill would allow for greater representation in proceedings before the Public Service Commission and would open up the process to groups and individuals who otherwise may not be able to afford to participate.

Compensation would be decided upon by the Public Service Commission after review of the significance and merit of the consumer's participation.

It is Common Cause's view that there is, at times, inadequate consumer representation before the Public Service Commission. In our view the PSC could benefit from added public participation and the presentation of varying views on matters before the body.

There are times when the Consumer Counsel must represent the views of a divergent group of utility consumers. Under this bill a specific class of consumer could be represented which would not ordinarily be present.

Attached to my testimony are two documents one from the Director of the Colorado Office of Consumer Counsel and the other from the Public Utilities Commission.

EXHIBIT 6
DATE 2-10-89
HB 474

206 10

If you note the letter by the Director of the Office of the Consumer Counsel, Mr. Ron Binz states, "Intervenors' participation often results in a better decision because the Commission has a better record before it."

That is the thrust of why Common Cause supports this bill. It is a good public participation and decision making model. This model is in place in Colorado and works to the mutual satisfaction of all parties.

The second document is from the Colorado Public Utilizes Commission and gives examples of the types of intervenor awards that have been granted. In Colorado, the PUC first funded an intervenors program and later the legislature enacted the Office of Consumer Counsel. In Montana, we have an elected Public Service Commission and a constitutionally-mandated Consumer Counsel now, in our opinion, it is time to enact an intervenors program.

The bill before you has the proper safeguards to ensure that there are no abuses. It is closely modeled after Colorado's program. It is an idea whose time has come. We urge you to give a "do pass" to HB 474.

EXHIBIT 6

DATE 2-10-89

HB 474

30610

Date: Thu Feb 09, 1989 5:11 pm MST
From: Office of Consumer Counsel / MCI ID: 265-0900

TO: * Northern Plains Resource Council / MCI ID: 243-0818
Subject: Letter for Terri McBride

February 9, 1989

Ms. Terri L. McBride
Lobbyist/Consultant
Montana Common Cause
405 Last Chance Gulch
Helena, MT 59601

Dear Ms. McBride:

I am writing to describe the operation of the Colorado statute respecting fee reimbursement for intervenors before the Colorado Public Utilities Commission. The cite to the statute is Section 40-6.5-105, Colorado Revised Statutes.

The statute has been in effect since July 1, 1984; prior to that time the Colorado Public Utilities Commission followed a policy on intervenor reimbursement which was very similar to the policy noission can be greatly assisted by high quality testimony and legal argument of other intervenors. Critics often argue that intervenors can cause delays in the regulatory process. My experience is the opposite. Intervenors' participation often results in a better decision because the Commission has a better record before it.

I can recommend a policy on intervenor funding similar to the Colorado statute. I wish you success on behalf of House Bill 474.

Sincerely,

Ronald Binz, Director
Colorado Office of Consumer Counsel

STATE OF COLORADO

Roy Romer, Governor


 OFFICE LEVEL 2
 1580 LOCAN STREET
 DENVER, COLORADO 80202

M E M O R A N D U M

APPENDIX C

EXHIBIT 6

DATE 2-10-89

HB 474

COMMISSIONERS:

Arnold H. Cook, Chairman

Andra Schmidt

Ronald L. Lehr

Executive Secretary

James P. Spiers

40610

 Department of Regulatory Agencies
 Henry L. Solano, Executive Director
 THE PUBLIC UTILITIES COMMISSION

 Administration (303) 866-3156
 Transportation (303) 866-4288
 Fixed Utilities (303) 866-3181
 Counsel (303) 866-3188

 TO: Henry L. Solano, Executive Director
 Department of Regulatory Agencies

 FROM: James P. Spiers, Executive Secretary
 The Public Utilities Commission

DATE: June 2, 1987

RE: Report on Intervenor Fees Pursuant to § 40-6.5-105, C.R.S.

As you may be aware, as part of the enabling legislation creating the Office of Consumer Counsel (§§ 40-6.5-101, et seq., C.R.S.), the Commission is to report the award of intervenors fees to the Executive Director of the Department of Regulatory Agencies, who in turn shall prepare an accounting of such award and report to the General Assembly in January of 1987.

It has come to my attention that we have not been providing the information on intervenor fees to you on a systematic basis. Accordingly, I am assuming that the requisite report was not filed with the General Assembly. Attached for your consideration and use is a summary of attorney fees and expert witness fees authorized for intervenor participation in Commission proceedings subsequent to the July 1, 1984 effective date of the OCC enabling legislation. Also attached is a listing of all intervenor attorney fees and expert witness fees granted to intervenors prior to the effective date of the OCC enabling legislation.

If you have any questions or need any more information, please contact me. I apologize for any inconvenience we may have caused by not flagging this to Wellington's or your attention at an earlier date, if in fact the report has not been filed.

 JS:lg
 Attachments

STATE OF COLORADO

Roy Romer, Governor



Department of Regulatory Agencies
Henry L. Solano, Executive Director

THE PUBLIC UTILITIES COMMISSION

Administration (303) 866-3156
Transportation (303) 866-4288
Fixed Utilities (303) 866-3181
Counsel (303) 866-3188

OFFICE LEVEL 2
1540 LOCAN STREET
DENVER, COLORADO 80203

EXHIBIT 6

DATE 2-10-89

HB 47A

COMMISSIONERS: 5 of 10
Arnold H. Cook, Chairman
Andra Schmidt
Ronald L. Lehr

Executive Secretary
James P. Spiers

MEMORANDUM

TO: Henry Solano, Executive Director
Department of Regulatory Agencies

FROM: James P. Spiers, Executive Secretary
Public Utilities Commission

DATE: June 8, 1987

RE: Report on Intervenor Fees Pursuant to § 40-6.5-105, C.R.S.

It has come to my attention that Attachment A to the report forwarded to you on June 2 on the above matter did not contain necessary footnotes. Attached for your further consideration is another copy of Attachment A to that report, which is footnoted to reflect those cases in which the Office of Consumer Counsel participated.

If you have any further questions, please call me.

Attachment

JS:lg

ATTORNEY FEES AND
EXPERT WITNESS FEES

7-1-84 through Present

<u>COMPANY</u>	<u>DECISION NO.</u>	<u>DATE</u>	<u>AMOUNT REQUESTED</u>	<u>AMOUNT GRANTED</u>
Mountain Bell (\$143.5m rate case)	C86-1137	09-03-86	\$ 40,736	\$ 40,736
* Mountain Bell (\$151m rate case)	C84-897	08-15-84	214,274	155,090
* Public Service (\$123.2m. rate case)	C84-903	08-15-84	127,624	95,718
** Mountain Bell (\$64.6m. asset transfer)	C86-1641	12-08-86	<u>131,972</u>	<u>131,972</u>
\$482.3 million at issue TOTALS			\$514,606	\$423,516

* Office of Consumer Counsel did not participate in the phase of these cases for which fees were awarded; these preceded formation of the Office.

** OCC participated in this case, but due to the timing of the formation of the Office, it did not present evidence in this case.

EXHIBIT 6

DATE 2-10-89

HB 474

Attachment B

70610

ATTORNEY FEES AND
EXPERT WITNESS FEES

1974 through 6/30/84

<u>COMPANY</u>	<u>DECISION NO.</u>	<u>DATE</u>	<u>AMOUNT REQUESTED</u>	<u>AMOUNT GRANTED</u>
Public Service	85724	09-24-74	\$ 500	\$ 0
Public Service	91581	11-01-77	79,482	10,546
Public Service	C78-1123 C82-1984	08-22-78 11-21-82	15,128	12,835
Public Service	91904	01-04-78	7,253	3,778
Public Service	C80-562	03-25-80	9,871	6,082
Public Service	C82-1736	11-01-82	8,183	6,243
Mountain Bell	86103	12-20-74	34,445	19,500
Mountain Bell	87701	10-30-75	23,832	12,453
Mountain Bell	C78-1683	12-21-78	44,919	8,983
Mountain Bell	91379	09-30-77	51,083	44,216
Mountain Bell	C81-327	02-18-81	169,071	74,041
Mountain Bell	C83-205	02-01-83	207,177	153,102
Mountain Bell	C83-737	05-10-83	7,436	7,436
Mountain Bell	C83-1605	10-12-83	114,489	69,631
Colorado-Ute	90016	01-14-77	64,273	28,851
Colorado-Ute	C82-849	06-01-82	48,127	48,127
Colorado-Ute	C79-1417	09-11-79	8,318	8,318
Peoples Nat. Gas	C81-2098	12-22-81	9,669	4,834
Peoples Nat. Gas	C82-1305	08-17-82	146,292	43,325
Mountain Bell	C83-1646	1-25-83	32,974	16,487
Mountain Bell	C83-1782	11-22-83	2,528	0
TOTALS			\$1,025,050	\$578,788

MONTANA LOW-INCOME COALITION



P.O. BOX 1029
HELENA, MONTANA 59624
(406) 449-8801
(406) 443-0012

EXHIBIT 7
DATE 2-10-89
HB 474

80610

BUTTE
COMMUNITY UNION
113 HAMILTON
BUTTE 59701 • 782-0670

BOZEMAN
HOUSING COALITION
226 EAST KOCH
BOZEMAN 59715 • 587-3736

CONCERNED CITIZENS
COALITION
825 THIRD AVENUE SOUTH
GREAT FALLS 59402 • 727-9136

LAST CHANCE
PEACEMAKERS COALITION
107 WEST LAWRENCE
HELENA 59601 • 449-8680

LOW INCOME
SENIOR CITIZENS ADVOCATES
BOX 897
HELENA 59624 • 443-1630

MONTANA ALLIANCE FOR
PROGRESSIVE POLICY
324 FULLER
HELENA 59601 • 443-7283

MONTANA LEGAL SERVICES
EMPLOYEES ASSOCIATION
801 N. MAIN
HELENA 59601 • 442-9830

MONTANA
SENIOR CITIZENS ASSOCIATION
BOX 423
HELENA 59624 • 443-5341

MONTANANS
FOR SOCIAL JUSTICE
436 NORTH JACKSON
HELENA 59601 • 449-3140 • 227-8694

POWELL COUNTY
NEIGHBORHOOD
SUPPORT GROUP
BOX 342
DEER LODGE 59722 • 846-3437

TESTIMONY IN SUPPORT OF H B 474 before the HOUSE STATE ADMINISTRATION COMMITTEE REPRESENTATIVE JAN BROWN, CHAIRPERSON

My name is Virginia Jellison and I'm the Lobbyist for the Montana Low Income Coalition. MLIC is a member based coalition of grassroots organizations that are concerned about social justice, peace and equity issues. Our member groups represent over 6,000 low income Montanans who are either elderly, unemployed, underemployed, on public assistance, single parents or children in poverty.

In order for low income people to participate in the democratic process (by exercising their right to advocate for themselves), they need not only the right to do so but the means to do so. It is a struggle to maximize their participation because they have the least resources to advocate for themselves. Citizen groups are the ones most able to make a unique contribution to the Public Service Commission hearing process by providing expert testimony on behalf of the consumer. If this bill would pass, MLIC, like other consumer interest groups would be able to hire an expert witness to represent the ratepayer's interest. This is necessary because the Consumer Council obviously can't represent the consumer in all cases. For instance, in the case of credit policies, termination of services, a moratorium, or special services (such as those for elderly or handicapped people), other organizations could act as an intervenor for the residential user, especially in the case of low income people.

H.B. 474 protects against intervention that might be to costly or frivolous by requiring the compensation to be

EXHIBIT 7
DATE 2-10-89
HB 474

9061

meritorous and deserving. And the utility has the right to object to any request for compensation by as intervenor. Besides, the regulated utility is merely a pass through for the costs because they have the right to recover fees paid through their rates and charges.

Madam Chair and Members of the Committee, H.B. 474 is a fair bill and a good bill. The Montana Low Income Coalition strongly urges you to vote "do pass" on H.B. 474. Thank you.

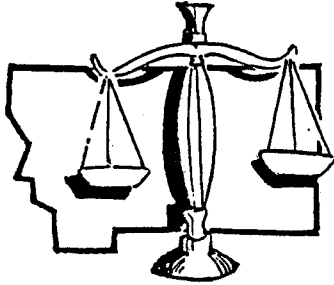
INTERVENOR BILL- HB 474

TITLE: "AN ACT TO PROVIDE A MEANS FOR COMPENSATION OF PERSONS WHO INTERVENE IN PUBLIC SERVICE COMMISSION PROCEEDINGS."

POLICY: It is the policy of the state to encourage participation at all stages of the proceedings before the commission. Financial ability should not restrict the access of a consumer or a ratepayer organization to reasonable participation in hearings and proceedings before the commission. Public participation in the ratemaking process ensures that all pertinent issues are addressed by the commission in a fair and knowledgeable manner. Therefore, the state provides a means for compensation of persons interested in and directly affected by the subject matter of any hearing or proceeding pending before the commission.

KEY CHANGES/ADDITIONS:

1. The bill would provide compensation for those consumers or ratepayer organizations who are involved in a hearing or proceeding before the commissioner.
2. To receive compensation the intervenor cannot be a public utility, common carrier, railroad, or other industry regulated by the public service commission.
3. The application must distinguish the intervenor's interest from any represented by other intervenors. The application must also certify that the intervenor requested representation by the consumer counsel and was refused. Also the application will state the relevance of the interest of the issues to the proceeding and outline the general nature of the intervenor's participation.
4. The money paid to an intervenor by a utility is a regulatory expense.
5. In the state of Colorado, which already has such legislation in place, only two cases between July 1 of 1984 and December 31 of 1986 have resulted in the full amount of compensation requested being paid.
6. The proposed Bill, House Bill 474, is similar to existing Colorado legislation. Ron Binz, the Director of the Colorado Office of Consumer Counsel states, "I can recommend a policy on intervenor funding similar to the Colorado statute."



Montanans For Social Justice

436 North Jackson
Helena, Montana 59601
(406) 442-7752

EXHIBIT 9
DATE 2-10-89
474

TESTIMONY IN SUPPORT OF HB 474
Pam Marshall
2371 Buckboard
East Helena, MT 59635
227-8694

Good morning Madam Chair and Committee Members. I appreciate your taking the time this morning to listen to the concerns of your constituents. My name is Pam Marshall and I am an active member of Montanans for Social Justice, a community organization based in Helena and a member group of Montana Low Income Coalition.

This morning I have come to ask for your support of HB 474. The individuals and families I represent here today believe that this bill offers them, through their organizations, an opportunity to be heard. Industries and services regulated by the PSC impact each and every one of us and to ignore the concerns of the consumer regarding these impacts will in essence ignore the democratic processes this country proclaims it possesses. This bill will go a long way to ensure that our concerns will be heard. The budgets of organizations like MSJ are limited and this reimbursement process enables our participation. Again, I urge you to support HB 474 to insure that the concerns of the people are and can be heard.

Cal Simshaw
Director Industry Affairs
MTA

EXHIBIT 10
DATE 2-10-89
HB 474

MONTANA TELEPHONE ASSOCIATION TESTIMONY
IN OPPOSITION TO HB 474

1062

The Montana Telephone Association represents the interest of the small regulated telephone systems operating in Montana. We noted that Section 5 of the Bill requires a finding of merit under the Public Utilities Regulatory Policy Act of 1987. As PURPA applies only to electric utilities we wonder whether the intent of the sponsors is to address only electric utility issues and dockets. However as the remainder of the bill seems to refer to all public utilities MTA members felt that we might be affected and should offer testimony.

The regulated members of the Montana Telephone Association agree with the general policy statement of HB 474 that regulation of public utilities is most effective when public participation is maximized. The same can also be said for regulation of other industries by the various state agencies.

However, Montana Telephone Association (MTA) does not agree that HB 474 would make for more effective regulation and would actually do more harm than good.

The bill puts the Commission in the awkward position of having to second-guess the Montana Consumer Counsel concerning the merits of any particular intervenor positions. Under Section 4(2)(c), only applications where the Consumer Counsel has denied requested representation would be considered.

Consumer interests in utility cases generally fall into one of two categories. First there are the very broad far-reaching issues affecting the general body of ratepayers. The Consumer Counsel recognizes these issues as such and does a very good job of devoting the resources and personnel necessary to properly represent consumer interests on these issues. The second category would be those issues that might affect a single or small group of specialized consumers. Experience indicates that these interests are most effectively represented by the live testimony of the consumers themselves. Attempting to funnel those interests through local attorneys unfamiliar with the regulatory process and/or out of state hired gun expert witnesses tends to be very expensive while adding very little to the process.

The Commission is very accommodative to lay person public testimony in its proceedings. The process is much like the one that we are all participating in at this very moment in front of this committee. A legitimate consumer interest will be heard and

it will be pursued. If consumer testimony reveals an issue that should be further developed, the Commission can direct that the Consumer Counsel address the issue. Under Section 69-2-102 the Commission may hire its own expert witnesses and present its own evidence if the Consumer Counsel declines to further develop an issue.

MTA is particularly concerned about the potential impact that this bill could have on rate cases involving small utilities such as the MTA members. In many cases the entire amount at issue may amount to only \$50,000 to \$100,000. Legal and expert witness fees for full technical intervention can add up to five figures very quickly. For small utilities the intervenor costs could exceed the amount of any rate adjustments achieved through the intervention. Since the Bill would cause the intervenor costs to be recovered through an additional rate increase, this would amount to the regulatory process shooting itself in the foot.

We believe that specialized consumer interests can be better served with direct consumer testimony with additional follow-up by the Consumer Counsel or the Commission themselves where necessary. MTA has consistently supported adequate funding of both the Commission and the Consumer Counsel.

All of this is not to say that specialized consumer groups should not have the opportunity to be represented through attorneys and expert witnesses. They should and in fact do have that option. But MTA does not feel that the general body of ratepayers should be required to pay these costs when they have already paid for representation once through the Consumer Counsel tax.

For these reasons the MTA must go on record in opposition to HB 474.

In compliance with a written request, there is hereby submitted a Fiscal Note for HB513, as introduced.DESCRIPTION OF PROPOSED LEGISLATION:

An Act creating a program for the reporting of illegal, improper, dangerous, or wasteful actions by state government; requiring the legislative auditor to review reports and to report improper governmental actions to the appropriate authorities; and requiring reports to the legislature.

ASSUMPTIONS:

1. An in-state toll free line.
2. Monthly usage not to exceed 9 hours.
3. Number of calls will range from 10 to 250 per year (maximum of one per day).
4. Toll free line will be "manned" from 8:00 a.m. to 5:00 p.m. daily, Monday through Friday.
5. 350 12" x 18" signs will be printed.
6. No additional FTE will be needed.
7. Staff responsible for "manning" toll free line will be trained.
8. Impact on audit personnel will be dependent on the nature of the allegation. Assume 10 percent of calls will require follow-up. Experienced staff will be used to do the follow-up.

FISCAL IMPACT:

	<u>FY90</u>		<u>FY91</u>	
	Current	Proposed	Current	Proposed
<u>Expenditures:</u>				
Personal Services	\$ -0-	\$12,085	\$ -0-	\$12,085
Operating Expenses	-0-	2,500	-0-	2,500
Total	\$ -0-	\$14,585	\$ -0-	\$14,585
<u>Funding:</u>				
General Fund				

RAY SHACKLEFORD, BUDGET DIRECTOR
OFFICE OF BUDGET AND PROGRAM PLANNING

DATE

2/8/89

JIM RICE, PRIMARY SPONSOR

DATE

2/10/89

Fiscal Note for HB513, as introduced

EXHIBIT 12
DATE 2-10-89
513

GAO

United States General Accounting Office

Fact Sheet for the Honorable
Jim Sasser, U.S. Senate

19

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JUN 24 1988

April 1988

FRAUD HOTLINE

MONTANA LEGISLATIVE
AUDITOR

9-Year GAO Fraud Hotline Summary



GAO

United States
General Accounting Office
Washington, D.C. 20548

Office of Special Investigations

B-171019

April 19, 1988

The Honorable Jim Sasser
United States Senate

Dear Senator Sasser:

In response to your February 1988 request, we are providing a fact sheet summarizing our 9 years of operation of the GAO Fraud Hotline. This updates information provided to you in our last Hotline report, dated April 8, 1987.

This fact sheet is a brief overview of our Hotline operation and concentrates on Hotline statistics and examples of substantiated cases. It also outlines changes in our procedures to improve the efficiency of our operation. We hope this report will be helpful to you in your efforts to assist the Congress and the public in combating fraud, waste, and mismanagement in the federal government.

If you have any questions on this report or on the operation of the GAO Fraud Hotline, please contact Gary Carbone on (202) 272-5500.

Sincerely yours,

David C. Williams
David C. Williams
Director

9-YEAR GAO FRAUD HOTLINE SUMMARY
(January 18, 1979-January 17, 1988)

I. CONTINUING OBJECTIVES,
GOALS, AND PROCEDURES

During our first full year as an integral part of the U.S. General Accounting Office (GAO), Office of Special Investigations (OSI), the GAO Fraud Hotline's objectives and goals have continued to be to

- operate a nationwide, toll-free hotline that anyone in the United States may use to report allegations of fraud or mismanagement of federal funds and, when those allegations are deemed to merit further review, refer them to the Inspector General (IG) of the cognizant federal agency for appropriate audit or investigation;
- conduct our own investigations of allegations directed against agencies without IGs;
- expedite responses to congressional requests that certain allegations be investigated;
- review IG responses to allegations we have referred to them, thereby ensuring that all issues have been investigated and corrective actions have been taken;
- advise GAO divisions and agency IGs of audit leads based on our review of allegations and agency responses; and
- provide information and assistance to federal, state, and local organizations establishing their own hotlines.

With 13 of the 19 statutory IG offices now providing toll-free hotlines and with the establishment of the President's Council on Integrity and Efficiency to coordinate the efforts of the IG offices, the role of the GAO Fraud Hotline has taken on different dimensions. It has become evident that we should take certain actions that respond to the decrease in the number of calls received by the GAO Hotline as a result of the increased number of toll-free hotlines used by the federal government to uncover fraud and mismanagement.

In the case of an allegation regarding entitlement or recipient fraud by an individual, we plan to direct the caller to the appropriate agency's toll-free hotline. This will expedite the resolution of the allegation and obviate any redundancies in the system.

We will continue to refer under our existing procedures recipient fraud allegations involving agencies without toll-free hotlines. However, in those instances, and in less serious allegations that we refer to an agency, we will not require that the agency respond to us with the results of their investigation or audit.

We will continue to track cases of a serious nature. We will also continue to track those cases that suggest a problem may be systemic to a program or agency.

Additionally, we have reduced our hotline's operating hours to 10:00 a.m. to 4:00 p.m. Eastern time. These hours include our periods of highest activity and assure adequate coverage of all areas of the Nation. We will continue to have a recorded message on at all other times.

The effect of these changes will allow us to intensify our oversight of agency hotline efforts and activities without increasing the size of the GAO Hotline staff. We believe these changes will better serve the needs of the public and the Congress.

In mid-December 1987, all Office of Special Investigations operations were consolidated at one location. Accordingly, we are providing our correspondents with the following new address:

GAO Fraud Hotline
Room 1000
600 E Street, N.W.
Washington, D.C. 20548

Our nationwide, toll-free hotline telephone number remains the same, (800) 424-5454, but the local number for the Washington, D.C., area has been changed to 272-5557.

II. STATISTICAL OVERVIEW

In our 9-year existence, we have received over 94,000 calls on our toll-free hotline, of which 13,992 cases have warranted further review. Of the calls warranting further review, 70 percent were received from anonymous sources. Part of these anonymous calls were from federal employees. Altogether, calls from federal employees totaled 26.2 percent of those warranting further review.

Calls not written up were for reasons such as the caller lacked specific information or the allegation did not involve a federal program. Those callers who had information on nonfederal matters were directed to the appropriate state or local agency.

Geographic Breakdown

The 13,992 cases we received were reported to have taken place in the following geographic areas:

Washington, D.C.	1,044	Nebraska	61
Alabama	246	Nevada	71
Alaska	51	New Hampshire	38
Arizona	157	New Jersey	235
Arkansas	157	New Mexico	130
California	1,843	New York	619
Colorado	204	North Carolina	288
Connecticut	74	North Dakota	54
Delaware	16	Ohio	649
Florida	601	Oklahoma	158
Georgia	559	Oregon	118
Hawaii	56	Pennsylvania	571
Idaho	52	Rhode Island	32
Illinois	375	South Carolina	134
Indiana	182	South Dakota	50
Iowa	79	Tennessee	481
Kansas	113	Texas	772
Kentucky	255	Utah	58
Louisiana	164	Vermont	17
Maine	48	Virginia	615
Maryland	409	Washington	344
Massachusetts	220	West Virginia	109
Michigan	382	Wisconsin	121
Minnesota	101	Wyoming	20
Mississippi	148	Overseas	139
Missouri	293	Missing Code	207
Montana	62		

Referral to Agencies

We subsequently referred these 13,992 cases to the following agencies for further review:

Department of Health and Human Services	3,807
Department of Defense	2,648
Internal Revenue Service	1,327
Department of Housing and Urban Development	905
Department of Labor	736
Department of Agriculture	745
Veterans Administration	654
General Accounting Office	460 ^a
General Services Administration	418

Department of Justice	422
Department of the Interior	353
Postal Service	321
Department of Transportation	303
Department of Education	227
Department of the Treasury	220
Department of Energy	154
Environmental Protection Agency	147
Department of Commerce	141
Office of Personnel Management	125
Small Business Administration	114
Federal Emergency Management Agency	58
National Aeronautics and Space Administration	57
Tennessee Valley Authority	44
Department of State	28
Agency for International Development	22
Other Agencies	164
Total Referrals	<u>14,600^b</u>

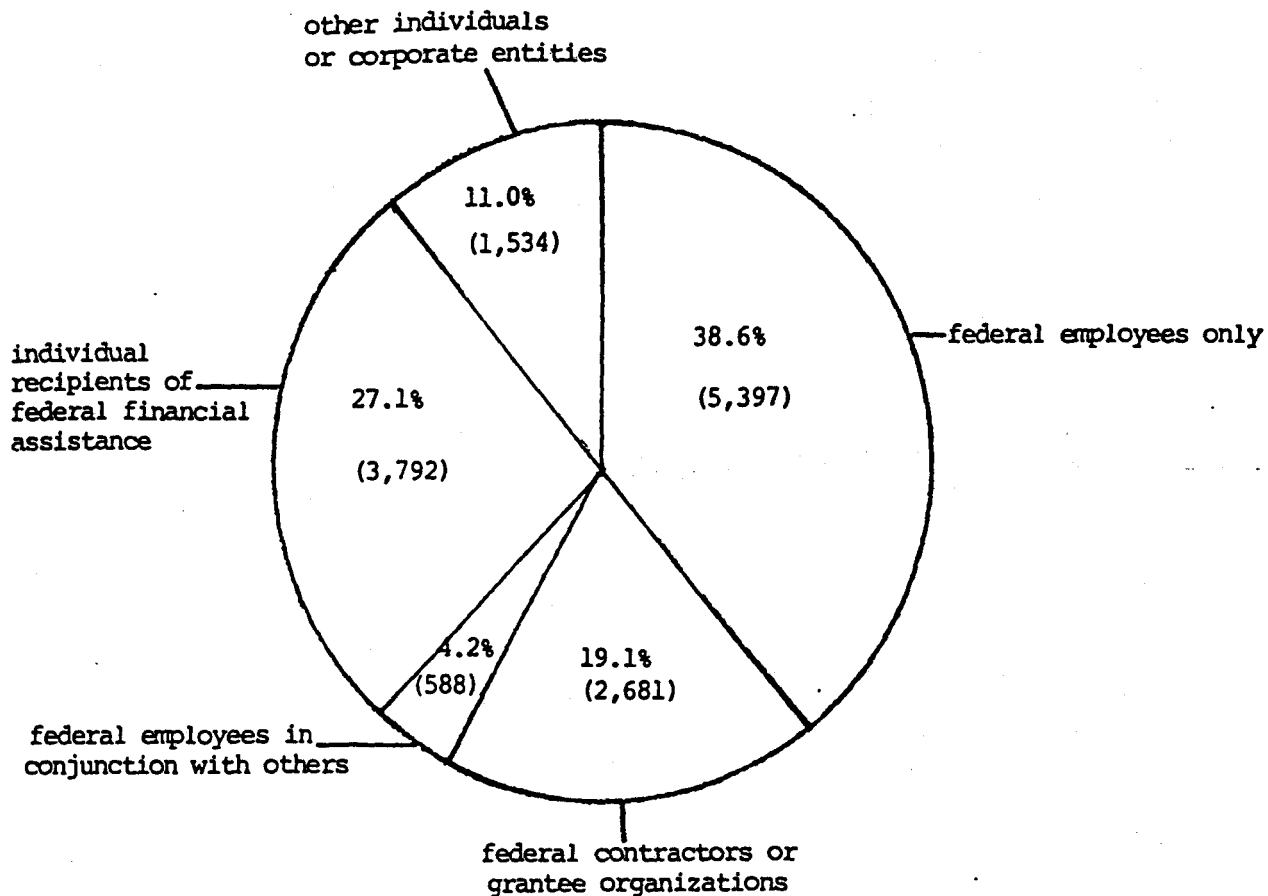
^aThese include cases the GAO Hotline investigated or referred to other GAO components.

^bThe total number of cases we referred is greater than the number of cases warranting further review because we referred some cases to more than one agency.

Participants

Allegations we referred for further review have also been categorized according to the participant in the alleged improper activity. We have established five such categories: (1) federal employees only, (2) federal employees in conjunction with others, (3) federal contractors or grantees, (4) individual recipients of federal financial assistance, and (5) other individuals or corporations. Of the 13,992 cases of wrongdoing and/or mismanagement, the highest proportion, 38.6 percent, was in the category "federal employees only."

The following chart shows the percentage for each participant category of the 13,992 cases we referred for further review.



In the largest category, "federal employees only," we found 891 reports of employee work-hour abuse, 654 allegations of private use of government property, 605 allegations of noncompliance with established agency procedures or policies, 597 reports of improper financial transactions, 338 allegations of theft, 192 reports of purchasing unnecessary equipment, 158 allegations of awarding unneeded contracts, and 1,962 other allegations of fraud and mismanagement.

In the second largest category, "individual recipients of federal financial assistance," we found 1,161 allegations of improper receipt of welfare benefits and 823 of improper receipt of disability benefits. There were also 676 cases of improper receipt of social security benefits, 249 instances of improper receipt of food stamps, 195 reports of housing subsidy abuse, 178 instances of improper receipt of veterans benefits, and 510 miscellaneous allegations.

In the category "federal contractors or grantee organizations," there were 867 allegations of improper expenditure of government funds, 403 reports of partial or nonperformance of contractor/grantee services, 226 allegations of medical personnel overbilling medicare/medicaid, 170 allegations of noncompliance with established procedures, 145 reports of the theft of government funds or property, 122 reports of false information provided on grants and contracts, and 748 other allegations of fraud and mismanagement.

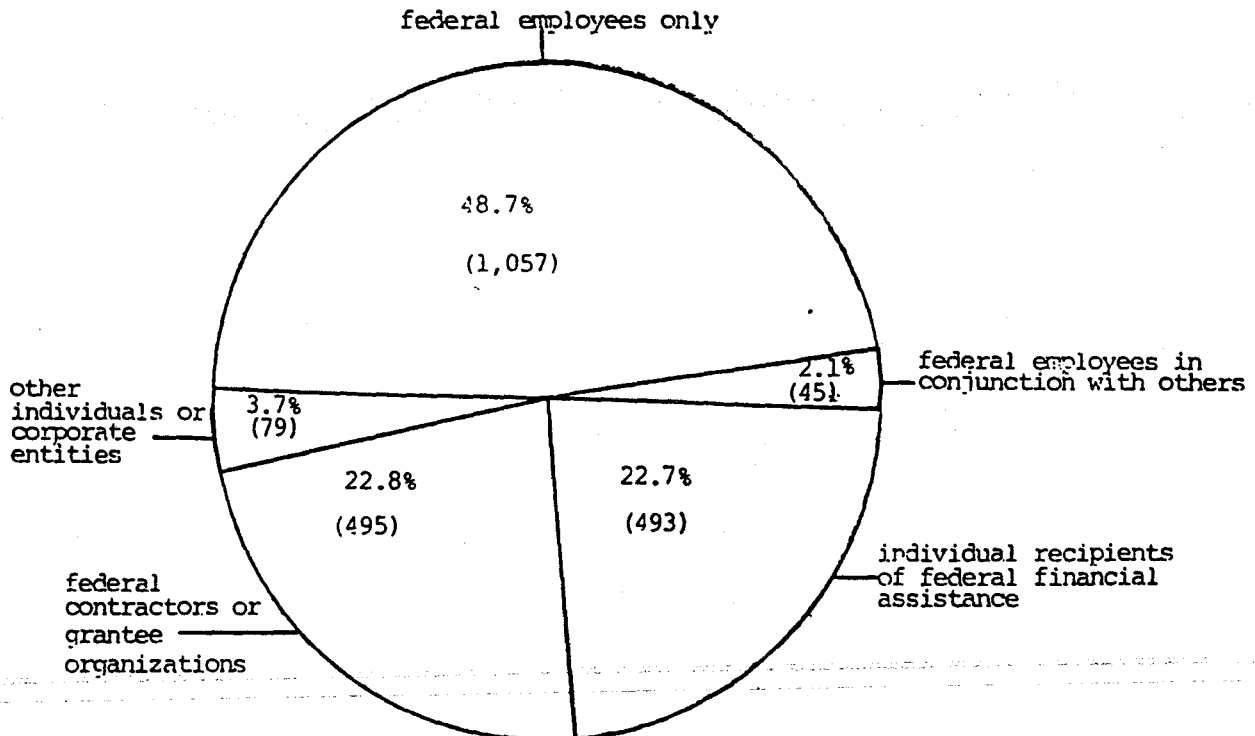
In the category "other individuals or corporate entities," there were 1,095 allegations of income tax cheating and 439 other allegations of improper activities.

In the final category, "federal employees in conjunction with others," there were 265 allegations involving bribery or kickbacks, 165 allegations of conflict of interest, and 158 miscellaneous allegations.

Action Taken on Referrals

Of the 13,992 cases the GAO Hotline investigated or referred, 11,246 have been closed. Of these closed cases, 1,589 were substantiated. In another 580, the reported allegations were not substantiated, but the agencies acted to prevent or minimize the possibility of an improper activity from occurring in the future.

The following chart shows the percentage for each participant category of the 2,169 cases in which allegations were substantiated or preventive action was taken.



The most common substantiated cases were private use of government property; work-hour abuse by federal employees; fraud by recipients of such benefits as welfare, social security, disability, and housing; and general mismanagement by government employees.

Legal and Administrative Action

If an investigation discloses a violation of criminal law, the agency should refer the report of the investigation to the Justice Department or state prosecutor for review and possible prosecution. In the GAO Hotline's 9 years of existence, agencies have told us that 146 of these cases resulted in some legal action. Defendants were convicted in 47 cases. In addition, other cases were declined for prosecution for such reasons as insufficient evidence, insignificant loss to the government, or administrative action by the agency would be more appropriate.

In numerous instances, the agency took administrative action against federal employees, contractors, and other individuals. These actions included employee dismissals, suspensions, demotions, or transfers. In addition, contractors and grantees were suspended or debarred, had contracts or grants canceled, or were issued warnings about their work.

The Hotline has also provided advisement letters identifying potential audit leads to GAO operating divisions and, on occasion, to appropriate agency officials. These leads have benefited GAO by providing the basis to initiate audits of agency programs or supporting ongoing audits with additional information. We have also provided information in support of OSI investigations and inspections.

Misspent Funds/Savings

Due to the nature of some of the allegations we receive and the fact that Inspector General offices do not always have records of dollar savings in their hotline case files, we have found it very difficult to estimate dollar savings attributable to the GAO Hotline. A number of these substantiated allegations do not lend themselves to estimating dollars saved, but do provide another type of savings. This involves actions taken by the agencies to prevent or deter activities in which the possibility for waste, abuse, and mismanagement exists. Based on the few substantiated cases that follow, we believe it is reasonable to conclude that millions of dollars in waste, fraud, abuse, and mismanagement have been identified as a result of calls to the GAO Hotline.

Substantiated GAO Hotline Cases

Examples of substantiated GAO Hotline cases closed in the past year are the following:¹

- An anonymous caller alleged that a federal prison official conspired with other employees in a bid-rigging scheme to have toxic wastes removed from prison property for a fee of \$12,000. The removal was prompted by a scheduled inspection by the prison's board of directors. The prison had no contract for waste removal. A prison foreman established a fictitious waste-disposal company at the direction of the official and a 3-year accumulation of toxic waste was removed to private property in 55-gallon drums. However, some spillage occurred resulting in soil damage. The business manager approved payment on the contract. An informant at the prison notified the Environmental Protection Agency (EPA) of the spillage and their investigation found that cleanup of the spill was required at an estimated cost of \$25,000. The caller complained that the government had already paid \$12,000 for the improper disposal, and must pay \$25,000 for the cleanup. The caller further complained that since the drums were returned to the prison property, the government must negotiate a legitimate contract to have the waste removed. The GAO Hotline referred the case to the Department of Justice. Their investigation substantiated the allegation. Three employees of the prison were dismissed and 1 was demoted. EPA's investigation resulted in a 6-count indictment being handed down against 3 employees. A trial date has not yet been set.

- An anonymous caller alleged that an Army general was improperly using an Army helicopter and crew members to commute to his duty station and that he had issued orders to cover up his misuse. This allegation was referred to the Army Inspector General, whose investigation partially substantiated the case. The Army General had used the helicopter to commute 42 miles to his duty station at least 10 days during a 1-month period at a cost of about \$4,665. No punitive action was taken against the General because he had relied on the advice of his Staff Judge Advocate about

¹Some of these examples may have been investigated by the agency before 1987, but GAO was not notified of the results until sometime between January 18, 1987 and January 17, 1988.

his aircraft use. The Army initiated a review of its regulations and told the General that an exception to the Secretary of the Army policy would have to be approved for the General to continue this transportation on a frequent basis.

- An anonymous caller alleged that a man collecting Railroad Retirement disability payments for a bad back was self-employed building houses. GAO referred the allegation to the Railroad Retirement Board's Office of Inspector General, whose investigation found that the man had improperly received over \$78,000 in Railroad Retirement benefits. The evidence was presented to the U.S. Attorney, who declined prosecution in favor of administrative action. The Railroad Retirement Board is taking action to recover the total overpayment.
- A caller alleged that a flight instructor with an Army Reserve unit had used a government aircraft to deliver sporting equipment and a microwave oven to his son who was attending a college less than 200 miles from the flight instructor's duty station. According to the caller, this flight had been made after 2 other instances of aircraft misuse for which the same instructor had been formally reprimanded. This allegation was referred to the Department of Defense Inspector General and investigated by the Reserve Command. As a result, the Commanding General of the Reserve amended his previous reprimand commenting that use of a military aircraft for personal reasons or transportation of personal cargo might have been common in the past but that it would not be condoned or permitted in the future. A subsequent review of flight records by the Command's Inspector General found that the personal use of military aircraft was no longer a problem.
- A caller contacted the Hotline to allege that an Army commander of a special forces group ordered some of his noncommissioned officers and enlisted men to wrongfully use government tents and vehicles to support a local civilian horse show in which his daughter was a participant. After the show, the Commander ordered his personnel to remove these tents. The allegation was referred to the Department of Defense Inspector General for investigation, who substantiated the allegations. The Commander received a letter of reprimand from the Commanding General for his actions. Also, the Commanding General has sent formal notification to all other Commanders reminding them of applicable Army regulations.
- An anonymous caller alleged that Department of Commerce employees were manipulating the evaluation of technical

proposals to keep one contractor in the running for a contract. The contractor's technical proposal did not comply with the requirements of the evaluation. We referred this allegation to the Department of Commerce Inspector General, who conducted an audit in this area and noted that a full-scale \$500 million production contract may result from this technical proposal. Although the IG could not fully sustain the allegation, serious management deficiencies were identified involving inadequate accountability for evaluations, inadequate criteria for judging proposals, and problems in the source-selection process. The agency took corrective action to resolve these deficiencies.

-- An anonymous caller alleged that some employees of an Immigration and Naturalization Service office in Washington, D.C., were attending a swimming pool party on government time. A routine check by the GAO Hotline determined that the employees were attending a birthday party for their supervisor at a local hotel swimming pool. A Department of Justice inquiry into the matter substantiated the allegation and the supervisor was reprimanded for allowing his employees to be absent from their jobs without taking leave.

X -- A caller alleged that an Army general proposed to fly a C-12 plane to California to observe his troops participating in an exercise when commercial flights were readily available at a substantial savings. Also, it was alleged that the General was using a helicopter to avoid rush-hour traffic when visiting a nearby facility. The Hotline inquired into the first allegation since the General's trip to California was to take place within a few days. The allegation concerning helicopter misuse was referred to the Department of Defense Inspector General for investigation. As a result of the GAO inquiry into the first allegation, the General's staff changed his itinerary to a commercial flight at a savings of \$6,300. The investigation concerning helicopter misuse was conducted by the Army Inspector General but was unsubstantiated since the use of the helicopter was temporary and was considered consistent with the General's duties.

-- A caller to the Hotline alleged that a widow of a U.S. veteran, who died in 1980, had not reported to the Veterans Administration (VA) that she had remarried in 1983 and was continuing to receive VA benefits. The VA benefit checks were being deposited directly into her own personal bank account. This case was referred to the VA Inspector General and an examination by the VA's Department of Veterans Benefits substantiated the allegation. The widow will now have to repay the VA over \$16,000.

- An anonymous caller told the GAO Hotline that an official of the federal courts in Florida was assigning part-time employees preferentially and falsifying their attendance records. The matter was referred to the Administrative Office of the U.S. Courts, where the Office of Audit and Review found evidence substantiating the allegation. The official was given the opportunity to defend himself against the charges at a meeting of the district's judges or to submit his resignation. He opted to retire. The U.S. Attorney declined prosecution.
- An anonymous caller alleged that a government station wagon had been illegally used to deliver paint and other supplies to a private residence being remodeled in Miami, Florida. An investigation by the Department of Transportation's Office of Inspector General found that the government vehicle was permanently assigned to an employee of the Federal Aviation Administration. This employee admitted using the vehicle to deliver paint and other supplies to the house being remodeled. The allegation was substantiated, and the employee was suspended for 30 days.
- A caller alleged that a government inspector was covering up nonperformance of a janitorial contractor at a Naval installation because the contractor had hired the inspector's girlfriend. The caller also alleged that the same inspector was taking gratuities from the contractor and socializing with contractor personnel. This allegation was referred to the Department of Defense Inspector General, and the Naval Investigative Service (NIS) conducted the investigation. Although NIS did not find that the contractor was inadequately performing on the contract, they did find a gambling ring that was operating at the installation with government and contracting personnel involved. As a result, the government inspector was suspended for 3 days, and another government employee was convicted in a local court and given 6 months probation. Four other government employees were given either letters of caution or reprimand. In addition, 3 contract personnel were convicted in a local court, placed on 6 months probation, and debarred from working at the installation. Another resigned his position with the contractor.
- X -- A caller from Minnesota told the Hotline that a local housing authority had illegally spent Housing and Urban Development funds for planning fees, salaries, benefits, and equipment for the city. The writer provided evidence documenting the allegation. The Hotline referred the matter to HUD's Office of Inspector General. Auditors substantiated the allegation. The housing authority returned \$13,336 to the federal treasury.

- A caller alleged that a veteran was improperly collecting full disability benefits from the Veterans Administration for having suffered "convulsions" during basic training. The allegation was substantiated by the VA Inspector General after the GAO Hotline referred the case. The caller claimed the veteran owned and operated a marble-products business between 1978 and 1979 requiring "heavy labor" but failed to report the activities to the VA. A reexamination of the veteran revealed a remarkable physical improvement. The examination also revealed that he had ceased taking previously prescribed medications. Based on the evidence, the veteran's disability benefits were reduced from 100 percent. A savings of \$15,432 annually will be realized by the VA from the veteran's reduction in benefits.
- A caller to the Hotline alleged that the Air Force could have saved over \$76,000 in travel costs if they had conducted their exercises in Honduras under field conditions instead of staying in hotels on per diem. The allegation was referred to the Department of Defense Inspector General and an investigation was conducted by the U.S. Southern Command, who substantiated the allegation. The Air Force had authorized an exception that 50 Air Force personnel could be billeted in hotels for a 2-week period. The rationale for billeting in this manner was based on the fact that the hotels were in close proximity to the duty location and only commercial billets were available. The policy on conducting exercises in Honduras under field conditions was reemphasized.
- An anonymous informant alleged that a farmer was actually operating a commercial trucking business for hire and ignoring various state and federal regulations. The GAO Hotline referred this case to the Department of Transportation Inspector General, who directed the Federal Highway Administration (FHWA) to investigate the case. The FHWA substantiated the allegation. The farmer was found to be violating a number of regulations, which included using uncertified motor vehicle operators and poor recordkeeping. The farmer agreed to comply with the federal regulations he was violating. FHWA plans to monitor this carrier's business.
- A caller alleged that a Navy contractor was falsifying and altering air freight bills to increase shipping costs on Navy purchases. This allegation was referred to the Department of Defense Inspector General, and an investigation was conducted by the Naval Investigative Service. Although the government did not prosecute the contractor, the government took administrative action and recovered over \$1,100 from the contractor.

- A student alleged that a school receiving U.S. Department of Education funds was not providing the hours of instructional services as shown in its catalog. Inquiries were made by the Office of Post Secondary Education and the Association of Independent Colleges and Schools. The school admitted to an error in course clock hours and made a refund of \$1,542 to the student making the allegation. The school will face a review of its accreditation status in reference to other unresolved issues found during the review.
- An anonymous caller alleged that the Federal Emergency Management Administration (FEMA) awarded a \$90,000 contract for a training package even though interagency advisory committee members notified FEMA that technical inaccuracies existed. A FEMA IG investigation substantiated the allegation and revealed that FEMA had no recourse against the contractor because of FEMA's knowledge of the inaccuracies before the contract was awarded. A year-long congressional study disclosed that FEMA needed to improve its procedures dealing with contracting and with FEMA's advisory committee and subcommittees. The Department of Justice (DOJ) conducted an investigation to determine whether fraud was involved in awarding the contract, but the DOJ closed the case without bringing criminal charges.
- An anonymous caller to the GAO Hotline alleged that an unemployment-benefits recipient was working at a warehouse in New York City and earning \$400 per week in addition to collecting \$170 per week in benefits. The GAO Hotline referred this allegation to the Department of Labor Inspector General after the caller claimed that employees of the local unemployment office said they would take no action on the matter. The case was sent to the U.S. Attorney who declined prosecution, but a repayment agreement was signed by the recipient for over \$6,500.
- An anonymous caller alleged that the project manager of a Housing and Urban Development subsidized housing development assigned units to members of her family regardless of their position on the list of eligible applicants. HUD's on-site management review found that housing applications were taken out of turn. The management agent, a contractor, has developed new written procedures and will closely supervise the project manager.
- According to an employee of a midwestern state's financial department, the staff was encountering difficulty in obtaining responses from various federal agencies concerning their recovery of dormant accounts. These agencies were being advised to reclaim funds due them from various bank

accounts that had been set up by the federal agencies. The banks subsequently turned the funds into the state as required because the accounts were dormant for 7 years. The state contacted the GAO Hotline, who agreed to claim these funds and return them to the federal treasury. In 1987, GAO collected over \$30,000 from the state.

(911025)

EXHIBIT 12
DATE 2-10-89
HB 513

16 of 16

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EXHIBIT 13
DATE 2-10-89
HB 513

RICE AMENDMENTS TO HB 513

INTRODUCED BILL

1. Page 3, line 10.

Following: "review"

Insert: "and the information provided"

2. Page 4, line 9.

Following: "the"

Strike: "legislature"

Insert: "legislative audit committee"

3. Pages 5 through 7.

Strike: Section 6 in its entirety.

Renumber subsequent sections.

SUPPLEMENTAL INFORMATION
House Bill No. 440
(Longevity payment for sheriffs)

182

CALCULATION OF SHERIFFS' SALARY

1. A sheriff's BASE SALARY is dependent on two factors:
 - (a) the class of the county, which is based on the county's taxable population (7-1-2111); and
 - (b) the population of the county.
2. In counties of the FIRST THROUGH FIFTH CLASSES, a sheriff's annual base salary is equal to:
\$14,000 plus \$10 for each 100 persons in the county.
3. In counties of the SIXTH AND SEVENTH CLASSES, a sheriff's annual base salary is equal to:
\$12,000 plus \$20 for each 100 persons in the county.
4. These base salaries are adjusted each year by a cost-of-living increase (7-4-2504), unless the county commissioners decide to freeze salaries.
5. In addition to the base salary as adjusted by cost-of-living increases, a SHERIFF receives \$2,000 each year.
6. Therefore, a sheriff's salary is equal to the appropriate BASE SALARY, adjusted by cost-of-living increases, plus a \$2,000 payment.
7. A sheriff is ineligible to receive overtime pay.

CALCULATION OF UNDERSHERIFFS' SALARY

8. An undersheriff's salary is dependent on the BASE SALARY OF A SHERIFF (see item #1 above), as adjusted by cost-of-living increases.
9. An undersheriff's salary is equal to 95% OF THE BASE SALARY OF THE SHERIFF, as adjusted by cost-of-living increases.
10. An undersheriff is ineligible to receive overtime pay.

CALCULATION OF DEPUTY SHERIFFS' SALARY

11. A deputy sheriff's salary is also dependent on the BASE SALARY OF THE SHERIFF (see item #1 above), as adjusted by cost-of-living increases.
12. A deputy sheriff's salary ranges from 72% TO 90% OF THE SHERIFF'S BASE SALARY, as adjusted by cost-of-living increases (unless the county commissioners freeze salaries).

13. The percentage amount received by a deputy sheriff is based on the POPULATION OF THE COUNTY according to the following schedule:

In counties with population of:

Below 15,000	85% to 90%
15,000 to 29,999	76% to 90%
30,000 to 74,999	74% to 90%
75,000 and over	72% to 90%

14. In addition to the base salary available under item #13, a deputy sheriff receives a longevity payment equal to 1% OF THE BASE SALARY AVAILABLE UNDER ITEM #13.
15. A deputy sheriff is also eligible to receive overtime payments.

AN EXAMPLE COMPARING SALARIES OF A
SHERIFF AND A DEPUTY SHERIFF
(In a first class county with a population of 20,000)

	<u>Sheriff</u> (Both with 10 years of service)	<u>Deputy Sheriff</u> (service)
Base Salary	\$14,000 (No COLA) 2,000 (\$10/100 pop.) <u>\$16,000</u>	\$14,400 (@ 90% of base salary)
Additional payment	2,000 <u>\$18,000</u>	None <u>\$14,400</u>
Longevity payment	None <u>\$18,000</u>	1,440 <u>\$15,840</u>
Overtime payment	-0-	?
Total :	\$18,000	\$15,840 + overtime

EXHIBIT 14
DATE 2-10-89
HB 440
2062

COMMENTS ON THE BILL

- > According to testimony, the intent of the bill is to give sheriffs the same longevity payment that deputy sheriffs currently receive.
- > Under this bill, a sheriff would receive a longevity payment equal to 1% of his base salary of each year of service with the sheriff's department.
- > A longevity payment made to a sheriff MAY NOT BE INCLUDED in the base salary for purposes of calculating an undersheriff's or a deputy sheriff's salary.
- > If this bill were in effect for the example presented on page 2, the sheriff would receive a longevity payment equal to \$1,600 (1% of \$16,000 x 10 years of service) for a total salary of \$19,600.
- > If a sheriff and a deputy sheriff had the same number of years of service with the department, and the sheriff retired and the deputy replaced him, the deputy would receive the same salary as the sheriff.

VISITORS' REGISTER
STATE ADMINISTRATION COMMITTEE

BILL NO. HB 474

DATE February 10, 1989

SPONSOR REP. COHEN

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
<i>Sam Ryan</i>		✓	
<i>John Ostrem</i>	<i>Ant Catholic Conf.</i>	✓	
<i>Earl Reelby</i>	<i>M. S. C. A.</i>	✓	
<i>CHET KIRSEY</i>	<i>GOLDEN NOGGET M S C A</i>	✓	
<i>Virginia Jellison</i>	<i>MLIC</i>	✓	
<i>Dennis Lopez</i>	<i>US West Comm</i>		✓
<i>GENE PHILLIPS</i>	<i>PACIFIC POWER & LIGHT NORTHWESTERN TELEPHONE</i>		✓
<i>Mary Willis</i>	<i>Montana Power Co.</i>		✓
<i>Richard Parks</i>	<i>NPA</i>	✓	
<i>CB. PEARSON</i>	<i>Common Cause</i>	✓	
<i>Mary Wilson</i>	<i>Sierra Club</i>	✓	
<i>Jeanne Charter</i>	<i>NARC</i>	✓	
<i>Teresa Erickson</i>	<i>Northern Plains Res. Council</i>	✓	
<i>Robert D Ozier</i>	<i>Citizen</i>	✓	
<i>Joseph Moore</i>	<i>Rainbow Coalition</i>	✓	
<i>Pam Marshall</i>	<i>Montanans For Social Justice</i>	✓	
<i>DONALD MURRAY</i>	<i>Pacific Power & Light Co. Northwestern Telephone</i>		✓
<i>Robert Little</i>	<i>AT&T</i>		✓
<i>Jack Haffey</i> JIM JENSEN	<i>The Montana Power Company</i> MEIC	✓	✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

VISITORS' REGISTER

State Administrator COMMITTEEBILL NO. HB 474DATE February 10, 1989SPONSOR COHEN

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
LILL ERICKSON	Corwin Springs	✓	
Monte Mlekush 180	Northern Plains Resource Council	✓	
Ann Frenschke	MAPP	✓	
Grant Quick	21 Jefferson Helena MT	✓	
Cal Simshaw	Montana Telephone Association		✓
John Alke (m 04)	Helena		✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STATE ADMINISTRATION COMMITTEE

DATE February 10, 1989

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

ROLL CALL VOTE

STATE ADMINISTRATION

COMMITTEE

DATE 2-10-89

BILL NO. HJR 7

NUMBER 1

NAME	AYE	NAY
Jan Brown	✓	
Bud Campbell		✓
Vicki Cocchiarella	✓	
Duane Compton		✓
Ervin Davis	✓	
Roger DeBruycker		✓
Floyd "Bob" Gervais	✓	
Harriet Hayne		✓
Janet Moore	✓	
Richard Nelson		✓
Helen O'Connell	✓	
John Phillips		✓
Rande Roth		
Angela Russell	✓	
Wilbur Spring, Jr.		✓
Carolyn Squires	✓	
Vernon Westlake	✓	
Timothy Whalen	✓	

TALLY

10 7

Judy Burgett
Secretary

Jan Brown
Chairman

MOTION: Table the bill.
