

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & ECONOMIC DEVELOPMENT

Call to Order: By REP. BOB BACHINI, CHAIRMAN, on February 19, 1991, at 7:00 a.m.

ROLL CALL

Members Present:

Bob Bachini, Chairman (D)
Sheila Rice, Vice-Chair (D)
Joe Barnett (R)
Steve Benedict (R)
Brent Cromley (D)
Tim Dowell (D)
Alvin Ellis, Jr. (R)
Stella Jean Hansen (D)
H.S. "Sonny" Hanson (R)
Tom Kilpatrick (D)
Dick Knox (R)
Don Larson (D)
Scott McCulloch (D)
Bob Pavlovich (D)
John Scott (D)
Don Steppler (D)
Rolph Tunby (R)
Norm Wallin (R)

Staff Present: Paul Verdon, Legislative Council
Jo Lahti, Committee Secretary

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

Announcements/Discussion: Executive Action on HB 196, HB 477, HB 686 (Tabled), HJR 27, HB 779, HB 816. Hearings on HB 655, HB 776, HB 816, HB 779, HJR 27.

EXECUTIVE ACTION ON HOUSE BILL 196

Motion: REP. KILPATRICK moved HB 196 DO PASS. He also moved amendments dated February 19, 1991, be adopted.

Discussion:

REP. RICE said this will not be the final amendment. There will be other amendments. We wanted to get Appropriations on it so we would have some time after transmittal for further discussion.

REP. KILPATRICK said REP. RICE and the committee have been doing a lot of work on this. It is going to be a much better bill for economic development. There is a clause in the bill stating there would be \$25,000 from the business community, \$25,000 from labor, \$25,000 from conservation and \$25,000 matching funds. On a matching basis it would work. Appropriations might approve this when there is a 3-1 match. The actual wording of the bill will be worked out later on after it has been studied further.

Vote: Motion to adopt amendments passed unanimously.

REP. BACHINI said no executive action would be taken at this time.

EXECUTIVE ACTION ON HOUSE BILL 477

Motion: REP. RICE moved HB 477 DO PASS. She also moved adoption of amendment 16 on Page 2. EXHIBIT 1.

Discussion:

REP. SHEILA RICE advised appropriations were being inserted and then there would be time to discuss all of the amendments after transmittal.

REP. LARSON reminded there were two amendments the subcommittee did not request, #15 and #16. Why was just #16 moved for adoption?

Motion: REP. RICE moved to withdraw her previous motion and moved the amendments 1 through 18 be adopted.

Discussion:

REP. LARSON said most of these were housekeeping kinds of improvements to the bill suggested by the sponsor himself and agreed to by the members of the sub-committee. The major change is on Page 15 amendment #15. The concern of the sponsor was that there was not legislative oversight or legislative consultation to this committee set up by this bill. He felt very strongly that the legislature should have some oversight. REP. KADDAS suggested a four-member legislative consulting panel. They would be ongoing members that will act as an oversight committee. That is the major change. The appropriation mechanism, Section 12, is a one time appropriation of \$64,900 from the general fund to get this off the ground.

REP. BENEDICT said amendment #14 talked about trying to find somebody who had financial expertise, but limited to people who actually had experience in micro business revolving loan funds; or that two members should have experience in revolving loan funds, not primarily micro business. This would tend to better serve smaller communities.

REP. DOWELL wondered if the same thing could be achieved by saying at least two members should have experience.

REP. BENEDICT thought the language should be clearer in order to get people on the board who are experienced in loan funds and business, but not primarily micro business. "primarily micro businesses" should be stricken.

Motion/Vote: REP. BENEDICT moved the language in amendment #14 to be changed to strike "primarily micro business". Motion was unanimously adopted.

Discussion: REP. BACHINI said the motion on the floor is HB 477 Do Pass As Amended.

Vote: Motion HB 477 DO PASS AS AMENDED was unanimously adopted.

EXECUTIVE ACTION ON HB 686

Motion: REP. KILPATRICK moved HB 686 DO PASS.

Discussion:

REP. LARSON empathized with the retailers on this problem. He also has a problem with the bill, and has do not pass written down as a note to himself on the bill. The reason for this is the retailer can take advantage of this because if the gasoline is moved out of his tank within three days, there is probably no evaporation. If it is two months, there is a good possibility for evaporation. This gives the retailers an opportunity to "steal" the evaporation allowance. Very seldom does gasoline stay in a retailer's tank more than a week to ten days unless it is a very slow rural operation. Evaporation amounts should be taken into consideration, but this bill doesn't do that.

REP. KILPATRICK thought this is a turf battle. Regardless of what we do, that shrinkage will be there and someone will get it. The question is who? The jobber, the retailer or who? Whoever sells it is going to make a few extra dollars. The way it is now, the jobber gets the money anyway. He is saying because of his extra work and his paper work he should have that although he doesn't do anything. It figures out to be 1/10 of 1% of your taxes. It is simply a matter of who is getting the shrink, the retailer or the distributor.

REP. STEPPLER would have to go along with REP. LARSON. This should be passed on to the person who uses the gasoline. To be fair it should be passed to the consumer.

REP. DOWELL thought by doing away with the shrinkage, the State could save \$1 million.

REP. ELLIS, Jr. empathized with the distributor who has to make

the reports out and has to pay maybe \$15 to \$25 in some cases to the smaller dealers on a monthly basis, so at the very least it should be left until the amount is at least \$100.

REP. CROMLEY said that makes good sense.

REP. KNOX thought the wholesaler earns this. He can always increase his price.

REP. KILPATRICK said REP. STEPPLER made a very astute point. The consumer is the one getting that shrink and he's the one who should. Could it be amended that way?

REP. BACHINI mentioned the farm people already get a refund. REP. STEPPLER advised the farm people get a 60% refund, not 100%.

REP. KILPATRICK said there is shrinkage. The distributor puts it in his tank, drops it off, and claims the shrink. Maybe the retailer sells it and maybe he doesn't.

Vote: Motion HB 686 DO PASS FAILED by a 6-11 voice vote.

Motion/Vote: REP. CROMLEY MOVED HB 686 BE TABLED. Motion carried unanimously.

EXECUTIVE ACTION ON HB 169

REP. DOWELL stated this particular grey bill is the last of three and by no means was conclusively agreed upon. This bill has a couple of provisions that should be looked at. Page 3, New Section 3 talks about enforcement, something that had been lacking from prior attempts; it deals with potential penalties and the enforcement mechanism. This grey bill was prepared by the EQC. After the title this new language bill replaces the entire bill because the contents have changed considerably. Mr. Verdon said if everything in this grey bill is new, then there is no problem.

REP. LARSON explained this grey bill calls for a check scaler to be assigned to the Department of Commerce (DOC). He has legal authority to go into a mill office unannounced and make periodic check scales at the request of the logger. Both loggers and the mill interests agreed this is acceptable and it was agreed to by REP. THOFT. The scaler is paid for by one of two ways, either from penalties per thousand from the logger or per thousand board feet by the mill. This would go into the timber slash fund or needs to be paid by an appropriation from the general fund.

REP. BENEDICT summarized saying the concept is agreed upon by everybody, but payment was not agreed upon. Penalties are not agreed on by everyone. The industry has some real problems with tying this to the slash disposal fund to reduce the fire hazard. They are trying to establish an educational program teaching the

best management practices which is tied directly to the fire hazard program to pay for the education program. They want to fund the fire hazard reduction program to provide for this education program. They feel the industry cannot afford to be doing both. They are adamantly opposed to this particular method of funding. It calls for 7-1/2 cents per thousand here. Both logging and mill interests agreed that this was acceptable and REP. THOFT has agreed that this is acceptable as an alternative for a scaler.

REP. DOWELL said it seems the funding mechanism breaks down to two separate choices; one was the general fund. If this is a proper need is the problem. A general fund appropriation this time of year is not going to be treated with respect and it will die. It is a problem. The fee of approximately 16 cents per thousand per trailer load of logs is not excessive. The loggers would support this to be guaranteed a fair scale when their logs are dropped off at the mill.

REP. BENEDICT said there are two associations: the Wood Products Association which are the mills, the big guys; and the Montana Logging Association which is made up of 750 members who are the small independent loggers. They are adamantly opposed to this.

REP. LARSON and I both come from timber areas heavily dependent on timber and we both agree it should not be funded this way. If we can find a way to get this done, which is what we want to do, and tie a general fund appropriation to it that's the way to go.

REP. DOWELL reminded with respect to you guys being from the logging area, be aware that Kalispell has significant logging industry as well. We have to remember when we hear from the several hundred members of the logging association that's not in fact what we are hearing from, we are hearing from the leadership and we're hearing from a lobbyist essentially. My own common sense tells me those people out there hauling logs would not resent paying 16 cents a load to be guaranteed an honest scale.

REP. RICE asked if the logging association picketed the Commission during testimony on the original bill? Were they here?

REP. DOWELL said Yes, early on he talked to both Bud Clinch and Keith Olsen from the logging association. They indicated they wanted to stay out of it. But they would take a position after it was clear that we would go to sub-committee.

REP. MCCULLOCH said he had had a bill somewhat like HB 169. The logging Association did take sides, half on each side. REP. BACHINI asked REP. MCCULLOCH to please use his mike.

REP. TUNBY asked what does this bill say exactly? Who pays what and how much?

REP. BENEDICT said the bill calls for 7-1/2 cents per thousand

board feet. REP. RICE said that is in existing law.

REP. LARSON said he didn't know where this 4 cents comes from, in the bill it calls for 7 1/2 cents per thousand in about 5 places. REP. BACHINI asked if a sub-committee member can answer REP. TUNBY'S question?

REP. LARSON could not remember what the original bill said. This bill says the purchaser which is the mill, and the contractors which are the loggers, will each pay 7 1/2 cents a thousand. That is 15 cents per thousand. They are paying about 65 to 70 cents a log truck load to administer this program. The general fund appropriation would be about \$150,000.

REP. BACHINI said in your original bill, Section 9 doesn't mention any amount, it just says reasonable gain. The grey bill does provide for a set amount.

REP. TUNBY thought some of the people most in favor of this talked about the money.

REP. ELLIS would be more influenced by what they are doing in other states, after all that's who we have to compete with. It is well to keep in mind that we are losing logging business in this State right and left and he is more interested in how this business is kept healthy, so our mills, our loggers and our truckers are all kept going.

REP. SCOTT asked if Section 3 of Page 5 which starts with the word 'use' mean that you take the 7 1/2 cents and divide it by 2 if they decide to split the fee? REP. RICE said it means that you can have whoever is doing the cutting or the purchaser split the fee.

REP. DOWELL stated in the original bill it was calculated this would raise \$150,000.

REP. LARSON pointed out the State of Montana regularly assumes the cost of regulatory exercises. Securities and insurance for example, are regulated by the State and the State pays the cost of administering those programs. Highway regulations are assumed by the Department of Commerce. Fees are assessed against those industries to pay for that cost.

REP. RICE suggested an assessment should be left in, but don't make it a requirement. Let them establish their own fees.

REP. BENEDICT explained we are talking about putting a tax on every single load of logs on 95% of the people who don't feel they have a problem, on 98% of the people who don't have a problem. The original intention was that if someone wants a check scaler, the State should provide a check scaler that is an unbiased independent check scaler, and the people who feel like they have a problem should go ahead and pay that charge.

REP. DOWELL reminded the original bill that is on our books has what REP. LARSON was talking about in Section 9, Page 6, the timber scaling fees. It says the Department may assess and collect reasonable fees from the timber harvester and timber purchaser. He would have to disagree with the 90% to 95% of the people who are getting a fair scale. The perception they are not getting a fair scale is greater than that. REP. THOFT had researched it fairly well. There is a significant number of people who feel that they are not getting their fair share. Regulation is for those who are disregarding the laws.

REP. WALLIN stated maybe we don't need this bill.

REP. BENEDICT pointed out that in sub-committee and in committee, we were told by Michael Kakuk of the Environmental Quality Council that they did try as well as they could to make sure that all loggers knew they did not have to come forth in public, they could send a letter, an anonymous letter, they could make an anonymous phone call. The Montana Logging Association put out 1,000 questionnaires and got zero response back. They said if you have a problem, we'll take it to the Environmental Quality Council, don't sign your name, just send it back and say yes you have had a problem. There was still no response.

REP. RICE suggested the sub-committee take out the 7 1/2 cents and draft language that would give the Department of Commerce the fee setting authority. If it is sunsetted in two years we could decide whether or not there is a problem. This is a problem. The truckers are literally afraid to come forth with it. They need to have some protective legislation.

REP. BACHINI said he had talked to a person in Three Forks and asked him about the logging industry. He explained the methods of cutting the logs now produce more board feet than the Scribner scale shows. They are still using the 2x4 measure, and you get less than 1-1/2x3-1/2 board, so they are getting more board feet than the Scribner scale shows. Also, because of new type equipment there is less cutting waste.

REP. RICE asked for suggestions, whether to take the 7-1/2 cents out and give the DOC fee setting authority, whether to sunset it. This is an issue the loggers are literally afraid to come forward on and they need some protection.

REP. BARNETT visited with a logger in his area whose daughter is married to his son who told him to kill the bill. The bill is flawed because there is no way for allowing the loggers to recover the value of the wood they were cheated out of, if in fact he had been cheated.

REP. LARSON wanted the logger to be paid for the overrun on a log. This would be so much better. The mill makes so much more money out of that tree. The bill is failing to recover the cost of the wood that the logger was cheated out of. There is no

mechanism to recover the loss. If a logger believes he is being shorted and calls the DOC, the mill knows who calls. The intimidation tactics aren't going away with this bill.

REP. BACHINI felt there had been a good discussion on this bill. With that we will close the discussion and go on to the regular hearing.

HEARING ON HOUSE BILL 655

REP. BACHINI stated the proponents and opponents will be limited to ten minutes and to five minutes for questions on six bills.

REP. ED GRADY, HD 47, Helena, stated HB 655 addresses a problem that he has. It is an act directing the State Fire Marshal to adopt by rule conditions permitting the installation and use of below-grade liquefied petroleum gas appliances; directing the DOC to conform by rule the state building code to the rules promulgated by the State Fire Marshal; and amending Sections 50-3-103 and 50-60-203, MCA. They worked with the DOC on this bill concerning liability for the State. There is a set of amendments that will be proposed by Tom Hopgood and the DOC, that the Fire Marshal is satisfied the State will not be assuming any liability. The bill will be amended considerably. EXHIBIT 1A

Proponents:

Tom Hopgood, Liquid Propane Gas Association, said a number of colleagues are supporting this bill. HB 655 will allow the installation of liquid propane gas appliances below grade in single family dwellings. Legislation is necessary because the Building Code Division has adopted the Uniform Mechanical Code and the Uniform Plumbing Code. The Mechanical Code prohibits below ground installation in 5-plexes or larger, it does not prohibit the installation in single family dwellings. However, the Uniform Plumbing Code applies to a residence on a public water system. In a situation where on one side of the street family A is on a public water system, on the other side family B is not on a public water system, family A under the Uniform Plumbing Code cannot install an LTG appliance below grade, but family B can. You have a situation in Montana where you can have some varied results where there is no logical distinction at all. The amendments are the result of a conversation we had yesterday with the Attorney General's Office on behalf of the State Fire Marshall and W. James Kembel from the Building Codes Division. They pointed out the original bill was copied from a bill from the 1989 legislative session. The easy way is just to have the Building Codes Division adopt the rule instead of going through the Fire Marshall and the Building Codes Division. It streamlines the process. The Statement of Intent clarifies what the DOC will be doing through the Building Codes Division. The issue here is safety.

Gene Stapleton, Manager, Cenex Propane in Lewistown, MT, and

President of the Montana-Wyoming Propane Association, presented a Gas Appliance System Check which they perform for their customers. EXHIBIT 2. It is a safety program that starts at the propane tank, goes all through the burner and out the top of the chimney. This was started in 1985 by the National Propane Association and is one of the most complete systems checks of any other fuel burning appliances. This system is done for both below grade and above grade systems. There is no distinction one way or the other. They do a lot of customer education this way.

Jerry Strong has a single family residence outside of Helena with access only to electricity or propane. They have a propane furnace that was installed four years ago. It would cost about \$4300 to put the furnace above ground. If this is done professionally, there would be no problem. Every kind of heating system can set houses on fire. He doesn't want to change his heating system to above ground.

Pete Hanchett, Ransom Manufacturing, makes a living mixing air and gasses. One of the issues to consider here is if appliances are moved above grade and you have a leak, you are still going to fill the building with gas, and then you have a major problem. The whole argument is not to have a leak. The limits of flammability of natural gas are between 5 and 15. The limits of flammability of propane are 2.4 to 9.5. There is a narrower gap on propane flammability. Propane has more BTUs but the limits are much narrower and ignition is harder to achieve.

Ed Butcher, Winifred, MT, has used a propane furnace in the basement of his home for 20 years. His father has had one since 1947. They have had no problems. The propane people have been very good about doing safety checks. He is concerned it would cost thousands of dollars to add on to the building to change their propane furnace once these units wear out. This is an unnecessary expense and he questions the seriousness of this if everything is properly checked. It would be an unfortunate financial liability when homeowners would have to add on to their property.

Charles Funk, Safety Manager for Superbo Propane for the Intermountain area, has been in business for 28 years and has been instructing safety classes for 12 years. The survey handed out was done in 1984 and if the survey had been done this year, it would show even better percentages supporting the propane industry. EXHIBIT 3.

Dick Start, General Manager for Sales and Training Nationwide, Northern Energy, (MLPGA) opposes HB 655. They believe the State of Montana should allow the Montana LP-Gas Association and members thereof to install below-grade installations of propane gas appliances. EXHIBIT 4.

John N. Jepson, Townsend, MT, has had a forced air propane furnace and a hot water boiler in his home since 1956. He has

used propane for 35 years. Safety is the question here and he said propane is as safe as anything else.

Opponents:

Joanne Chance, Montana Technical Council which represents the professional engineers, architects, and surveyors in the State of Montana, spoke in opposition to HB 655 because it circumvents the process that the State and the Legislature has established and maintained and supported in the past. Any of these technical decisions are first brought to the attention of the DOC, Building Codes Division and the Building Codes Advisory Council which is an appointed council of technical experts to review these types of decisions. They also make their decisions consistent with national standards. They consider fire codes and different changes, developments and technical information in this regard. They are there to make these technical decisions and they have more time to do that. It would be dangerous to start circumventing this process, not only because of this particular situation, because there may be something we are missing in terms of the arguments of the proponents, but also it opens up the door to everyone that wants to have a say in designing a building, electrical codes, plumbing codes, road standard, etc. It is best that these decisions be left to the process that has been established whereby people can bring their technical arguments in front of the Building Codes Advisory Council at the DOC. They are even discussed at a national level to make sure that Montana is consistent with sound technical standards.

Charles McDonald owns High Country Plumbing. He is opposed to this bill because the wrong people are addressing the problem. As plumbers they have to abide by the Uniform Plumbing Code and the Mechanical Codes and anytime these laws are changed, they are reviewed by the experts at the meetings held in Los Angeles, CA. They dedicate their time to see that the laws and changes are appropriate. You know that change is in the code before it is ever published. That means legislation could change any other portion of these codes should they so decide. Then these codes would mean nothing without having gone through the process that governs them before we ever receive them. The things they have to abide by are reviewed by the experts in the western states.

REP. BACHINI asked Mr. Kembel if you are already allowed under administrative ruling to make these changes in codes? Mr. Kembel said that is correct, we can make changes to the code. REP. BACHINI asked if his office had studied this below grade problem at their regional meetings. Mr. Kembel said the National level of the International Conference of Building Officials has considered the change. At the national level we have those that feel there is no hazard; and we have those that are waiting for more evidence and studies to be completed. No one has come right out and said it is hazardous. No one has said it is not hazardous.

REP. BACHINI asked if this group had come before you for this

change? What was the decision by the Codes Division on this? Mr. Kembel said they have come in on numerous occasions. They felt in light of the confusion at the national level, it was best for them to respect what is in print now. EXHIBIT 5.

REP. ELLIS thought since there are literally thousands of these types of installations, if this regulation is not changed, there would be three options when one of those appliances wears out: A person can build on and put the appliance above ground, go to a different type of fuel, or leave it where it is and install it himself. Which do you think is the safest thing to do, legitimize the operation or allow those three choices? Charles Funk said the safest thing would be to take those choices and go with what the code is.

Mr. Kembel advised the State cannot cover single family through four-plexes in the county areas. They have a National Code that forbids the use of a below grade appliance. They are not able to enforce that anywhere in the county areas at this point in time. Cities can enforce it if they do adopt it. He was not sure what percentage of the LPG installations are within city jurisdictions. He would guess the majority are in county jurisdictions. Although they have a requirement forbidding it, it is not enforced.

REP. LARSON asked if there is a propane person on the Building and Codes Advisory Council? Joanne Chance deferred to Mr. Kembel who was not sure of the exact makeup of that Council, whether there is a specialist in that area, but they are all technical experts in engineering and architecture. There is an engineer, an architect, a builder, a modular manufacturer, a mobile home manufacturer, a member of the general public, member of the Department of Health, the Fire Marshall's office, plumbing and electrical boards. There is no one from the gas industry.

REP. LARSON asked if this board discussed this problem as it pertains to Montana? Joanne Chance said Yes, Mr. Kembel testified that they had. Mr. Kembel said it had been addressed at the Department level in the last couple of years, but not at the Council level.

REP. BENEDICT said testimony indicates there is a difference between natural gas and propane and that propane is heavier and tends to settle and pool. How do you get rid of it if it is below grade? Mr. Funk stated it is not going to pool if there is not a leak. People are taught to make sure there are no leaks. Then there is no pooling. If you do have a leak, then you should call your propane supplier and we would advise them what to do. Shut off the tank, don't use electrical switches; they hustle out and take care of the situation. They open the windows. Any breeze dissipates propane vapor very quickly and it gets to a non-burn stage very rapidly. A fan would also do it. It is handled the same as you would handle natural gas.

REP. BACHINI asked for a brief comment on the bill as to whether it is safe or not. Joanne Chance said they tend to agree with the Public Safety Division with the DOC. At this time they have not made any ventures into this field because they have relied on the national standards and adopted the Uniform Fire Code which overlaps and meshes quite well with the Uniform Building Code and Mechanical Code. The national standards are somewhat inconsistent. As it was pointed out, the NFPA simply does not address this issue, it doesn't specifically say that it is o.k. or that it's safe. It just doesn't prohibit it like the Mechanical Code does. It is her understanding that the Consumer Product Safety Commission is still studying the issue and has not come out with any recommendations. They support the amendments because they do not believe the Fire Marshall should be promulgating the rules. The present code recognizes the expertise of the DOC. They believe it would be preferable to leave that function there.

REP. ELLIS asked if the regulations covering natural gas are the same as those for propane. Mr. Kembel said they are not. Natural gas has a tendency to rise and dissipate.

Closing by Sponsor:

REP. GRADY explained the EXHIBIT 5 map shows the states that have restricted use as does Montana. The states that are regulated are the states with the heaviest use of propane. The percentage of home use of propane is entered here as EXHIBIT 6. There have been only two accidents in 30 years. Montana has very good preventive maintenance. He urged the amendments be put on the bill.

HEARING ON HOUSE BILL 863

REP. DAVE BROWN, HD 72, Butte Silver Bow, is in strong support of HB 863. This bill is a win win situation. It takes a problem with the current law in programs, makes some changes to the program in the process, and deals with the real economic development needs in Montana. HB 863 is about economic development capital. It takes the remaining tax credits allocated to the Board of Investments for capital companies and targets them into a single statewide small business investment capital company that is called a SBICC. This SBICC will be able to leverage approximately \$2 million in tax credits and \$36 million in small business loans. An 18 to 1 leverage. The SBICC stretches the state's economic development dollars about as far as they possibly can be stretched.

A brief background. The current Capital Company Act has come under some severe criticism for alleged self-dealing which did not seem to reflect legislative intent, and in fact, it did not reflect legislative intent. The State has decided to no longer allocate tax credits under the previous formula. This bill represents an acceptable alternative to that use of those funds.

HOUSE BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

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There are several amendments the Committee will have in perfect form before the day is over.

He reiterated HB 863 is perhaps the most far reaching bill this session in terms of badly needed economic development capital for Montana's future growth. It is well thought out, it is broadly supported, and in the process of providing some significant economic development capital it eliminates the self-dealing abuses of the past. There are a number of development corporations. The Board of Investments and the Department of Commerce are here to answer questions, should you need them and he would try to do that as well. He urged the Committee's support.

Proponents:

Evan Barrett, Executive Director of the Butte Local Development Corporation, reminded when we spoke about two weeks ago about Economic Development, one of the things talked about was the need for economic development capital. He mentioned you would have the opportunity to vote on some things that would make a difference in that field. This is a key bill in that regard. HB 863 was worked out in cooperation with the Board of Investments, the DOC, local economic development organizations across the state and with the financial community. Specifics of the bill call for the creation of a single statewide small business capital investment company. It empowers the Board of Investments, which has currently been doing this, to select the capital company and designate it.

It allocates all remaining tax credits to this small business capital investment company. There is approximately \$2 million available now. It requires the SBICC to use those tax credits to raise \$3 million in private capital. It also requires the SBICC at that time to seek designation by the United States Small Business Administration as a federal SBIC. That enables the leveraging of the capital so that the \$3 million can garner \$9 million in federal monies, which makes it a \$12 million capital company. It requires targeted investments that are specified in the bill in small businesses across Montana. It opens the door for investments in 56 counties and in every locale on a debt basis. Loans to start up businesses are basically loans that would not be made by banks.

In achieving these things, it makes several modifications of existing laws. It takes the existing capital \$300,000 investment and raises it to \$500,000 for this company only. Likewise it increases the commensurate level of tax credit from \$150,000 to \$250,000. Not that there will be people lined up to put that much in, but that's the reason for the modifications. It will apply a 67% tax credit instead of the previous 50% as far as this company alone is concerned. It maintains key elements in the existing law as well. Its capital base must raise the tax credits which must be invested in Montana basic sector businesses according to a

strict timetable of the law. By having the company become a federal SBIC precludes the self-dealing abuses. Federal regulations do not allow any investment in any company that has the principals of the capital company involved in it. Following the federal guidelines eliminates the abuses. EXHIBIT ?? (Chart)

Ron Klaphake, Chief Executive Officer of the Missoula Economic Development Corporation, is in support of this particular bill. He spent the last three years trying on a statewide basis to put a venture capital company together working with US West and some of the research that was done two years ago. It is very difficult to raise the kind of dollars that is needed in a large enough sum. They have looked at the SBA program, the small business investment council. Talked about what was going on in Wyoming and reached the point where there is only one way they are going to get a large enough pool of capital to do the kind of investment that needed and that is to use the federal government's matching program and the SBIC is the only program they know of that makes that happen. He encouraged support of this so that they can get an SBIC in the State of Montana using the capital tax credits and thereby leveraging the SBA monies.

REP. LARSON said there are several new members on the Committee including himself, please explain the history of the Capital Company Act. Evan Barrett explained basically the bill was passed several years back creating capital tax credits to create capital companies. They got a 50% tax credit which created a 2 to 1 leverage of the money that was targeted into equity investments. A number of capital companies were formed around the state. About 90% of them did not meet the purpose of the Legislature. The Legislature meant to aggregate capital that was not previously delegated.

Dave Lewis, Board of Investments, explained they started out with \$2 million worth of tax credits. It was a 25% tax credit for each dollar invested in the Montana capital companies. They found they were not raising very much capital. In 1985 they raised it to a 50% tax credit, then subsequently increased it to \$4 million. It was increased again in 1987 to \$6 million and then to \$8 million in the 1989 session. They have allocated \$6 million of those tax credits. The legislative fiscal analyst did an evaluation of the Capital Companies for the legislative finance committee and pointed out some problems with it. They certainly did not have any differences with the report they submitted. They had some concerns about some shortcomings in the Act since they have been involved in administering it. Again, they have worked with Mr. Barrett on this particular piece of legislation, and Andy Poole is here from the DOC as well to indicate the fact that we think this does make some progress in cleaning the problems up. It would make some contributions to the Montana economy. Some of the capital companies have not done a very good job in meeting the legislative intent. They have certainly complied with the letter of the law, but there have been some questions about the effectiveness of the investments that were made by some of the

companies to date.

Opponents: None

Questions from the Committee:

REP. RICE reminded they had a conversation about a week or so ago about the hesitancy of some capital companies to consider this as capital at risk. One of the reasons it was decided to give a tax credit was to make more risky capital available. Please address this in regard to this bill. Is this going to make more capital available for less secure investments than the ones we want to have happen? Mr. Poole thought it would. The reason is HB 901 has been introduced by REP. BARDANOUVE. That bill is scheduled for hearing in this Committee on March 8. That hearing date needs to be changed because it is too late. He will check with the Chief Clerk's office about HB 901. HB 863 will hinge on the support and passage of HB 901. It does raise \$9 million dollars in federal funds to match \$3 million to be raised in the State. We have created the first large capital fund and it is very important to Montana. Under regulations that go along with federal money and the money invested in this some of the things that have been seen before and are concerned about wouldn't happen again.

REP. RICE said if she put thousands of dollars into the standard capital company, basically she gets a tax credit for 67% of the investment. That tax credit can be used over a period of 15 years, and goes back three years also.

REP. BENEDICT asked why there is a retroactive applicability date in this. Mr. Poole explained the reason it is in there is because the 1989 dollars run out June 30, 1991, and after that there are no more tax credits available. When the LFA came out with their report in order to function they needed a retroactive date not to carry over any additional tax credits until the account was looked at. There were credits some available to be allocated.

REP. BROWN said HB 901 was on the list the Senate approved that doesn't need to be heard before transmittal. Mr. Poole said that is essentially the bill that is needed to make this work.

Closing by Sponsor:

REP. BROWN promised amendments will be in the Committee by the end of the day. This is the most farreaching economic measure before this session to get new or existing companies going. With all of the inability to get capital, this can help.

HEARING ON HOUSE BILL 776

REP. ERNEST BERGSAGEL, HD 17, explained there is no clear procedure under current law to handle property abandoned in storage units without paying the rent. It is an Act providing

that the contents of a storage unit may be sold when the owner of the contents defaults in paying rental fees on the storage unit. This bill provides a specific procedure in dealing with this problem. The specifics of the bill say if the owner of the stored property is in default of his rental payment, the owner of the rental unit may sell the contents at public auction. Before he does that however, he must notify the renter by certified mail that the renter has 30 days to claim the property and pay past due rental fees. Also, before selling the property, notice of the sale must be published once a week for two weeks in the local newspaper stating the specifics of the sale. Finally, all monies received from the sale first go to defray the cost of the sale, then to the unpaid rent. Anything left over must be paid to the original owner of the property.

Proponents: None.

Opponents: None.

Questions from the Committee:

REP. KILPATRICK asked if he was correct in assuming that if someone has gone 30 days over and not paid his rent on the storage unit, he would have another 30 days, so actually we're talking 60 days. Is this right? REP. BERGSAGEL answered that is correct.

REP. BENEDICT asked if other state do something like this. REP. BERGSAGEL said this is not modelled after any other bill and he did not know about any other states.

REP. CROMLEY asked if there is a problem with someone who just stores something. REP. BERGSAGEL said this is designed for people who own storage units and rent out space.

REP. TUNBY asked the procedure if the renter is only two days late in payment of the rent. REP. BERGSAGEL said only after 30 days delinquency could there be a notice and sale. There would be 30 days plus two weeks because it has to be advertised for two weeks.

Closing by Sponsor:

REP. BERGSAGEL closed.

EXECUTIVE ACTION ON HOUSE BILL 776

Motion/Vote: REP. KILPATRICK moved HB 776 DO PASS. Motion carried with REPS. STELLA JEAN HANSEN, BACHINI, SONNY HANSON voting No. REP. WALLIN was absent.

EXECUTIVE ACTION ON HOUSE BILL 655

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Motion/Vote: REP. PAVLOVICH moved HB 655 DO PASS. He also moved adoption of the amendments. EXHIBIT 6B The amendments were adopted 17-1 with REP. HANSON voting NO.

Discussion:

REP. LARSON appreciates the intent of the bill, but has some reservations about it. He had a propane explosion in his business that cost over \$100,000. It was not his fault, it was the fault of the propane company. They come in here and they tell us they are going to make proper installations and proper inspections of the facilities and equipment on a regular basis to ensure there are no leaks, but the fact is they don't do that. He uses propane exclusively in his rural business. He has it in his residence, in his car wash and his bar restaurant. The level of service varies dramatically. We need to look carefully at the bill and see if we can install some safeguards. Proper installation and a below grade situation should have an alarm system and some sort of a safeguard. There is a danger there. This needs to be addressed.

REP. SCOTT thought this bill should be amended to include new equipment on new installation. That would cover a lot of mistakes.

REP. ELLIS - There is one thing not addressed in this bill and that is a lot of above ground installations are plumbed underneath in the floor joists. Any leak that occurs can occur at any joint. Sometimes there are joints in that overhead space underneath the floor where there could be a danger of pooling. It could happen with an above ground installation also. He agreed with REP. LARSON that there can be a wide variation in the kinds of service. They get excellent service, but that doesn't mean it is that way all over. It would be nice to have some kind of device in the basement or somewhere that would warn you if there was any kind of gas buildup down there.

REP. CROMLEY said there are a number of regulatory agencies out there including the State and the Consumer Safety Council who did not take a position on this. It is difficult to hear ten minutes of testimony on it and decide that we should allow below grade installation of LPG appliances. There are a lot of dangers. There are a lot of legal problems with different companies that he has been involved in.

REP. RICE said all of the old installations are grandfathered in. The only time that you need to to put above grade installation in is when (a) you are replacing an older furnace or (b) it is a new construction. The older systems which could be characterized as the most dangerous are already in the basement and the code doesn't affect those. We should take some points from a person who deals with natural gas on a daily basis. They are familiar with this section of the code. Ordinarily she would completely agree with Ms. Chance, the lobbyist for the Technical Council in terms of saying this really ought to be made through the

Technical Council process. Again, because she is familiar with and have studied this particular section, there is really a lot of confusion at the federal level where the codes are made. From all the background testimony there is no clear reason why this was not in the codes. It is very controversial. Her company has 500,000 natural gas customers. Because of her familiarity with this, she thinks it needs to be handled through legislation. She is in favor of this bill.

REP. BACHINI has a problem with the bill. First of all, as we heard from the Department of Commerce, they can do this administratively, there is no need to come in here with legislation. It can be handled without law. He opposes this bill because he doesn't think it is needed and the Department can handle it. At the national level they cannot agree or disagree about whether or not they should be below grade, so the Fire Marshalls are not taking any position on the national level and that is why the State is not taking any position.

REP. McCULLOCH is not a rural person. He grew up in a big city where the company lit the pilot light. There were few incidents. He sees no reason why this bill shouldn't pass.

REP. TUNBY opposes HB 655. The safety issue needs to be addressed. Three people in his neighborhood were killed in a propane explosion. His neighbor has a new furnace.

REP. ELLIS disagreed with REP. TUNBY. People are going to do things that are unsafe. There are over 10,000 of these installations over the State and these people will be facing putting in new furnaces.

REP. KNOX thought the propane safety record speaks for itself.

REP. PAVLOVICH said the Fire Marshal was not opposed.

REP. LARSON said they are not supposed to supply gas to a substandard hookup. If they are not supplied, a customer is lost and someone else will pick him up. Those people are being put in the position of requiring upgrading of installations.

Motion/Vote: Motion HB 655 DO PASS AS AMENDED passed with REPS. CROMLEY, DOWELL, HANSON, TUNBY, BACHINI VOTING NO.

HEARING ON HOUSE BILL 816

Presentation and Opening Statement by Sponsor:

REP. DAN HARRINGTON, HD 68, Butte, said HB 816 is very simple. It is an Act subjecting recreational vehicles, including motor homes, to the provisions of the automobile lemon law; and amends Sections 61-1-132 and 61-4-501, MCA. It deals simply with putting RV's under the lemon law in the state of Montana. In 1985 the

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state lemon law was passed. The Senate committee struck RV vehicles from the bill. The DOC Consumer Affairs Office has had problems with RV vehicles because they are not at this time under the lemon law. This bill would correct that. The stoves and none of the utilities are covered in this. This bill covers the basic vehicle.

Proponents: None.

Opponents: None.

Discussion:

REP. BENEDICT asked what the Lemon Law is. REP. HARRINGTON explained it basically sets up standards for automobiles, light trucks which have had some serious defects. After four times a vehicle has been brought back to the dealer and still is not operating as it should, it goes back to the manufacturer and is properly fixed or replaced. Most of these companies have arbitrage bonds for \$40,000. After bringing a car back four times for the same problem, they a person has a right to go to arbitrage or the dealers through the manufacturer. Light trucks have be replaced or repaired satisfactorily. REP. BENEDICT asked how long is this guarantee good for. REP. HARRINGTON said after a certain period of time they are not responsible for this.

REP. BACHINI asked if this is to the manufacturer. REP. HARRINGTON explained this goes through the dealer to the manufacturer if you get a lemon. REP. BACHINI said it is the dealer we are addressing, not the manufacturer. People buy these very expensive motor homes, and they are having all kind of big problems with them. REP. HARRINGTON said if the dealer does take back one of these lemons, he resells it without telling them about it. He gives twice the cost back to the owner. He turned around and sold that car. The person got twice the amount of money he paid for it.

REP. WALLIN said you could have a little different problem. Whose is going to make reimbursement. Is it going to be Ford General Motors who made the chassis or the people who made the body. You will have a difficult time assessing who is going to buy out the cost of the chassis? REP. HARRINGTON said these vehicles cost \$30-\$50,000. The basis of this is if the chassis is causing the problem, they would be responsible. They both go together to build a vehicle for sale and they should both be responsible to see that it is not a lemon. REP. WALLIN said those taken back by the factory are always tagged. They have to be sold but the people are notified at the auction that it is one of those that was taken back because it had trouble. He can see a tremendous lot of problems.

REP. BACHINI could see a little problem here. They are taking them back to the dealer and he is saying he isn't responsible. He suggested putting it on the manufacturer. REP. HARRINGTON said he

bout one of these five-year guarantees on a car. In the meantime that dealer no longer carried that brand of car and he said he wouldn't take care of that. You buy an extended warranty and so they are no longer responsible. He wouldn't want to take the dealer completely off the hook. Make sure the person who sells the car is liable.

REP. DOWELL said in looking over the law there were three exclusions, one was for motor homes, another for trucks 10,000 GVW or greater and a third for motorcycles. Has anything been done on the other two areas except for motor homes? REP. HARRINGTON said RV vehicles are the only ones who have contacted him.

REP. ELLIS said the motor home puts in the most value. The manufacturer of that should be the responsible person. Are you looking for problems in the chassis or the whole unit? REP. HARRINGTON is talking about the basic vehicle itself.

REP. STELLA JEAN HANSEN thought it is up to the manufacturer of that RV vehicle to replace it. REP. HARRINGTON said the manufacturer should be liable, but the person who sold that vehicle should be liable. He should have to work with the manufacturer. The dealer should work with the buyer back to the manufacturer.

Closing by Sponsor:

REP. HARRINGTON closed saying the bill could be amended to make it better if so desired.

HEARING ON HOUSE BILL 779

REP. BRENT CROMLEY, explained HB 779 is an Act revising the Small Tract Financing Act of Montana; providing a limitation on the time that nonjudicial foreclosures may be delayed by the intervention of stays; and amending Section 71-1-315, MCA. In 1963 the Montana Legislature passed a Small Tract Financing Act that basically gave an alternative to financing homes. It deals with smaller tracts of land, originally 15 acres or less; it is now 30 acres or less. It is an alternative means of financing the mortgage. The original way of financing was the mortgage and if there was a default on the mortgage, the lender would go to court, bring a suit to collect the money, take the house back and collect a deficiency judgment.

The Small Tract Financing act has a different means of enforcing a foreclosure. There is a 120 day period in which notice is given. Notice is given in three ways: by certified mail return receipt signed by the lender and all the other parties interested, posting in various places in the county and on the residence, and by publishing in the newspaper. All of this process has to give the owner of the home at least a 120 day notice. The advantage to the lender of going to the Small Tract

Financing Act and using a trust indenture is that the period of foreclosure is shortened. There is no period of redemption. In a mortgage, there is a one year right of redemption. In a trust indenture, there is no right of redemption. Those are the advantages to the bank or the lender. The advantages to the purchaser is that there is no deficiency judgement. If the homeowner is not able to pay and there is foreclosure, the homeowner will never have to pay the deficiency judgement. They will never owe more than what is owed on the home.

If during this 120 day period, the homeowner should file for bankruptcy there is immediately an automatic stay by the bankruptcy court which just says everything involved in judicial proceedings, whatever it is, are stayed. Normally what happens is during that period there will immediately be a request of the bankruptcy court to remove the home from the bankruptcy and take the automatic state provisions out of that and go ahead with the sale at the end of the 120 day period. Many times it is not possible to get that automatic stay lifted in time. So if it goes beyond the original sale date, the lender has to start over again. This has an obvious disadvantage to the lender because they are going to start over and that will extend the period. It also has disadvantages to the home owner in the event they do redeem the home because the charges for the notice are doubled. Those charges include certified postage fees, publishing fees, attorney's fees that are built into the statute, and those can be doubled if that stay cannot be lifted within the 120 day period. It has been an uncertainty exactly what is supposed to happen during that 120 day period anyway in the event of a bankruptcy. This statute on Page 3 of HB 779 adds new language to the existing statutes. Previously at the end of the 120 day period the person making this sale, which may be a title company, it may be a lawyer, a bank, has a public sale, usually at the courthouse or somebody's place of business. They presently can, by public proclamation extend the sale for up to 15 days which is usually not adequate if they are talking about a bankruptcy situation. Either the stay has been lifted or it has not been.

HB 779 is designed to allow a greater period of time for extension of the original time period. It provides that at the original time of sale, the person making the sale by public proclamation can extend the sale for up to 30 days. It allows for that to be done four times, for a total of 120 days. The purpose again is to try to have the automatic stay from the particular home or property lifted so it can be sold. If it cannot be done within the 240 day period, that is all the further the statute goes. They would just have to start over after the automatic stay is lifted. This is an attempt to deal with that subject. Another advantage is up to the day of sale, the homeowner can bring the loan current just by paying back the past due payments and the cost of sale. If they have had to go through the sale two or three times those costs again could be substantial. This bill would make it easier to redeem the sale, if that is a possibility.

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Proponents:

Gene Phillips, Kalispell, appeared on behalf of the Montana Land Title Association which is an association of all the land title associations in the State. They strongly support this legislation. It is beneficial for both the lender and the borrower. It will reduce the amount of costs incurred by the borrower in the event the sale had to be noticed a second time. It also facilitates and clears up the ambiguities that are presently existing in statute on whether or not and for how long you can postpone a sale by simply an announcement of a time and place of sale. He presented to the Committee copies of letter faxed to him this morning from two different law firms very much involved in doing these foreclosure actions who support passage of HB 779. EXHIBITS 7 and 8.

Jock Anderson, Montana League of Savings Institutions, supports this bill. The Land Title companies should be commended for contacting the attorneys in the State, members of the legal profession that work in this area. There has been input from all over and there have been many changes in this bill as it evolved. It addresses a problem that has existed for some time. A solution to the problem has been worked on from several different areas, but the title companies have come forward with it and they support it. One point is worth noting and that is this bill has put non-judicial foreclosures in the same status as all other types of actions, judicial or otherwise. It allows the proceeding to pick up where it left off when a bankruptcy is concluded.

Bill Leary, representing the Montana Banker's Association, appeared in support of HB 779. It is a well written bill, easy to understand, and they hoped this Committee would vote it out with an unanimous Do Pass recommendation.

Bob Pyfer, Vice President of the Montana Credit Unions League, feels HB 779 is beneficial to both lenders and borrowers and urged the Committee's support.

Opponents: None.

Questions from the Committee: None.

Closing by the Sponsor:

REP. CROMLEY closed.

HEARING ON HOUSE JOINT RESOLUTION 27

REP. SHEILA RICE took the Chair.

Presentation and Opening Statement by Sponsor:

REP. BOB BACHINI, HD , Havre, explained this Resolution was

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discussed and requested by the House Business and Economic Development Committee. It is a Joint Resolution of the Senate and the House of Representatives of the State of Montana requesting that no unnecessary fee, charge, or restriction be imposed that would impede passage across the International boundary between the United States and Canada. EXHIBIT 9.

There were no Proponents, no Opponents, and no Questions from the Committee.

EXECUTIVE ACTION ON HJR 27

Motion/Vote: REP. STELLA JEAN HANSEN moved HJR 27 DO PASS.
Motion was unanimously adopted. REP SONNY HANSON was absent.

REP. BOB BACHINI resumed Chairmanship.

EXECUTIVE ACTION ON HOUSE BILL 779

Motion: REP. CROMLEY moved HB 779 DO PASS.

Discussion:

REP. SCOTT spoke in opposition to HB 779. It would be a burden on the person facing foreclosure on his home or business. A lender could sell the property and obtain a deficiency judgment. Their wages could be garnisheed for many years. A debtor could never recover under this bill.

REP. CROMLEY explained under this Small Tract Financing Act there can never be a deficiency judgment if his home is financed through this Trust Indenture. This doesn't give the lender any control over the bankruptcy court. This is something separate, they have to apply to the court to get that stay lifted. The court decides whether the stay should be lifted. The stay won't be lifted in 120 days. This will address the situation when the principle asset is the home. If the home can be taken out of the bankruptcy, that is up to the bankruptcy judge. As far as a deficiency judgment, there could never be a deficiency judgment on a Small Tract Financed mortgage.

REP. SCOTT asked who takes the loss of the home is sold at a loss. REP. CROMLEY stated the bank or credit union takes the loss. If the home sold for \$80,000 and was appraised at \$60,000, the lender will bid in the amount of the loan. If they are bidding in the property, in the law they cannot get a deficiency. Under the Small Tract Financing Act it was always assumed that they could not get a deficiency judgment on a home.

REP. STELLA JEAN HANSEN asked if before 240 days in a bankruptcy court the home cannot be sold. REP. CROMLEY said normally it takes 120 days plus notice time. If in that 120-day period the borrower files for bankruptcy, the home cannot be taken away. The borrower can still live in the home and they may be able to bring

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the loan current on the home. They would just have to pay the back payments and the fees incurred. A couple of notices staying the sale can run \$400 to \$600.

REP. STELLA JEAN HANSEN asked if there are any homes financed this way. REP. CROMLEY stated most of them are.

REP. WALLIN thought most homes are financed through a federal mortgage where they could sue for a deficiency judgment. Most of them are Trust Indentures now. Is there a dollar amount restriction? REP. CROMLEY a federal mortgage loan usually means on personal property. A real estate mortgage, especially in commercial where a bank is concerned about repayment, they may want to make sure they are protected and want to go after a deficiency judgment in which case this would not apply. There are a lot of advantages to the lender and the borrower, and this is designed to give a little more time to that Notice of Sale. A person can go into bankruptcy and get the stay lifted. Bankruptcy courts are slow and it may go on past the 120 day period. They are just completing the sale.

Vote: Motion HB 779 DO PASS was adopted with REP SCOTT voting NO. REP. SONNY HANSON was absent.

EXECUTIVE ACTION ON HB 816

Motion/Vote: REP. PAVLOVICH moved HB 816 DO PASS. He also moved REP. LARSON amendments in concept be adopted. Amendments were adopted. REP. PAVLOVICH moved a motion HB 816 DO PASS AS AMENDED which passed unanimously with REP. SONNY HANSON absent.

ADJOURNMENT

Adjournment: 11:30 a.m.



REP. BOB BACHINI, CHAIRMAN



JO LAHTI, SECRETARY

BB/jl

1:00
2/19/91
mc

HOUSE STANDING COMMITTEE REPORT

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Page 1 of 1

Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 776 (first reading copy -- white) do pass .

Signed: _____

Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

February 19, 1991

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Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 655 (first reading copy -- white) do pass as amended.

Signed: Bob Bachini
Bob Bachini, Chairman

And, that such amendments read:

1. Title, lines 4 and 5.
Following: "ACT" on line 4
Strike: remainder of line 4 through "PERMITTING" on line 5
Insert: "TO PERMIT"
2. Title, lines 7 through 9.
Following: "APPLIANCES;" on line 7
Strike: remainder of line 7 through "MARSHAL;" on line 9
3. Title, line 9.
Following: "AMENDING"
Strike: remainder of line 9
Insert: "SECTION"
4. Page 1, lines 13 through 23.
Strike: lines 13 through 23 in their entirety
Insert: "Because many areas of Montana lack access to natural gas, it is necessary and desirable that energy alternatives be available. The legislature declares that below-grade liquefied petroleum gas appliances are not inherently hazardous if properly installed and further determines that it is appropriate to allow below-grade liquefied petroleum gas appliances to be installed in single-family dwellings notwithstanding the prohibition on the installation of those appliances by the Uniform Mechanical Code and the Uniform Plumbing Code. It is the intent of the legislature that the department of commerce adopt rules governing installation requirements for below-grade liquefied petroleum gas-burning appliances in single-family dwellings."
5. Page 2, line 1 through page 3, line 12.
Strike: section 1 in its entirety
Renumber: subsequent section

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6. Page 4, lines 3 through 5.

Following: "shall" on line 3

Strike: remainder of line 3 through "50-3-103" on line 5

Insert: "adopt rules that permit the installation of below-grade
liquefied petroleum gas-burning appliances in single-family
dwellings"

HOUSE STANDING COMMITTEE REPORT

February 19, 1991

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Mr. Speaker: We, the committee on Business and Economic Development report that House Joint Resolution 27 (first reading copy -- white) do pass.

Signed: _____

Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 779 (first reading copy -- white) do pass .

Signed: Bob Bachini
Bob Bachini, Chairman

HOUSE STANDING COMMITTEE REPORT

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Mr. Speaker: We, the committee on Business and Economic Development report that House Bill 816 (first reading copy -- white) do pass as amended.

Signed: _____

Bob Bachini, Chairman

And, that such amendments read:

1. Page 2, line 10.

Following: line 9

Insert: "(4) "Manufacturer" has the meaning applied to that word in 61-4-201."

Renumber: subsequent subsections

Amendments to House Bill No. 477
First Reading Copy

A Exhibit 1
2-19-91
HB 477

Requested by Subcommittee
For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 19, 1991

1. Title, line 8.
Following: "COUNCIL;"
Insert: "CREATING A NONVOTING LEGISLATIVE CONSULTING PANEL;"
2. Title, line 9.
Following: "FUND;"
Insert: "PROVIDING AN APPROPRIATION FROM THE GENERAL FUND;"
3. Title, line 10.
Strike: "AN"
Strike: "DATE"
Insert: "DATES"
4. Page 2, line 6.
Strike: second "and"
5. Page 2, line 8.
Following: "clients"
Insert: "; and
(3) includes in the membership of its board of directors
representation of minorities, women, and low-income persons"
6. Page 8, line 10.
Strike: "certified or"
7. Page 8, lines 11 and 13.
Strike: "certified"
Insert: "funded"
8. Page 8, line 19.
Following: "11]"
Insert: "and money received in repayment of the principal of
development loans"
9. Page 9, lines 3 and 4.
Following: "income" on line 3
Strike: remainder of line 3 through ", " on line 4
10. Page 12, line 1.
Following: "renewable"
Strike: "or"
Insert: ", be"
11. Page 12, line 23.
Following: "of"

Insert: "development"

12. Page 13, line 24.

Following: "organization"

Insert: "-- nonvoting legislative consulting panel"

Strike: "There"

Insert: "Subject to the provisions of subsection (5), there"

13. Page 14, lines 7, 9, and 10.

Strike: "four"

Insert: "three"

14. Page 14, line 12.

Following: "."

Insert: "At least two members must have expertise in administering revolving loan funds."

15. Page 15, line 3.

Following: line 2

Insert: "(5)(a) There is a legislative consulting panel of four members. The panel:

(i) shall meet with the council, participate in deliberations of the council, and advise the council in performance of its functions under subsection (7) but may not vote on any motion before the council; and

(ii) consists of:

(A) two representatives, including one from each party, appointed by the speaker of the house of representatives; and

(B) two senators, including one from each party, appointed by the committee on committees.

(b) The members:

(i) must be appointed on or before the 10th day of each regular session of the legislature and shall serve until the convening of the next regular session of the legislature. If a vacancy on the panel occurs during a legislative interim, that vacancy must be filled in the same manner as the original appointment.

(ii) are entitled to compensation in the same manner as members of the council, as provided in subsection (6).

Renumber: subsequent subsections

16. Page 18, line 22.

Following: line 21

Insert: "

NEW SECTION. **Section 12. Appropriation.** There is appropriated to the microbusiness finance program administrative account created in [section 5] from the general fund \$64,600 for the fiscal year ending June 30, 1992."

Renumber: subsequent sections

17. Page 19, line 4.

Strike: "date"

Insert: "dates"

Strike: "[This act] is"

Ex. 1

2-19-91

HB 477

Insert: "(1) [Sections 1 through 9], [section 13], and [this section] are effective on passage and approval."

18. Page 19, line 5.

Following: line 4

Insert: "(2) [Sections 10 through 12] are"

PROPOSED AMENDMENTS TO HB 655

BUILDING CODES BUREAU
PUBLIC SAFETY DIVISION
DEPARTMENT OF COMMERCE

Exhibit # 1A
2-19-91
HB 655

Amend the title to read as follows:

'A BILL FOR AN ACT ENTITLED: "AN ACT DIRECTING-THE-STATE FIRE-MARSHAL-TO-ADOPT-BY-RULE-CONDITIONS PERMITTING THE INSTALLATION AND USE OF BELOW-GRADE LIQUEFIED PETROLEUM GAS APPLIANCES; DIRECTING-THE-DEPARTMENT-OF-COMMERCE-TO-CONFORM BY-RULE-THE-STATE-BUILDING-CODE-TO-THE-RULES-PROMULGATED-BY THE-STATE-FIRE-MARSHAL; AND AMENDING SECTIONS-50-3-103-AND 50-60-203, MCA."'

Delete lines 12-25, page 1; lines 1-25, page 2; lines 1-12, page 3.

Add a new "STATEMENT OF INTENT" to read as follows:

"STATEMENT OF INTENT

Many parts of Montana do not have access to natural gas and it is therefore necessary and desirable that energy alternatives be available. Below-grade liquefied petroleum gas appliances are not inherently hazardous if properly installed. The Legislature determines it is appropriate to allow the use of below grade liquefied petroleum gas appliances to be installed in single family dwellings not withstanding the prohibition on the installation of such appliances by the Uniform Mechanical Code and the Uniform Plumbing Code. It is the intent of the Legislature that rules be adopted by the Department of Commerce governing installation requirements for below grade liquefied petroleum gas appliances in single family dwellings."

Amend lines 3-5, page 4 to read as follows:

"(4) The department shall conform-the-state-building-code-to rules-promulgated-by-the-state-fire-marshal-pursuant-to-50-3-103-" adopt rules which permit the installation of below grade liquefied petroleum gas-burning appliances, in single family dwellings."

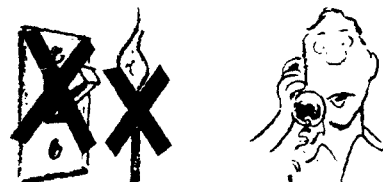
- **IF YOU SMELL GAS**

DON'T TOUCH electrical switches, light matches, or use the phone.

GET EVERYONE OUT of the building.

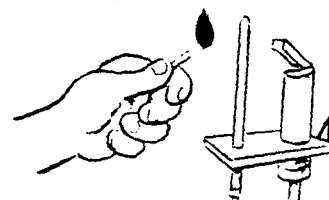
SHUT OFF the gas valve at the outside tank, meter, or service entrance.

CALL your gas supplier and/or the fire department from a neighbor's phone.



- **IF PILOT LIGHT WON'T LIGHT**

(Read appliance operating instructions before attempting to light pilot). Your pilot light is designed not to light if there is a problem. If you have trouble lighting the pilot or keeping it lit, there's normally a safety feature preventing it from working. If it won't light, shut off the gas and call your gas supplier.



- **TAMPERING IS DANGEROUS**

Do not force the gas control knob. Never use tools. Use only your hand to turn the control knob. Forcing the gas control knob may override the safety feature and allow gas to leak. This could result in a fire or explosion.

If the gas control knob becomes difficult to operate by hand, the control should be serviced by a trained gas service person.



- **GAS HAS BEEN ODORIZED**

Before lighting, sniff all around the appliance area for a gas odor. Be sure to sniff next to the floor because propane gas is heavier than air and may temporarily exist at floor level.



- **ABSORPTION**

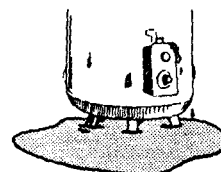
LP Gas leaking from buried gas lines can lose its odor passing through soil; however, this depends on two factors. One is the type of soil and the second is the distance the gas travels through the soil.

If a leak is suspected, contact your LP Gas Dealer.



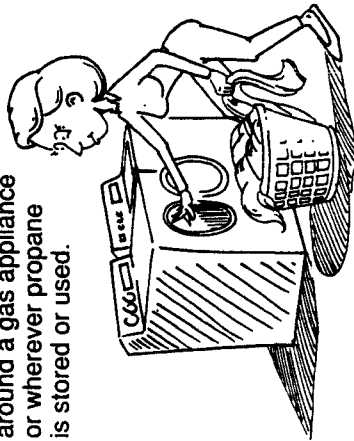
- **WATER DAMAGE**

If your gas control valve has been subjected to flooding or wetting, it must be replaced immediately by a trained gas service person.



Here's some more safety information...

- Be alert to the odor of propane gas whenever you're working around a gas appliance or wherever propane is stored or used.



- Before lighting a propane gas appliance, such as a furnace, space heater, or water heater, sniff all around the area for a gas odor. Be sure to sniff at floor level. (Propane gas is heavier than air and may temporarily settle near the floor.)

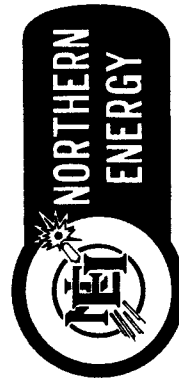
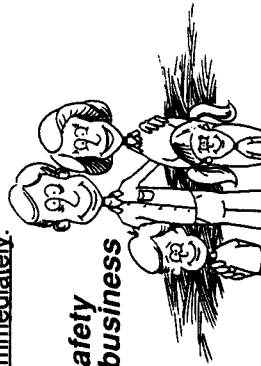


If you smell gas, don't light the appliance!

Please remember...

- The odor that's been added to your propane gas is an important safety feature.
- Be sure you and all those who share your home know what propane gas smells like.
- If your propane system has been in regular use (refilled several times), it's highly unlikely that your gas will lose its distinctive odor.
- If you suspect that your gas has lost its odor - or if your sense of smell has been weakened or otherwise impaired - call us immediately.

Your safety is our business

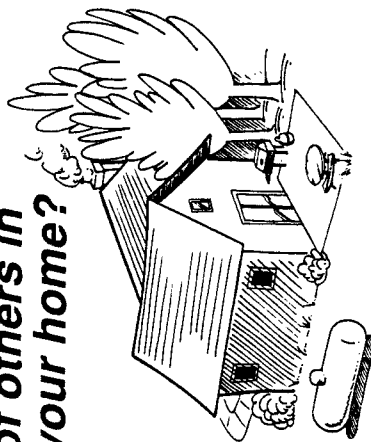


© 2/88

NPGA #3120

Exhibit # 2
2-19-91 HB 655

How's your nose... ... and the noses in of others in your home?



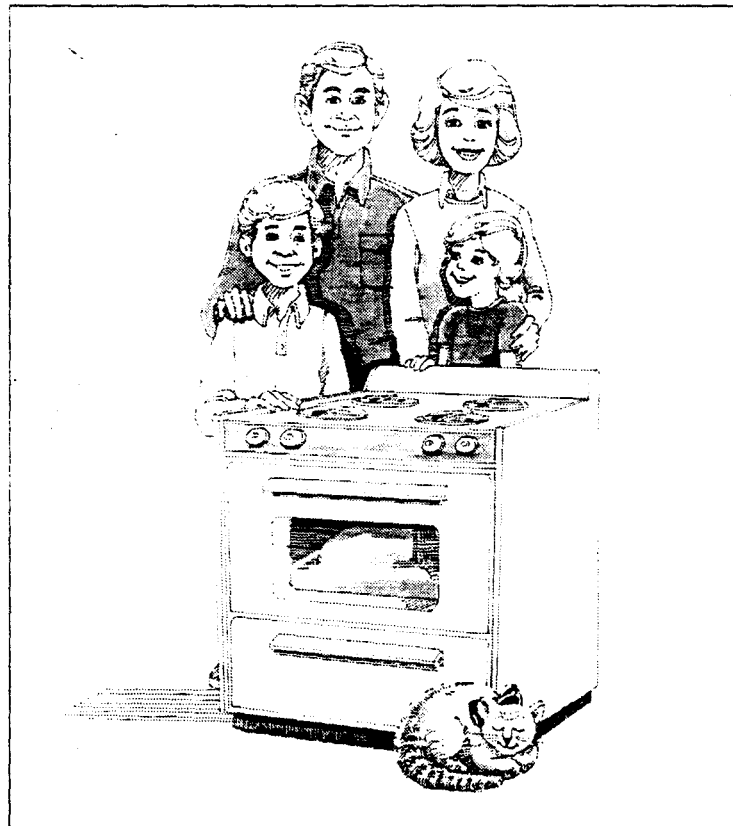
That's an important question!

Please take a minute to read this pamphlet - and find out why.

House Business & Econ.
Dev.

Exhibit # 2
2-19-91 HB 655

GOOD IDEAS FOR PROPANE SAFETY



#5605

RESIDENTIAL



GAS APPLIANCE SYSTEM CHECK

© NPGA 1985
#5610

Account Number _____

Company/Location _____

Name _____

Call _____ Date ☒ Requested _____

Address _____

Call Taker _____

Name _____

Instructions: _____

Telephone: Office _____ Home _____

Performance Check: Item	Central Heating 1	Space Heater 2	Water Heater 3	Range 4	Clothes Dryer 5	6	7
Manufacturer							
Model No.							
Serial No.							
Fuel							
BTU	000	000	000	N/A	N/A	000	000
Age							
Manual Shutoff (Installed/Existing)							
Sediment Trap (Installed/Existing)							
Control Mfr/Model No.							
Pilot(s)							
Ignition System(s) Mfr/Model No.							
Thermostat(s) Mfr/Model No.							
Pilot Safety System							
Burner(s)							
Combustion Chamber				N/A	N/A		
Filters			N/A	N/A			
Motor/Blower/Pump			N/A	N/A			
Sufficient Return Air			N/A	N/A	N/A		
Draft Diverter							
Venting							
Combustion Air							
Red Tag (Removed from Service)							

TANK/CYLINDER (Add'l Serial #'s):												
SIZE	SERIAL NUMBER	MFR.	MFR. DATE	LAST TEST DATE	LOCATION	TANK COND.	PAINT COND.	PIGTAIL COND.	FITTINGS COND.	GAUGE COND.	RELIEF VALVE COND.	FITTINGS LEAK TEST

PIPING/REGULATOR OPERATION/CONDITION												
SINGLE STAGE	PIPING		REGULATOR DATE CODE	REGULATOR CONDITION	MFR.	MODEL	REG. VENT POSITION	HOW PROTECTED	FLOW PRESSURE	LOCK UP PRESSURE		
	MATERIAL	SIZE										
TWO STAGE	1ST									IN. WC	IN. WC	
	2ND									PSIG	PSIG	

SYSTEM LEAK TEST					Comments: _____ _____ _____ _____
SINGLE STAGE	START PRESSURE	END PRESSURE	TIME HELD	SYSTEM OK	
	(INCHES W.C.)	(INCHES W.C.)			
TWO STAGE	1ST	(PSIG)	(PSIG)		
	2ND	(INCHES W.C.)	(INCHES W.C.)		

This inspection covers (propane/LP-gas) items and equipment visible and accessible to the service technician and represents the conditions existing on the date of inspection. It does not cover latent or manufacturing defects, the internal working of sealed equipment, or structural components, and cannot be construed to cover future defects or unforeseen happenings.

Reference Invoice No. _____ Date _____ (Mo. Day, Yr)

I, _____ (Please Print)

- Know how to turn off gas in case of emergency.
- Have smelled propane and can detect its odor.
- Have received the Consumer Safety information and material.
- Had gas system deficiencies and/or corrections, if any, clearly explained to me.
- Am satisfied with the service work performed.

I, _____ (Please Print)

Certify that I have completed the System Check as prescribed.

- | | |
|--|---|
| Performed Odor Test <input type="checkbox"/> Yes | Performed Pressure Test <input type="checkbox"/> Yes |
| Placed Safety Decal <input type="checkbox"/> Yes | Left Consumer Safety info and material <input type="checkbox"/> Yes |

Customer's Signature

Service Technician's Signature

Petrolane

SURVEY REGARDING LP-GAS IN BUILDINGS
OF TIGHT CONSTRUCTION AND BELOW GRADE SPACES
(FOR 1984)

Exhibit #3

2-19-91

HB 655

State	Tight Construction		Below Grade		Total Installations	
	% ¹	No. of Incidents ²	% ³	No. of Incidents ⁴	No. of Incidents ⁵	Sample Size
Alabama	-	0	1	0	0	4,700
Alaska	17	0	10	0	0	5,000
Arizona	1	0	2	0	0	2,800
Arkansas	1	0	7	0	0	9,000
California	1	0	6	0	2	12,700
Florida	-	0	-	0	3	19,600
Georgia	1	0	11	0	0	10,500
Illinois	1	0	44	0	1	9,500
Indiana	4	0	54	0	4	15,200
Louisiana	-	0	-	0	5	13,400
Massachusetts	8	0	65	0	0	13,900
Michigan	15	0	62	0	3	28,100
Mississippi	-	0	-	0	0	4,400
Missouri	2	0	60	0	1	2,400
Montana	5	1	45	1	2	4,800
Nevada	5	0	12	0	1	3,500
New Hampshire	8	0	70	0	1	7,800
New Jersey	-	0	70	0	1	3,500
New York	10	0	37	0	1	14,000
N. Carolina	-	0	11	0	0	5,700
Ohio	4	0	38	0	0	6,500
Pennsylvania	6	0	42	0	0	5,500
S. Carolina	-	0	3	0	0	4,500
Tennessee	-	0	8	0	1	3,800
Utah	5	0	28	0	3	4,100
Vermont	6	0	76	0	3	7,400
Virginia	6	0	23	0	0	4,500
Washington	1	0	8	0	1	3,600
Wisconsin	11	0	91	0	1	10,800
Wyoming	3	0	41	0	1	2,800

35

244,000

Amended #4
2-19-91
HB 655

BELOW-GRADE INSTALLATIONS OF PROPANE GAS APPLIANCES

Ladies and Gentlemen: I have been asked to present the following information which will show the reasons why we believe the State of Montana should allow our Montana LP-GAS Association (MLPGA) and members thereof to install below-grade installations of propane gas appliances.

WHY DOES THE MLPGA OPPOSE THE BAN? We believe the restriction against propane gas appliances in below-grade spaces is not justified in view of the propane industry's safety experience and in light of the fact that the Uniform Mechanical Code (UMC) continues to allow the use of natural gas appliances in these same locations.

Significantly, other national model building codes and standards--such as NFPA 54, "The National Fuel Gas Code"--apply identical requirements to the installation and use of natural gas and propane gas appliances.

BUT ISN'T PROPANE GAS "HEAVIER" THAN NATURAL GAS? It's true that propane gas vapor is heavier than air, while natural gas vapor is lighter than air. On a practical basis, however, this difference in physical properties is of no particular importance--it certainly has no effect on the operation of the respective appliances.

WHAT IS THE PROPANE INDUSTRY'S SAFETY EXPERIENCE? It's important to remember that the propane industry has a long and proud history:

- * The propane industry has been serving the residential sector since 1912--providing energy for space heating, cooking, and clothes drying.
- * Of the 86.3 million households accounted for by the U.S. Government in it's 1984 census, 7.8 million were using propane gas. Of these, 3.9 million were using propane gas as their primary heating fuel.
- * The largest residential market for propane gas lies in rural areas not commonly served by natural gas

distribution systems. Twenty percent of all rural households, or 4.2 million, use propane gas in the home, according the U.S. Department of Energy's 1985 Residential Energy Consumption survey.

Furthermore, the safe storage and use of propane gas is ensured by two national standards--NFPA 54, "The National Fuel Gas Code," and NFPA 58, "Storage and Handling of Liquefied Petroleum Gas." Published by the National Fire Protection Association (NFPA), these standards have been adopted as American National Standards and are used in both federal and state regulations.

* NFPA 54 covers the installation and use of natural gas and propane gas appliances and has been incorporated in many state and local building codes.

* NFPA 58 covers the storage, transportation and handling of propane. It has been adopted by virtually every state that regulated propane use.

SAFETY SURVEY

WHAT DO THE DATA SHOW? In recent months, both MLPGA and the National Fire Protection Association conducted separate studies of the public's safety experience with below-grade propane gas appliances. The NFPA compared statistics for natural gas and propane gas central heating units, or furnaces, while MLPGA considered the number of below-grade installations along with the number of reported incidents involving the release of gas, fire, or explosion.

Here are some highlights of the survey:

* There are approximately 821,000 residences nationwide where one or more propane gas appliances are installed in a below-grade space.

* The below-grade portion of reported incidents involving central heaters is 306 per year for natural gas (or 30 percent of the total natural gas units) and 24 per year for propane gas (or 17 percent of the total).

* The rate of fires below grade per million units is somewhat lower for propane gas (5.7) than for natural gas (6.8).

As you can see, the rate of propane gas incidents in below-grade spaces is comparable to the rate for natural gas installations. In reporting its findings, the NEPA questioned the efficacy of "any strategy or regulation that focuses on below-grade installations."

CONCLUSIONS

As the UMC is enforced in more and more communities, Paragraph 504(f) will increasingly impose a hardship on propane marketers, giving marketers of other fuels an unfair advantage.

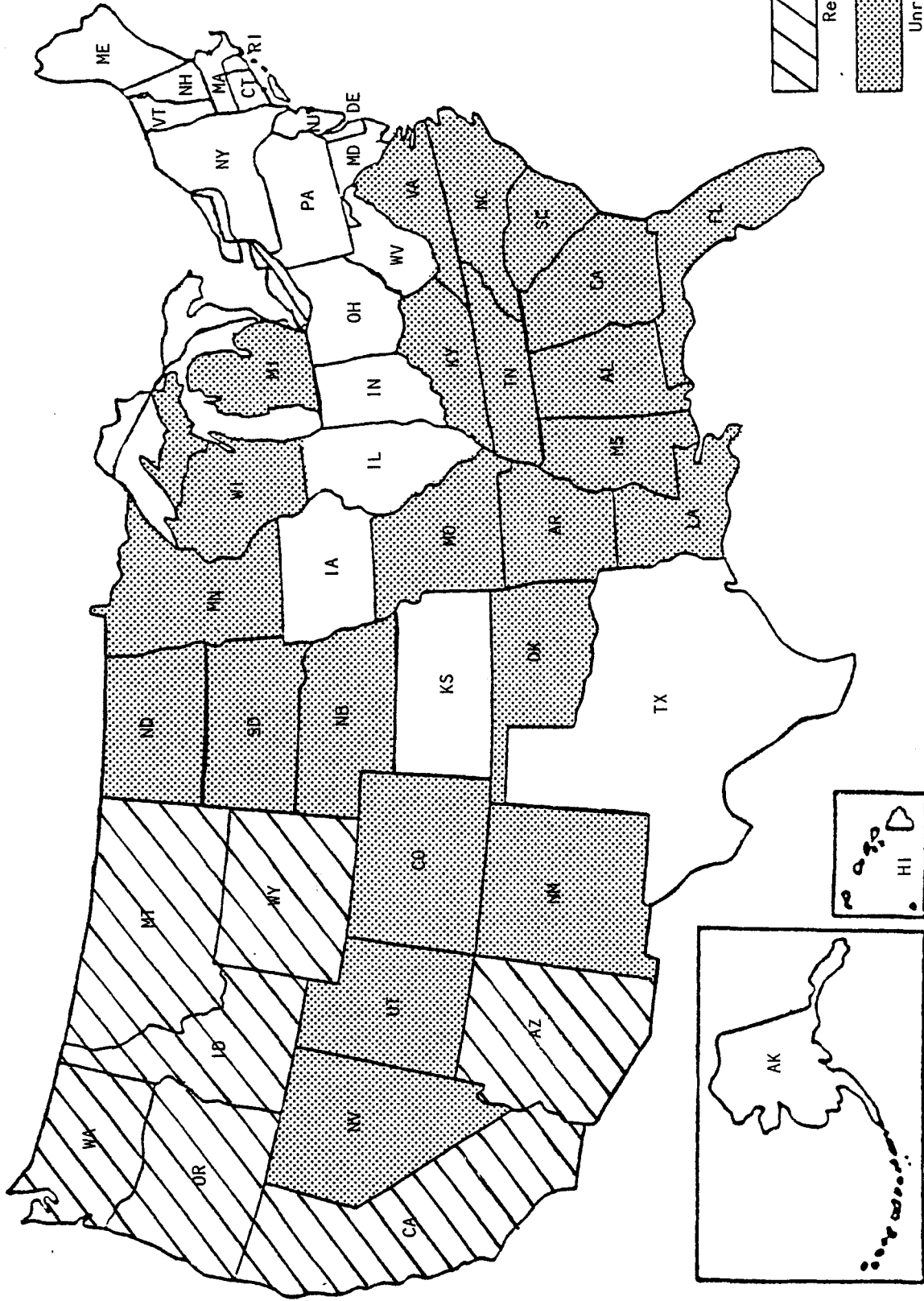
The ban on below-grade propane gas installations places the UMC in direct conflict with fire codes based on the National Standard NEPA 54 and with other national model building codes.

Significantly, the majority of the country's building officials support MLPGA's position. When MLPGA challenged Paragraph 504(f) at an ICBO meeting in September 1986, some 60 percent of the building officials present backed the challenge.

For these reasons, MLPGA will continue to seek revision to the Uniform Mechanical Code. Propane gas is clean-burning, economical, and safe--below-grade and well as above ground. For millions of Americans, it's the fuel of choice.

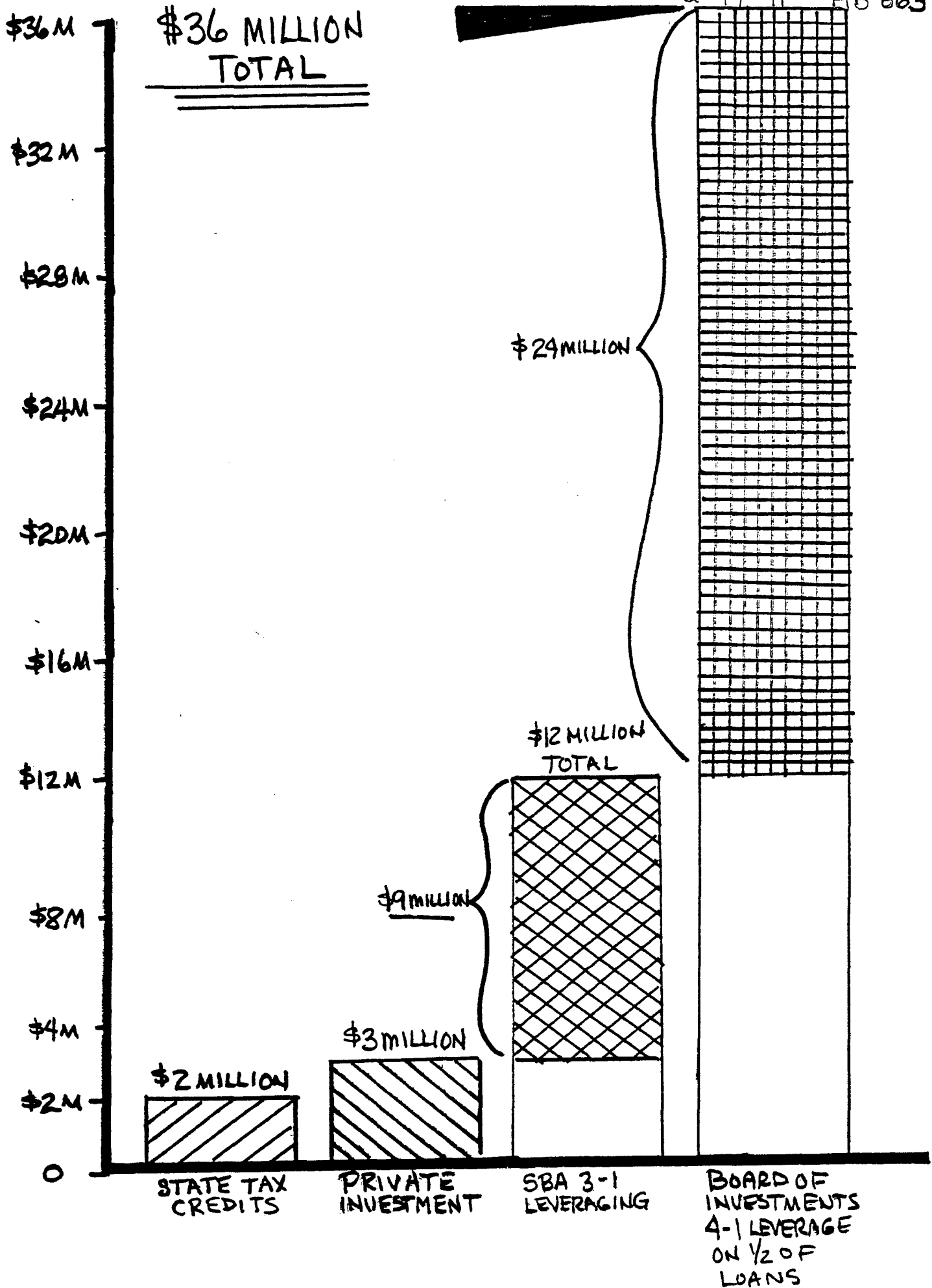
Exhibit 5
 2-19-91
 HB 655

BELOW - GRADE INSTALLATIONS
 OF PROPANE GAS APPLIANCES
 (State-By-State Survey)



Restricted
 Unrestricted
 Did Not Respond

Exhibit 6 was not transmitted with the minutes.



Amendments to House Bill No. 655
First Reading Copy

For the Committee on Business and Economic Development

Prepared by Paul Verdon
February 19, 1991

1. Title, lines 4 and 5.
Following: "ACT" on line 4
Strike: remainder of line 4 through "PERMITTING" on line 5
Insert: "TO PERMIT"
2. Title, lines 7 through 9.
Following: "APPLIANCES;" on line 7
Strike: remainder of line 7 through "MARSHAL;" on line 9
3. Title, line 9.
Following: "AMENDING"
Strike: remainder of line 9
Insert: "SECTION"
4. Page 1, lines 13 through 23.
Strike: lines 13 through 23 in their entirety
Insert: "Because many areas of Montana lack access to natural gas, it is necessary and desirable that energy alternatives be available. The legislature declares that below-grade liquefied petroleum gas appliances are not inherently hazardous if properly installed and further determines that it is appropriate to allow below-grade liquefied petroleum gas appliances to be installed in single-family dwellings notwithstanding the prohibition on the installation of those appliances by the Uniform Mechanical Code and the Uniform Plumbing Code. It is the intent of the legislature that the department of commerce adopt rules governing installation requirements for below-grade liquefied petroleum gas-burning appliances in single-family dwellings."
5. Page 2, line 1 through page 3, line 12.
Strike: section 1 in its entirety
Renumber: subsequent section
6. Page 4, lines 3 through 5.
Following: "shall" on line 3
Strike: remainder of line 3 through "50-3-103" on line 5
Insert: "adopt rules that permit the installation of below-grade liquefied petroleum gas-burning appliances in single-family dwellings"

February 18, 1991

Mr. Ted Lovec
American Title & Escrow
Suite 21, Alpine Village North
1216 16th Street West
Billings, MT. 59102-4198

Re: HB # 779

Dear Ted:

Thank you for the copy of HB #779. I strongly support it.

I support it because it reduces time delays and therefore expenses in the foreclosure process without denying borrowers any legitimate opportunity to save their homes from foreclosure.

Our law firm represents many individuals who are forced to file bankruptcy because of unfortunate financial circumstances which are usually beyond their control. We also represent lenders which sometimes must foreclose mortgages and trust indentures.

In the case of a chapter 7 liquidation (sometimes referred to as a straight bankruptcy) the debtor (bankrupt) is relieved of all of his or her debts and surrenders all collateral. Alternatively, a debtor may retain property which is collateral, but must pay for it according to the terms of the note which was given when the obligation was incurred.

The most common financing tool in Montana is a Trust Indenture. The trust indenture has almost totally replaced the more well known mortgage. In order to foreclose a trust indenture, a 120 day notice is given to the borrower that the property will be sold on a certain date. This notice is seldom if ever given before the borrower is at least 90 days behind in payments. At any time prior to the trust indenture foreclosure sale the borrower needs only to come up with all past due payments (plus foreclosure costs and attorneys fees) in order to stop the foreclosure. Thus, the borrower has approximately 210 days from the time he or she first misses a payment before the foreclosure is completed.

If there is a bankruptcy filed in the middle of the foreclosure process, the automatic stay (11 USC section 362) which prevents collection activity, including foreclosures, takes effect and will require that the foreclosure be cancelled. The foreclosure will not be able to begin again until the automatic stay is

Ex. 7

2-19-91

HB 779

released. Once the stay is released a new foreclosure will be commenced. Thus, instead of the normal 210 days from the first missed payment to foreclosure, it will be considerably longer.

I do not recall one case in the 12 years since the Bankruptcy Reform Act of 1978, where the borrower has filed bankruptcy, stopped a foreclosure sale, had a new foreclosure notice given and then brought the delinquent mortgage payments current. I can, however, tell you about a number of borrowers who, in my opinion abused the bankruptcy process. Shortly before a scheduled sale the borrower filed bankruptcy and stopped a scheduled foreclosure sale. The lender was then required to lift the stay and notice up another foreclosure sale. The borrower remained on the mortgaged property while the second notice period ran its course. The borrower thus was able to stay on the property for one year or more without ever making a payment on the mortgage.

In most cases the people filing bankruptcy either have made arrangements prior to filing to maintain payments during the bankruptcy, to bring payments current during or after the bankruptcy, to surrender the property, or have simply abandoned the property. In the cases where the property is surrendered or abandoned a foreclosure may be required because of title problems. If the automatic stay halts a foreclosure on surrendered or abandoned property it does not help the borrower and ends up costing the lender more time and money.

I do not recall having been involved, either on the debtor's or the lender's side, in a straight bankruptcy where the primary reason the bankruptcy was filed was related to a mortgage debt. As discussed above, the borrower must still pay for collateralized debt in bankruptcy in order to keep the property. Thus even if the borrower files bankruptcy he or she still must pay the mortgage. If a foreclosure was stopped by the automatic stay and then restarted after the stay was released, there would simply be more payments that the borrower would have to come up with in order to stop the foreclosure.

It is important to note that lifting the automatic stay is not necessarily a simple act. It requires a motion in the bankruptcy court. In order to be successful on this motion the lender must show that there is no equity in the property. The bankruptcy court will protect borrowers from over zealous lenders taking advantage of borrowers who have temporary financial reverses.

It is my opinion that HB # 779 simply reduces the expenses and time delays when a lender is in the unfortunate position of being required to foreclose a mortgage debt and a bankruptcy is filed. It does not take away any of the rights of borrowers who have

02/18/91

20:55

JOHN TITLE & ESCROW 406 246 1870

P. 20

EX. 7

2-19-91

HB 779

suffered temporary financial setbacks.

Very truly yours,

John H. Grant

2-19-91

HB 779

HOLLAND & HART
ATTORNEYS AT LAW

DENVER
DENVER TECH CENTER
COLORADO SPRINGS
ASPEN
BILLINGS
BOISE
CHEYENNE
WASHINGTON, D.C.

SUITE 1400
173 NORTH 27TH STREET
BILLINGS, MONTANA 59101

TELEPHONE (406) 242-2166
TELECOPIER (406) 242-1669

David R. Chisholm**February 18, 1991**

Ted A. Lovec
American Title & Escrow
1216 - 16th Street West
Billings, MT 59102

Re: House Bill No. 779

Dear Ted:

Thank you for the copy of House Bill No. 779 modifying the Montana Small Tract Financing Act. As you know, our firm represents lenders holding mortgages and trust indentures in Montana and customarily use title companies to assist us in conducting trustee's sales for trust indentures under the Act.

A continuing difficulty with the Act is the ambiguity in the postponement sections, including whether multiple postponements aggregating more than 15 days are allowed when a debtor files bankruptcy. It is becoming more common for debtors to file bankruptcy on the eve of trustee sale. In several recent instances, the bankruptcies were filed solely for the purpose of avoiding the trustee sale. The bankruptcies were not subsequently pursued under the bankruptcy code and rules. Under the current postponement provisions, a question repeatedly arises whether multiple postponements of the trustee's sale are allowed under Montana law. In the case of the bankruptcies mentioned above, the debtors intended to use the ambiguity in the Act to cause a several month delay in foreclosure of the property.

I believe House Bill No. 779 goes a long way towards resolving the ambiguity and will provide Montana lenders with clear rules for postponing trustee's sales in the bankruptcy context.

Ted A. Lovac
American Title & Escrow
February 18, 1991
Page 2

As you know, other portions of the postponement provisions are ambiguous and should be considered by legislature. I hope the legislature will enact House Bill No. 779.

Please feel free to provide this letter to state legislators if you deem it appropriate.

Sincerely,


DAVID R. CHISHOLM

DRC/ss

HOUSE OF REPRESENTATIVES

BUSINESS AND ECONOMIC DEVELOPMENT COMMITTEE

DATE 2/19/91 ROLL CALL VOTE
BILL NO. AB 655 NUMBER 1

MOTION: Do Pass as Amended

Motion carries 13-5

NAME	AYE	NO
REP. JOE BARNETT	✓	
REP. STEVE BENEDICT	✓	
REP. BRENT CROMLEY		✓
REP. TIM DOWELL		✓
REP. ALVIN ELLIS, JR.	✓	
REP. STELLA JEAN HANSEN	✓	
REP. H.S. "SONNY" HANSON		✓
REP. TOM KILPATRICK	✓	
REP. DICK KNOX	✓	
REP. DON LARSON	✓	
REP. SCOTT MCCULLOCH	✓	
REP. BOB PAVLOVICH	✓	
REP. JOHN SCOTT	✓	
REP. DON STEPPLER	✓	
REP. ROLPH TUNBY		✓
REP. NORM WALLIN	✓	
REP. SHEILA RICE, VICE-CHAIR	✓	
REP. BOB BACHINI, CHAIRMAN		✓
TOTAL	13	5

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE BILL NO. HB 863,

DATE FEB. 19, 1991 SPONSOR(S) REP. DAVE BROWN, REP. SIMPKINS

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
RON KLAPHAKE	MISSOULA EDC	863		✓
Guan Barrett	Butte L.D.C. HB	863		✓
Chris Gallus	Butte Business Dev. Center	863		✓
Dave Lewis	Board of Investment	863		✓

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

HOUSE OF REPRESENTATIVES

1064

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 655, HB 776,

HJR - 27

DATE FEB. 19, 1991 SPONSOR(S) REP. GRADY, REP. BERGSAGEL, REP. BACHINI

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
W. James Kembel	Public Safety Div/DOC	HB 655	Information	
Tom Hoggood	Liquid Propane Gas Assoc			
Tom Hoggood	Liquid Propane Gas Assoc	655		✓
Dean Stapleton	Conex / Mtury Propane	655		✓
Ed Butcher	Self	655		✓
JERRY STRONG	Self	655		✓
Chuck Funk	SNOWBOWL PROANE/PETROLEUM	655		✓
Carl Holm	Petroleum	655		✓
John W. Jepson	Self	655		✓
Larry Messeri	Suburban / Petroleum	655		✓
JACIE MULLCARE	WESTERN FUEL	655		✓
DICK START	NORTHERN ENERGY	655		✓
Kevin Toney	NORTHERN Energy	655		✓

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

2 of 4

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

Biz & ELON

COMMITTEE

BILL NO.

655

DATE 2-19-91 SPONSOR(S)

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
James Dowell 1404 E Park Livingston MT	Northern Energy	✓	
John Schera P.O. Box 90 Red Lodge MT	Northern Energy	✓	
Tom Wang 920 Maryland Deer Lodge MT 59722	Northern Energy	✓	
Chris Bowers 815 Damarell Bozeman	Northern Energy	✓	
Marvin Wang Box 171 Somers, MT.	Northern Energy	✓	
Daryl South 907 Birch Helena, MT	Northern Energy	✓	
STEVEN CHESLEY 3000 VILLARD Helena MT	Northern Energy	✓	
JAY COOK Box 704 CHALLIS, ID	NORTHERN ENERGY	✓	
Gary South 235 Anderson Blvd. Helena, MT.	Northern Energy	✓	
LARRY J. BERRY 2317 4th St. Missoula MT.	Northern Energy	✓	
STEVE LEWIS 325 N. Parkview Dulles, MT	Gas Equipment	✓	
George Hogue	Northern Energy	✓	
Larry Beckman	Petroleum Gas Service	✓	
Deane Schaefer	Petroleum Gas Service	✓	

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

3067

HOUSE OF REPRESENTATIVES
VISITOR'S REGISTER

BIZ i ELON COMMITTEE BILL NO. HB 655
DATE 2-19-91 SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	SUPPORT	OPPOSE
Don Dahlgvist	Mel Co Dist	✓	
DAVID SAYLOR	PETROLANE	✓	
DENNIS WOODY	PETROLANE - Libby	✓	
LOUIE LAIRD	PETROLANE	✓	
HAROLD MCKEEHAN	PETROLANE	✓	
J.A. Brown-Billings	Petrolane	✓	
Glen E Wills	PETROLANE	✓	
Steve McPey	Petrolane	✓	
RJ Hunter	Petrolane	✓	
Tom Norton-Billings	V-1 Propane	✓	
Rocky Singleton Roundup	V-1 Propane	✓	
Don Nadeau Shelby MT	Petrolane		

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

4064

Biz i Ekon

BILL NO. 655

DATE 2.17.91

SPONSOR _____

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

BUSINESS & ECONOMIC DEVELOPMENT COMMITTEE

BILL NO. HB 816 & HB 779

DATE FEBRUARY 19, 1991 SPONSOR (S) REP. DAN HARRINGTON, REP. CROMLEY

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NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
JOCK ANDERSON	MT. League of Sav. Inst.	779		X
GENE PHILLIPS	MT. LAND TITLE ASSOC.	779		X
Bill LEARY	MT. BANKERS ASSN	779		X
Stan Dargatz	MT Manufacturing Assoc	816		
Bob Pyper	MT Credit Unions League	779		X

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