

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION**

#### **COMMITTEE ON LOCAL GOVERNMENT**

**Call to Order:** By DIANA WYATT CHAIR, on January 15, 1991, at 3:00 p.m.

#### **ROLL CALL**

**Members Present:**

Diana Wyatt, Chair (D)  
Jessica Stickney, Vice-Chair (D)  
Joe Barnett (R)  
Arlene Becker (D)  
Vivian Brooke (D)  
Dave Brown (D)  
Brent Cromley (D)  
Paula Darko (D)  
Tim Dowell (D)  
Budd Gould (R)  
Stella Jean Hansen (D)  
Harriet Hayne (R)  
Ed McCaffree (D)  
Tom Nelson (R)  
Jim Rice (R)  
Sheila Rice (D)  
Richard Simpkins (R)  
Norm Wallin (R)

**Staff Present:** Bart Campbell, Legislative Council, and Lois O'Connor, Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Announcements/Discussion:** CHAIR WYATT announced that testimony would be limited to 20 minutes.

#### **HEARING ON HB 57**

#### **Presentation and Opening Statement by Sponsor:**

**REPRESENTATIVE GERVAIS**, House District 9, stated that the Blackfoot reservation was having problems with turning on electrical power to buildings under construction. A permit is obtained from the state at a cost of \$130 per building, and no inspections are made. The tribe adopted its own codes in 1986 to protect the health and welfare of the people, tribal and non-tribal. If inspections are not made and there are problems; who would be liable, the state or Glacier Electric. He would like

this bill passed with amendments. EXHIBIT 1

**Proponents' Testimony:**

Bill Chapman General Manager, Glacier Electric Co-op, stated that Glacier Electric serves the entire Blackfoot Indian Reservation plus other counties. The state's electrical permit requirements state that the homeowners have to file an application with the state. The electrical inspector is then to make inspections on a regular basis. Since 1989, Glacier Electric has received 224 applications for permits to turn-on. The state has not inspected any buildings, but service has been turned on. Glacier Electric was then informed by a state inspector that if they continue they would be violating state law and would be assessed a fine. The Tribal Council adopted a rigid turn-on policy for any building that requires an electrical permit. Glacier Electric and its insurance company are satisfied with tribal policies.

Jay Downon, Mt. Electrical and Telephone Co-op, stated that the dual assertions of authority by the state and tribe put citizens and businesses in a bad spot. The tribes have a legitimate right of sovereignty on the reservations. The Blackfeet are willing to work with the state to solve this problem and urged the committee to adopt HB 57.

Robert Van De Vere, concerned citizen lobbyist, supported passage of this bill.

Don White, Director, Blackfeet Tribal Employments Office, provided written testimony. EXHIBIT 2

Cameron Boggs, Construction Coordinator for the Blackfeet Home Improvement Program, stated that they were on a fixed budget to build the homes. The extra \$130 for inspections makes a difference in which homes they can renovate. Time is also an issue. If they have to wait to have electrical power turned on, it runs them over their deadline for completion. It creates a problem when they apply for another block grant.

Lawrence Kendall, Vice-chairman of the Confederation of Kooteni Tribes, said the bill could solve many problems on the reservation. Through self-governance, they would be able to provide better services to people on the reservation.

Feral B. Wagner, Blackfeet Planning and Economic Development Dept., supported HB 57 and provided written testimony. EXHIBIT 3

Phillip E. Roy, Attorney, Blackfeet Tribe, presented copies of the resolutions passed by the Blackfeet Tribe in 1986. EXHIBIT 4 These resolutions adopt the uniform building code. Passing this bill would rectify the problem of having the state regulatory system in place. He said this was not a jurisdictional problem.

Rep. A. Russell, Wilbur Anderson, and Tom Black Weasel went on record in support of this bill. Written testimony sent in by supporters was presented. EXHIBITS 5,6

Opponents' Testimony:

Jim Kembel, Public Safety Div., Dept. of Commerce, provided written testimony in opposition. EXHIBIT 7

Alec Hanson, Mt. League of Cities and Towns, was concerned about the towns located on the reservation who have municipal building codes already in place. He wants to preserve the right to adopt and enforce building codes and amend the bill as per the Montana Association of Counties amendments.

Gorden Morris, Mt. Association of Counties, opposed HB 57 and submitted amendments. EXHIBIT 8

E. Fenderson, Mt. State Building Constructions Trade Council, stated that the fees acquired by the permits must be put back into the system so that the state can do the inspection in a timely manner.

James B. Brown, Mt. Technical Council, said there is a problem but not to throw the codes off the reservation. The legislature has always enforced a statewide, uniform building code. The state codes are consistent, technically sound, and insure the public safety. Mr. Brown added that this is a public safety issue. The legal status of Native Americans exempts them from building codes on the following construction projects: 1. Projects owned by Indians or the tribe regardless of land ownership. 2. Projects regardless of ownership built on tribal land, trust lands and enrolled tribal member lands. One exemption is buildings requiring a state liquor license. HB 57 would further exempt public schools, non-Indian owned commercial buildings on non-Indian owned land within the reservation. Designing differently regulated buildings becomes a liability.

Rep. H.S. Hanson, stated the problem is not with the codes but the inspection of the buildings. The inspection process should be reviewed before eliminating the application of codes.

Michael Mizenko, Business Manager for Plumbers and Pipefitters Union #139, suggested the reservation have an inspector of its own.

Questions From Committee Members:

Rep. Dowell asked Rep. Gervais the difference between tribal lands and land on an Indian reservation. Rep. Gervais stated there are several classes of lands on the reservation. (1) Tribal trust land owned by the tribe and held in trust by the U.S. Government. (2) Indian trust land is under the same situation. (3) Tribal fee patent land is held by the tribe in fee

patent status which the tribe pays taxes on. (4) Individual fee land owned by a tribe member on which taxes are paid. (5) Non-Indian fee land held in fee that they pay taxes on. (6) United States Government land.

Rep. Wallin asked Rep. Gervais if the bill was drafted because the cost in inspection permits were being paid but the inspections were not being made. Rep. Gervais replied the tribe was just like the cities in that they have their own codes. HB 57 would allow the electrical companies to service the residents on the reservation. It allows the electrical companies to comply with their insurance companies without getting into problems with the state.

Rep. Wallin asked Mr. Boggs if abolishing state inspections would affect Housing and Urban Development accepting and financing these structures. Mr. Boggs replied no because the tribe had adopted a uniform building code. Rep. Wallin asked if the buildings were being inspected and, if not, was it safe. Mr. Boggs said they have their own inspectors on the reservation, but they are waiting for the state inspectors. As yet, they have not seen a state inspector.

Rep. Brooke stated the Dept. of Commerce's concern was uniformity. She asked Mr. Boggs if the codes he used were in uniformity with the state. Mr. Boggs replied yes.

Rep. Barnett asked Mr. Chapman where the noncompliance comes pertaining to the 224 buildings under construction. Mr. Chapman replied that many of the 224 applications are not new homes, some are renovations. The breakdown comes when they are never inspected. Rep. Barnett asked if the state is negligent. Mr. Chapman said he didn't feel qualified to say if it is negligence. He was concerned that there was not enough funding to do the inspections the state was attempting to do. They need more inspectors. If anything happens, the state would be liable because they didn't do the inspection.

Rep. McCaffree asked Mr. Kembel what the qualifications are to be an inspector and why isn't the state getting the inspections done properly. Mr. Kembel replied that inspectors are required to be master electricians. Many of the houses are Indian owned on tribal land. It has been the Dept. of Commerce's policy not to inspect those facilities. If someone has an inspection permit, they do their best to inspect it.

Rep. Hansen asked Mr. Kembel if the city or county who does the inspection keep track of Indian and non-Indian homes. Mr. Kembel replied he didn't know about local government but the Department tried to keep track.

Rep. Wallin asked Mr. Brown if the inspections are required on the reservation and if the bill was necessary. Mr. Brown restated all the inspection exemptions and said it was not.

Rep. Simpkins asked Mr. Kembel if the state recognizes buildings owned by Indians on tribal land as exemptions. Mr. Kembel replied yes, as a Department policy; but as state law, it does not. Rep. Simpkins asked why the inspections were not done in a reasonable period of time if the state is collecting the money for the permits. Mr. Kembel replied that disputes have delayed the inspections.

Rep. Cromley asked Mr. Roy if the amendments presented by MACo were to his satisfaction. Mr. Roy replied the amendments were in accordance with the bill and is favored by proponents.

Closing by Sponsor:

REP. GERVAIS stated the bill was a clarification for the electrical company to do their work without being sued. It is not a tribal bill.

HEARING ON HB 39

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE PECK, House District 15, presented written testimony and stated motor vehicles that provide potable water should be excluded from taxation. EXHIBIT 9

Questions From Committee Members:

Rep. D. Brown asked Rep. Peck if the bill applied to businesses like the Big Spring Water Co. in Lewistown. Rep. Peck said it does not apply to private companies, only public water districts.

Rep. Wallin asked Rep. Peck if he wanted the exemption because it was a cooperative or because they furnish water. What justifies these entities being treated differently. Rep. Peck stated it was because they are a public entity providing a basic service and the other properties they own have already been tax exempt.

Closing by Sponsor:

Rep. Peck closed the hearing on HB 39.

HEARING ON HB 35

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE CONNELLY House District 8, stated the bill requires election of county commissioners by the electorate of the commissioner's district. A commissioner has to run from a specific district but is elected by everyone in the county. HB 35 will make the process more constitutional. Rep. Connelly submitted an amendment by the urban county commissioners but was in opposition to it. EXHIBIT 10

Proponents' Testimony:

Gorden Morris Executive Director, MACo., explained the necessity of the amendments submitted by Rep. Connelly. He would like to see the electorate in the counties placed on the April election ballots. He encouraged quick action on the bill.

Opponents' Testimony:

Chuck Walk Executive Director, Mt. Newspaper Association, provided written testimony. He also supported amendments submitted by Mr. Morris. Mr. Walk explained the amendments included all counties rather than limit it to specific counties.  
EXHIBIT 11

Questions From Committee Members:

Rep. D. Brown asked Mr. Morris if the consolidated counties were left out. Mr. Morris said yes by virtue of their charters.

Rep. Stickney asked Mr. Morris if the bill proposed all counties be the same when the local government can plan their own form of government. Mr. Morris responded yes.

Rep. Darko asked Mr. Morris if the bill assumed that commissioner districts are equal in size and population. Mr. Morris said the bill does not state it but another section of law states that commissioner districts have to be within the 5% guideline relative to the one man-one vote principal set down by the U.S. Supreme Court. All counties will be looking at redistricting all commissioner districts.

Rep. Cromley asked Mr. Morris if the county commissioner candidates have to reside in the district and are elected by the entire county. Mr. Morris replied yes. Rep. Cromley asked Mr. Morris if the amendment would do away with the districts. He replied yes.

Rep. McCaffree asked Mr. Morris if eliminating the commissioner districts would mean that all commissioners could live on the same block. Mr. Morris said yes. Rep. McCaffree stated that the population of a district is a major factor; however, the law provides for land area and natural boundary.

Rep. Cromley asked if MACo has taken a position on the bill. Mr. Morris replied that the bill as written is good but the amendments make it better. They prefer the bill with the amendments.

Rep J. Rice asked Mr. Morris how district lines are drawn under statute. Mr. Morris said lines have to be closely equal in population and size.

Closing by Sponsor:

Rep. Connelly stated that the president of the MACo supported her

bill. The effective date would be on Oct. 1 so it would give counties time to redraw their boundary lines. Rep. Connelly said she would like to see the bill passed without the amendments.

#### EXECUTIVE ACTION ON HB 50

##### Motion:

Rep. P. Darko made the motion that HB 50 DO NOT PASS. A substitute motion of DO PASS was made by Rep. Simpkins.

##### Discussion:

Rep. J. Rice asked Rep. Darko why she made the motion of Do Not Pass. Rep. Darko replied that it is within the defendant's right to move the appeal to its own district court. It will be expensive for the school board to come to Helena to hear the appeal, but chances are the judge will be disqualified at the local level. The district court will be bearing the costs of the appeal. The school districts are better able to afford these types of costs. The option is there. Why change the law. Rep. Darko opposed Rep. Simpkins motion. Rep. Simpkins stated that the defendant is basically the school. The law permits a change of venue if the defendant feels the judge is prejudiced. We are looking at the procedure as it applies to law.

##### Recommendation and Vote:

Chair Wyatt asked for a show of hands vote on the Do Pass recommendation by Rep. Simpkins. The motion failed. Rep. Darko made the motion to reverse the votes so the recommendation be a Do Not Pass. The motion passed. A vote was taken on the Do Not Pass motion by Rep. Darko. The motion of DO NOT PASS carried with Rep. Nelson, Rep. J. Rice, Rep. Simpkins, and Rep. Hansen opposing.

#### EXECUTIVE ACTION ON HB 55

##### Motion:

Rep D. Brown made a motion of Do Pass on the bill and the subcommittee amendment.

##### Discussion:

Rep. D. Brown explained the subcommittee amendments.

##### Amendments, Discussion, and Votes:

Motion on the amendments carried unanimously.

##### Recommendation and Vote:

Rep. Brown made the motion of DO PASS AS AMENDED. The motion

carried unanimously.

EXECUTIVE ACTION ON HB 39

Motion:

A motion of Do Pass was made by Rep. Stickney. A substitute motion of Do Not Pass was made by Rep. Wallin.

Discussion:

Rep. Simpkins asked Bart Campbell if a gasoline tax is exempt on a motor vehicle. Mr. Campbell replied that vehicles cannot be exempt from federal gasoline tax and without further research he couldn't be sure. Rep. Simpkins stated that they shouldn't be exempt from the gasoline tax because the vehicles will be using the public roads.

Rep. Wallin stated this bill exempts another entity; not a public owned entity but a cooperative entity. If the bill passes, we will be opening up many requests for tax exemptions.

Rep. Brown said the bill says nothing about gasoline taxes only motor vehicles. Any local government truck uses the roads and pay no taxes. These vehicles are providing a city service on a non-profit basis and should not have to pay taxes either.

Rep. J. Rice stated that the water districts are an entity of local government and asked Mr. Campbell if this was stated in the bill correctly. Mr. Campbell replied that the bill is not directed toward local government water districts. Rep. Rice asked Mr. Campbell if the bill needed to be amended to clarify that we are talking about motor vehicles owned by a water district as opposed to an association. Mr. Campbell said that as the bill read it did not exclude water district motor vehicles. It was only cooperatives and non-profit corporations.

Amendments, Discussion, and Votes:

Rep. D. Brown asked Bart Campbell if the bill does what it is suppose to do. Mr. Campbell stated if we are exempting water district vehicles, the bill does not really address it. A county developed water district is a cooperative or an association. Rep. Brown suggested that the bill be taken off the discussion plate until Council could check for an answer. Rep. Wallin withdrew his motion of Do Not Pass.

Chair Wyatt asked for a subcommittee on HB 57. Rep. J. Rice, Rep. Dowell and Rep. Darko were appointed.

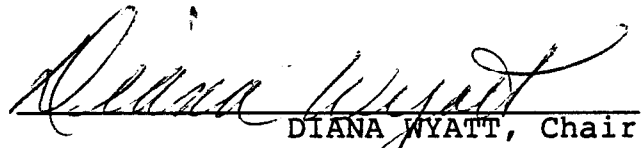
Recommendation and Vote:

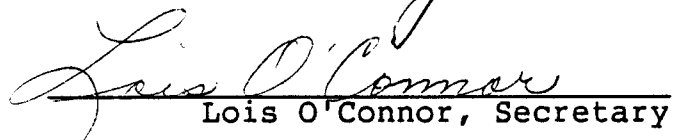
NO ACTION WAS TAKEN ON HB 39.



ADJOURNMENT

Adjournment: 5:15 p.m.

  
DIANA WYATT, Chair

  
Lois O'Connor, Secretary

DW/lo

# HOUSE OF REPRESENTATIVES

## LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE Jan 15, 1991

NAME Local Government PRESENT ABSENT EXCUSED

Rep. Paula Darko	X		
Rep. Jessica Stickney, Vice-Chair	X		
Rep. Joe Barnett	X		
Rep. Arlene Becker	X		
Rep. Vivian Brooke	X		
Rep. Dave Brown	X		
Rep. Brent Cromley	X		
Rep. Tim Dowell	X		
Rep. Budd Gould	X		
Rep. Stella Jean Hansen	X		
Rep. Harriet Hayne	X		
Rep. Ed McCaffree	X		
Rep. Tom Nelson	X		
Rep. Jim Rice	X		
Rep. Sheila Rice	X		
Rep. Richard Simpkins	X		
Rep. Norm Wallin	X		
Rep. Diana Wyatt, Chair	X		

4:48 PM  
1-17-91  
TOD

HOUSE STANDING COMMITTEE REPORT

January 17, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Local Government report that  
House Bill 39 (first reading copy -- white) do pass .

Signed: \_\_\_\_\_  
Diana Wyatt, Chairman

Amendments to House Bill No. 57  
First Reading Copy

Requested by Rep. Gervais  
For the Committee on Local Government

Prepared by Connie Erickson  
January 14, 1991

1. Title, line 7.  
Following: "50-60-102"  
Insert: ", "  
Strike: "AND"  
Following: "50-60-301,"  
Insert: "50-60-503, AND 50-60-602,"

2. Page 3.  
Following: line 11  
Insert: "Section 3. Section 50-60-503, MCA, is amended to read:  
"50-60-503. Exceptions. This part shall not be construed to apply to or to affect plumbing installations in any mines, mills, smelters, refineries, public utilities, railroads, or plumbing installations on farms having their own individual water supply or sewage disposal system or to buildings on an Indian reservation where the tribal government has adopted a building code that includes plumbing installations."

Section 4. Section 50-60-602, MCA, is amended to read:  
"50-60-602. Exceptions. (1) Nothing in this part shall be deemed to apply to the installation, alteration, or repair of electrical signal or communications equipment owned or operated by a public utility or a city.

(2) The inspection provisions of this part do not apply to regularly employed maintenance electricians doing maintenance work on the business premises of their employer nor do they apply to line work on the business premises of the employer or to ordinary and customary in-plant or on-site installations, modifications, additions, or repairs.

(3) Any person who plugs in an electrical appliance where approved electrical outlet is already installed shall not be considered as an installer.

(4) No provisions of this part shall in any manner interfere with, hamper, preclude, or prohibit any vendor of any electrical appliance from selling, delivering, and connecting any electrical appliance if the connection does not necessitate the installation of electrical wiring of the structure where the appliance is to be connected.

(5) The provisions of this part do not apply to buildings on an Indian reservation where the tribal government has adopted a building code that includes electrical installations."

# BLACKFEET NATION

DATE 1-15-91  
HB 57

EXECUTIVE COMMITTEE

EARL OLD PERSON, CHAIRMAN  
ARCHIE ST. GODDARD, VICE-CHAIRMAN  
AL POTTS, SECRETARY  
ELAINE GUARDIPEE, TREASURER

P.O. BOX 850

BROWNING, MONTANA 59417

(406) 338-7179

1  
BLACKFEET TRIBAL BUSINESS COUNCIL

EARL OLD PERSON  
ARCHIE ST. GODDARD  
AL POTTS  
BOB GERVAIS  
DAN BOGGS  
CHARLES CONNELLY  
GEORGE KICKING WOMAN  
TED WILLIAMSON  
JESS BLACKWEASEL

The Blackfeet Tribal Business Council has reviewed House Bill No. 57., entitled "AN ACT TO EXEMPT BUILDINGS ON A RESERVATION FROM, STATE, MUNICIPAL, AND COUNTY BUILDING CODES IF THE TRIBAL GOVERNMENT HAS ADOPTED A BUILDING CODE; AND AMENDING SECTIONS 50-60-102 AND 50-60-301, MCA." The Blackfeet Tribe feels that House Bill No. 57 is a good bill and urges its passage.

House Bill No. 57 is a clarification of federal law which encourages the continued development of Indian tribal governments. Further, it is consistent with present state law which allows local governments such as counties and municipalities to adopt a building code by ordinance. However, a municipal or county ordinance would only apply to a municipal or county jurisdictional area. Thus, a question arises with respect to which jurisdiction applies, the Indian tribe or the local government. House Bill No. 57 merely specifies that Indian tribes shall be included along with other local governments in the adoption and implementation of local building codes.

The Blackfeet Tribe has previously addressed this matter in the adoption of Tribal Resolution Nos. 140-86 and 140-86(A). Resolution No. 140-86 adopts for all construction within the Blackfeet Indian Reservation the Uniform Building Code, Uniform Plumbing Code and the National Electrical Code. After further discussion, the Tribal Council adopted Resolution No. 140-86(A), which amended the language regarding the Uniform Building Code to include the minimum property standards of Housing and Urban Development (HUD). These formal acts of the Blackfeet Tribal Business Council occurred on March 13, 1986 and April 15, 1986, respectively.

The Blackfeet Tribe has the same concerns as the State and local governments regarding safety in the construction and operation of buildings, residences, and other facilities on the Blackfeet Indian Reservation. Present State law does not really address nor resolve the broad issue of building codes, implementation and enforcement. The question has always been whose regulatory authority applies. House Bill No. 57 is an acknowledgement as to the rightful authority with respect to building codes on an Indian reservation.

Particular situations have arisen in the area of Federal-tribal construction contracts which call for the

# BLACKFEET NATION

EXECUTIVE COMMITTEE

P.O. BOX 850

BROWNING, MONTANA 59417

(406) 338-7179

January 15, 1991

EXHIBIT 3

DATE 1-15-91

HB 57

BLACKFEET TRIBAL BUSINESS COUNCIL

EARL OLD PERSON, CHAIRMAN  
ARCHIE ST. GODDARD, VICE-CHAIRMAN  
AL POTTS, SECRETARY  
ELAINE GUARDIPEE, TREASURER

EARL OLD PERSON  
ARCHIE ST. GODDARD  
AL POTTS  
BOB GERVAIS  
DAN BOGGS  
CHARLES CONNELLY  
GEORGE KICKING WOMAN  
TED WILLIAMSON  
JESS BLACKWEASEL

HOUSE BILL NO. 57

INTRODUCED BY GERVAIS

TESTIMONY OF SUPPORT BY THE BLACKFEET TRIBE, BLACKFEET ECONOMIC PLANNING  
DEPARTMENT

THE BLACKFEET PLANNING DEPARTMENT IS PRESENTING TESTIMONY IN BEHALF OF HOUSE  
BILL NO. 57, REFERENCING TO SECTION 1. SECTION 50-60-102, MCA PART (C) BUILDINGS  
ON A INDIAN RESERVATION WHERE TRIBAL GOVERNMENT HAS ADOPTED A BUILDING CODE.

(2) THE STATE MAY NOT ENFORCE THE STATE BUILDING CODE 50-60-205 FOR BUILDINGS  
REFERRED TO IN SUBSECTION (1). LOCAL GOVERNMENTS THAT HAVE MADE THE STATE BUILDING  
CODES APPLICABLE TO THE AFOREMENTIONED BUILDINGS MAY ENFORCE WITHIN THEIR  
JURISDICTIONAL AREAS THE STATE BUILDING CODE AS ADOPTED BY THE RESPECTIVE LOCAL  
GOVERNMENT.

SECTION 2. SECTION 50-60-301, MCA, IS AMENDED TO READ:  
50-60-301. MUNICIPAL AND COUNTY BUILDING CODES AUTHORIZED -- APPLICABILITY-- HEALTH  
CARE FACILITY DOORS.

(3) A MUNICIPAL OR COUNTY BUILDING CODE DOES NOT APPLY TO BUILDINGS ON AN INDIAN  
RESERVATION WHERE THE TRIBAL GOVERNMENT HAS ADOPTED A BUILDING CODE.

THE PURPOSE OF THE SUPPORTIVE TESTIMONY IS PREVENT CONFUSION OF THE CODES.  
TO BE USED, PREVENTING ADDITIONAL COSTS, PAPER WORK, TIME AND CONSTRUCTION, ALTOGETHER  
SERVES TO STIFLE ECONOMIC DEVELOPMENT.

CURRENTLY WE HAVE TOWNS, COUNTIES, THE STATE AND TRIBE ALL ATTEMPTING CODE ENFORCE-  
MENT. THIS CAUSES PROBLEMS FOR FUNDING AGENCIES, WHICH MAY BE TRIBAL, STATE,  
FEDERAL OR PRIVATE, INCREASES COSTS FOR CONSTRUCTION - NEW OR RENOVATION- SLOWS  
THE WHOLE PROCESS OF THE BUILDING BUSINESS.

TO COMPLIMENT THE REQUEST FOR APPROVAL OF HB. NO. 57, THE BLACKFEET TRIBE  
PRESENTLY HAS HAD ADOPTED BUILDING CODES IN PLACE SINCE 1986. THE TRIBE HAS  
LICENCING PROCEDURES THAT PROTECT THE BUILDER, OWNER OR OCCUPANTS OF BUILDINGS.  
THESE PROCEDURES MANDATE REQUIRED INSPECTORS TO OVERSEE THE CONSTRUCTION PROJECTS.

ALL IN ALL APPROVAL OF THIS BILL WOULD IMPROVE CHANCE FOR DEVELOPMENT PROJECTS,  
ENHANCE AND RECOGNIZE TRIBAL SELF-DETERMINATION AND SELF-GOVERNANCE.

THE BLACKFEET ECONOMIC PLANNING DEPARTMENT FEELS THAT THIS BILL IF APPROVED, GOES  
A LONG WAY IN IMPROVING TRIBAL/ STATE RELATIONSHIPS.

EXHIBIT 4 p. 1  
DATE 1-15-91  
HB 5-7

# BLACKFEET NATION

P.O. BOX 850

BROWNING, MONTANA 59417

(406) 338-7179

## EXECUTIVE COMMITTEE

EARL OLD PERSON, CHAIRMAN  
JOHN "BUSTER" YELLOW KIDNEY, VICE-CHAIRMAN  
MYRNA J. GALBREATH, SECRETARY

ELOUISE C. COBELL, TREASURER  
EX-OFFICIO MEMBER

## TRIBAL COUNCIL

EARL OLD PERSON  
JOHN "BUSTER" YELLOW KIDNEY  
MYRNA J. GALBREATH  
ROLAND F. KENNERLY  
JOE J. MCKAY  
ARTHUR WELLS  
LEONARD J. MOUNTAIN CHIEF  
CARL KIPP, JR.  
TOM TAIL FEATHERS

## R E S O L U T I O N


NUMBER: 140-86A

- WHEREAS: The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Nation, and
- WHEREAS: The Blackfeet Tribal Business Council is organized to represent, develop, protect and advance the views, interests, education and resources of the Blackfeet Indian Nation, and
- WHEREAS: The Blackfeet Tribal Business Council has been long cognizant of the fact that building construction - both new and rehabilitative - needs to be regulated, and
- WHEREAS: The Blackfeet Tribal Business Council realizes that building codes in existence and utilized other than on our Reservation would serve the purpose and would result in no expense for adoption of same by the Blackfeet Tribe, now
- THEREFORE BE IT RESOLVED: That the Blackfeet Tribal Business Council does adopt for all construction performed within the confines of the Blackfeet Indian Nation, the following:

1. Minimum Property Standards of H.U.D.
2. The Uniform Plumbing Code
3. The National Electrical Code

ATTEST:


THE BLACKFEET TRIBE OF THE BLACKFEET  
INDIAN NATION

  
Myrna J. Galbreath, Secretary

  
Earl Old Person, Chairman

## CERTIFICATION

I hereby certify that the foregoing resolution was adopted by the Blackfeet Tribal Business Council during a duly called, noticed and convened Regular Session assembled for business the 15th day of April, 1986 with Six (6) members present to constitute a quorum and by a vote of Six (6) members For and None Opposed.

  
Myrna J. Galbreath, Secretary  
Blackfeet Tribal Business Council

# THE BLACKFEET TRIBE

OF THE BLACKFEET INDIAN NATION

P. O. Box 850

BROWNING, MONTANA 59417

EXECUTIVE COMMITTEE

TRIBAL COUNCIL

EARL OLD PERSON, CHAIRMAN  
JOHN "BUSTER" YELLOW KIDNEY, VICE-CHAIRMAN  
MYRNA J. GALBREATH, SECRETARY  
ELOUISE C. COBELL, TREASURER

EARL OLD PERSON  
JOHN "BUSTER" YELLOW KIDNEY  
MYRNA J. GALBREATH  
ROLAND F. KENNERLY  
JOE J. MCKAY  
ARTHUR WELLS  
LEONARD J. MOUNTAIN CHIEF  
CARL KIPP, JR.  
TOM TAIL FEATHERS

## EXECUTIVE RESOLUTION

NUMBER: 140-86

WHEREAS: The Blackfeet Tribal Business Council is the duly constituted governing body within the exterior boundaries of the Blackfeet Indian Nation, and

WHEREAS: The Blackfeet Tribal Business Council is organized to represent, develop, protect and advance the views, interests, education and resources of the Blackfeet Indian Nation, and

WHEREAS: The Blackfeet Tribal Business Council has been long cognizant of the fact that building construction - both new and rehabilitative - needs be regulated, and

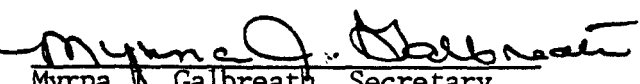
WHEREAS: The Blackfeet Tribal Business Council realizes that building codes in existence and utilized other than on our Reservation would serve the purpose and would result in no expense for adoption of same by the Blackfeet Tribe, now

THEREFORE BE IT RESOLVED: That the Blackfeet Tribal Business Council does adopt, for all construction performed within the confines of the Blackfeet Indian Nation, the following:

1. The Uniform Building Code
2. The Uniform Plumbing Code
3. The National Electrical Code

ATTEST:

THE BLACKFEET TRIBE OF THE BLACKFEET  
INDIAN NATION

  
Myrna J. Galbreath, Secretary  
Blackfeet Tribal Business Council

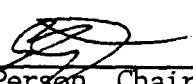
  
Earl Old Person, Chairman  
Blackfeet Tribal Business Council



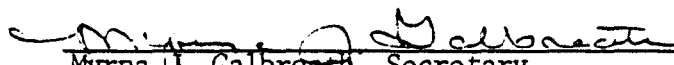


EXHIBIT 4 p.3  
DATE 1-15-91  
HS 57

Page 2  
Blackfeet Tribal Resolution # 140-86

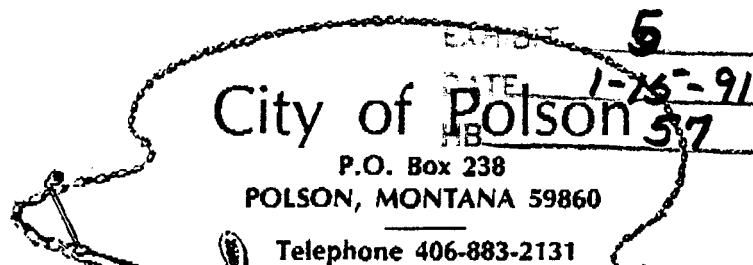
CERTIFICATION

I hereby certify that the foregoing Resolution was adopted by the Blackfeet Tribal Executive Committee during a duly called, noticed and convened Session assembled for business the 13th day of March, 1986, with Three (3) members present to constitute a quorum and by a vote of Three (3) members For and None Opposed.

  
Myrna J. Galbreath, Secretary  
Blackfeet Tribal Business Council

(CORPORATE SEAL)

Post-It™ brand fax transmittal memo 7671 # of pages > 1	
To Rep. Ervin Davis	From City of Polson
Co. House of Reps	Co.
Dept.	Phone # 883-2131
*# 444-4105	Fax # 883-6255



P.O. Box 238  
POLSON, MONTANA 59860

Telephone 406-883-2131

January 14, 1991

Diane Wyatt, Chairperson  
House Local Government Committee  
Capitol Station  
Helena, MT 59620

Re: House Bill 57

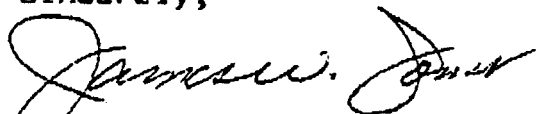
Dear Chairperson Wyatt:

The City of Polson is strongly opposed to H.B. 57 which would eliminate the City building code program if the Tribes enact a building code. Almost all of the land within Polson is privately owned and is not under the jurisdiction of the Flathead Indian Tribes. Polson has been implementing building codes for many years and has established good working relationships with developers, builders, and private citizens who are affected by the codes. We accept this responsibility as an appropriate function of City government. It would not be in the public's interest if this program were taken over by the Tribes. In fact, such an action would cause a lot of conflict in our area, and likely would not be enforceable.

This bill is counter productive to good government service in that it provides for regulation by a Tribal government which does not provide for representation by the non-Indians who are to be regulated. The present building code program works well in Polson and should not be disrupted by action contemplated in this bill.

We urge a 'Do Not Pass' on H. B. 57.

Sincerely,

  
James W. Jones,  
Mayor

7  
DATE 1-15-91  
57

BUILDING CODES BUREAU  
PUBLIC SAFETY DIVISION  
DEPARTMENT OF COMMERCE

The Department of Commerce opposes House Bill No. 57. We appreciate Representative Gervais's attempt to resolve an on going problem with code enforcement, on reservations, but the bill in its self creates even more serious problems.

The bill presents the following concerns:

1. There is a legal question as to a Tribal Government's ability to enforce building codes against non-tribal members. Therefore if in fact the Tribal Government cannot not legally enforce construction codes, on all structures within the Reservation, there will be many buildings go without inspection thus exposing building occupants to possible hazardous conditions.
  2. The only stipulation the bill contains is that the Tribal Government must adopt a building code. No where does the bill require that the Tribal Government must enforce those codes. Once again the occupants of buildings could be exposed to hazardous conditions, when not inspected.
  3. Further the bill does not stipulate that the codes adopted have to be the same as those adopted by the state. With seven Reservations, in Montana, there could be eight different building codes in place. This situation will cause much confusion and unnecessarily increase the cost of construction. The Legislature has for many years worked to maintain uniform codes statewide.
- In addition if a minimum standard is not set for the codes adopted, the Tribal Governments could adopt even less stringent codes than those already adopted by the State. The codes now used statewide are considered on a national level to be minimum standards to safeguard life or limb, health, property and public welfare.
4. The bill has eliminated the State's and local government's rights to regulate construction of public occupied structures built by non-tribal members on reservations. This will greatly impact a local governments ability not only to regulate construction but greatly hampers their ability to enforce zoning and planning regulations.
  5. Without stipulating a specific code to assist in uniformity across the state, not only can construction costs increase but the access to financial institutions to finance projects could be negatively impacted. In addition without good construction standards insurance rates for structures

EXHIBIT 7  
DATE 1-15-91  
PAGE 57

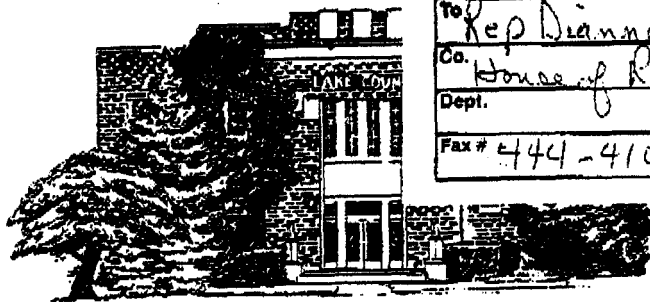
could increase.

6. The bill prevents the State from assuring that facilities constructed with state funds meet their construction standards.

7. Finally with the State, 54 local governments, and 7 reservations not all enforcing the same standards a very complex program could evolve.

For the above reasons the Department of Commerce has no option but to oppose the bill.

COUNTY COMMISSIONERS  
 MIKE W. HUTCHIN  
 District One  
 RAY HARBIN  
 District Two  
 GERALD L. NEWGARD  
 District Three  
 TREASURER  
 PATRICIA J. COOK  
 CLERK AND RECORDER  
 SURVEYOR  
 RUTH E. HODGES



Post-It™ brand fax transmittal memo 7671

# of pages &gt; 1

To: Rep Dianne Wyatt	From: Lake County Commis
Co. House of Rep.	Co. Lake County
Dept.	Phone # 883-6211
Fax # 444-4105	Fax # 883-6255

EXHIBIT

6

DATE COUNTY ATTORNEY

LARRY J. RUSTEN 1-15-91

HB JUSTICE OF THE PEACE

CHUCK WATSON

# LAKE COUNTY

PHONE 406/883-6211 • 106 FOURTH AVENUE EAST • POLSON, MONTANA 59860

January 14, 1991

Dianne Wyatt, Chairperson  
 House Local Government Committee  
 Capitol Station  
 Helena, MT 59620

Re: House Bill No. 57

Dear Chairperson Wyatt:

The Board of Lake County Commissioners has reviewed H.B. 57 which precludes the enforcement of building codes on an Indian Reservation where the tribal government has adopted a building code. Most of Lake County is within the Flathead Indian Reservation. Most of the developed land and most of the building in the county occurs on private land within the Reservation; land that has been deeded to non-Indian citizens and has no linkage to Indian status. The appropriate government to regulate building activity on this private land is state, city or county government, as the people regulated have a legal franchise in that government. If tribal government were to take over building codes in our area, the vast majority of citizens would be subject to regulation by a government they have no legal voice in. This is certainly unfair and we question whether the Tribes have legal authority to enforce such regulations on non-Indian peoples.

We have no problems with the Tribes adopting their own building codes for their own peoples and their own lands. However, the state does not need to change state law to give the Tribes authority to adopt ordinances for their own people, and this proposed legislation is unnecessary.

We urge a 'Do Not Pass' on H.B. 57. Thank you for your consideration.

Sincerely,  
 Board of Lake County Commissioners

Gerald Newgard,  
 Chairman

Mike W. Hutchin  
 Member

Ray Harbin  
 Member

EXHIBIT 8

DATE 1-15-91

HB 57

2711 Airport Road  
Helena, Montana 59601  
(406) 442-5209  
FAX (406) 442-5238

MONTANA  
ASSOCIATION OF  
COUNTIES

HB 57

AMENDMENTS

Representative Bob Gervais

House Local Government Committee

Page 1, line 24

(c) "buildings constructed on tribal lands where the tribal government has adopted a building code."

Page 3

Delete lines 5 thru 7.

MEMO TO MONTANA HOUSE TAXATION COMMITTEE EXHIBIT 9  
FROM HILL COUNTY WATER DISTRICT - DAVE JONES PRESIDENT 1-15-91  
DATE - JANUARY 15, 1991  
H3 39

SUBJECT: Amendment of Section 15-6-201(1)(m), MCA, to exempt motor vehicles owned by cooperative associations or nonprofit corporations organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land.

The Hill County Water District recently purchased two small pickups for our managers to use in servicing our waterlines and dealing with customers. We supply water to approximately seven hundred fifty customers in areas from west of Havre to Joplin, Montana. We have been organized since 1965 and operate under the county water district laws established by Section 7-13-2201 through 2351 of the Montana Code Annotated.

When we sought a license for our two motor vehicles, we were initially advised by our county treasurer that he didn't think they were taxable because they were owned by Hill County Water District, which is a rural water district created by statutory procedures. He then checked with the Motor Vehicle Division in Deer Lodge and was advised that we would have to pay to license the vehicles. We then did that at the same costs any other private taxpayer would pay.

As we considered that earlier amendments to Section 15-6-201(1)(m), MCA, had exempted our land, fixtures, buildings and improvements from taxation, we believed that motor vehicles should also be exempt. We are totally publicly supported by the fees which we charge our customers for the water which they receive. All of our authority is derived from Montana law and we even have the ability to place a tax against property with consent of the county commissioners if our fees do not generate sufficient funds to pay the bonded indebtedness of our system.

Information is that other rural water districts are not being charged to license their motor vehicles. That is probably because their local treasurers believe, as ours initially did, that they were exempt as a publicly supported water system. In order to make the law uniform throughout the state and eliminate any question, this change would be appropriate. There are not a great number of motor vehicles owned by groups who would qualify under this exemption and since most of them do not appear to be paying taxes at this time anyway, the exemption should not have a significant fiscal impact.

Thank you very much for your considerations of these comments.

Amendments to House Bill No. 35  
First Reading Copy

Requested by Rep. Connelly  
For the Committee on Local Government

Prepared by Connie Erickson  
January 14, 1991

1. Title, line 6.

Following: "DISTRICT"

Insert: "UNLESS A COUNTY ELECTORATE CHOOSES TO ELECT  
COMMISSIONERS ON A COUNTYWIDE BASIS"

2. Page 1.

Following: line 22

Insert: " NEW SECTION. **Section 2. Option for countywide election.** (1) The county commissioners may place on the ballot at the school district elections in April 1991 a referendum for the option to elect members of the board of county commissioners from the residents and electors of the entire county.

(2) Upon passage of the referendum, elections held in 1992 and thereafter must be conducted on an at-large basis.

(3) A commissioner elected in accordance with subsection (2) is exempt from the district residency requirement in 7-4-2104(2)."



**Testimony before House Local Government Committee  
By Charles W. Walk, Executive Director,  
Montana Newspaper Association, on HB 35  
1-15-91**

On the surface, House Bill 35 would seem to rank with motherhood, apple pie and the American flag. Allowing the one-man/one vote principle to apply to the election of county commissioners sounds like an excellent idea....and may be the only acceptable federal idea, given the Big Horn ruling.

Under this bill, however, the principle is seriously flawed and HB 35 should be defeated.

County commissioners are elected from districts within the county that should be proportionately equal so that they represent the same number of voters under the one-vote principle. The problem is that most commissioner districts do not follow precinct lines in the counties. In order to break down the county's population into the three commissioner districts, you must follow different boundaries than those set up for precincts.

To elect a commissioner from his district, you would have to cross precinct lines. In crossing precinct lines, you would increase the cost of elections considerably by trying to elect by commissioner districts.

Some of the costs incurred would be ballots, separate elector lists for commissioner elections, confusion in counting, separate ballot boxes and a host of other election-related problems.

If this legislation is passed, it would be a nightmare to those preparing the ballots, the election administrator and those officials at the polling places.

The legislation is obviously unnecessary and cumbersome and we urge the committee to reject it.

## VISITORS' REGISTER

Local Gov.

COMMITTEE

BILL NO. 35-39DATE 1-15-91

SPONSOR \_\_\_\_\_

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
<u>Gordon Morris</u>	<u>MA Co</u>		
<u>Chas K. Kell</u>	<u>MAA</u>		
<u>John E. Witt</u>	<u>Chouteau County</u>		

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

Local Gov.

COMMITTEE

BILL NO.

57

DATE

1-15-91

SPONSOR

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
W. James Kembel	DOC / Public Safety Div		✓
James F. Brown	Bldg. Codes Bureau		
TERA/TB Wagner		✓	
CAMERON Boggs		✓	
DON White		✓	
Tom Blackweard		✓	
PHILIP E. Roy		✓	
Bill Chapman	Cut Bank	✓	
<del>Robert J. [unclear]</del>	<del>[unclear]</del>	✓	
MICHAEL MIZENKO	Plumber + Pipe Fitters GREAT FALLS, MONT. 139		✓
JAMES B. BROWN	MONT. TECHNICAL COUNCIL		✓
Gordon Morris	MACO		
Tom Johnson	MECA	✓	
HS Houson	HD-87		✓
E FENDERSON	MT STATE Bldg Trades		✓
W. Anderson	Dillon, Mont.	✓	
Angela Russell	HD 99, Lodge 685	✓	
Don CHANCE			✓

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

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

PLEASE PRINT YOUR NAME