

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON EDUCATION & CULTURAL RESOURCES

Call to Order: By Vice-Chairman Ervin Davis, on February 4,
1991, at 3:00 P.M.

ROLL CALL

Members Present:

Ted Schye, Chairman (D)
Ervin Davis, Vice-Chairman (D)
Steve Benedict (R)
Ernest Bergsagel (R)
Robert Clark (R)
Vicki Cocchiarella (D)
Fred "Fritz" Daily (D)
Alvin Ellis, Jr. (R)
Gary Feland (R)
Floyd "Bob" Gervais (D)
H.S. "Sonny" Hanson (R)
Dan Harrington (D)
Tom Kilpatrick (D)
Bea McCarthy (D)
Scott McCulloch (D)
Richard Simpkins (R)
Barry "Spook" Stang (D)
Norm Wallin (R)
Diana Wyatt (D)

Members Excused: Rep. Gary Forrester

Staff Present: Andrea Merrill, Legislative Council
Dianne McKittrick, Committee Secretary

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

Announcements/Discussion: None

HEARING ON HB 433

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE DOROTHY CODY, House District 20, Wolf Point and Poplar, said HB 433 would exempt the Montana University System and Vocational Technical Centers from the requirement to provide smoking areas in workplaces. Last Legislature, schools were exempt from the Montana Clean Air Act in that they did not have to provide smoking areas in schools. Perhaps the universities

and vocational technical schools should have been included.

Proponents' Testimony:

LeRoy Schramm, Legal Counsel, Board of Regents, said virtually every building on campus has seven or more employees and if a public workplace employs seven or more employees you must have smoking and non-smoking areas. Presently, the University System is in violation of the statute since in Brick Breeden Fieldhouse, smoking is not allowed in the building. We should validate what is actually in fact is happening. This is not an attempt to wipe out smoking on campus. Students will continue to smoke in dormitories, student unions and other designated areas.

Ken Heikes, Lobbyist, Montana University System, Administrative Vice-President, Eastern Montana College, said one of his functions is to see that no-smoking rules are followed. Presently Eastern Montana College has three buildings on campus that are in violation of the statute since there are no designated smoking areas in the Computer Annex containing 150 personal computers, terminals and printers. This building has been a no-smoking, no-drinking, and no eating facility since it opened. It doesn't make sense to have materials around that could ruin the machines. Smoke gets inside the computers much like dust on a television screen and when it gets thick the computers cease to function.

Earl Thomas, American Lung Association of Montana, submitted written testimony. EXHIBIT 1

Opponents' Testimony:

Jerome Anderson, Helena Attorney, Representing the Tobacco Institute, said the technical effect of HB 433 removes from the Clean Air Act the provision maintaining the right of smokers at units of the University System or Vocational Technical System to have an area where they can exert the right to enjoy the use of tobacco products. Smoking tobacco products in any of these facilities could be banned by the Board of Regents. Mr. Anderson asked if adult students should be treated like second class citizens by not having the rights and privileges given to other adults in Montana. This inequity is compounded by the fact that smokers pay for the buildings at these systems through cigarette taxes paid into the Long Range Building Fund. Students are encouraged to purchase tobacco products to pay for the buildings but must go outside to use the product. In many state buildings the statute is also not being followed or is unreasonably imposed. The University System wants more money from tobacco products in taxes not only for buildings but now for research programs. These students are entitled to the same rights as other adults.

John Delano, Philip Morris, stated agreement with Jerome Anderson's statement.

Questions From Committee Members:

REP. GERVAIS asked REP. CODY if this law includes smoke-less tobacco. She replied no.

Closing by Sponsor:

REP. CODY said the bill addresses employees, not students, and is very specific in the law already....seven employees not seven students.

EXECUTIVE ACTION ON HB 125

Motion/Vote: REP. STANG moved HB 125 DO PASS. Motion CARRIED unanimously.

EXECUTIVE ACTION ON HB 347

Motion: REP. KILPATRICK moved HB 347 DO PASS.

Motion/Vote: REP. STANG moved to amend to HB 347. EXHIBIT 2 REP. SIMPKINS felt it necessary to delete the word "present". Upon discussion between Andrea Merrill and REP. GERVAIS it was agreed to do so. REP. STANG made a substitute motion to adopt amendments in Exhibit 2 and REP. SIMPKINS' amendment to HB 347. Motion CARRIED unanimously.

Vote: REP. COCCHIARELLA moved HB 347 DO PASS AS AMENDED. Motion CARRIED unanimously.

EXECUTIVE ACTION ON 363

Motion: REP. BENEDICT moved HB 363 DO PASS.

Motion: REP. HARRINGTON made a substitute motion hb 363 DO NOT PASS. REP. HARRINGTON said this appears to be nothing but a turf battle between the administrators. These two days are very important professional days. If this bill passes, many schools will cancel the professional days altogether. These days are set aside for professional education and should remain as such. This is contrary legislation at its best. REP. MCCARTHY agreed. If this were to pass teachers could sit and knit in the classroom for six hours and still get paid. REP. ELLIS said it is his understanding most teachers have alternative programs they can attend such as mathematics workshops etc.

Motion/Vote: REP. WYATT made a substitute motion that HB 363 BE TABLED. Motion CARRIED 18 to 1. EXHIBIT 3

EXECUTIVE ACTION ON HB 431

Motion: REP. STANG moved HB 431 DO PASS.

Discussion: REP. SIMPKINS asked CHAIRMAN SCHYE if the loss of the approximate \$58,000 to the General Fund has been accounted for and now is sent to Appropriations. CHAIRMAN SCHYE said he would discuss it with Appropriations.

Motion/Vote: Motion CARRIED 17 to 2 with REPS. DAILY and SIMPKINS voting no.

EXECUTIVE ACTION ON HB 433

Motion: REP. WYATT moved HB 433 DO PASS.

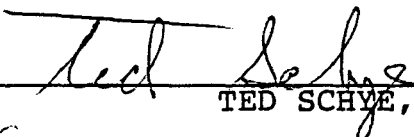
Discussion: REP. HARRINGTON said the passage of this bill would cause serious problems.

REP. SIMPKINS said to put it in the record he agreed with DAN HARRINGTON. This is a gross overstepping of limits.

Motion/Vote: REP. STANG made a substitute motion that HB 433 BE TABLED. Motion CARRIED 17 to 2. EXHIBIT 4

ADJOURNMENT

Adjournment: 4:00 p.m.


TED SCHYE, Chair


DIANNE MCKITTRICK, Secretary

TS/dmck

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 2-4-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER			✓
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

5:00 PM.
2/4/91
cmc
February 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 125 (first reading copy -- white) do pass .

Signed: _____
Ted Schye, Chairman

HOUSE STANDING COMMITTEE REPORT

February 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 347 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Page 1, line 25.

Strike: "at least two-thirds of"

Insert: "all"

2. Page 2, line 1.

Following: "trustees"

Insert: " , with the exception of any trustee who is related to the person being appointed and who must abstain from voting for the appointment, "

HOUSE STANDING COMMITTEE REPORT

February 4, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 431 (first reading copy -- white) do pass.

Signed: _____
Ted Schye, Chairman



AMERICAN LUNG ASSOCIATION OF MONTANA

Christmas Seal Bldg. — 825 Helena Ave.
Helena, MT 59601 — Ph. 442-6556

EARL W. THOMAS
EXECUTIVE DIRECTOR

EXHIBIT #1

DATE 2-4-91

RE 433

TO: Chairman Ted Schye
Education & Cultural Resources Committee

FROM: Earl Thomas, Executive Director

DATE: February 7, 1991

The American Lung Association of Montana supports House Bill 433 which will allow the Montana University System and vocational-technical centers to designate the entire faculty tobacco free.

It was our interpretation that Section 50-40-104 (D) should already provide for this. (copy attached)

The more we can encourage our educational facilities to provide tobacco free role modeling the closer we will be to a tobacco free generation.

The graph on the back shows why we must stop our youth from smoking.

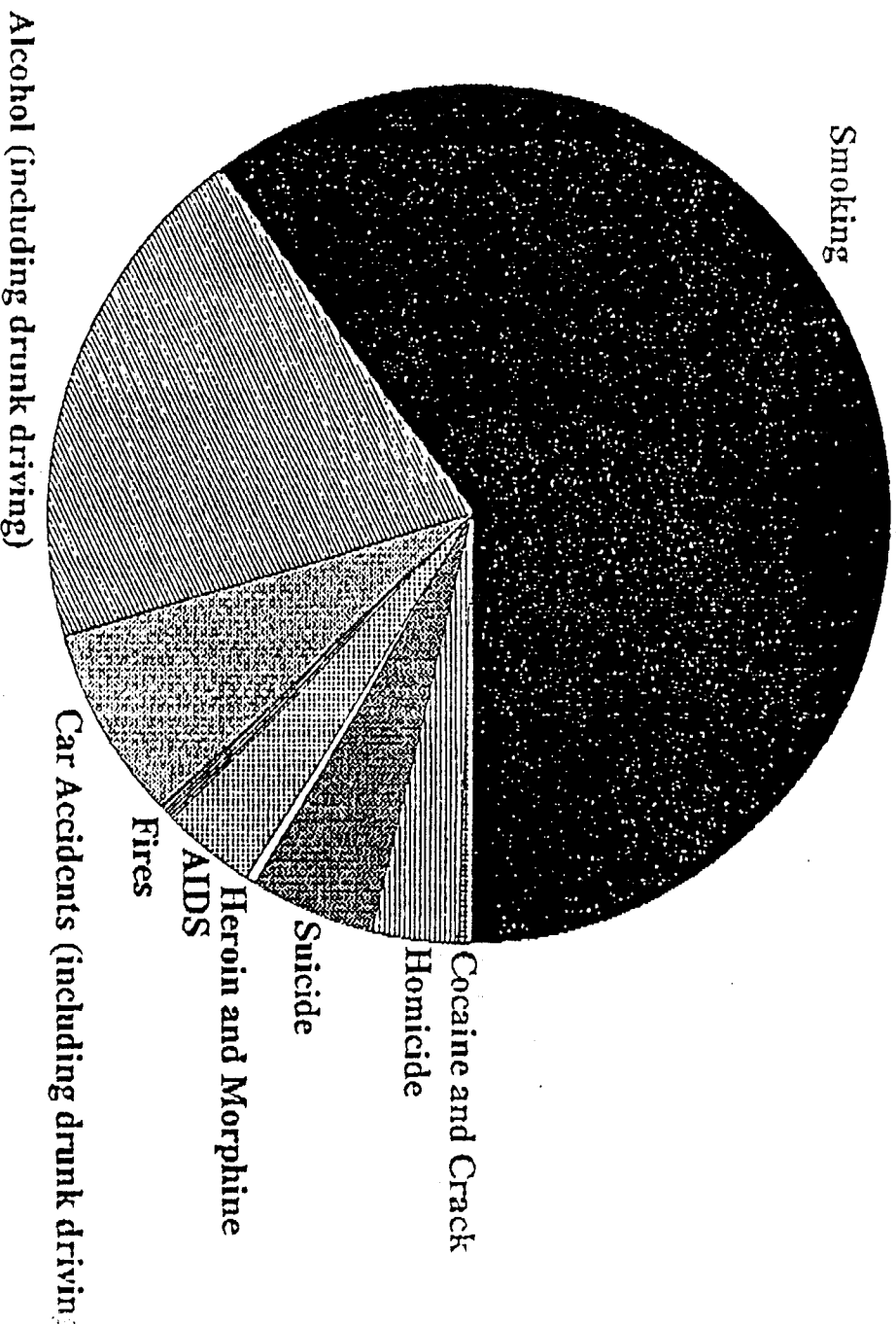
ET/sw

Smoking Kills More Americans Each Year Than Alcohol, Cocaine, Crack Heroin, Homicide, Suicide, Car Accidents, Fires, and AIDS combined.

Approximate Number of Deaths:

Smoking.....	390,000 ¹
Alcohol (including drunk driving).....	125,000 ²
Car Accidents (including drunk driving).....	47,000 ³
Fires.....	4,000 ³
AIDS.....	23,000 ⁴
Heroin and Morphine.....	2,400 ⁵
Suicide.....	31,000 ⁵
Homicide.....	21,000 ⁵
Cocaine and Crack.....	3,300 ⁵

- ¹1989 Surgeon General's Report, 1985 data
²Surgeon General's Office, 1985 data
³National Safety Council, 1989 data
⁴Center for Disease Control, 1989 data
⁵National Center for Health Statistics, 1987 data



Smokefree Educational Services

Incorporated

375 South End Avenue, Suite 32F
 New York, NY 10020
 Phone: (212) 912-0960

CHAPTER 40

SMOKING IN PUBLIC PLACES

Part 1 — Montana Clean Indoor Air Act

- 50-40-101. Short title.
- 50-40-102. Purpose.
- 50-40-103. Definitions.
- 50-40-104. Designation or reservation of smoking or nonsmoking areas — notice.
- 50-40-105. No smoking signs in certain places.
- 50-40-106. Requirements of health care facilities.
- 50-40-107. Exemptions.
- 50-40-108. Enforcement.
- 50-40-109. Penalties.

Part 2 — Government Offices and Work Areas

- 50-40-201. Reservation of smoking and nonsmoking areas in work areas in state and local government buildings.

Part 1

Montana Clean Indoor Air Act

50-40-101. Short title. This part may be cited as the "Montana Clean Indoor Air Act of 1979".

History: En. Sec. 1, Ch. 368, L. 1979.

50-40-102. Purpose. The purpose of this part is to protect the health of nonsmokers in public places and to provide for reserved areas in some public places for those who choose to smoke.

History: En. Sec. 2, Ch. 368, L. 1979.

50-40-103. Definitions. As used in this part, the following definitions apply:

(1) "Department" means the department of health and environmental sciences provided for in Title 2, chapter 15, part 21.

(2) "Enclosed public place" means any indoor area, room, or vehicle used by the general public or serving as a place of work, including but not limited to restaurants, stores, offices, trains, buses, educational or health care facilities, auditoriums, arenas, and assembly and meeting rooms open to the public.

(3) "Establishment" means an enterprise under one roof that serves the public and for which a single person, agency, corporation, or legal entity is responsible.

(4) "Person" means an individual, partnership, corporation, association, political subdivision, or other entity.

(5) "Smoking" or "to smoke" includes the act of lighting, smoking, or carrying a lighted cigar, cigarette, pipe, or any smokable product.

(7) "Place of work" means an enclosed room where more than one employee works.

History: En. Sec. 3, Ch. 368, L. 1979; amd. Sec. 1, Ch. 460, L. 1981.

50-40-104. Designation or reservation of smoking or nonsmoking areas — notice. (1) The proprietor or manager of an enclosed public place shall:

- (a) designate nonsmoking areas with easily readable signs;
- (b) reserve a part of the public place for nonsmokers and post easily readable signs designating a smoking area;
- (c) designate the entire area as a smoking area by posting a sign that is clearly visible to the public stating this designation; or
- (d) designate and reserve the entire area as a nonsmoking area.

(2) The proprietor or manager of an establishment containing enclosed public places shall post a sign in a conspicuous place at all public entrances to the establishment stating, in a manner that can be easily read and understood, whether or not areas within the establishment have been reserved for nonsmokers.

(3) The proprietor or manager of an establishment containing both a restaurant and a tavern, in which some patrons choose to eat their meals in the tavern, is not required by this part to post a sign described in subsection (2) in the tavern area of the establishment.

History: En. Sec. 4, Ch. 368, L. 1979; amd. Sec. 2, Ch. 460, L. 1981; amd. Sec. 2, Ch. 505, L. 1985; amd. Sec. 1, Ch. 458, L. 1989.

Compiler's Comments

1989 Amendment: At beginning of (1) deleted "Except for those enclosed public places provided for in 50-40-105 and as provided in

50-40-201"; inserted (1)(d) relating to designation of nonsmoking area; and made minor changes in phraseology. Amendment effective April 5, 1989.

50-40-105. No smoking signs in certain places. No smoking signs shall be conspicuously posted in elevators, museums, galleries, kitchens, and libraries of any establishment doing business with the general public.

History: En. Sec. 5, Ch. 368, L. 1979.

50-40-106. Requirements of health care facilities. (1) Health care facilities shall:

- (a) ask all in-patients, prior to admission, to designate their preference for a nonsmoking or smoking patient room and, when possible, accommodate such a preference;
- (b) prohibit smoking in all kitchens, laboratories, and corridors;
- (c) prohibit smoking in storage areas for supplies or materials and wherever flammable liquids, gases, or oxygen is stored or in use;
- (d) provide a nonsmoking area in all waiting rooms;
- (e) prohibit employees from smoking in patient rooms; and
- (f) require visitors to obtain express approval from all patients in the patient room, or from the patients' physicians, prior to smoking.

(2) Nothing in this section shall prohibit a health care facility from banning smoking on all or a part of its premises.

(3) All areas of a health care facility not specifically referred to in this section may be considered smoking areas unless posted otherwise.

History: En. Sec. 6, Ch. 368, L. 1979.

Cross-References

"Health care facility" defined, 50-5-101.

50-40-107. Exemptions. The following shall be exempt from this part:

- (1) restrooms;
- (2) taverns or bars where meals are not served;
- (3) vehicles or rooms seating six or fewer members of the public;
- (4) school district buildings and facilities designated as tobacco-free by the board of trustees of the school district;
- (5) community college buildings or facilities designated as tobacco-free by the board of trustees of the community college district.

History: En. Sec. 7, Ch. 368, L. 1979; amd. Sec. 2, Ch. 466, L. 1989.

Compiler's Comments

1989 Amendment: Inserted (4) and (5) exempting designated school and community college buildings and facilities.

50-40-108. Enforcement. The provisions of this part shall be super-
vised and enforced by the local boards of health under the direction of the department.

History: En. Sec. 8, Ch. 368, L. 1979.

Cross-References

Local Boards of Health, Title 50, ch. 2.

50-40-109. Penalties. A person who fails to designate or reserve a smoking or nonsmoking area in his establishment as provided for in 50-40-104 is guilty of a misdemeanor and is subject to a fine of not more than \$25.

History: En. Sec. 3, Ch. 460, L. 1981.

Part 2

Government Offices and Work Areas

50-40-201. Reservation of smoking and nonsmoking areas in work areas in state and local government buildings. In offices and work areas in buildings maintained by the state or a political subdivision, except a school or community college facility designated as tobacco-free by the board of trustees of the school district or community college district, in which seven or more employees of the state or political subdivision are employed, the manager or person in charge of the work area shall arrange nonsmoking and smoking areas in a convenient area.

History: En. Sec. 1, Ch. 505, L. 1985; amd. Sec. 1, Ch. 466, L. 1989.

Compiler's Comments

1989 Amendment: Near middle, inserted exception clause for a designated school or com-

munity college facility; and made minor change in phraseology.

CHAPTER 41

LAETRILE

Part 1 — General Provisions

50-41-101. Laetrile defined.

50-41-102. Laetrile authorized.

50-41-103. Hospital may not interfere.

EXHIBIT # 2
DATE 2-4-91
HB 347

Amendments to HB Bill No. 347
1st Reading Copy

Requested by Rep. Gervais
For the House Committee on Education

Prepared by Andrea Merrill
January 28, 1991

1. Page 1, line 25.

Strike: "at least two-thirds of"

Insert: "all"

2. Page 2, line 1.

Following: "trustees"

Insert: ", with the exception of any trustee who is related to
the person being appointed and who must abstain from voting
for the appointment,"

EXHIBIT # 3
DATE 2-4-91
HB 363

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2-4-91 BILL NO. 363 NUMBER _____

MOTION: To Table Motion by Wyatt
Tabled 18 aye, 1 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	✓	
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓	
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRED "FRITZ" DAILY	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER		
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON	✓	
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS	✓	
REP. BARRY "SPOOK" STANG		✓
REP. NORM WALLIN	✓	
REP. DIANA WYATT	✓	
TOTAL	18	1

EXHIBIT # 4
DATE 2-4-91
HB 433

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 2-4-91 BILL NO. 433 NUMBER _____

MOTION: To Table by Rep Stang
Motion Carried 17 aye, 2 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN		✓
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓	
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRED "FRITZ" DAILY	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER		
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON	✓	
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS	✓	
REP. BARRY "SPOOK" STANG	.	✓
REP. NORM WALLIN	✓	
REP. DIANA WYATT	✓	
TOTAL	17	2

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEE BILL NO. 433
 DATE 2-4-91 SPONSOR(S) Cody

PLEASE PRINT

PLEASE PRINT

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Earl Thomas	American Lung Assn	433		X
Ken Heiker	Eastern Mt. College	433		✓
Ellen Swaney	OCHC			
Bob Moon	STATE HEALTH DEPT	433		X
M. L. Schuch	OHES, Food & Consumer	433		
JEROME ANDERSON	TOBACCO INSTITUTE	433	✓	
J. R. H. Schramm	Mt. Union System	433		✓
Roger Tippy	RT Reynolds	433	✓	
Bart Simpson	TU - MTU	433	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.