

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By Chairman Esther Bengtson, on March 19, 1991,
at 3:25 p.m.

ROLL CALL

Members Present:

Esther Bengtson, Chairman (D)
Eleanor Vaughn, Vice Chairman (D)
Dorothy Eck (D)
H.W. Hammond (R)
Ethel Harding (R)
John Jr. Kennedy (D)
Gene Thayer (R)
Mignon Waterman (D)

Members Excused: Thomas Beck (R)

Staff Present: Connie Erickson (Legislative Council).

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

Announcements/Discussion: none

HEARING ON HB-536

Presentation and Opening Statement by Sponsor: Representative Dorothy Bradley, District 79, said this enabling legislation parallels another bill that this committee heard concerning fire districts, and this bill deals with fire service areas. This legislation enables county commissioners to decide what level and types of services they want for a fire service area. The problem is that an AG opinion stated that funds could be used in this fire service area for emergency medical services, but only if it was related somehow to the suppression or prevention of a fire. Sometimes because of the sprawling nature of the county, you have these emergency services that are ready to react, but it can not be said that it is in direct response to the prevention or suppression of a fire. This bill clears up that language, and lets the county commissioners give them the tools to do what they need to, and it would provide them with the best possible use of our medical response teams.

Proponents' Testimony: Fred Hagerty,, Rae Volunteer Fire Department, supported this bill (Exhibit #1).

Gallatin County Fire Council supported this bill by letter (Exhibit #1a).

Tom Kingma, Rae Volunteer Fire Chief, supported this bill by letter (Exhibit #1b).

Drew Dawson, Chief Emergency Medical Services Bureau, DHES, supported this bill (Exhibit #2).

Bill Flyner, Lewis and Clark County Sheriffs Department, and Assistant Rural County Fire Warden for Lewis and Clark County, said that there are 17 fire districts and two are fire service areas in Lewis and Clark County. Many of those fire districts and one of the fire service areas has trained their people in first response service, so they will be able to meet the needs within their districts and areas. We urge the committee to support HB-536.

Bruce Suenram, Missoula Rural Fire District, and The Montana Fire District Association, said they had a bill before this committee, and he urged the same consideration for fire service areas.

Opponents' Testimony: none

Questions From Committee Members: none

Closing by Sponsor: Representative Bradley asked the committee to Concur in HB-536.

HEARING ON HB-650

Presentation and Opening Statement by Sponsor: Representative Carolyn Squires, District 58, said this bill was heard in the House State Administration Committee. She considers this her "Good Government Bill". Basically this bill asks that people, like herself, that run for the Legislature shall be returned to their position from which they left. As many of you know, according to the law, every individual that runs for the Legislature or state government is granted 180 days a year to serve. Upon completion of the term of the Legislature, it is mandated that "thou shall return back to your place of employment after 10 days". What happens in many situations, is that people

are reluctant to run for the Legislature because there is no guarantee, as in the title, line 6, for a similar position. People with a position have the possibility of being decreased to a lesser position are less likely to run for election to an elected position. She said she realizes that this particular law is placed in the Public Employee section, but she reassured the committee that it also deals with people in the private sector. What she is trying to do is promote some good government to encourage people to run. Her scenario is, the woman who has moved up to a hostess position from a waitress position, is not sure that if she is elected to the Legislature that she will be able to return to the hostess position because the law states "similar". What is the definition of similar? So there for she could be removed from the hostess position, and returned to the waitress position. She said these are demeaning professions, but she wanted to state that it is important that you be returned to the position that you left. In her situation, she was working in the Rehab center after bidding to get this position. When she returns she will not return to the Rehab center, but has to go to the Float Pool. After 23 years of longevity at this establishment, and she will have to go to the Float Pool again. This law needs to be changed, so that it will encourage other people to run.

Proponents' Testimony: Tim Bergstrom, Montana State Firemen's Association, supported this bill (Exhibit #3).

Tom Schneider, Montana Public Employers Association, said they support HB-650. He added that it would be good for the employees and the employers and the public at large to have this bill. It would take away any stigma of an employer having some type of control over the employee if the employee ran and was elected, and then had to deal with some legislation that affected the employer. This law keeps everything absolutely clean. The employee does not have to worry about whether the employer likes what he has done in the session. The employer does not have the image that they may have some control over the employee while he serves in the Legislation. This is important, and the law would be good for that reason.

Don Judge, Montana State AFL-CIO, said he just learned the lesson of following 4 other proponents who have said everything that needs to be said about the bill. A number of years ago, Representative Joe McGowan, out of mineral county, was having difficulty with his employer, which was a lumber mill in Superior, in granting him the time off to serve. Joe introduced a bill at that session which was enacted into law, and at that time it was 59-1011. It originally stated that it was "an act that required all employers", and the intent of the legislation has always been to grant this leave to private as well as public sector employees. He is continually amazed, that through the recodification process things are relocated. This is not a bill

that just affects city, county, state, or school district workers. It affects all employees and all employers. It is a good piece of legislation. The AFL-CIO is fairly active in politics in Montana, and we attempt to encourage our members to run for office from both the public and private sector. One of the greatest difficulties we have with these workers is convincing them that when their public service is through, they will have a job to return to. The law currently requires a leave of absence to be granted, but does not require that their specific job to be available to them when they return. We think this is a good piece of legislation, and it applies fairly to Republicans, Democrats, Independents, and Libertarians. It simply requires that they be granted the same job when they finish their public service. We urge you to give this a Do Pass recommendation.

C.B. Pierson, Executive Director, Common Cause of Montana, said they stand in support of this bill. It makes a lot of sense, and it is a good government piece of legislation. He said the proponents had spoken to all the arguments in favor of this bill.

Phil Campbell, Montana Education Association, which wants to go on record as supporting HB-650 for all the reasons stated before. We think it is good legislation, and encourage the committee to adopt this.

Robin Ford, Field Representative, American Federation of County, State, and Municipal Employees, said he would like to go on record supporting HB-650 because it encourages all those people who want to do something about the state of the state of Montana, and not just talk about it, to get involved.

Opponents' Testimony: none

Questions From Committee Members:

Senator Thayer asked Representative Squires why this bill struck the language "or similar position"? Representative Squires said she is an LPN working in the Rehab center, and now when she returns, she will be returning to the "Float Pool". So she is going to a similar position, but she would have liked to have returned to her job that she had when she left, and that was working in the Rehab Center. Again the comparison of the waitress and hostess, if the waitress has worked up to the hostess position, the two positions can be looked at as "similar", therefore if the hostess position is not available, she would be put back into the waitress position. What she is trying to do is to expand the law that already gives you 180 days to serve in the Legislature. If you meet the requirement of returning after your term of service, then you will return to the

job you left. Senator Thayer said the employer can't just put you anywhere even under the original language. It still has to be the same seniority and status. Representative Squires said that is the same, but her job was bid out, and she is fortunate in having a contract where she can bid on other positions when she returns. Many individuals who do not have this option are not going to be able to go back and get the job they left. Senator Thayer asked what about small companies, and one employee leaves for 4 months that could hamper their ability to do business. They have to keep the position open for that person for 4 months. Representative Squires said she believed it is the individual's right to make the decision to run, and also to discuss it with the employer. If the individual chooses to run, then they should communicate with their employer and explain their decision. A temporary individual can be hired for that spot. It is not right that your employment could stop your service in the state of Montana if you have chosen to run. It is everybody's right and freedom and privilege to run for office. She said she understands that Senator Thayer is an employer, and it may put some burden on him, but also there are people who will fill those vacancies temporarily.

Senator Hammond had wanted to ask Don Judge a question, but he had left for another hearing. Senator Hammond said Judge had said that this bill is good for employers and employees, in fact everyone. He said it was hard to see the good for the employers that would like to run and serve, but they can't afford to? This bill could put the employer in a difficult situation when they lose a key person, and you couldn't keep the position open. It might be difficult to replace them while they are gone, so the employers will definitely suffer, so how is this good for everyone? Representative Squires said the law is already there that an employee is allowed 180 to serve, and is guaranteed a "similar" position. She is asking to strike "similar". This came up during the hearing in the House, but it is important to have a broad base of people serving in governments. This law still stops some people from running. Unless you happen to be retired, or a rancher, which is not a criticism, you might be stopped from running because you want to keep the exact job you have, not a similar one. We are limiting ourselves in the Legislature because there is talent that could benefit the state by not letting the individual return to the job they had.

Senator Hammond said he understood this, and thought diversity was good. He could not see where this has done anything for the employer. This will make it possible for almost any employee to run. Representative Squires said that is important, and they currently have the right to run now. She discussed with her employer that she was going to run, and she asked if it would be a problem? She was reassured that it would not be a problem. After her third term it is a problem, and now she will return to a different job. She was up front with her employer, and this is what has happened. This is an obstacle for some people who do want to run. She had no fault on age, but this would allow a

broad base, and allows people to come and serve. Employers have the privilege of usually having a #2 person that can take over if they decide to serve. This is not always true, but she feels this is significant to let all citizens have an open way to serve in state government.

Senator Harding asked Representative Squires to explain her position again. Representative Squires said that she had bid to get her position in the Rehab Center, and it is not a management position. Senator Harding said if a manager in her business ran it would be difficult not to replace him. Representative Squires said that a person could be hired on a temporary basis. She said this is nothing new. It is already law that her manager could run, and would have to given a similar position, but this bill would give him the same position.

Senator Bengtson asked Representative Squires if this would take the edge off the dispute between employers and employees?

Representative Squires said she has had to have clarification of the law 3 times on what her benefits are when she runs for the Legislature. Senator Bengtson asked if other employees would shelter the fall out by having to pick up the slack?

Representative Squires said her job could have been filled with a person called a temporary per diem who looked forward to working in one stable area for the amount of time she would be gone.

There has not been a problem in recruiting someone to work in her position for a temporary period. This time her employer removed her from a bid position into another position. Senator Bengtson asked if there are other types of employment that would not have ease in recruitment of temporary people? Does this open the Legislature to a more specific group like teachers or people not in managerial positions? Representative Squires said she could not answer for the teachers, but she said the temporary per diem workers are excited to get this position while she is gone.

Senator Thayer asked Tom Schneider if there is a federal law that says you can't run for the Legislature if your place of employment receives a certain amount of government funding? The teaching profession which receives a great deal of government funding is exempted from this. Why not correct something like this? Mr. Schneider said it is the Federal Hatch Act, and it is a federal law. The state of Montana has taken all of those restrictions off the books for anyone in the state. We did have a state Hatch Act that was repealed. We have nothing left that we have any control over. There was a bill in Congress which would have repealed the application of the Federal Hatch Act, but it was vetoed by President Bush last session for a lot of reasons, but mainly those that deal with federal employees. The law is restrictive to whether the employees own salary is partially funded by federal funds. Even if the employer receives money from the federal government, such as the case in the Fish & Game Department with Senator Bianchi, their job was funded partially with federal funds. The federal law will not allow them to run for office, but it is tied back to their own salary

being paid in any part by federal funds. We can't do anything with that because we have removed all those restrictions from state statute. We can't remove federal statute.

Senator Harding asked Representative Squires if when she returns to work will she go to another job? Why do you think management did this? Representative Squires said the rational was that she would be gone for a longer period of time, and so they needed to fill that particular position while she was gone. In some respects it was based on this definition of similar, so she will go back to "Float Pool" where she will give LPN care, and according to the current law, they had the right to do this because of the word similar. She will be delivering a similar type of work, but the Rehab Center was a permanent location of work where the "Float Pool" is just that, you float to areas where you are needed. She had no recourse to say they were wrong, and force them to put her in the Rehab Center. Senator Harding said she understood, but she did not have to take a cut in wages? Representative Squires said no. Her seniority stops at the time her leave of absence begins, her pay and retirement cease, and her medical benefits. These were the choices that her particular employer chose to use. She agreed to them because she feels that it is important that she serve in the Legislature.

Senator Eck asked if she feels that we will find more people to serve by removing the deterrent? Usually when looking for candidates, the lack of interest is because they can't afford to run. Representative Squires said she thought this would open the door for many that would run but are unsure of their job when they return. This would really open the door for women by making it law that they can return to the same job, so they would know they would still have the same wage, day shift, and not have to start providing day care. She does believe this will lead to an expansion of the fields from which we can draw candidates.

Closing by Sponsor: Representative Squires said that she feels this is a good government bill, and asked the committee to give it a do pass. If they do, Senator Jergeson has agreed to carry this bill.

HEARING ON HB-707

Presentation and Opening Statement by Sponsor: Representative William "Red" Menahan, District 67, said this bill is simple, and would expand the authority of the television district to be able to construct cable television systems. It repeals a section of law. On Page 2, we have put in "a district may not construct or operate an antenna, commonly known as a cable t.v. system, in an area already served by a private cable company with fewer than 1000 subscribers." So if you live in small area that does not have very many we've taken care of that. Also for taxpayers in a

television district that do not want to receive the service they will be exempt from the taxes. We repealed the prohibition that stated that you can not have a cable district that would prohibit this. A few years back, he tried to get legislation to regulate cable, so the public could have a say in the television industry and the cable system. It was too comprehensive at the time, and when we started working at it again, the federal rules said that now you could not regulate cable television. So the cable television market has been able to limit their competition. This bill got a lot more popular after the people here in Helena, providing service for Legislators, have sent bills to them for services they have not received. Senator Steve Brown brought me his bill, and there was an additional charge on his t.v., and several channels were \$1.30 except the one he really wanted, and it was ESPN. You had to pay for the others or lose ESPN. There isn't much for the consumer to do.

Proponents' Testimony: Linda Stoll-Anderson, County Commissioner, Lewis and Clark County, handed out a copy of the existing television district law (Exhibit #4). This would give a good background to understanding about this bill. The existing television district law is about 30 years old, and the purpose for it was to provide television services for people who live in rural areas that otherwise would not have access to t.v.. She talked with several television district members, and in particular Bob Saunders from White Sulphur Springs, who could not be here. She has nothing against TCI, and she is a subscriber and for the most part she is satisfied with the service. She has had a pretty big increase in her rate this last month, and they took off one of her favorite channels. She let that go. She said her involvement in this bill was quite surreptitiously. People from N. Montana Avenue called her because they had the mistaken notion that County Commissioners have something to do with cable t.v.. She explained that they did not, but they were very concerned that a small cable company had gone into this area, sometime last year, and wired them for service. Something happened, but we're not sure what. Ultimately, TCI got this area, and told these people they would have service, but after a long period of time they still do not have service there. They are distressed by this. In talking with these people, she learned a little bit about the industry that she would like to share with the committee. She talked with smaller cable companies, and an opponent in the House stated that we do not need competition because any cable company can come in right next to TCI and operate. This is technically and legally true, but she could not find any circumstance in the last 30 years that shows this to be happening. She believes that they do not exist. The relationship between small cable companies and the larger ones like TCI is one of symbiosis, not one of competition. When we talked to people, that can not be identified without the issues of TCI and another unnamed cable company, they said they could not afford to get TCI mad at them. The small companies

rely on TCI to buy their businesses as soon as we achieve a certain level of subscribers. She submitted that this is not a competitive relationship, but is a symbiotic relationship. She has been criticized by the opponents because they believe that government has no business in the t.v. business. It is purely a business of entertainment and amusement, so why should we have to have governments involved at all. She provided an article that appeared in this month's World Press Review magazine (Exhibit #5). She quoted Timothy Garden Nash, from the "Independent" of London, and he says, " We live in television democracies. Other people have lived in television dictatorships where the authorities' monopoly of the mass media has been as important for the preservation of their rule as the army or the secret police. It is not accident that access to television was one of the most important demands in Eastern Europe's revolutions. The crowds in Wenceslas Square in Prague chanted "live transmission" and the crucial general strike in Czechoslovakia was effectively declared a success by the television reporting of it. In Bucharest, the Rumanian revolution was proclaimed and conducted on television, while the masses came onto the streets to defend--the television station. She said she thought T.V. Guide had an article that stated that they tried to determine the importance of television to politics. The article said that over 70% of the people in this country, who made their decision on whom to vote for the president of the United States, made that decision based on information that got from television. So she argued and submit to this committee that television is more than simply entertainment. It is more than an opiate of the people. It provides crucial, fundamental information and news. All of us watched the Iran/Iraq war, and most recently Desert Storm, and most were glued to CNN for the news. So she wants to dispel the myth that television is merely entertainment. Why this bill? This bill would provide cable for people in rural Montana that do not have access. If TCI can't make a profit then they don't go into that area. This is people's ability to form districts themselves to insure that they can get that cable service. Secondly, this provides an alternative, for whatever reasons; cost, selection, programs, etc, it will provide an alternative for them to the existing cable system. Lastly and perhaps most importantly, it provides for local control in this option for people to decide what they want to watch on t.v.. Right now, programming on our cable system is determined by people in Denver, New York or Atlanta. This gives people the opportunity to provide for local programming. She has heard criticism that government should not be involved, and this is a form of taxation. In the sense of the law it is referred to it as a tax. This particular legislation is a fee, so for anyone who does not want the service, does not get the service, and so they do not pay for the service. This legislation does not force anyone to pay for something they do not want. It is a fee for a service. During the House hearing a couple of changes were made. The bill is in good shape, and those concerned about small companies that a cable district could put them out of business. An amendment was made to not allow cable districts where small cable companies

already existed with fewer than 1000 subscribers. We made sure that this bill, through another amendment, can not charge someone that doesn't want or need this service. The last thing she pointed out was that TCI is going to tell you that this bill will put them out of business. She asked the committee to carefully look at this law, the existing television law, and understand what it takes to create a television district. A petition must be circulated with 51% of the population in order to create the district. If TCI is fearful of being run out of business, then they must make people mad enough that over 1/2 of the people in the district will sign a petition to create a television district. How likely is that going to be? She did not think that television districts or the ability to run cable systems is going to do any harm whatsoever to the existing cable systems. Most importantly, while Congress debates for years about trying to deal with cable television costs, regulations, or programming, we in Montana have the opportunity to take action right now with this bill. Give people a choice. They will have to work hard for it, but let them do it. This bill does not force anything down anyone's throat. It gives people a choice.

Paul Spengler, Bring Back WGN-TV Organization, residing at 307 Clark in Helena, said he support HB-707 (Exhibit #6). He also submitted an article that discussed cable legislation (Exhibit #7).

Eddy A. Crowley, D.D.S., of Helena supported this bill by letter (Exhibit #8).

Clyde Jarvis, Helena resident, supported this bill (Exhibit #9).

William Morgan, Helena resident, said he supported this bill because it repeals the law that does not allow cable t.v. districts to be formed. Old people can't afford TCI's prices, and it is the Legislature's duty to give people options.

Opponents' Testimony: Representative Bud Gould, District #61, presented the committee with a photocopy of his check to TCI (Exhibit #10). This is a prepayment for 26 months of cable service that TCI allows before an increase goes into affect. Representative Gould said he felt this was a fair deal, and he pays in advance because he feels he then has a contract with TCI to serve him CNN. He felt that television districts could dilute the services that would be provided. Usually the more subscribers the lower the price of the service. He definitely wants the best cable service he can get. He said when he has problems with his service that TCI does come and repair it. He added that he was testifying today for himself, and he does not represent any cable company as others have said all the opponents are from TCI.

Russ Ritter, Mayor of Helena, said he is not sure that he is an opponent. He's served 15 years, and 10 years ago with the city manager's wisdom they decided to charged franchise fees of

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\$13,000 to the cable systems. Representative Menahan talked with him about this bill, and he respects Linda Stoll-Anderson. After accepting the franchise fee, he said he gets a least 1 call/month concerned about something on television or the price of cable service. Mayor Ritter said he is concerned that the perception that local government is in the cable t.v. business will only get worse. Senator Kennedy may know about this from when he was mayor in Kalispell. He is concerned about regulation that points at local government. He is more concerned about police, fire, and clean water, not television. Don't push this on the local government plate. He told the committee that this is not something that should be put on local government because they already have more to deal with than they can handle.

Kathy McGowan, Region 8 Community Action Association, and a resident of Clancy, said she is in the same position as Mayor Ritter, but she has an interesting perspective on this. She added that she and Representative Menahan go way back because she encouraged him to introduce a bill that would regulate cable t.v.. She got a lot of complaints in her office about cable t.v.. Personally, she could live without t.v.! It causes about 95% of the feuds in her family. She wanted to share that when Representative Menahan's bill was defeated, cable t.v. came to her office and said they wanted to work with her in handling those consumer complaints. They did not have to do this, but they did. We worked out a good arrangement between them and her office, and she worked with the State Consumer Affairs office. When a complaint about cable t.v. was made it was handled by the industry themselves, and then people were encouraged to call back if they did not get the proper response and we would pursue it further. This rarely happened. She came today thinking she would not talk on this unless it got into a TCI bashing session. She feels compelled to let the committee know that we were able to work out a good solution without adding a layer of bureaucracy. These things can be worked out, and she said that this is may not be possible for the particular situation here, but she wants you to know that they are an industry that has responded to those kinds of problems.

Representative Sheila Rice, District 36, said she was representing herself, and it is important that the committee know that she works for a natural gas utility. She has a perspective on what it is like to run a utility, even though she does not consider cable t.v. one. It is difficult to please all people all the time. She had a series of questions that she felt the committee should ask themselves. #1. Do you want county commissioners, cable district trustees or commissioners deciding what's on television? #2 What happens if there is a religious cable television network, and a group of people come to the commissioners and want that channel on their cable system? And they apply great pressure politically on the commissioners? Do counties publish newspapers? Of course not, that is why we have freedom of speech. So she said should counties also be regulating or running cable television systems, and deciding what

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channels are shown? #3 Can counties run cable service cheaper or better? #4 Do we have any evidence that counties, cities, or municipalities can run any service cheaper or better? It takes a lot of money to put a cable television system in place. #5 What happens when the television district does not get enough subscribers to pay the debt? #6 Who owns the debt that was incurred to put that television district into place?

Representative Menahan sits behind me, and he gives me a regular bad time, so she is giving him a bad time on this bill. She called this the "Chicago Cubs Bill" because that is why it is here today. People in Helena really want WGN, so they can watch the Chicago Cubs. She ended by telling the committee how she feels about cable television. Her youngest son graduated from high school, left home, went to work on the coast, and the first two actions she took with great delight were #1 to rewrite her car insurance because it went down 2/3, and #2 to cancel her cable television subscription.

Joe Holland, Roundup Cable, opposed HB-707 (Exhibit #11). He also pointed out the Billings' Gazette editorial claiming Montana needs jobs (Exhibit #11a) This bill is what the editorial referred to as obstacles and impediments to growth in business.

Don Balock, Mel-View Cable, which is well under 100 subscribers. They provide good service. U.S. Senator Gore's name was mentioned about rate increases. How much did his wages go up in the last couple of years? He is opposed to this bill.

Michael Miller, Rock Associates, that have two small systems in Libby, Montana. He sent a letter to committee members opposing this bill, and he wanted to add that being an independent cable system there is no way they could compete against a tax support business (Exhibit #18). He feels this bill is more an area problem, and so do others. This is not really an issue for Montana. Mr. Miller also had several letters of support and praise for cable television (Exhibit 18a-h).

Don Deshaw, Wheatland Electric & Cable TV, said he and his wife are the owners and operators of this business in Harlowton, Montana. They are a small independent cable operator and electrical contractor. Three years ago we had 10 employees, now we have 5. One reason is that little article from the Gazette. If this bill is passed it would be a good indication to out of state companies that might think about coming to Montana. They would not want to compete against unfair competition from tax money either. He just didn't feel that tax money should be used to compete against private business.

Wes Huffman, General Manager, Great Falls TCI Cablevision of Montana, which includes 7 other systems. He wanted to state that last year, in 1990, TCI Cablevision of Montana contributed \$1.14 million dollars in taxes and franchise fees to local municipalities. He submitted that would not be the case under a translator run cable district.

Ken Young, Cable Montana, which has 9 small cable system stretching from Forsyth to Missoula. He agreed with Joe Holland. As a small operator, with 7 systems that would be exempt, it would still be devastating.

Tom Glendenning, General Manager, TCI Cablevision of Montana, serving Helena, Boulder and Townsend. This is the community where this situation arose from. He gave a brief background into the WGN problem that occurred in Helena. It is true that we carried WGN on this system for awhile, and then dropped. We dropped it because an unknown copyright fees came to haunt us to the tune of 3.75% of our gross revenue if we wanted to carry that station. This would also apply to any other classified distant independent signal. This amount of gross revenue, 3.75%, is a tremendous amount for one channel, and it was costing that we could no longer afford it, so we dropped it. The group that came along with the petition on WGN that they said indicated a big interest in WGN. We verified over 1400 actual signatures on the petition that were cable subscribers that said they wanted WGN. At that time, he looked at this realizing he would have to increase the rates to bring WGN back, so he decided to let all subscribers have a say in this. If they want WGN, and they will pay another \$1/month, then we will be happy to bring it back. We are in business to try to please our customers in the best way we can. So he put out a survey. It probably wasn't a scientific survey, but every subscriber in Helena received one. It asked if they wanted WGN if it would cost \$1/month, or would you rather not have WGN? He said 2666 returns said "no" under those circumstances they did not want WGN. Another 1546 people said "yes" they would take WGN under those circumstances. The way the cable system runs, WGN had to be provided for everyone or no one, so the "no" votes decided not to have WGN. Some people were not happy with this, but this is the way things go sometimes. He is unable to satisfy 100% of the people 100% of the time. We have to make tough business decisions in that regard. He added that some of you have been told that cable t.v. does not have any competition, but that is not true. Over 45% of the people he has passed with his cable plan have decided not to subscribe for one reason or another. They satisfy their video need from off the air reception from local t.v. stations, they have satellite systems, they rent videos, they watch translators, or whatever. A full 45% and sometimes more say they get their t.v. entertainment elsewhere. So he feels they do have competition, and again anyone that wants to come in and build a cable system can do it right beside ours. He does not mind competition, but he would rather compete with the private sector than with local governments that he pays taxes to. One last thing, Representative Menahan said one of his colleagues had received a bill but not service, and this did happen. When the Legislature comes to Helena we try to accommodate you, but sometimes finding a time when you are at home is difficult. We hook up the service outside and the bill goes out. In some cases, there is a problem inside, and we need to correct that, and in some cases we have not been able to make an appointment to get inside to resolve the

problems inside the building. He told the committee that when he becomes aware of them he backs the bill out. They are merely trying to provide service in the best way they can to the people who they know are busy, and can't always be at home to let us in.

Tom Harrison, Mountain Cable Television Association, said on competition that Mountain View Cable is a small company that is going head to head with TCI right out here in Clancy. Masada Cable is going up in the Flathead area along the east shore in competition with TCI. It is not an impossibility. One correction, Mr Spengler said this will create co-ops, but it is obvious it does not do that. That is a legal term, and co-ops are entirely able to get into the business now, so he can form a co-op or a nonprofit corporation and go into this business. They will not have tax money any more than any other co-op does. Co-ops do not run on tax dollars. Co-ops have been used in Montana, and he tried to talk with Senator Pinsoneault because he understood that the little cable system in St. Ignatius is either run by a nonprofit or a co-op. These may seem disjointed, but he wanted to touch on a few things that were given in testimony. In response to Kathy McGowan, there were claims of massive amounts of complaints, so we set up the program with Kathy. This operation heard complaints, went to his office, his office on to the particular cable company, and then the response was made to each complaint. On April 7, 1989, Mirna Ohmholdt became the Citizens Advocate, and he re-established the relationship, and it has worked very well. The current file of complaints since April 7, 1989 has only 6 complaints in it. Clyde Jarvis said he had truck loads of complaints, and Mr. Harrison had never contacted them. He saw an article when Commissioner Oberg was running for re-election that said he had gotten complaints. So he sent the commissioners a letter advising them of this program that was in place with the Citizens Advocate, so sent the complaints to him. He has not received any from the commissioners. So he questioned whether these were legitimate complaints. To Linda Stoll-Anderson he contrasted his feelings on private enterprise. She has 3 reasons to pass this bill; #1 it is a government run business, so she says the masses and the politicians will really benefit from this. Isn't that some commentary on America. #2 she can make money at the expense of private business of course, but the county will lose the tax base. He presented a letter to Representative Rice stating what the Legislative Fiscal Analyst said cable television companies in Montana paid in personal property taxes in 1990 (Exhibit #16). How can you harm something when you destroy the business that pays the taxes, and this makes it self evident. #3 was to give local control of programming. In the broadcasting media business there is no difference between what we want and don't want to broadcast. This means the religious group, the porno group, the whatever group, will be decided upon by government. This is pure censorship. The government makes a decision on programming then the government censors. He thought the government people and regulators may be very happy when the government runs all the newspapers, runs all the radio stations, and runs all the television and cable

systems. That way we will have full local control, and the masses will really have a good deal?! Contrast this with your own philosophical feelings for private business. If indeed, we do not want private business in this state, we don't think private business should compete with tax supported, tax free, government run institutions. The philosophy of this state in the west is precisely the opposite of that. We ask you to kill this bill. Once again, it is a variation of the theme. Please kill it.

Mickey Murray, Assistant General Manager TCI Cablevision, serving the communities of Havre, Chinook, Harlem and Malta. He wanted to answer two things. #1 Mr. Jarvis said we don't do after hour service calls. About 3 1/2 weeks ago there was a call that he was on that came at 3:30 a.m., and we responded at 4:00 a.m.. We do give service around the clock. Yes we do have delays in installs, but when we are faced with storms and other things we are helpless. There are 3 victims of this bill; #1 the cable industry will suffer, #2 the taxpayer who can not afford more fees for these grandiose systems, but Phillips (1201 people) and Blaine (705 people) Counties have only these numbers to pay for the city taxes, and now an added fee to build these systems. #3 the rural farmers and ranchers that rely on translator districts. He has been paying the bill for 30 years to try to maintain t.v.. These are the people that need the help. This bill will not bring a cable system to a rancher 45 miles south of Jordan for 8 people out there. Consider the tax figure on these people that do not have good t.v.. Give this a Do Not Pass.

Representative William Boharski, District 4, opposed this bill (Exhibit #12). This statement was read by Representative Tom Lee.

Representative Tom Lee, District 49, said the House brought to their attention that perhaps the cable industry is not very sensitive or community oriented. He want to relate that his personal experience working with TCI that they have been very responsive to the particular needs of this Legislature by providing the community at large with coverage. The Flathead has an ongoing experiment which they are bring the activities of this Legislature before the viewing public up there. You have heard testimony concerning the educational opportunities that the cable industry underwrites, the hooking up of the schools, the community service programs they support, and so he suggested to the committee that TCI is interested in the community and supports it with community service programs that they have not been added to this picture.

Mike Mason, System Manager, TCI Cablevision of Montana, Inc. opposed this bill by letter (Exhibit #13).

Jack Hyypa, Manager, KUSM-TV, Montana Public Television, opposed this bill by letter (Exhibit #14).

Kenneth Watts, General Manager, Billings Tele-Communications, Inc., opposed this bill (Exhibit #15).

Questions From Committee Members:

Senator Thayer asked what it costs to install a cable system? Douglas Rice, TCI Cablevision said that it is about \$15,000-\$20,000/mile, so depending on the number of miles. Missoula has approximately 225 miles.

Senator Eck asked if the technology for rural telephone exchanges could handle television signals? Wes Huffman said he was not sure. Representative Grady is a member of Lincoln Telephone Co-op, and he thought they did serve some rural areas. But in terms of large scale like Jordan the satellite technology is probably the most appropriate one at this time. Fiber optic technology is beginning to emerge, and is going into Missoula. Over the next 5 years it will probably be merged into some of these little areas, but it is not broad scale now because satellite technology fits the need better and less expensively. Mr Balock added that Jordan is owned by Mid-Rivers Telephone, and he understands that they have very few customers because the service is so terrible.

Closing by Sponsor: Representative Menahan said it is difficult with this many people testifying. What is a franchise? Does it give you the right to something? Or does it allow someone to compete against you with the same type of franchise the city grants? There are public education programs that if you do not have cable you can't get them. There is a lot of new technology, and they said \$15,000/mile, but this will not be true because of fiber optics and telephone lines it will be cheaper. They can run twice as many things over the line, so they'll rent the lines cheaper. They say they pay taxes, but we do not know what they are taking out. They don't have any competition. They talk about the service, but Representative Whalen wanted to know why they couldn't get somebody, when the Super Bowl went off, to restore the service? When we talk about something local, Phillipsburg can show their local football or basketball. This is what we should be getting. Right now, this is a regulated company because they are government protected. They throw the term "free enterprise" around, but it is not free it is restricted. We all know that they own all the radio and television, and they went to Congress under the Reagan administration they were successful in staying unregulated. Who is fighting the regulation and wants to protect them from this bill? The cable industry. Here in Montana, they say one thing, but there is something else in another place. He said that he subscribes to cable, and he enjoys the cable. But there are so many things wrong. Charging for things we do not want. If he lived in Helena, he would tell them what he wanted to buy, and that is what he would buy. He would buy channel 8,10,12,2, and ESPN. Instead, from 12:00 a.m. on you have a bunch of junk imposed on you. Someone trying to sell something, 19 has crazy dancing, and we have to pay for this. They are capitalizing on this. He has no problem with the gentleman that said we would

put him out of business, but that is a district with less than 1000 people. We are not trying to put anyone out of business. Did you notice, but all the little companies have been bought up by TCI, so we are subject to TCI. There is not free enterprise here. The small ones have goals of getting there system built up enough to make TCI buy them. He wished them well. He did feel the public should have the opportunity to compete against them. Why not? If we are going to have go out, not take tax dollars because this will be people who willingly want to go into this district. If you put your name on the line then you are liable for it. He told a little anecdote. Al Doherty was here who used to throw this smoke and mirrors, and former Senator Harrison was here, and he worked this committee, so he closed his eyes and pretended Harrison was Doherty. Representative Menahan asked the committee give this a Do Pass, and put it on the floor so people can discuss this and the public can see. If the public could be here today he said he would have the most people here, but he did not have that many employees to bring in.

HEARING ON HB-952

Presentation and Opening Statement by Sponsor: Representative Bob Raney, District 82, said that if they pass this bill Senator Farrell has agreed to carry it. This bill will provide for a requirement that sand and gravel open cut mines and concrete and asphalt processing facilities comply with local zoning regulations. The main protest to this over the years has been that it would be extremely hard on existing gravel operations. So we tried to take care of that concern. He hoped that everyone was familiar with what it would mean to put sand and gravel operations in the local zoning laws. What is different from past proposals, is trying to protect existing operators. You will find this on the bottom of Page 6 through Page 7. These are amendments that were added by the House Natural Resources Committee, and this whole bill is a Committee Bill from the House Natural Resource. The language will prevent a run on applications, so people trying to beat the enactment of the law. It then provides that present sand and gravel open cut operators who have contiguous land that they anticipate mining on in the future can notify the department on a form. They will then state that they do in fact own the land, and do in fact intend to mine on it in the future. By doing this we will protect the existing operators.

Proponents' Testimony: Alice Tulley, representing her neighborhood on Mullan Road in Missoula, which is located just west of Missoula, and in the 70's it was zoned single family residential neighborhood. In 1982, we had a public hearing for a proposed gravel pit. Even though everyone opposed it the gravel pit was allowed to proceed and be built. This was against all

the neighbors protests. The county commissioners, on the residents' behalf, tried to stop the gravel pit, and they pursued through the district court and onto the State Supreme Court with no success. Presently, our state statute exempts all mining operations of these regulations. In 1987, this gravel pit was given an Air Contamination Permit to operate an asphalt batch plant and now, a concrete plant. Directly adjacent to the plant, is another gravel plant has gone in. Each time the residents have protested and spoke out against each expansion, but continually they have been told that they have no rights under present Montana law. She reiterated that the neighborhood was zoned residential in the 70's, and so this people bought homes that they felt would be in a protected area. They are not against sand and gravel operations, but there are appropriate locations for them. A zoned residential neighborhood is not an appropriate location for these operations. Most states regulate sand and gravel operations through the zoning process. She gave a fact sheet on what HB-952 will do and what it won't do (Exhibit #17). Property value adjacent to these plants has been devalued. Even though reclamation plans call for wonderful parks or a housing development around a lake that was a gravel pit, this is in the future. A gravel pit life expectancy of 15-30 years is a long time to live with the dust, noise, etc. before we see a park, or new housing development in that area. We know we will not get rid of what they have, but this gives them the say in any future sand and gravel developments that may pop up in residential areas. Counties that do not have zoning are not affected, but Missoula has zoning in place before the gravel proposal. Billings, Bozeman, Missoula, Livingston, and other urban areas are the ones that have had these problems. She urged the committee to Do Pass HB-952 because it is needed.

Linda Stoll-Anderson, County Commissioner, Lewis and Clark, was representing Montana Association of Counties (MACo), said she had experience in Lewis and Clark County with this. This afternoon there was a hearing on Special Zoning District #40 in Lewis and Clark County. Since last session, everyone has found out that sand and gravel operations are exempt from zoning, and she has been asked to point out that Lewis and Clark County has 40 special zoning districts. They are all special zoning districts that came to us at the request of the people living in them. They all envision certain restrictions they want like residential, 5 or 10 acre parcels, etc. None of them would believe her if she said that despite their action that they took to create that special zoning district and describe in detail the environment they want a sand and gravel operation can go in there despite their protests. It is more important with this special district #40 because this is in the Missouri River corridor, and as that corridor gets developed as a source for gravel these people need to know this. It is real important that the committee ask why sand and gravel operations should be exempt from that zoning?

Opponents' Testimony: Ken Dunham, Montana Contractors'

Association opposed this bill (Exhibit #19).

Paul Miland Foster, United Industry, opposed this bill (Exhibit #20). He defied Ms. Tulley or anyone else to refute that his operation has been sensitive to the needs of their neighbors. They operate at certain hours and not others, they keep the noise down at certain times, etc.

Meredith Rieter, Empire Sand & Gravel, said he agreed what Mr. Foster has said about the state lands, and the extent of what they have done in making it easier to open gravel pits. We know the rules and regulations that will be enforced. He added that he had a problem understanding how these local zoning boards are going to handle this. You can go to the extreme from where they will ban an operation to the other end where they could supersede state law and make it easier than is already on the books. Nothing in this bill says they can't do that. We could end up with worse situations. His advise to the committee is that there is a system that works well, don't fix it.

Timothy Barnard, President, Barnard Construction opposed this bill by letter (Exhibit #21).

Amiel Schaff, Vice President, Fisher Manufacturing opposed this bill by letter (Exhibit #22).

Ken Ruggles, Livingston Ready Mix, Inc., opposed this bill by letter (Exhibit #23).

Jim Gilman, President, Jim Gilman Excavating Inc., opposed this bill by letter (Exhibit #24).

D.A. Peressini, President, Washington Construction Company, opposed this bill by letter (Exhibit #24).

W.T. Oftedal, President, E. H. Oftedal & Sons, opposed this bill by letter (Exhibit #26).

James McDonald, President, Jim's Ready Mix, opposed this bill by letter (Exhibit #27).

Harold Gierke, President, Portable Paver, Inc., opposed this bill by letter (Exhibit #28).

Senator Ethel Harding, District 25, opposed this bill. Due to the time she will give her opinion during Executive Action.

Questions From Committee Members:

Senator Hammond asked if gravel is tough to find? Ms. Tulley said that she is aware that gravel is scarce. Missoula County Commissioners often grant sand and gravel operators a "short term pit." They go in and do a short term job, 60-90 days, and if they needed to get gravel from a residential area that could go

in and apply for a zoning variance. It would not take any longer to get a zoning variance than the current process. This does not put another layer of regulation. If a city or county puts zoning in, and the zoning board does not have a problem allowing the sand and gravel in a zoned residential area, then it would be permitted. As it stands now, each county is allowed to set up what is permitted within their zoning regulations and what fits each particular county.

Senator Bengtson asked Ms. Tulley if she has seen improvement over the years as to the reclamation of gravel pits, and the limitation on expansion, the air quality? Ms. Tulley said no not in her area. Literally in her area, the sand and gravel operation was given, not an Air Quality Permit, but an Air Contamination Permit. They knew they would be contaminating the air in the Missoula Valley by running the asphalt batch plant, the concrete plant, and the sand and gravel operation. There has been a problem with the gravel pit, and she was sure Mr. Welch can address that concern over the reclamation of the one gravel pit. We have had problems, and he has not been doing what he stated. She has been told that there are gravel pits around the state in residential areas that look really nice and aren't noticed. This is not the case in her neighborhood. Mr. Foster said his new pit in Missoula is not in his own residential area, it is zoned in an area that permits sand and gravel.

Senator Bengtson asked Mr. Welch about the problems he's faced, and are we having a state wide problem with gravel pits? Mr. Welch said that it is state wide, but not wide spread. The instances come up a couple times a year, and usually in more populated areas.

Senator Hammond said he has the opposite question. In his area they open and shut the gravel pit to take care of the road. Mr. Welch said that is not a requirement of the Opencut Mining Act, and in fact it is not the best way to utilize the facility for a county. Opening and closing reduces the effectiveness of reclamation. Senator Hammond said they have been told to operate it this way. Mr. Reiter said that he could answer that. It is important to understand that to leave it open somebody must continue the bond. If Empire Sand and Gravel opens pits for highway projects, and if they want to leave the pit open or the county wants it, then the county must assume the bonding for the area that is open. A landowner can also assume it, but many times they do not want to assume it, so they are open and closed. When Empire is done, they have to complete the area and reseed it to release their bond. Mr. Welch said that counties do not post bonds, and often times they have locations that they utilize for years for a section of the road. What Mr. Reiter said is true when the gravel is used, and the company is done, it must be closed or someone else must assume reclamation.

Senator Harding asked Alice Tulley what she would consider an "appropriate site" for a sand and gravel operation? Ms. Tulley

said an appropriate area is not in a zoned residential neighborhood. She understands the problems that companies have finding gravel that fits the specifications of the job to be done. Hopefully the gravel will not be in zoned residential neighborhoods, but if they are, a zoning variance and a short term operation could be granted. The door is not totally closed. We are not making you go through another level of regulation. If zoning is intact, such as in her neighborhood since the 70's, then the operation would have had to get a variance. We were told that we could not stop this type of gravel operation or the asphalt or concrete plants. We just have a way to deal with that in the zoning board. Senator Harding stated that sand and gravel beds usually lie along a river, and so that is where residents want to live and congregate. So you can see why this will be an ongoing battle if there are going to be sand and gravel operations. Ms. Tulley agreed, but she said for the most part, not many areas of the state is affected because there are not many areas that have zoning in place. Missoula County is one that has had zoning in place. In other states, if zoning is in place, the board goes to the property and decides if this is an area where sand and gravel would need to be mined. This is all in the proper zoning and planning process. In Montana, we have not done this, and the zoning has gone into place with no forethought about these types of situations.

Closing by Sponsor: Representative Raney said that it is interesting that the opponents say that existing statute are good enough. All the hoops they jump through now, the permission from the landowner, getting the permit, give public notice, and prepare a disclosure, but they get to do the operation anyway. What took place in his county, was a residential area established property values and rights. Then an entrepreneur comes along and puts in a gravel pit. He can haul it cheaper. In the mean time, all the adjoining neighborhood loses its property value. It is authenticated in the 5 acre sites south of Livingston where the proposal to put in a gravel operation was incredibly opposed by all the residents, 400 people protested, but they could not stop it. Does this makes sense. People living across the road have children with asthma, and it is caused by dust. They have to move when the pit opens. Whose private property is now being affected when you say you can't open the pit? This case, hundreds of property owners figured the value of their land would be depreciated by the opening of the pit. So who's property rights come first? The first property owners there or the newcomer with the sand and gravel pit? We are talking residentially zoned, so this is areas around our cities. People have established schools, and then there is a mining operation in there. We would not allow an oil well to be next to a school. We do not allow other industries that destroy the value of the residential property located there. We don't allow railroad repair shops to be located there. The only industry that can go into a residential area, and destroy the land value around them unrestricted, is sand and gravel operations. This does not make sense. We are not denying the use of property for those

SENATE LOCAL GOVERNMENT COMMITTEE

March 19, 1991

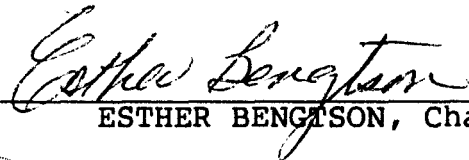
Page 22 of 22

operations already there. They are grandfathered in to this, and so are their expansions. This bill will only affect new sand and gravel operations in residential areas that are presently zoned. If they are not zoned currently then you open a gravel operation, and then they zone out around you, you are not affected by this bill. They can not throw you out. Someone commented that it might be easier to site a pit by local government, but that can't be because local government can not prevent the siting of a pit. Local government has no control. The only thing that can prevent the siting of a pit in a zoned residential neighborhood at this time, is if the cost of remediation of the pit imposed by the department are so high that the operator decides not to open it. So local government can't do that. Representative Raney said this bill addresses the property rights of one person versus the property rights of another. The people who are already there are the one's whose property rights are going to be violated by somebody else moving in. He thinks to pass this bill only makes good sense to protect zoned residential areas.

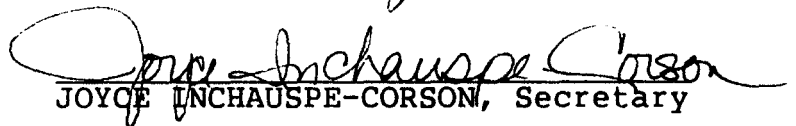
Senator Bengtson told all the people concerned about these bills that Executive Action will be taken Thursday, March 21, 1991, and they are all welcome at that time. The people from the state lands were asked to be there to answer any technical questions.

ADJOURNMENT

Adjournment At: 5:50 p.m.



ESTHER BENGTON, Chairman



JOYCE INCHAUSPE-CORSON, Secretary

EB/jic

DATE MARCH 19, 1991COMMITTEE ON SENATE LOCAL GOVERNMENT

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Mike T. Mason	Tel. conversion to ^{to} MS ^{MS} Area	707		X
Joe W. Holland	ROUNDUP CABLE	707		X
John Balock	Mel-View Cable	707		X
Peggy Jambo	ABC Cable	707		X
Steve ^{Watt}	Tel. Cablevision ^{Answer}	707		X
Ken Watts	^{Billings} ^{Blondie} ^{Montana} ^{Siding}	707		X
Steven T. Zipes	Tel. Cablevision ^{Missoula, MT}	707		X
Andrew M. Bostwick	Bo He, MT	707		X
Michael D. Miller	Libby MT	707		X
Doug Rice	Helena MT TCI Cable	707		X
WES HUFFMAN	TCI CABLEVISION, GT. FALLS	707		X
CLYDE J. JARVIS	MYSELF	707	X	
Steve Dormaier	TCI Cablevision, ^{Butte,} ^{Anaconda} ^{Dillon}	707		X
MARK LANGDORE	AFSCME	HB 650	X	
Don DeShaw	Wheatland Electric & Cable TV	707		X
Shen Young	Cable Montrose	707		X
Paul Spengler	BRING BACK WGN	707	✓	
Drav Dawson	MT Dept Health	536	✓	
Wm Morgan		707	✓	
Paul M. Foster	United Insurance	952		X
Meridith Reiter	Empire State & Grand	952		X
LINDA SPILL-ANDERSON	LEWIS CLARK County	HB 707	✓	
TOM CLANDENNING	TCI CABLEVISION-HELENA	HB 707		X
Mickey MURRAY	TCI HAIRE ^{Chinook} ^{HARLEM} ^{Malta}	HB 707		X
LINDA SPILL-ANDERSON-Mt Assn Comtee		HB 952	✓	
Tim Bergstrom	MT STATE FIREMENS ASSOC	HB 650	X	

ROLL CALL

SENATE LOCAL GOVERNMENT COMMITTEE

DATE 3-19-91

52 LEGISLATIVE SESSION

NAME	PRESENT	ABSENT	EXCUSED
Senator Beck			X
Senator Bengtson	X		
Senator Eck	X		
Senator Hammond	X		
Senator Harding	X		
Senator Kennedy	X		
Senator Thayer	X		
Senator Vaughn	X		
Senator Waterman	X		

Each day attach to minutes.

T. Bret Haggerty
RAE VOL. FIRE DEPT.
P.O.Box 1754
Bozeman, MT 59771

March 19, 1991

Montana State Legislature
Capital station
Helena, MT 59620

Dear Legislators:

I would like to express my support for House Bill 536. I feel there are three reasons as to why this Bill is beneficial to the customers of Fire Services Fee Areas with regards to emergency medical services.

1. Fire departments are GEOGRAPHICALLY DISTRIBUTED. Meaning, fire departments are the closest resource to an emergency situation in rural areas. Immediate medical attention, in many situations, may be the difference between life and death.

2. Personnel of departments have the ability to provide emergency medical services.

a. Fire departments already have basic medical equipment on their apparatus. In many instances monetary donations were made to purchase medical supplies and equipment, or the items themselves were donated.

b. Internally with in a fire department it is expected that medical assistance can be provided for an injured fire fighter.

c. Currently, a fire department operating in both districts and fee areas may provide emergency medical services related to the suppression of a fire.

3. House Bill 536 allows for local control. Through the process of public hearings the customers of the fire service fee area make the decisions. The customers decide the KINDS, TYPES and LEVELS of the services they are willing to pay for.

In conclusion, it can be easily understood that our rural fire departments have the ability to provide emergency medical services. The purpose of House Bill 536 is to allow the public the benefit of first response. Meaning, allow the fire departments to provide emergency medical services in situations where fire may not be the factor, or the cause of the injury. I would like to urge this committee for a DO PASS. Thank-you.

T. Bret Haggerty

State of Montana

County of Gallatin

Bozeman



GALLATIN COUNTY FIRE COUNCIL

TO: Senate Local Government Committee

FROM: Gallatin County Fire Council

SUBJECT: Support of House Bill #536

DATE: March 14, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1a

DATE 3-19-91

BILL NO. HB-536

This memo is to inform the Senate Local Government Committee that the Gallatin County Fire Council and its members are in full support of House Bill #536.

A handwritten signature in cursive script that reads "Diana Martin".

Diana Martin
Secretary Treasurer
Gallatin County Fire Council



RAE VOLUNTEER FIRE COMPANY

5400 GOOCH HILL RD., BOZEMAN, MT 59715

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 1b

DATE 3-19-91

BILL NO. HB-536

FEBRUARY 13. 1991

MONTANA STATE LEGISLATORS
CAPITOL STATION
HELENA, MT 59620

RE: HOUSE BILL 536

DEAR LEGISLATORS,

I WOULD LIKE TO EXPRESS MY SUPPORT FOR HOUSE BILL 536 WHICH GIVES CONTROL OF WHAT LEVELS AND TYPES OF SERVICES A FIRE SERVICE AREA CAN PROVIDE TO LOCAL GOVERNMENT (EI. COUNTY COMMISSIONERS AND BOARDS OF TRUSTEES). IT WILL GIVE FIRE SERVICE AREAS A BETTER HANDLE ON WHAT THEY CAN AND CANNOT DO IN REGARDS TO E.M.S. AND WILDLAND FIRES TO NAME A FEW. PARTICULAR QUESTIONS AND ANSWERS CAN BE DEALT WITH ON A LOCAL LEVEL.

PLEASE GIVE HOUSE BILL 536 YOUR SUPPORT.

SINCERELY,

TOM KINGMA
RAE VOLUNTEER FIRE CHIEF
5400 GOOCH HILL RD.
BOZEMAN, MT 59715

HOUSE BILL 536

Madam Chair, members of the committee. I am Drew Dawson, Chief of the Emergency Medical Services Bureau in the Department of Health and Environmental Sciences.

An emergency medical services *system* requires the cooperation and involvement of many different organizations and agencies. Particularly in rural Montana, we need to take advantage of organizations which are interested in providing quality emergency medical services with well-trained persons and appropriate equipment. We don't like to turn interested folks away! House Bill 536 would, after considerable local public participation, allow Fire Service areas to expend funds for the provision of emergency medical services.

Title 50, Chapter 6, requires that emergency medical services be licensed by the Department of Health and Environmental Sciences. There are very reasonable mechanisms established to assure that EMS provided by any agency, including fire service areas, is adequate and standard.

Just as other fire departments, rural and urban, are now providing licensed emergency medical services at various level and types, House Bill 536 would allow the residents of fire service areas the same service. This can only help to improve Montana's emergency medical services system.

We are pleased to support this legislation.

Thank you.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 3

DATE 3-19-91

FILE NO HB-650

House Bill 650

Tim Bergstrom. I reside in Billings, Montana.

I am a life-long resident of Billings.

House Bill 650 encourages more participation in the democratic process.

Many citizens who are genuinely interested in government only participate in the process when they enter the voting booth.

While it is good that most Montanans exercise their right to vote, many citizens may not be willing to invest the necessary time away from their employment to serve in an elected capacity because such absence may be a detriment to their career advancement.

I think this is especially true of younger people in the work force. Workers who are in the incipient stages of their career.

It makes good sense to include a broad spectrum of Montanans in the legislative process of city, county, and state government. VIRTUALLY EVERY SEGMENT OF OUR SOCIETY IS AFFECTED BY THE ACTION OF THESE GOVERNING BODIES, AND EVERY SEGMENT DESERVES REPRESENTATION.

Enactment of this legislation would insure workers in Montana that they will not be adversely impacted for taking an active role in their government, whether it be at the city, county, or state level.

Tim A. Bergstrom

(5) Any assets of the district after dissolution shall be distributed according to a specific plan adopted by the board of directors after a public hearing and set forth in the resolution recommending that the district be dissolved.
History: En. Sec. 1, Ch. 545, L. 1985; amd. Sec. 2, Ch. 545, L. 1985; amd. Sec. 1, Ch. 546, 1987.

Part 24

Garbage and Ash Collection Districts

7-13-2401. Reestablishment of certain garbage and ash collection districts. Any county that created a garbage and ash collection district pursuant to the provisions of subdivision 29, section 1, chapter 100, Laws of 1931, as amended, prior to the repeal of said section may continue to operate garbage and ash collection district pursuant to this part.
History: En. 16-1031.1 by Sec. 1, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.1.

7-13-2402. Authority to create garbage and ash collection districts. The board of county commissioners has jurisdiction and power, under such limitations and restrictions as are prescribed by law, to create, abolish, change garbage and ash collection districts in thickly settled areas outside the limits of incorporated cities and towns.
History: En. 16-1031.2 by Sec. 2, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.2(part).

7-13-2403. Creation of districts to be pursuant to rules. (1) Such districts shall be created under rules to be promulgated by the board of county commissioners.
(2) The rules shall provide for petition on the part of a majority of taxpayers residing within such areas and for the survey of proposed districts by a county health officer as to boundaries and methods for disposal of garbage and ashes within such districts.
History: En. 16-1031.2 by Sec. 2, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.2(part).

Cross-References
Montana Administrative Procedure Act not applicable to local governments, 2-4-102.

7-13-2404. Operation of district. (1) When such a district has been created under the authority of this part, the county commissioners shall be authorized and empowered to provide for the maintenance and support thereof and for the purchase or leasing of land necessary for such purpose.
(2) The county commissioners may provide for the collection and disposal of garbage and ashes for such districts by entering into contracts with individual contractors or firms to perform such services under a system of rates provided by the commissioners.
History: En. 16-1031.2 by Sec. 2, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.2(part).

7-13-2405. Determination of rates for collection services. The rates authorized by 7-13-2404(2) shall be applied on a fair and equal basis to per capita utility such as garbage collection service within a district and all rates so established shall be in relation to the amount and matter of collection

and disposal service provided to the various types of customers within a district. However, in no event shall any fee exceed the amount of \$3 per month for a family residential unit.
History: En. 16-1031.2 by Sec. 2, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.2(part).

7-13-2406. Assessment authorized. (1) The board of county commissioners may collect the funds necessary to operate said district, as provided in this part, by placing a special assessment on the owners of the real property benefited by such service and shall collect the same with the general taxes.

(2) Such special assessment shall be a lien on said property so assessed.
History: En. 16-1031.2 by Sec. 2, Ch. 73, L. 1974; R.C.M. 1947, 16-1031.2(part).

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 4
DATE 3-19-91
BILL NO. HB-707

Part 25
Television Districts

7-13-2501. Authorization to create television districts. (1) Any area of the state may organize as a television district for the performance of functions provided for in this part.

(2) A television translator district may include a part or all of any county or may include areas in more than one county and may include any municipality located within such county or counties.
History: En. Secs. 2, 3, Ch. 198, L. 1961; R.C.M. 1947, 70-409, 70-410.

7-13-2502. Purposes of television district. The purposes of a television district shall be to serve the public interest, convenience, and necessity in the construction, maintenance, and operation of television translator stations and any system necessary thereto by appropriate electric or electronic means for television program distribution, but said purposes are not meant to include the construction or operation of community antenna systems, commonly known and referred to as cable TV systems.
History: En. Sec. 1, Ch. 198, L. 1961; R.C.M. 1947, 70-408.

7-13-2503. Petition to create district. (1) A petition to form a district shall be presented to the county clerk and recorder of each of the counties in which any portion of the area is situated. Petitions shall be signed by at least 51% of the registered electors who are residents of the proposed district.
(2) The petition shall state the objects of the district and designate the boundaries thereof by section and the approximate number of people to be benefited thereby and shall contain a brief description of the proposed system, including type of construction, location, and approximate cost of the installation. It shall also state that the proposed district will be conducive to the public interest, convenience, and necessity. It shall request that it be organized as a television district.
History: En. Sec. 4, Ch. 198, L. 1961; R.C.M. 1947, 70-411; amd. Sec. 1, Ch. 479, L. 1979.

7-13-2504. Filing of petition. (1) Such petition shall be filed with the county clerk and recorder of all counties in which the signers on the petition are located. If the petition is filed with more than one county clerk, and

recorder, each petition shall state the number of signers on it and the name of the county where the petition containing the most signers is filed.

(2) (a) At the time of filing the petition, the sponsors thereof shall cause to be deposited with the county clerk and recorder a sufficient sum of money to cover the cost of publication of all notices provided for in 7-13-2506.

(b) If the notices are not published, the deposit shall be returned to whoever deposited the funds. If there is any surplus remaining after paying for such publication as herein provided, it shall be returned to the original depositor or depositors. If a district is created, the fees so expended are an obligation of the district and shall be repaid by the district to the depositors.

History: En. Secs. 5, 6, Ch. 198, L. 1961; R.C.M. 1947, 70-412(part), 70-413(part).

7-13-2505. Processing of petition. (1) Upon the filing of such petition or petitions, the county clerk and recorder shall examine the petition and certify whether the required number of signers are found thereon. After the examination of the petition, the county clerk and recorder of any county containing the least number of signers, if more than one county is involved, shall transmit the petition to the county clerk and recorder of the county containing the most signers.

(2) Within 30 days following the receipt of such petitions, the county clerk and recorder in the county containing the most names on the petitions shall transmit the petitions to the board of county commissioners of the county in which the greater number of petitioners reside, together with his certificate and the certificates of any other county clerk and recorder as to the sufficiency thereof.

History: En. Sec. 5, Ch. 198, L. 1961; R.C.M. 1947, 70-412(part).

7-13-2506. Notice of petition. Upon receipt of a duly certified petition, the board of county commissioners shall cause the text of the petition to be published as provided in 7-1-2121. If any portion of the proposed district lies in another county, the petition and notice shall likewise be published in that county. No more than five names attached to the petition shall appear in the publication and notice, but the number of signatures shall be stated.

History: En. Sec. 6, Ch. 198, L. 1961; R.C.M. 1947, 70-413(part); amd. Sec. 23, Ch. 349, L. 1985.

7-13-2507. Hearing on petition. At the time set for hearing such petition or petitions, the board of county commissioners shall hear all persons who desire to be heard relative to the creation of a television district. The board may, if they so desire and it appears to be desirable, adjourn the meeting for not to exceed 30 days in time to further hear the petitioners and protestants, if any.

History: En. Sec. 7, Ch. 198, L. 1961; R.C.M. 1947, 70-414(part).

7-13-2508. Decision by county commissioners. After such hearing or hearings, the board of county commissioners shall adopt a resolution either creating the proposed television district or denying the petition.

History: En. Sec. 7, Ch. 198, L. 1961; R.C.M. 1947, 70-414(part).

7-13-2509. Resolution to create district. (1) If the board of county commissioners desires to create the television district, they shall adopt a resolution describing the proposed district, the estimated cost of construction, location and time and approximate cost of any installation to be made, describing

the boundaries of such district and finding that the district will be conducive to the public interest and convenience, and thereby such district shall be created.

(2) If the board passes a resolution creating such district, they shall name the district "..... television district" and file a copy of the order creating such district, if only one county is included therein, with the county clerk and recorder. If portions of more than one county are included in said district, a copy of the order shall be filed in each county. A copy of the order shall be filed with the secretary of state, for which he shall receive a fee of \$5.

History: En. Secs. 7, 8, Ch. 198, L. 1961; R.C.M. 1947, 70-414(part), 70-415(part).

7-13-2510. Powers of district. A television district organized under this part, acting through its board of trustees herein provided for, may:

(1) perform all the acts and take all the necessary or proper steps to assure that there will be a fair, efficient, and equitable distribution of television services within the area in order that all persons within such service area shall be supplied by means of an appropriate electrical or electronic system for television program distribution, such authorized system to provide such flexibility as to permit radical improvements in technical quality without rendering inoperative receivers therein, but discontinuance of service by the district for improvements or repairs for a temporary period shall not be construed as rendering inoperative;

(2) if necessary or proper in the furtherance of the objects of this part, acquire, build, construct, repair, own, maintain, and operate any necessary stations transmitting simultaneous visual and aural signals intended to be received by the general public, relay stations, pickup stations, or any other necessary electrical or electronic system;

(3) make contracts to compensate any owner of land or other property for the use of such property for the purposes of this part;

(4) make contracts with the United States, any state or municipality, or any department or agency of those entities for carrying out the general purposes for which the district is formed;

(5) acquire, by gift, devise, bequest, lease, or purchase, real and personal property, tangible or intangible, including lands, rights-of-way, and easements, necessary or convenient for its purposes;

(6) to make contracts of any lawful nature (including labor contracts or those for employees' benefits) and employ engineers, laboratory personnel, attorneys, other technical or professional assistants, and any other assistants or employees necessary to carry out the provisions of this part;

(7) issue warrants, payable at the time stated therein, to evidence the obligation to repay money borrowed or any other obligation incurred by the district, warrants so issued to draw interest at a rate fixed by the board, payable annually or semiannually as the board may prescribe;

(8) contract indebtedness or borrow money for corporate purposes and issue revenue bonds therefor to be repaid from rates and charges, bearing interest as provided in 17-5-102 payable semiannually, the bonds not to be sold for less than par and accrued interest;

(9) prescribe rates for the providing of services throughout the area in

(10) prescribe such installation or ready-to-serve charges to be used for any costs connected with preparation, acquisition, or construction of the system; (11) apply for, accept, and be the holder of any permit or license issued by or required under federal or state law; and (12) provide FM translator services if authorized as provided in 7-13-2512.

History: En. Sec. 13, Ch. 198, L. 1961; R.C.M. 1947, 70-420(part); amd. Sec. 2, Ch. 13, L. 1979; amd. Sec. 2, Ch. 479, L. 1979; amd. Sec. 5, Ch. 500, L. 1981; amd. Sec. 1, Ch. 11, L. 1983; amd. Sec. 21, Ch. 370, L. 1987.

7-13-2511. Prohibition on operation of cable TV systems. A television district organized under this part may not perform any acts or take any steps to construct or operate community antenna systems, commonly known and referred to as cable TV systems.

History: En. Sec. 13, Ch. 198, L. 1961; R.C.M. 1947, 70-420(part).

7-13-2512. Authorization for FM translator. (1) A television district may construct and operate a broadcast FM translator facility (88 to 108 megahertz) as provided in this section.

(2) (a) A request to provide FM translator services may be initiated by a petition signed by at least 51% of the registered electors who are residents of the television district and presented to the board of county commissioners which initially established the district. The petition, its filing, and its processing are governed by 7-13-2503, 7-13-2504, and 7-13-2505.

(b) Upon receiving a certified petition, the board of county commissioners shall give notice and hold a hearing as provided in 7-13-2506 and 7-13-2507. After the hearing, the board of county commissioners shall approve or deny the petition by resolution. If the decision is to approve the petition, the resolution shall authorize the board of trustees of the district to provide the requested services and shall describe the proposed system, including the type of construction, proposed location, and estimated costs.

History: En. Sec. 1, Ch. 13, L. 1979; En. Sec. 10, Ch. 479, L. 1979.

7-13-2513 through 7-13-2520 reserved.

7-13-2521. Appointment of board of trustees. The board of county commissioners, upon the creation of said district and as a part of the order creating the district, shall appoint a board of three trustees to administer the affairs of the district.

History: En. Sec. 9, Ch. 198, L. 1961; R.C.M. 1947, 70-416(part).

7-13-2522. Qualifications for trustee. Each of said trustees shall be a resident of the district.

History: En. Sec. 9, Ch. 198, L. 1961; R.C.M. 1947, 70-416(part); amd. Sec. 3, Ch. 479, L. 1979.

7-13-2523. Term of office. (1) The trustees so appointed upon creation of such district shall be appointed for staggered terms of 1, 2, and 3 years. If more than one county is involved, one of said trustees shall be appointed from the county containing that portion of the district with the fewest residents, and such trustee shall be given the 3-year term. Said trustees so appointed shall hold office for the term of their respective appointment or until their successors are appointed and qualified.

(2) At the end of the respective terms of said trustees, the board of county commissioners shall appoint a new trustee for a 3-year term.

History: En. Sec. 9, Ch. 198, L. 1961; R.C.M. 1947, 70-416(part); amd. Sec. 4, Ch. 479, L. 1979.

7-13-2524. Vacancies. In case of a vacancy by death, resignation, removal from the district, or otherwise, a trustee shall be appointed by the board of county commissioners to fill such vacancy to the end of the term of such trustee.

History: En. Sec. 9, Ch. 198, L. 1961; R.C.M. 1947, 70-416(part).

7-13-2525. Compensation of trustees. The board of trustees of the district shall serve without compensation but will be reimbursed for reasonable expenses incurred in the operation of the television district.

History: En. Sec. 14, Ch. 198, L. 1961; R.C.M. 1947, 70-421.

7-13-2526. Meetings of trustees. (1) The board of trustees shall meet once a month at a regular time and place to transact the business of the district. The time and place shall be fixed by the trustees, and any change in the time and place of meetings must be given by publication of notice in a newspaper most likely to give notice to the taxpayers within such district.

(2) All meetings shall be held at some place within the area of the television district. All such meetings shall be open in their entirety to the public.

History: En. Sec. 16, Ch. 198, L. 1961; R.C.M. 1947, 70-423.

7-13-2527. List of property owners. (1) A copy of the order creating the district shall be delivered to the county assessor of each county within the district.

(2) The assessor shall, on or before August 1 of any given year, prepare and certify a list of all persons owning class four, class twelve, or class fourteen property within such district and deliver a copy of such list to the board of trustees of said district.

History: En. Sec. 10, Ch. 198, L. 1961; R.C.M. 1947, 70-417; amd. Sec. 3, Ch. 13, L. 1979; amd. Sec. 5, Ch. 479, L. 1979; amd. Sec. 1, Ch. 72, L. 1989.

Compiler's Comments
1989 Amendment: In (2), after "owning", substituted "class four, class twelve, or class fourteen property" for "television sets".
Applicability: Section 5, Ch. 72, L. 1989, provided: "[This act] applies to tax years beginning after December 31, 1989."

7-13-2528. Financial administration of district. (1) The board of trustees shall, from any list prepared by the county assessor as required by 7-13-2527, remove the names of any persons who have claimed exemption under this part prior to September 1 and shall prepare a budget for the expenses for the next year.

(2) The budget, together with the list of such persons residing in the district and subject to the special tax after all exemptions have been allowed as provided in this part, shall be presented by September 1 to the board of county commissioners, who shall levy the tax requested by said trustees. The board shall levy such tax in accordance with the request herein mentioned. In preparing the budget, the board of trustees shall maintain separate budgets for television services as a ~~Br F. Ansk~~ ~~servi~~ ~~and s'~~ ~~"speci"~~ ~~the tax~~ to be levied on property owners for these services. The tax shall be certified

o the county clerk and recorder and entered on the assessment books as against such persons and collected by the county treasurer as all other taxes are collected.

(3) The county treasurer shall be the treasurer for said district and hold aid taxes, as collected, in a separate fund to be disbursed by him upon warrants drawn by the trustees, at least two of whom shall sign any warrant for the disbursement of such funds by the county treasurer.

History: (1), (2) En. Sec. 11, Ch. 198, L. 1961; amd. Sec. 1, Ch. 79, L. 1975; Sec. 70-418, R.C.M. 1947; (3) En. Sec. 12, Ch. 198, L. 1961; Sec. 70-419, R.C.M. 1947; R.C.M. 1947, 70-418, 0-419; amd. Sec. 4, Ch. 13, L. 1979; amd. Sec. 6, Ch. 479, L. 1979; amd. Sec. 2, Ch. 72, L. 1989.

Compiler's Comments

1989 Amendment: Near end of (1) inserted
prior to September 1".

Applicability:

Section 5, Ch. 72, L. 1989, provided: "[This act] applies to tax years beginning after December 31, 1989."

7-13-2529. Exemption for nonbenefited taxpayers. (1) The taxpayers in the television district who do not receive the signal of the television translator station or who receive direct reception from the television station from which the television translator repeats a signal or receive service through the medium of a community antenna system on which they are a subscriber in good standing will be exempt from the payment of the tax for the support of the television services of the television district, provided they file an affidavit setting forth any of the grounds above mentioned. The affidavit shall be filed before September 1 with the board of trustees, who shall upon the receipt of such affidavit have the names of such persons so exempted from the tax for television services stricken from the list of taxpayers certified to the board of county commissioners. The exempted persons shall not be liable for such tax.

(2) A similar exemption is available with respect to FM translator services. The procedure provided in subsection (1) shall be utilized for the FM exemption.

(3) Any person or persons who shall make a false or fraudulent claim for exemption as provided in this section shall be guilty of a misdemeanor.

History: En. Secs. 15, 17, Ch. 198, L. 1961; R.C.M. 1947, 70-422, 70-424; amd. Sec. 5, Ch. 3, L. 1979; amd. Sec. 7, Ch. 479, L. 1979; amd. Sec. 3, Ch. 72, L. 1989.

Compiler's Comments

1989 Amendment: In (1), near beginning of second sentence, inserted "before September 1".

Cross-References

Misdemeanor penalty, 46-18-212.

7-13-2530 through 7-13-2540 reserved.

7-13-2541. Procedure to annex contiguous areas. The boundaries of television district created by authority of this part may be altered and outlying areas be annexed from territory contiguous thereto in the following manner:

(1) A petition shall be signed by at least 51% of the registered electors who are residents of the area to be annexed.

(2) The petition shall designate the boundaries of the contiguous area to be annexed and ask that it be annexed to the existing television district.

(3) The petition shall be transmitted to the clerk and recorder, and the hearing and notice thereof shall be the same as provided by 7-13-2504 through 7-13-2507.

(4) After the hearing, the board of county commissioners shall adopt a resolution either annexing the area to the existing television district or denying the petition.

History: En. Sec. 1, Ch. 48, L. 1963; R.C.M. 1947, 70-426; amd. Sec. 8, Ch. 479, L. 1979.

7-13-2542. Procedure to abandon district. (1) If at any time a petition for abandonment of the television district, signed by at least 51% of the registered electors who are residents of the district, is filed with the board of trustees, the board of trustees shall forthwith notify the board or boards of county commissioners which created the district. Such board or boards of county commissioners shall by resolution immediately declare the district abandoned.

(2) All properties and money remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general fund of the county. If the abandoned district embraced areas in more than one county, properties and money remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general funds of such counties in proportion to the population of the portion of the district located in each county.

History: En. Sec. 18, Ch. 198, L. 1961; R.C.M. 1947, 70-425; amd. Sec. 9, Ch. 479, L. 1979.

Parts 26 through 40 reserved

Part 41

General Provisions Related to Municipal Utility Services

Part Cross-References

Water quality permits, Title 75, ch. 5, part 4.

Sewage system operation, 75-5-511 through 75-5-515.

7-13-4101. Authority to permit laying of utility mains. (1) The city or town council has power to permit the use of the streets and alleys of the city or town for the purpose of laying down gas, water, and other mains, but no excavations must be made for such purpose without the permission of the council or its authorized officer.

(2) The streets and alleys must be placed in as good condition by the person or corporation making the excavation as they were before the excavation was made and the mains laid down. In default thereof, the council may order the same to be done at the expense of such person or corporation.

History: En. Subd. 73, Sec. 5039, R.C.M. 1971; amd. Sec. 1, Ch. 115, L. 1925; amd. Sec. 1, Ch. 20, L. 1927; re-en. Sec. 5039.72, R.C.M. 1935; R.C.M. 1947, 11-975.

7-13-4102. Authority to acquire natural gas system — indebtedness permitted. (1) The city or town council has power to contract an indebtedness of a city or town upon the credit thereof by borrowing money or issuing bonds for the construction, purchase, or development of an adequate supply of natural gas and to construct or purchase a system of gaslines for the distribution thereof to the inhabitants of the city or town.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 5DATE 3-19-91BILL NO. HB-707

THE INDEPENDENT

We cannot know the future. Yet, if there is one prediction that I might risk, it is that at the end of this decade more people in the world will spend even more time watching television than they do already. Television is not just a source of entertainment or escape, the opium of the people. It is also, in all countries developed enough to have widespread popular access to television (and that includes many otherwise "underdeveloped" countries), the crucial medium of politics.

We live in television democracies. Other people have lived for years in television dictatorships, where the authorities' monopoly of the mass media has been as important for the preservation of their rule as the army or secret police. It is no accident that access to television was one of the most important demands of Eastern Europe's revolutions. The crowds in Wenceslas Square in Prague chanted "live transmission," and the crucial general strike in Czechoslovakia was effectively declared a success by the television reporting of it. In Bucharest, the Rumanian revolution was proclaimed and conducted on television, while the masses came onto the streets to defend—the television station.

One might distinguish two main political functions of television. The first is as a direct medium and arena for, and not infrequently an actor in, domestic politics. It is a forum at least as important as parliament in a peaceful democracy, or the streets in a war or revolution. Second, there is the international function, which is actually twofold: bringing information to a particular country about the rest of the world and bringing information to the rest of the world from a particular country.

Write down 10 events in the world that have made a big impression over the past decade. Go down the list and think of the first images that come to mind. I bet at least half come from television. These images can have direct political consequences. Where did the in-

vasions of Grenada or Panama succeed or fail? On U.S. television. What brought a flood of aid to the starving in the Horn of Africa? A television documentary.

In Eastern Europe, one could actually see people learning revolution from television reports of their neighbors' experiments: This is what a huge spontaneous crowd looks like; when you get up on a balcony, you make a V-for-victory sign; and here is a Round Table. In the window of the striking students' building in Prague, they played an American videocassette of Tiananmen Square in Beijing. I gather (from television reports) that protesters in Azerbaijan say that the frontier dividing them from their brothers and sisters in Iran should be opened "like the Berlin Wall." Where did they see the opening of the Berlin Wall?

All of this is so obvious that we risk not noticing the real power it implies. If the press was once the fourth estate, one might say that television is now the third superpower. And as more people acquire television sets and programs reach larger and larger audiences—via satellite and cable—that power is un-

likely to diminish. Indeed, television people already behave at times like the representatives of a great power. Star commentators, above all the U.S. networks' famous anchormen, expect to be treated as heads of state.

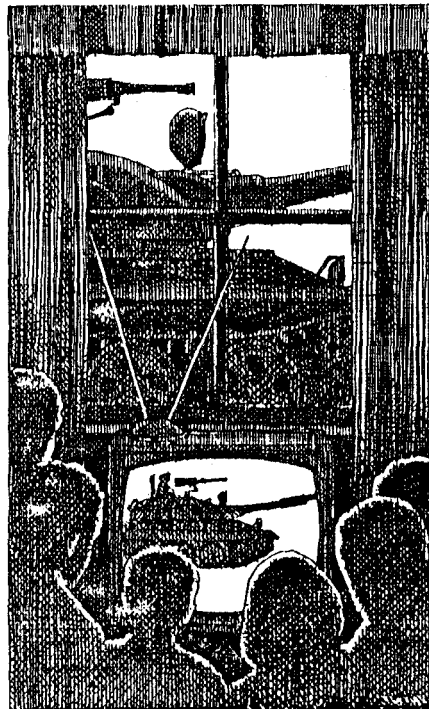
They generally are treated that way. To most countries in the world, international coverage is not only glamorous but also genuinely important. It may not matter to a U.S. president how Rumanian television viewers see him, but it matters a great deal to a Rumanian president how American viewers see him. It can mean votes in Congress, millions of dollars in aid or trade.

I suppose that one could also imagine dark uses of international television channels, with media owner Rupert Murdoch swaying hearts and minds on five continents. The more immediate dangers, however, seem to be those of drowning in teletrash and perhaps also of the numbing effect of seeing so many wounded, dead, and starving on our television screens.

Yet I do not believe that the internationalization of television has been negative. I think it has widened horizons and made people more responsive to the problems and struggles of others in remote parts of the world. The ideas spread by television are not those of dictatorship and fanaticism. They are those of liberation and capitalist democracy.

If there is a deeper problem, it is perhaps that television has brought to the world a glittering prospect of material liberation—of Western prosperity—that is delusive, for it can be achieved only at the cost of damaging the natural environment beyond repair. To put it another way, if television is easing East into West, it is making more painful the gulf between North and South. For while the well-fed and healthy may grow indifferent to the sight, on their television screens every evening, of the sick and starving, I doubt that the sick and starving will grow indifferent to the sight of the healthy and well-fed.

In short, as the German writer Kurt Tucholsky presciently remarked many years ago, if Jesus Christ came to Earth a second time, we would not crucify him. We would interview him. ■



Robins/The Independent/London

By Timothy Garton Ash; from the "Independent" of London.

HB 707 TESTIMONY
by Paul Spengler, 307 Clarke St., Helena 442-1761

I support HB 707 because it is time that Montanans are allowed to have a choice between TCI Cablevision and no cable TV. I have come to this conclusion after working with others to form an organization called Bring Back WGN-TV to Helena. This was done in response to TCI ^{unilaterally} dropping WGN 2½ years ago without any survey of its subscribers.

We gathered over 2,000 signatures on our petition drive in only three weeks because so many people were unhappy with cable TV programming. Many of the people who signed the petition really didn't care about WGN's return, but instead used the petition to protest TCI's unresponsiveness to customer complaints about the arbitrary decisions that are made at TCI headquarters in Denver that affect the channels we watch in Montana.

We petitioned because the TCI president said in a Cable News Magazine article that he would bring back a station after dropping it if 5% of his subscribers petitioned him. We gave him over 17%, but then he said that he meant the PTL channel, and not WGN. So much for listening to your customers.

The successful petition drive did result in a TCI survey of its customers on the return of WGN, but the survey was biased, because it asked if the customer was willing to drop one of two popular channels, Nickelodean or Discovery. "Other" was listed as a third choice, but most respondents saw the two aforementioned channels, and voted accordingly, which was "No." WGN lost by nearly a two to one margin.

But the issue has gone beyond bringing back WGN to Helena. Dissatisfaction is the issue, because people are tired of paying increasingly higher rates for channels that they have no say so in choosing.

HB 707 will allow counties to set up a co-op to bring in cable TV to people who want it. The fee should be substantially lower than commercial rates. Non-users would file an exemption with the assessor's office to exempt themselves from a fee. And the competition would probably be the shot in the arm that TCI needs to be more responsive to its ^{customers}. Disillusionment with the cable TV industry is widespread. Last year a senate bill

to reregulate the industry was defeated because of White House opposition. But this year Sen. Albert Gore and Ernest Hollings have sponsored a bill to reregulate cable TV. Sen. Gore says the time has come, because the industry is an "uncontrolled 500 pound gorilla."

I agree.

In closing, I found it interesting at the House hearing on this bill that all of the proponents were private citizens, and the opponents were all cable TV managers or

I N THE NEWS

TRAVEL CHANNEL MOVES

On January 29, The Travel Channel moved from F3, 16 to F3, 9. According to a source at The Travel Channel, no real reason was given for the move.

INTERNATIONAL CHANNEL ON F4,12

On March 1, the International Channel was to have begun transmitting from F4, channel 12. Then, beginning May 1, the Monitor Channel plans to broadcast from the International Channel's previous position of F4, 20.

COURT ORDER FREEZES DECTEC

A federal judge in Montreal, Quebec, has issued an order against DecTec International Inc. and associated companies providing entry of their premises and removal of all devices and related materials which infringe on Canadian copyrights and patents held by, or licensed to, General Instrument Corp. and First Choice Canadian Communications Corp. This order, which freezes all of DecTec's activities, was issued in response to a lawsuit filed in the Federal Court of Canada by GI and three other companies (Titan Linkabit Corp., Cable/Home Communications Corp., and First Choice).

The lawsuit stated that DecTec has manufactured and marketed a device (called SUN) to be used to receive without authorization U.S. and Canadian television programming services delivered via satellite with GI's VideoCipher technology.

The lawsuit also claims infringement of four VideoCipher patents, particularly those covering digital audio scrambling and the VideoCipher key hierarchy, and copyrights covering the unit seeds, the Control Microprocessor software, and the Crypto code.

In the latest turn of events, a Montreal federal judge granted permission for GI and Canadian federal agents to raid the offices and research labs for DecTec and the home of its chief engineer, Norman Dick, using the Canadian Anton Piller process. Anton Piller is invoked when there is the likelihood that evidence could be

destroyed while normal due process is taking place. DecTec CEO John Grayson said that his company will not stand still while GI tries to catch up in the encryption field.

CABLE LEGISLATION RENEWED

Senator Al Gore (D-TN), Senator John Danforth (R-MO), and Senate Commerce Committee Chairman Ernest Hollings have reintroduced cable legislation to regulate the cable industry. The new bill is numbered S.12. Similar legislation which attracted broad support last year gained approval of the House of Representatives and the Senate Commerce Committee, but a vote was prevented as a result of opposition by the White House.

In a newsletter from Gore's office, Gore calls cable a "500-pound gorilla of a monopoly that's out of control."

The Danforth/Hollings/Gore legislation introduced on January 14 contains several key provisions. It would allow local authorities to regulate basic cable TV rates in areas where there is no competition from other cable systems. Rate regulation would automatically sunset when there is effective competition including cable, wireless, and satellite.

It would also require cable systems to carry local broadcast stations and limit their ability to shift channels. It devotes up to one-third of cable space for local broadcasters.

There are provisions for controlling cable concentration and vertical integration within the industry, limits on the number of subscribers, and limits on the number of channels that a cable programmer can occupy on a cable system. The bill would prevent cable from owning the microwave or satellite-delivery system in its cable area. A cable/direct broadcast satellite cross-ownership would be applied after 10 percent of the nation subscribes to DBS.

One last provision is strengthening access to programming at fair prices for satellite dish, wireless cable, and other service providers — which would increase competition.

A spokesperson for Senator Gore's office said, "We hope to get it through the Commerce Committee where it has tremendous support and to the floor as soon as possible."

FAST FEEDS

By Mark Jeffers

HBO Ole — Home Box Office and OmniVision, a Venezuelan pay-TV company, have joined forces to create a Spanish-language movie and entertainment service for Latin America and the Caribbean Islands. The new service will be called HBO-Ole and should start up later this year.

Geraldo — Geraldo Rivera may soon be doing a show on stolen cars, as his \$30,000 auto was taken from outside the CBS Broadcast Center where he tapes his talk show.

Daytime Emmys — The three broadcast networks have reached an agreement with the Academy of Television Arts & Sciences and the National Academy of Television Arts & Sciences to broadcast the Daytime Emmy Awards. CBS will air this year's awards in June, with NBC carrying the program in 1992 and ABC in 1993.

NHL — The National Hockey League general managers have recommended that television video replays be used to decide disputed goals as early as next season.

Downtown — MTV's "Downtown" Julie Brown will be the host for a new weekly variety show set to debut next fall. The imaginative title of the new program is "Downtown Julie Brown."

FOX-TV — Comedian Wayne Cotter has become the host of the Fox late night program, "Comic Strip: Late Night." He has replaced former "Saturday Night Live" player, Gary Kroeger.

HBO — Two-time Oscar-winning actor Jack Lemmon has been signed to star in the HBO Pictures comedy "Getting There." Production will start later this spring.

CBS — CBS will air a "Classic Weekend" on February 16, 17, and 18 with anniversary specials saluting "All In The Family" (16th), "The Ed Sullivan Show" (17th), and "Mary Tyler Moore" (18th).

FCC — The FCC Mass Media Bureau has reported that 227 broadcast stations have gone dark over the past two years. The number includes 175 AM radio stations, 17 FM stations, 32 UHF-TVs, and three VHF-TV stations.

MORE CHANNELS! MORE PAGES! EASIER TO READ!

Mar 3 - Mar 9, 1991 #9

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EDDY A. CROWLEY, D.D.S.

121 NORTH LAST CHANCE GULCH
HELENA, MONTANA 59601

TELEPHONE 442-0282

SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 8
DATE 3-19-91
BILL NO. HB-707

March 14, 1991

Dear Committee Members:

I am offering my support to House Bill 707 so that Helena television viewers may have more input into television programs they pay for and receive. The fee for cable television has steadily increased at approximately 11% per year for the last 3-5 years and the cable programming appears to be entirely at the discretion of the local cable company.

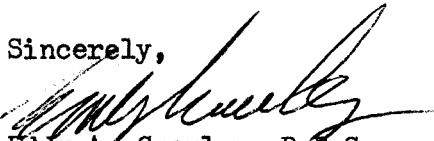
The monthly cable rate has increased from \$16.90 to \$18.65 and the \$16.90 is up from \$15.75 the previous year. The fee in Montana City, just 10 miles away, through a different cable company is \$14.95. The channels or programs are very comparable.

The programs Helena viewers receive are numerous but chosen by the cable company and very duplicating. There are four news channels: CNN, C-Span II, CNN Headline news, and #30 C-Span. All are owned by TNN of which TCI owns 23%. There are four educational channels, #6, 7, 25, 28. There are two sports channels #9 ESPN and the new #31 which was added by TCI which wants to add also unsolicited, The Fox Network.

Locally there are no outside-the-state television stations. Salt Lake used to have channels here but no longer. We seem to be very isolated! Helena also tried to add a Chicago station with a petition. 22 % of the viewers signatures were presented to TCI but there has been no response by TCI to local desires.

This bill would provide local viewers a choice of cable companies. It would provide the opportunity for a local co-op to be formed that could be funded through property taxes of those who want to use it.

Sincerely,



Eddy A. Crowley, D.D.S.

CLYDE JARVIS
P. O. BOX 5808
HELENA, MT. 59604
(406)449-2432

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 9

DATE 3-19-91

SENATE LOCAL GOV'T COMMITTEE

BILL NO. HB-707

March 19, 1991

HOUSE BILL 707

MADAM CHAIRMAN AND MEMBERS OF THE COMMITTEE, MY NAME IS
CLYDE JARVIS AND I RESIDE AT 3100 COONEY DRIVE HERE IN
HELENA. I AM APPEARING TODAY IN SUPPORT OF HOUSE BILL 707
AND I BELIEVE MY 11½ YEARS AS A PUBLIC SERVICE COMMISSIONER
LENDS CREDIBILITY TO MY TESTIMONY. I WAS IN THE POSITION TO
FIELD A MULTITUDE OF COMPLAINTS AGAINST TCI, BUT OF COURSE
THERE WAS NOT ONE THING I COULD DO AS A COMMISSIONER NOR THE
COMMISSION TO DO, BECAUSE CABLE TV IS UNREGULATED. NEITHER I
NOR OTHER COMMISSIONERS KEPT A RECORD OF ALL THE COMPLAINTS
WE RECEIVED SINCE WE HAD NO AUTHORITY OR JURISDICTION.
TCI HAS BEEN RUNNING A MASSIVE TV BLITZ ABOUT HOW GOOD IT
IS, ABOUT TAKING TV INTO THE FUTURE. IN MY ESTIMATION IT'S

CERTAINLY TOO BAD TCI DOESN'T TAKE ITS CUSTOMERS INTO
CONSIDERATION AS TO RATES, SERVICE AND PROGRAMMING. I CAN
SPEAK FROM PERSONAL EXPERIENCE AS TO THE CAVALIER ATTITUDE
TCI HAS TOWARDS ITS CUSTOMERS. I MOVED FROM ONE APARTMENT TO
ANOTHER ALL WITHIN HELENA, NEXT DAY SERVICE OR TWO DAYS FOR
A NEW HOOKUP, OF COURSE NOT, AT LEAST SEVEN DAYS IF NOT
MORE. THE ATTITUDE OF TCI IS IS YOU DON'T LIKE IT, GO INVEST
LOTS OF DOLLARS IN A SATELLITE DISH OR GO TO THE VIDEO STORE
AND RENT. YOU CERTAINLY DON'T GET MUCH NEWS FROM RENTING AT
THE VIDEO STORE.

SERVICE, WHAT SERVICE, IF YOU HAVE PROBLEMS AFTER 5P.M. OR
ON WEEKENDS, JUST FORGET IT, THERE'S NO ANSWER, THAT'S THE
SERVICE TCI BRAGS ABOUT. I CAN TELL YOU FROM PERSONAL EXPER-
IENCE, THAT ISN'T HOW MONTANA POWER, U.S.WEST, GREAT FALLS
GAS OR ANY OTHER REGULATED UTILITY TREATS ITS CUSTOMERS. IF
YOU HAVE PROBLEMS WITH A REGULATED UTILITY YOU ARE ASSURED
OF A PROMPT RESPONSE.

THE MARCH 14TH GREAT FALLS TRIBUNE CARRIED A GANNETT STORY

ABOUT THE GLOVES OFF EFFORT IN CONGRESS TO RE-REGULATE THE
CABLE TV INDUSTRY, UNTIL THAT BECOMES A REALITY THERE SHOULD
BE SOME COMPETITION, AND HOUSE BILL 707 WILL MAKE THAT A
POSSIBILITY.

I SINCERELY THANK YOU FOR THE OPPORTUNITY TO APPEAR BEFORE
YOU AND EXPRESS MY OPINION AND I SINCERELY URGE YOUR CON
CURRENCE IN HOUSE BILL 707.

R. BUDD GOULD
SHERI A. THICK

6157

516-84-7099
2205 SOUTH 5TH WEST 549-4236
MISSOULA, MT 59801

93-7085/2929

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MEMO

Pd Thru Sept 93

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Budd Gould
2205 S 5th W
Missoula, MT 59801

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 10

DATE 3-19-91

BILL NO. HB-707

Dear Budd:

It was again a pleasure talking to you today. I look forward to possibly meeting with you in Helena next week at the Legislative Banquet.

Now to the matter at hand. You requested the following information regarding your cable service account here in Missoula.

Your currently credit balance is \$102.40. This balance will carry your account thru July of this year, with a 40 cent credit balance remaining.

The yearly amount you will need to pay now to carry your account thru to August of 1992 and receive your thirteenth month free is \$203.60.

Lastly, you requested the mailing address for ESPN. The address is:

ESPN
ESPN Plaza
Bristol, CT 06010

Budd if I or any of my staff can be of any further assistance to you, please do not hesitate to call, write or just stop by.

Sincerely,

Steven Proper
System Manager

Chk # 6157 Jan. 9, 1991 Pd Thru Sept 1993



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Employer

JOE HOLLAND
ROUNDUP CABLE

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 11

DATE 3-19-91

FILE NO. HB-707

Helena Hearing CATV

OPPOSED TO BILL #707

STATED GOALS OF GOVERNMENT TO PRIVATIZE INDUSTRY NOT
SOCIALIZE INDUSTRY.

RUSSIA IS CHANGING. EASTERN EUROPE IS CHANGING EVEN SADDAM
HUSAIN IS CHANGING TO PRIVATE ENTERPRISE WHY ARE YOU IN
FAVOR OF MORE GOVERNMENT AND LESS TAX PAYERS?

FOURTEEN OF MONTANA ELECTED OFFICIALS HAVE SIGNED ON TO THIS
BILL TO PUT GOVERNMENT IN CABLE . WAS THIS YOUR GOALS WHEN
YOU RAN FOR OFFICE?

CANDIDATES WHO CALLED ON ME PRIOR TO ELECTION SAID THEY WERE
IN FAVOR OF GETTING MONTANA GOING? WHY HAVE YOU CHANGED YOUR
OBJECTIVES?

exemption FOR CABLE COMPANIES WITH UNDER 1,000 SUBSCRIBERS.

PASSAGE OF THIS BILL WILL MAKE IT IMPOSSIBLE FOR US LITTLE
OPERATORS TO EVER SELL OUT. WHO WOULD WANT TO WORK HARD AND
GROW ONLY TO HIT 1,000 AND THEN HAVE COUNTY GOVERNMENT FOR
COMPETITION? YOUR BILL SAYS CABLE COMPANIES NOT CABLE
SYSTEMS.

ROUNDUP HAS A POSSIBILITY FOR GROWTH WITH AN UNDERGROUND COAL
MINE. WITH GROWTH, ITS POSSIBLE TO HIT THE 1,000 NUMBER ONLY
TO FIND THE COUNTY CAN WIPE US OUT WITH SUBSIDIES OPERATIONS

COUNTIES WANT MORE MONEY FROM THE STATE NOW. WHERE WILL THEY
GET THE MONEY TO BUILD CABLE SYSTEMS?

WHY BUILD WHEN THEY WILL HAVE THE CLOUT TO BUY OUT A TAX
PAYER FOR PENNIES ON THE DOLLAR...TAKE IT OR LEAVE IT.

WHERE WILL THE COUNTY CABLE SYSTEMS GET THEIR PROGRAMING?
CABLE OPERATORS HAVE A BINDING CONTRACT WITH PROGRAMERS NOW
THAT SAYS WE WILL PROMOTE THEIR PROGRAMING. WE WILL PAY THE
PROGRAMER EVERY MONTH BEFORE THE 10TH AND IN RETURN. WE NOW
HAVE EXCLUSIVE CONTRACTS.

PROGRAMING AVAILABLE WILL BE SHOPPING CHANNELS TO FURTHER
COMPETE WITH THE MAIN STREET TAX PAYER. RELIGIOUS CHANNELS
ARE AVAILABLE. BLACK ENTERTAINMENT TV IS AVAILABLE AS WELL AS
SEVERAL SPANISH SPEAKING CHANNELS. WILL THE COUNTY TAX
PAYER BE WILLING TO PAY FOR THAT PROGRAMING/

WE HAVE NOT HAD A GENERAL RATE INCREASE IN 10 YEARS? CAN YOU
NAME ONE COUNTY IN MONTANA THAT HAS NOT RAISED THEIR TAX
RATES IN TEN YEARS? HAS THE COST OF OPERATING STATE
GOVERNMENT STAID AT WHAT IT WAS TEN YEARS AGO? HAS THE

FEDERAL GOVERNMENT HELD THEIR COSTS TO WHAT THEY WERE JUST 10 YEARS AGO?

I WOULD LIKE TO KNOW WHAT THE THINKING OF FOURTEEN OF OUR ELECTED OFFICIALS CO-SIGNED THIS BILL?

THE BILL AS IT APPEARS NOW WOULD EXEMPT LITTLE OPERATORS WITH LESS THAN 1000 SUBSCRIBERS. A HIGH PERCENTAGE OF THE BILLS YOU ARE CONSIDERING THIS SESSION HAVE TO DO WITH CHANGING PRIOR BILLS. I HAVE NO FAITH IN BELIEVING THAT IN FUTURE LEGISLATIVE SESSIONS THIS BILL TO WOULD BE OFFERED TO TAKE AWAY THE 1,000 EXEMPTION AND TRY AND PUT EVERY TAX PAYING CABLE SYSTEM OUT OF BUSINESS.

SOME POLITICAL LEADERS HAVE TRIED TO GET THE STATE OUT OF THE INSURANCE BUSINESS. SOME HAVE TRIED TO GET THE STATE OUT OF THE LIQUOR BUSINESS AND YET THIS BILL WOULD PUT THE GOVERNMENT IN THE CABLE BUSINESS AND PUT THE TAX PAYER OUT OF BUSINESS.

IF YOU ARE SUCCESSFUL IN THIS EFFORT. WHAT IS NEXT? THE GROCERY STORE. THE CHEVY GARAGE. A STATE RAN FURNITURE STORE?

THIS BILL WOULD MAKE IT NEXT TO IMPOSSIBLE FOR A SMALL CABLE OPERATOR TO BORROW MONEY TO EXPAND. UPDATE HIS EQUIPMENT AS NEW TECHNOLOGY IS CREATED. WHAT BANKER WOULD LEND MONEY TO A MERCHANT WHO HAS A POTENTIAL OF THE GOVERNMENT GOING INTO BUSINESS AGAINST HIM!

PLEASE BURY THIS BAD PIECE OF LEGISLATION AND GET BACK ON TRACT OF SOLVING THE REAL ISSUES OF 1991.

Wayne Schilepublisher

Richard J. Wesnick editor

Gary Svec opinion editor

Opinion

Section

C

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 11a

DATE 3-19-91

BILL NO. HB-707

Tuesday, March 19, 1991

Distributed by King Features Syndicate
The Miami Herald

Montana needs jobs

Legislature must improve business climate

Before the Montana Legislature convened in January, we held our collective breaths and prayed that it wouldn't be another

GAZETTE OPINION

partisan confrontation. We held out hope that our 150 elected representatives would overcome party politics and address the critical issues facing our state.

The Legislature now has limped through 10 weeks of its biennial session with little to show for it except deepening rifts, open hostility and battle scars.

Our legislators have battled over such basic questions as taxation of the oil, coal and gas industries; the level and use of coal-tax funds; funding to keep the state's infrastructure from crumbling into an unrepairable mess; adequate funding of our education system; and pay for state employees and judges. We have even seen

angry tirades and legislative splits over such questions as banning smoking in state office buildings.

There are several fundamental problems facing Montana and unless the Legislature is willing to stop playing partisan games and come to grips with them, we are destined reap another harvest of failure.

The basic problem is lack of jobs. The reason we lack jobs is because we aren't seeing a growth in business and industry. The reason we don't see growth in business and industry is because we set up more obstacles and impediments than incentives and encouragement.

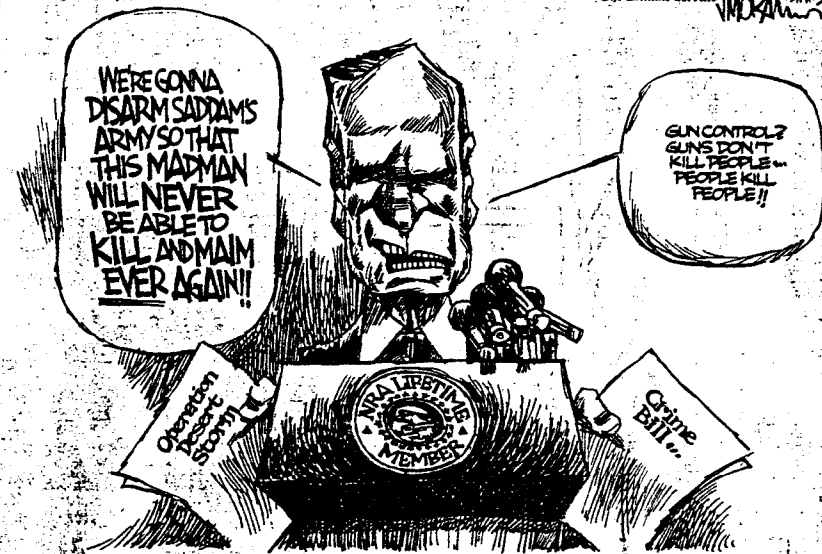
Our neighbor, South Dakota, has a state-supported program to capitalize on our failures. South Dakota systematically approaches Montana businesses and demonstrates how they would fare better by moving. One area businessman was shown how he

could save \$900,000 over five years by taking advantage of South Dakota's lower tax structure and work-comp payments. Another Billings industrialist said he is visited periodically by South Dakota officials who offer tempting incentives to pull out of Montana.

Wyoming loves to watch Montana tinker with coal and energy taxes. Everything Montana does to make its coal or oil less attractive economically provides an additional boost for the Wyoming coal and oil industry. But then, Wyoming has always been a little smarter than we are.

Is there any question as to why Montanans are frustrated with their economy and their taxes? Is there any question as to what they want their legislators to do while they gather in Helena?

The legislative session is heading into its final and most critical days. It is time to demonstrate vision, cohesiveness and a sense of direction. The time for leadership is long overdue.



High court avoids gun-control ruling

The U.S. Supreme Court looked up the other day, saw a gun-control case coming, and ducked. The most immediate consequence is that J.D. Farmer Jr. of Smyrna, Ga., cannot keep his machine gun.

National Columnist

Mr. Chairman and members of the Committee:

For the record, I am William E. Boharski, Representative, House District 4, Kalispell.

I would like to rise in opposition to this bill because I believe it is one of the most ill-conceived concepts to come before this legislature. I will not get into all of the community service, tax and investment programs that I believe our cable companies have contributed to our communities.

~~Instead, I would like to make the comparison between tax-exempt cable television districts.~~ Cable TV service can in no way be considered an essential government service. It has been my understanding that the reason for creating tax exempt districts in this state is to provide necessary government services that cannot adequately be provided by the private sector. Please do not support this gross intrusion of a tax-exempt government service into competition with a perfectly functional private sector industry.

333 First Avenue East
Kalispell, MT 59901
(406) 755-7200

Whitefish 862-2531
Columbia Falls 892-3369
Polson 883-2160
Somers, Bigfork
and Lakeside Ent. 665

TCI Cablevision of
Montana, Inc.

Mike Mason
System Manager

March 18, 1991

The Honorable Ethel M. Harding
Capitol Station
Helena, MT 59620
via FAX/444-4417

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 13
DATE 3-19-91
BILL NO. HB-707

Dear Senator Harding:

I am writing to voice my concerns over a bill you will be hearing Wednesday, March 20, at 3:00 PM in your Local Government Committee. HB 707 would allow tax exempt and tax supported translator districts to build cable systems in the State of Montana.

Last year my system paid over \$66,000 in franchise fees and taxes to Local and State government. My concern is that tax exempt dollars could conceivably be used to create another level of government that would compete directly with private enterprise...a private enterprise that has provided a valuable service to the residents of our State and provided revenue **back into** and not **out of** government coffers.

I have stated repeatedly that I have never seen a single instance in my nineteen years in the cable business when any level of government involved themselves in this industry that the best interests of the people were ultimately served.

I am very proud of the fact that the Flathead area cable systems were able to structure marketing programs that benefited numerous local causes in 1990 including \$3,500 to the Montana MDA, over \$5,000 to area Food Banks and over \$2,400 to the Montana Childrens' Home. I sincerely doubt that a tax base supported organization would be as aggressive in providing support to local nonprofit organizations and causes.

It is my strong belief that the State of Montana should stay in the business of critical services to the people. Let us use our taxes to repair our dams and fix our water and sewer systems. Let us not consider eroding our tax base further by creating districts that unfairly compete with free enterprise at the expense of taxpayers.

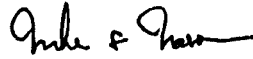


An Equal Opportunity
Employer

I want to thank you in advance for your consideration on this matter and
I encourage you to **vote NO on HB707.**

Sincerely,

TCI CABLEVISION OF MONTANA, INC.

A handwritten signature in black ink, appearing to read "Mike J. Mason".

Mike J. Mason
System Manager

MJM/sem

MONTANA STATE UNIVERSITY

1893 • CENTENNIAL • 1993

**KUSM TV Channel 9
Montana Public
Television**

Visual Communications
Building 172
Montana State University
Bozeman, Montana 59717

Telephone 406-994-3437

March 3, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 14

DATE 3-19-91

BILL NO. HB-707

Representative Diana Wyatt, Chair
Representative Jessica Stickney, Vice-chair
House Local Government Committee
State Capital
Helena

Dear Representatives Wyatt and Stickney,

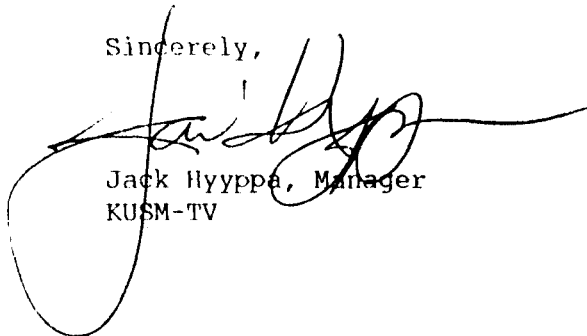
I would like to comment on HB707 which is soon to be before your committee. As a manager of a Public Television Station I am very supportive of the concept of television tax districts as they are presently configured. The tax district makes it possible for rural communities to bring in signals from over the air television stations and economically translate them in their local area. Were it not for a tax district KUSM would not be presently viewed in the Livingston areas of the Shields Valley and Paradise Valley.

However, it appears to me that the establishment of the Tax District concept in the area of Cable TV is something that needs a lot of careful consideration. I am not sure if we should be using a tax method of encouragement for a service that appears to be functioning on its own merit as private business. The casual observer only thinks of the principle cities in Montana as being served by Cable TV. Nothing could be further from the truth. Many very small towns in this state have privately owned cable services. As documented in the 1990 Broadcasting Yearbook, seventy four (74) communities in Montana have a privately owned cable system. We are talking about towns like: Valier, Wibaux, Richey, Poplar, Jordan, Belt, Baker, Harlem, and Ashland. The town of Saltese has its own cable company that serves only 17 customers. Will the establishment of tax based districts unfairly compete with these established businesses?

Cable television is a service that is going through a tremendous amount of technological change. It is feasible that through fiber optics every home in this nation could be connected with cable services. At the federal level it is presently being sorted through as to whether or not Phone Companies will be allowed to enter the cable arena. We need not add to the competitive climate that already exists for cable service by adding a tax supported service into the picture.

On the surface HB707 seems to be an uncomplicated bill to encourage cable service into rural communities. The opportunity for those communities will be taken care of by the private sector, either through existing technology or the emergence of federally approved service through new technology. Please consider the ramifications of this bill carefully.

Sincerely,

A large, stylized handwritten signature in black ink, likely belonging to Jack Hyyppa, is written over the typed name and title.

Jack Hyyppa, Manager
KUSM-TV

**BILLINGS
TELE-COMMUNICATIONS, INC.**

March 15, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 18

DATE 3-19-91

BILL NO. HB-707

TO: The Honorable Esther G. Bengtson
c/o The State Capital
Helena, MT 59620

RE: House Bill #707

Dear Senator Bengtson:

I am writing to you to express my strong opposition to House Bill #707.

This bill would allow counties, using tax dollars to establish non-profit (tax-exempt) businesses, to compete with private enterprise.

Our country was founded on the free enterprise system, and competition should come from the private sector and not from the government.

Virtually every cable television operator faces the possibility of competition from the private sector. Our franchises are non-exclusive, there are more TV station owned translators than ever, home satellite systems are more affordable all the time, there are Television tax district owned translators, plus all other forms of entertainment.

Our industry has seen tremendous growth over the past few years. The development of new services such as CNN, The Discovery Channel, ESPN, PSN (Our regional Sports Service), the upcoming Fox Channel, the distribution of KUSM (Montana's PBS Station), and a multitude of others are a result of a responsible, maturing industry. This type of legislation would not only be wrong in a free enterprise system, at its best, it would prove to stifle not only the cable industry, but other natural evolving competitive industries.

Thank you in advance for your consideration. I am confident that given objective consideration this bill will not pass. Please contact me if I can be of assistance in this, or any other matter.

Sincerely,

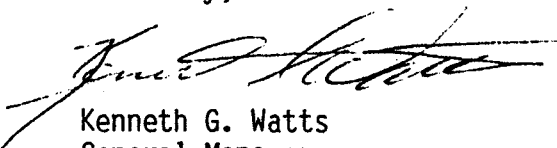

Kenneth G. Watts
General Manager

EXHIBIT NO. _____

DATE 3-19-91BILL NO. HB-707WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 19th day of March, 1991.

Name: Kenneth A. White

Address: 3025 Zimmerman Trail
Billings MT 59102

Telephone Number: 245-3051

Representing whom?

Billings, Mile City, Glendive, Sidney Cable TV (KCI)

Appearing on which proposal?

HB 707

Do you: Support? _____ Amend? _____ Oppose? X

Comments:

I will leave a copy of my letter to
Senator Esther Bergeson, dated March 15th as
a prepared statement.

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 19 day of March, 1991.

Name: Douglas Rice

Address: Helena MT

Telephone Number: 449-7390

Representing whom?

TCI Cablevision

Appearing on which proposal?

707

Do you: Support? ☐ Amend? ☐ Oppose? ☒

Comments:

Will LEAVE Prepared Statement for
Committee's Review

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY



STATE OF MONTANA

Office of the Legislative Fiscal Analyst

STATE CAPITOL
HELENA, MONTANA 59620
406/444-2986

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 16

DATE 3-19-91

March 11, 1991 BILL NO. HB-707

TERESA OLCOTT COHEA
LEGISLATIVE FISCAL ANALYST

Representative Sheila Rice
Montana State House of Representatives
Seat #7
Helena, MT 59620

Dear Representative Rice:

The amount of personal property taxes paid by cable television cable companies to all taxing jurisdictions is shown below. This information was provided by the Department of Revenue.

Personal Property Taxes Paid by Cable Television Companies in Montana Tax Year 1990	
Taxing Jurisdiction	Estimated Personal Property Taxes Paid
State, Counties, and Schools	\$357,380
Cities and Towns	<u>76,663</u>
Total	\$434,043

Please contact me if I can provide you with further information.

Sincerely,

James E. Standaert
James E. Standaert
Associate Fiscal Analyst

Plus Franchise Fees

HB 952: Fact Sheet

March 19, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 17

DATE 3-19-91

BILL NO. HB-952

What HB 952 does:

- * Provides for an orderly development of sand and gravel pits in areas already zoned.
- * Allows sand and gravel pits presently operating or under contract prior to February 23, 1991, in zoned areas to continue their operations as permitted.
- * Notification to the Department of State lands by January 1, 1992, allows contiguous land presently not under contract to be mined when it is adjacent to an operating sand and gravel operation. A form will be provided by DSL.
- * By June 1, 1991, DSL shall mail notice of the provisions and passage of this act and the form to each person who holds a current contract.
- * Affects areas only where zoning is already in place.

What HB 952 does not do:

- * Does not stop existing sand and gravel operations.
- * Does not make zoning a must for counties.

1318 Minnesota Ave.
Libby, Mt. 59923
(406) 293-8788

Libby
Troy
293-8788

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 18

DATE 3-19-91

BILL NO. HB-707

LIBBY CABLEVISION

Michael Miller
System Manager

The Honorable Eleanor Vaughn
Capitol Station
Helena, Mt 59620

Dear Senator Vaughn,

Thursday, February 21, 1991, I testified before the House Business and Economic Development Committee against HB #707. That same day a "do not pass" recommendation was given on HB #707 by the Committee, only to be overturned on Saturday, February 23, 1991.

The impression I received at the committee hearing on HB #707 was that it was not a state issue for all Montanians, but for a few people in the Helena area that had a problem with local cable systems. One individual was upset because Cable TV does not reach out to their rural home. Another wanted WGN on the Helena Cable TV dial so he could watch Cubs baseball. And yet another was upset at the fact that the only way he could receive an educational channel is to subscribe to Cable TV. Again these are Helena area problems.

In my two systems of Libby and Troy, Montana, we cannot reach all the rural people. It can cost \$10,000 to \$15,000 to build one mile of Cable TV plant extension. Unless there are more people in these rural areas, it is not feasible to build additional cabled plant miles. It's my belief that most people move to rural area to get away from the hustle and bustle of everyday life. Unfortunately, they also lose some of the community benefits such as city water and sewer, plowed roads and Cable TV. Some homes do not even have power such as the Yaak area near Troy, Mt.

The issue of the local Helena system not carrying channel WGN was weighed against the fact that the cable system carries CNN, HLN, WTBS, and TNT - all Ted Turner owned cable channels. They also mentioned the fact that TCI Cable System owns 23% of Turner. That is true, but any good cable operator would carry those four channels. We do in Libby and Troy. We also carry WGN. Being a smaller system, we do not have to pay the higher rate charged to carry both WGN and WTBS. For example, the TCI system in Helena would pay almost an additional dollar per sub to add WGN. Copyright fees are less in Libby and Troy due to market size.

Both Libby and Troy cable systems carry KSPS, the educational channel out of Spokane, Washington. The channel is also available off-air in this area. So, again we do not have the problem that the Helena area does. In fact, in Troy, Mt., we retransmit our KSPS signal and allow KSPS to microwave the signal to Missoula from our tower on King Mt for off-air viewing at no charge.

That fact that Troy, MT. already taxes their district a rate of \$17.70 per year and Libby does not indicates to me that the local tax payers do not need to be burdened with another tax. Nor should they be forced to pay for something they do not want or need.

The fact that the taxed districts would use the money to finance any possible alternative to Cable TV for better competition is absurd. What competition would come out of a Bill such as #707 when the government would use taxed dollars to compete against private enterprise?

Libby and Troy Cablevision paid \$3486.37 to the city for franchise fees in 1990. Libby Cablevision alone paid \$25,000 on property taxes for the year of 1990.

How could a small independant cable system possibly compete against any government that would be allowed to operate on taxed dollars and not have to pay for any of the things that we have to pay for?

I do not think that the people that proposed HB #707 really understand what the costs are to build a mile of TV plant. The demographics of Libby and Troy, not to mention many other parts of Montana, makes it very impractical and nearly impossible to reach many of the rural homes. The backers of HB #707 seem to think they would be able to string some sort of magic line to every person in this state and I say it cannot happen.

As for competition against the Cable TV Industry, why don't they do away with the franchise fees, the property taxes, pole rental fees, etc., charged to cable systems? Then they can tax their districts and we can compete as equals to see if a customer wants our service as an independant business or the government's mandated taxed system.

I think that most people are more than satisfied with our system's channels and service in Libby and Troy, Mt.

We have always supported local area needs by often running fund raisers through Libby Cablevision. We have supported D.A.R.E, Tree of Sharing, The Food Pantry, and the Champion Group Home, just to name a few. We have donated a TV, VCR, books, and tapes to the Lincoln Couny Library. We have set up a return line to the Libby High School which allows them to broadcast on a channel for all Libby school's use. We helped purchase some of the equipment below cost levels and continue to help maintain it with no labor charge. We have wired cable into every public school in Libby. We have cabled St. John's Lutheran Hospital at no charge and no monthly charge for our service. We give reduced rates to the Libby Care Center. We support school related fund drives. At this writing I am trying to get the Express Channel added to the Middle School at no charge. I have many Thank You letters and documented facts to support my claims.

Why am I "tooting my own horn"? Simply because most people think the Cable TV Industry is made up of greedy uncaring people. That is not true as you can see.

The HB #707 is not an answer to anything. It's a local matter gone statewide. They are trying to enforce another tax on the whole state so one of the representatives on the HB Committee can watch his beloved Chicago Cubs.

The most recent example of government involvement with Cable TV was Syndex which had unfavorable results for all.

I respectfully ask for your support on this issue and hope that you will vote NO on HB #707.

Sincerely,

Libby Cablevision

Michael Miller

Michael Miller, System Manager

The Real Competition—It Will Be Effective!

Well, you have been spending a lot of time this issue reading about the Commission and Congress trying to create theoretical constructs to deal with the premise that cable is a monopoly. Meanwhile, in the real world, things are happening so fast that it will soon become obvious that the government is woefully out of touch with what is really going on.

Keep your eyes on the sky. We mentioned over a year ago that the first truly effective DBS services were just around the corner, and it appears they are now up and operating—or about to be. K-Prime (now PrimeStar) is already offering service nationwide consisting of superstations and

“Keep your eyes on the sky!”

pay-per-view alternatives. The next shoe to drop is going to come from SkyPix, which has now proved what we speculated upon months ago: video compression works, and it could change the entire face of the telecommunications debate in the coming months. They intend to offer up to 80 channels of programming, mostly the top movies, using a proprietary compres-

sion technology that could eventually squeeze more than 10 full video channels onto one satellite transponder!

That same type of technology is also now being tested for use by cable systems—that means 350 channels instead of 35! It is awesome to consider the implications. For now, just heed our warning that true video multichannel competitors are in the wings with technology that works and a price for the home reception equipment that is half what VCRs cost when they were first introduced! These long-winded arguments about “effective competition” are going to be moot before the ink dries! ♦

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 18a

DATE 3-19-91

BILL NO. HB-707



LIBBY SENIOR HIGH SCHOOL

150 EDUCATION WAY
LIBBY, MONTANA 59923

PHONE (406) 293-8802

STANLEY EVANS
Principal

JOHN KRATOFIL
Assistant Principal/
Activities Director

December 20, 1989

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 18b

DATE 3-19-91

BILL NO. HB-707

Mike Roberge
Alaska Cablevision
5808 Lake Washington Blvd., Suite 400
Kirkland, WA 98033

Dear Mike,


I am writing to express my gratitude for the excellent service we have received from Mike Miller and the Libby Cablevision staff.

Mike has designed the system that allows us to rebroadcast satellite programming to all schools in our district via Libby Cablevision. In making the design work Mike has arranged for equipment to be modified to meet our needs. He has donated equipment and countless hours. His staff has installed the equipment and worked to achieve the highest quality picture possible. After all the hardware was in place Mike didn't stop providing excellent service. He continues to upgrade the system and provide access to the cable system on a 24 hour basis. He also has kept our staff abreast of programming that might be used in the schools.

Mike and the entire Libby Cablevision staff have gone far beyond anything required of them. They have provided the highest quality and quantity of service I have ever seen from a cable company. In short they are the best.

As a result of their hard work and sincere interest they have made it possible to provide extended classes and information to students and staff. The public image of Libby Cablevision has been greatly enhanced as a result of their service.

Sincerely,



David Knox, Media Aide
Libby Sr. High School
150 Education Way
Libby, MT 59923

cc: Al Randall, Library-Media
Stan Evans, Principal
William Donahue, Superintendent

Lincoln County Campus

Flathead Valley Community College

101 East Lincoln Boulevard, Libby, MT 59923 • 406/293-2721

December, 1990

Libby Cablevision
1318 Minnesota Avenue
Libby, Montana 59923


SENATE LOCAL GOVT. COMM.
EXHIBIT NO. 18c
DATE 3-19-91
BILL NO. HB-707

Dear Staff:

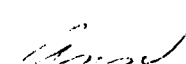
The faculty and staff at the Lincoln County Campus of Flathead Valley Community College wishes to thank you for the support you have given us in helping to publish our quarterly schedule. Without the assistance of community-minded businesses such as yours, the College would not be able to provide quality educational services to the citizens of Lincoln County.

Merry Christmas and a prosperous New Year!

Sincerely yours,


Jerry Hudspeth
LCC Director


Dennie Yeager
ARC Director


Ann Hansen
Adm. Asst.


Diana Miller
Com. Ed. Program Asst.



THE HERITAGE MUSEUM BOX 628, LIBBY, MONTANA 59928
NON-PROFIT CORPORATION

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 18d

DATE 3-19-91

BILL NO. HB-707

December 28, 1990

Libby Cablevision
1318 Minnesota Avenue
Libby, Montana 59923

Dear Friends,

As we look back on 1990, we think of the help we have been given during the year. We appreciate your friendly cooperation in showing on Channel 8 notices concerning our activities. This publicity is very important.

We thank you and wish you a very good New Year.

Sincerely,

MUSEUM, INC.

BY *Inez R. Herrig*

Inez R. Herrig

Thank You

The D.A.R.E.* Board, along with all others who are associated with project D.A.R.E., wish to thank the following corporations, businesses and organizations for their generous financial support of the D.A.R.E. program:

TIMBERLINE AUTO	EUREKA PUBLIC SCHOOLS	GLACIER INSURANCE
FIRST NATIONAL BANK	LIBBY PUBLIC SCHOOLS	DANIEL FREDRICKSON, DDS
LOUISIANA PACIFIC	TROY PUBLIC SCHOOLS	GRANITE CONCRETE CO., INC.
ASARCO	LINCOLN COUNTY COMMISSIONERS	LIBBY CABLEVISION
NORANDA MINERALS CORP.	DENNING PRINTING	LIBBY SPORT CENTER
CHAMPION INTERNATIONAL	MARIAH REBEKA LODGE	SVERDRUP & BARNES LAW OFFICES
MAKI COMMUNICATIONS	ALPHA THETA DELTA KAPPA GAMMA	PACIFIC POWER & LIGHT
LIBBY COMMUNITY INTERVENTION	LIBBY PROFESSIONAL AUTO CARE	ROSAUERS
FIRST FEDERAL SAVINGS BANK	TOM WOOD INSURANCE	S.J. ORR SERVICES
COAST-TO-COAST	DOMO THEATRE	VENTURE MOTOR INN & RESTAURANT
KELLY ANN TRAVEL	FIRESIDE SIGNS	W.R. GRACE, INC.
VIAL FUNERAL HOME	MCGRADE COMMUNITY SCHOOL	MONTANA BOARD OF CRIME CONTROL
GENERAL TELEPHONE CO.	PLUMMER COMMUNITY SCHOOL	GENE'S BODY SHOP
LINCOLN CO. SHERIFF'S DEPT.	ASA WOOD COMMUNITY SCHOOL	ALPHA DELTA KAPPA
CITY OF TROY	VALLEY MOTOR SUPPLY	WOMEN OF THE MOOSE

The board would also like to thank Libby Cablevision, *The Western News*, *The Montanian* and KLCB for their public service support of the program.

We invite the public to participate in D.A.R.E. with:
...a "D.A.R.E."-ing menu at the Venture Inn during February
...A "D.A.R.E."-ing evening of entertainment on Feb. 16 at
Ralph Tate Gym, Libby High School, 7:00 p.m.

***Drug Abuse Resistance Education**

Lincoln County Free Library

220 WEST SIXTH STREET

Libby, Montana, 59923

July 17, 1989

INEZ R. HERRIG
LIBRARIAN

SENATE LOCAL GOVT. COMM.

EXHIBIT NO.

18e

DATE

3-19-91

BILL NO.

HB-707

Arts & Entertainment
Cable Network
5455 Wilshire Blvd.
Suite 1715
Los Angeles CA 90036

Att: Joyce Fletcher

Dear Friend:

We are excited and grateful over the receipt of the lovely television, VCR, cassettes, and books which we just received from you as a prize. We understand that our local regional manager, Mike Miller, did all the work of entering us and trying to win it for us.

Libraries need such materials in these times, and with many of us struggling with small budgets gifts like yours are wonderful to receive. We will try to make the best possible use of them for and with the public.

We appreciate having a manager like Mike here in Libby. He is very efficient and has a pleasing personality.

We commend you for your recognition of the part libraries play in public education and service.

Yours sincerely,

Inez R. Herrig

Inez R. Herrig,
Librarian

cc: Mike Miller

Mike -

My thanks to you & your staff.

Shore

Lincoln County Champion
Group Home

LCCGH

Kippy

7-2

Dear Mike, Marilyn & all,

Thank you, thank you for the cable in our Home and for the fantastic donation of \$352.50 we can sure use that and hope to use some to purchase recreational equipment and also to get some training for our employees. The kids love having the cable in the Home too. You are the greatest and it makes me feel so good to see so many wonderful people out in this community who give so much so willingly. I love being a part of it all and you are too. This is our Group Home. Thank you all.

SENATE LOCAL GOVT. COMM.

EXHIBIT NO.

18a

DATE

3-19-91

BILL NO.

HB-707

Mike,
Thanks for your help
and encouragement on our
church service. we have a
lot of people who watch every
week and enjoy seeing some
one they recognize. You
are quite a help to us,
Thanks!

Charles Cook
Minister



Libby Cablevision,
On behalf of the
Kootenai Road Loads
we would like to
thank you for your
support of our
Spring Run Off.

KRT's

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 19

DATE 3-19-91

BILL NO. HB-952

STATEMENT OF
KEN DUNHAM, Manager
Montana Contractors' Association
before the
Senate Local Government Committee
HB 952

March 19, 1991

House Bill 952 is purported to be a compromise bill after the defeat earlier this session of HB 484 in the House Natural Resources Committee. That bill would have prohibited any sand & gravel, asphalt processing, concrete operation, or similar operation within one-half mile of a residence. Wisely, that bill was killed.

Now we're faced with just one more attempt to unfairly restrict this segment of the construction industry by throwing up a totally unnecessary restriction by moving the regulation of such operations from the Department of State Lands to local zoning and planning boards.

Right now, in order to open a gravel pit, the contractor must obtain the rights to the gravel from the owner if he doesn't already own the land, submit a reclamation plan to the State Department of Lands and obtain approval, furnish a reclamation bond for the project, obtain a air quality permit, give public notice on the project, and even have an archaeological survey of the area to be mined.

That's a substantial amount of regulation and protection for the public. It should be emphasized that the system has worked well under the administration of the Department of State Lands.

The current system provides uniformity throughout the state, and allows the contractor to know what he is getting into when he begins the process.

To change the system from the current state law would do nothing other than add an additional level of bureaucracy and needless regulation, delay construction projects and perhaps even prevent them from occurring at all, and would add to the cost of construction projects - both public and private.

We urge you to reject House Bill 952 and leave the regulation where it rightfully belongs.

UNITED INDUSTRY, INC.

March 19, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 20

DATE 3-19-91

BILL NO. HB-952

Re: House Bill No. 952
Proposal to Require Sand & Gravel Open Cut Mines and
Concrete and Asphalt Processing Facilities to Comply
with Local Zoning Regulations

Gentlemen:

I am urging you to oppose the above-referenced bill. The Montana Department of State Lands does an excellent job of administering existing legislation. They are very responsive to local issues and residents needs.

I believe that further restrictions on business in unwarranted. The restrictions placed on gravel plants, concrete plants, and asphalt plants may be discriminatory.

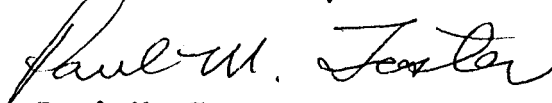
Please take a minute and read the attached article by Senator Symms of Idaho.

If this legislation is passed, I believe the property owners will have the right to sue local zoning agencies and will probably collect claims that these local governments can ill afford.

This is bad legislation. Please do not allow this bill to get out of committee.

Sincerely yours,

UNITED INDUSTRY, INC.



Paul M. Foster
President

cc

Enclosure

IN DEFENSE OF PRIVATE PROPERTY

BY SENATOR STEVE SYMMS (R-IDAHO)



A scholar with the Congressional Research Service called it "inevitable." As American industry expands, resources are developed, and population grows, government will attempt to control

this growth with increasing levels of regulation. Eventually this regulation will "collide with constitutional property rights."

The day of that "collision" is here. Almost every day the federal government issues a new ream of regulations restricting the use of private property. And the courts are finding that this regulation treads on private property rights, necessitating "just compensation" to the owner.

The U.S. Government currently faces more than \$1 billion in claims that it has usurped the private property of individuals. In just three such cases last year, the U.S. Claims Court awarded compensation totaling more than \$120 million. And in California, those property owners who can afford to sue the government are winning in the intermediate appeals courts more than half the time.

The principle that government can "take" private property inadvertently through over-regulation (as compared to official condemnation) is not new. Justice Oliver Wendell Holmes Jr., writing the Supreme Court opinion for the 1922 case, *Pennsylvania Coal vs. Mahon*, made it clear: "If regulation goes too far, it will be considered a taking." In recent years, the Court has not been shy in applying this principle, either. Beginning in 1987, we have seen what another Congressional Research Service legal expert calls "a Court trend supporting increased protection of private property against

governmental controls."

Regulations that interfere with business, development, and construction top the list of those likely to be found violating private property rights. For example, the courts have found that under certain circumstances the U.S. Government "takes" private property rights when it does the following:

- ☐ Cancels a lease. (*United Nuclear Corporation vs. United States*)

- ☐ Denies a building permit. (*Nollan vs. California Coastal Commission*)

- ☐ Prohibits mineral development. (*Whitney Benefits vs. United States*)

- ☐ Denies a Clean Water Act 404 (wetland) permit. (*Florida Rock vs. United States*)

- ☐ Restricts an owner's ability to sell property. (*Hodel vs. Irving*)

- ☐ Denies a water right. (*U.S. vs. Great Falls Manufacturing*)

Some argue that these abrogations of property rights are necessary to address the problems of urban growth and industrial pollution. But there is mounting evidence that American progress on environmental protection may be attributable to, not in spite of, our private property heritage.

The environmental conditions in the newly formed democracies of the world certainly teach us the role that private property plays in environmental protection. The nation's top environmental regulator, EPA Administrator William Reilly, upon returning from an Eastern European tour, noted that "many environmental principles were undefendable in the absence of private property." At a conference last September in Moscow, one speaker said it this way:

Environmental problems are the natural consequences of an absence of property rights. Lacking individual protection, a resource is at risk... Only property rights can effectively integrate environmental and economic values. [After all,]

private property universally tends to be better cared for than common property.

In truth, private property is every bit as essential to a healthy, democratic society as are any of the other basic civil rights guaranteed by our Bill of Rights. Just as we require federal agencies to respect civil rights in the course of regulating, we should demand that they respect private property as well.

That is why a bipartisan group of senators (led by David Boren of Oklahoma and myself) have introduced the Private Property Rights Act of 1991, Senate bill S. 50. The act requires federal agencies to consider the impact of their regulations on private property. The Attorney General has described the bill as "an important commitment to private property, which agencies should heed."

The President's Council on Competitiveness made this finding: "This legislation will give private citizens a chance to be heard in court, if they believe the government has not properly followed its procedures to make sure it does not take private property without just compensation."

Do property rights merit such protection? Consider this: What do we have that Soviet citizens want most? Access to luxury? Technology? No. They are demanding what we can no longer take for granted: the right to private property.

WHAT YOU CAN DO

- ☐ Contact your senators and representative and ask them to cosponsor the Private Property Rights Act of 1991.

- ☐ Seek resolutions endorsing S. 50 from trade associations, local governments, chambers of commerce, etc.

- ☐ Write a "letter to the editor" for your local paper, highlighting S. 50 and calling for support.

BARNARD CONSTRUCTION COMPANY, INC.

P.O. Box 99 • Bozeman, MT 59771-0099 • (406) 586-1995 • FAX (406) 586-3530

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 21DATE 3-19-91BILL NO. HB-952

March 19, 1991

Senate Local Government
Sen. Esther Bengtson, Chairman
State Capitol
Room 442
Helena, Montana

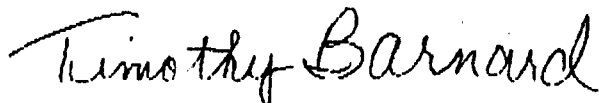
Ladies and Gentlemen:

We oppose House Bill 952, requiring sand and gravel open cut mines and concrete and asphalt processing facilities to comply with local zoning regulations. We are a small business and construction company in Montana and wish to express our concern to your committee concerning this legislation.

We believe this bill can be dangerous for the Montana construction industry. It is taking control away from the Department of State Lands and putting it into control of local zoning boards. This is adding another level of "red tape" and bureaucracy to an already struggling industry in Montana.

Please consider the consequences. This is NOT a good bill, and we urge you defeat this legislation. Thank you for your consideration to this matter.

Sincerely,



Timothy Barnard, President
Barnard Construction
Company, Inc.
Bozeman, Montana



**Fisher
Industries**

March 19, 1991

Mining Our Business

SENATE LOCAL GOVT. COMM.

The Honorable Esther Bengtson, Chairman
Capitol Station
Helena, MT 59620

EXHIBIT NO. 27
DATE 3-19-91
BILL NO. HB-952

Dear Senator Bengtson:

House Bill 952 will be heard today before the Senate Local Government Committee. This bill puts the control of sand, gravel, concrete and asphalt operations under the control of local zoning boards.

Currently such operations are regulated by the Department of State Lands and the system works quite well. We strongly oppose HB 952. This is a bad bill for the construction industry and a bad bill for local governments.

It is not fair to local governments to expect them to control these activities when they are not qualified to do so. The Department of State Lands is qualified and capable of this activity and it is in the best interest of the state for this regulation to remain with that department.

As a contractor who works in many locations, we would be dealing with as many sets of regulations as locations we work in, by passing this bill. Passing this bill will create problems for the contractors and local governments. The Department of State Lands is adequately regulating this activity now, and as the adage says "If it ain't broke don't fix it."

Please consider the problems passing this bill could create, and oppose HB 952 in todays hearing. Thank you.

Sincerely,

FISHER SAND & GRAVEL CO.

Amiel Schaff

Amiel Schaff
V.P. Administration

AS:dt



GENERAL STEEL AND SUPPLY CO.

FISHER
MANUFACTURING

3-18-91

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 23

DATE 3-19-91

BILL NO. HB-952

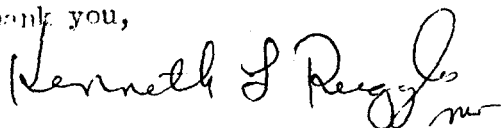
From: Kenneth L. Ruggles
Livingston Ready Mix, Inc.
Box 227
Livingston, Mt. 59047

To: Sen. Bartson
Capital Station
Helena, Mt 59620

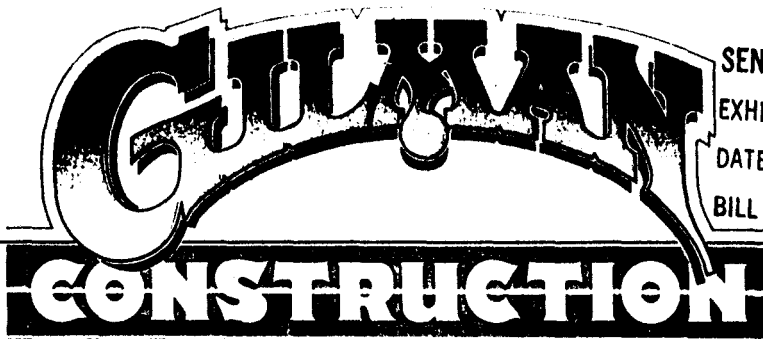
Dear Senator:

I strongly urge you to OPPOSE HB 952. The current laws are working well
and I feel the changes would not be of any value.

Thank you,



Kenneth L. Ruggles, owner



SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 24

DATE 3-19-91

BILL NO. HB-952

3-18-91

Senate Local Government Committee
Capitol Station
Helena, MT 59620

Re: House Bill 952 - Requiring sand and gravel open cut mines and concrete & asphalt processing facilities to comply with local zoning regulations.

Dear Senator,

Jim Gilman Excavating, Inc. is a company engaged in heavy and highway construction in Western Montana. We also crush and stockpile gravel for various City, County, private, and MDOH maintenance projects. We operate two portable crushing plants and two portable hot plants. We operate in 15 to 20 different pit sites each year. We urge you to vote against House Bill 952.

Gravel pit activities are already heavily regulated. In order to go into a gravel pit at the present time an operator must: make an agreement with the landowner, submit a reclamation plan to the Department of State Lands and obtain their approval, furnish a bond to insure that money is available to complete the reclamation work, obtain a permit from the air quality bureau, give public notice in a local newspaper and wait during a 15 day public comment period, and have an archaeologist evaluate the site in order to demonstrate to the State Historic Preservation Office that there are no historic or cultural resources present at the site.

The above described process is cumbersome but we believe that it does adequately protect the public, inform them, and gives them an opportunity for comment and input. Additional regulation by the zoning boards would be redundant, counter-productive, and would place an unreasonable burden on our industry.

At the present time we deal with State agencies to permit gravel pits. These agencies are accessible and the regulations & procedures are uniform no matter the gravel pit is located. Zoning regulations and procedures vary widely and in many locations there are no full time employees. We would be dealing with zoning boards who meet infrequently. These boards are not accessible and we doubt that these boards could act quickly enough to allow us to meet the demanding timetables of many highway projects.

Our gravel operations are usually short - term and temporary in nature. The gravel pits are mostly on agricultural or grazing land and after a road project is complete, the pit is reclaimed and returned to this use. Our experience has been that zoning regulations are not well suited to temporary operations of this nature. We foresee problems with land classifications and with landowner rights & relations.

In summary, we feel that there are adequate regulations now in place. We urge you to vote against House Bill 952. This bill would place an undue burden on our industry, could cause delays in construction projects, and would ultimately increase the cost of highway construction and crushing work in Montana. Thank you for your consideration of this matter.

Sincerely,
Jim Gilman Excavating, Inc.

James C. Gilman, President

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 25

DATE 3-19-91

BILL NO. HB-952

WASHINGTON CONSTRUCTION COMPANY

101 INTERNATIONAL WAY
POST OFFICE BOX 8989
MISSOULA, MONTANA 59807
TELEPHONE: (406) 523-1201
FAX: (406) 728-9265



March 18, 1991

Senator Esther Bengtson
Capitol Station
Helena, MT 59620

RE: House Bill 952
Requiring Sand and Gravel Open Cut Mines and
Concrete and Asphalt Processing Facilities to
Comply with Local Zoning Regulations

Dear Senator Bengtson:

I am writing to request your support in defeating House Bill 952. This bill has very serious implications for the heavy and highway construction industry.

Currently the operations for sand and gravel and asphalt operations are regulated by the Department of State Lands. This method of oversight allows for uniform enforcement of regulation throughout the state. If this centralized authorization is fragmented and given to the localities, it can lead to chaos, delayed or incomplete projects, and potential major economic loss for the contractor.

Most public works projects are bid with demanding yet realistic time lines for completion. The method for permitting operations is well known and understood by the regulators and the contractors and allows for the permitting of temporary facilities.

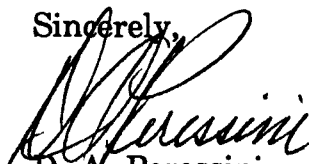
The entry of numerous local regulators into the process with varying and shifting requirements makes the risky process of bidding work even riskier. And unnecessarily so! The method of regulating these entities through the Department of State Lands is functioning adequately now. There is no compelling reason, no overriding community concern, which warrants this change. In short, it is a case of "if it ain't broke, don't fix it."

Senator Esther Bengtson
March 18, 1991
Page Two

I personally feel this bill is a bad piece of legislation. It modifies a smoothly functioning system, introduces unknown and unnecessary risks for the business community, and provides no greater protection to the environment than is in current law.

I hope you will review this measure and concur with me that it should be defeated before your committee.

Sincerely,



D. A. Peressini
President

/lj

CONFIDENTIAL

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 26

DATE 3-19-91

BILL NO. HB-952

March 14, 1991

Senator Esther Bengtson
Capitol Station
Helena, MT 59620

Re: House Bill 952 - Requiring Sand & Gravel Open Pit Mines
and Concrete & Asphalt Processing
Facilities to Comply with Local Zoning
Regulations..

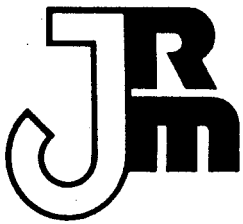
Dear Senator Bengtson,

House Bill 952 must be defeated. Currently the control of sand, gravel, concrete, and asphalt operations are regulated by the Department of State Lands. This structure of control seems to work well. Involvement by local government officials is deemed expendable.

I urge you to defeat House Bill 952. It is not in the best interest for Montana or the construction industry.

Best regards,
E. H. Oftedal & Sons, Inc.

W.T. Oftedal
W. T. Oftedal
President



JIM'S READY MIX

P.O. BOX 915 - EAST OF TOWN - END OF MARCELLA AVE. - LEWISTOWN, MONTANA - PHONE (406) 538-3463

JAMES R. MC DONALD, PRESIDENT

March 15, 1991

Senator Bengtson
Capitol Station
Helena, Mt. 59620

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 27

DATE 3-19-91

BILL NO. HB-952

Dear Senator Bengtson:

I am writing regarding HB 952 requiring sand and gravel and open cut mines and concrete and asphalt processing facilities to comply with local zoning regulations.

As I understand this bill, it would take the authority away from the Department of State Lands and give it to zoning boards at local levels. It appears that the local zoning boards wish to take control of the land from the owner where it has been and should remain.

This, in turn, will cause the price of materials to rise and will create problems in construction of new homes, sidewalks, commercial building, etc.

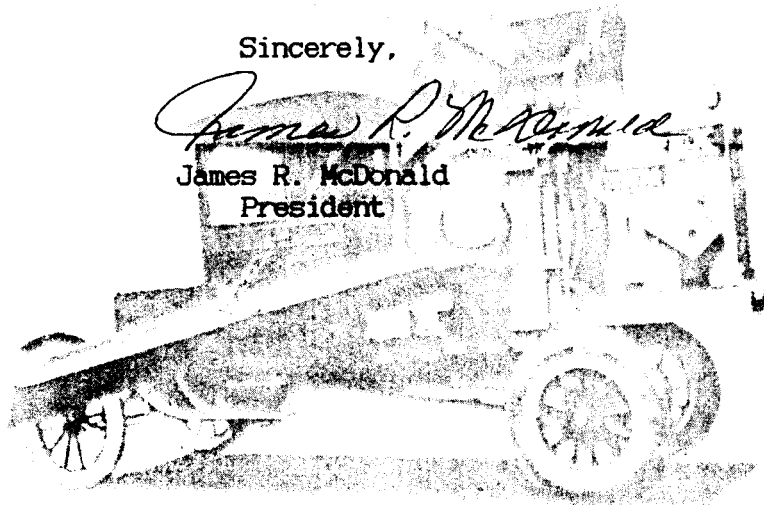
I believe HB 952 is attempting to fix something that is not broken and seems to be a waste of time for the Legislators as well as a waste of tax payers money.

I strongly urge you to vote NO when this bill comes before you.

Sincerely,

A handwritten signature in cursive script, reading 'James R. McDonald'.

James R. McDonald
President



PORTABLE PAVERS INC.

Box 368
Yellowstone Hill
MILES CITY, MT 59301

Phone 232-5855

March 15, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 28

DATE 3-19-91

BILL NO. HB-952

Sen. Esther Bengtson, Chairman
Capitol Station
Helena, MT 59620

RE: HOUSE BILL 952

Dear Senator:

House "Bill 952 is a dangerous piece of legislation that could put a local operation out of business with a beligerant land owner having ties to local government.

These operations are currently regulated by State Lands, as it should be.

I am urging you to oppose House Bill 952

Sincerely,



Harold E. Gierke
President

3-18-91

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 23

DATE 3-19-91

BILL NO. HB-952

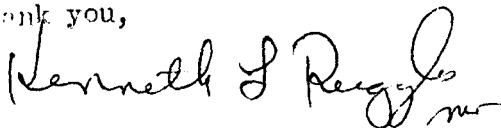
From: Kenneth L. Ruggles
Livingston Ready Mix, Inc.
Box 227
Livingston, Mt. 59047

To: Sen. Banyan
Capital Station
Helena, Mt 59620

Dear Senator:

I strongly urge you to OPPOSE HB 252. The current laws are working well
and I feel the changes would not be of any value.

Thank you,



Kenneth L. Ruggles, owner

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 19

DATE 3-19-91

BILL NO. HB-952

STATEMENT OF
KEN DUNHAM, Manager
Montana Contractors' Association
before the
Senate Local Government Committee
HB 952

March 19, 1991

House Bill 952 is purported to be a compromise bill after the defeat earlier this session of HB 484 in the House Natural Resources Committee. That bill would have prohibited any sand & gravel, asphalt processing, concrete operation, or similar operation within one-half mile of a residence. Wisely, that bill was killed.

Now we're faced with just one more attempt to unfairly restrict this segment of the construction industry by throwing up a totally unnecessary restriction by moving the regulation of such operations from the Department of State Lands to local zoning and planning boards.

Right now, in order to open a gravel pit, the contractor must obtain the rights to the gravel from the owner if he doesn't already own the land, submit a reclamation plan to the State Department of Lands and obtain approval, furnish a reclamation bond for the project, obtain a air quality permit, give public notice on the project, and even have an archaeological survey of the area to be mined.

That's a substantial amount of regulation and protection for the public. It should be emphasized that the system has worked well under the administration of the Department of State Lands.

The current system provides uniformity throughout the state, and allows the contractor to know what he is getting into when he begins the process.

To change the system from the current state law would do nothing other than add an additional level of bureaucracy and needless regulation, delay construction projects and perhaps even prevent them from occurring at all, and would add to the cost of construction projects - both public and private.

We urge you to reject House Bill 952 and leave the regulation where it rightfully belongs.

UNITED INDUSTRY, INC.

March 19, 1991

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 20

DATE 3-19-91

BILL NO. HB-952

Re: House Bill No. 952
Proposal to Require Sand & Gravel Open Cut Mines and
Concrete and Asphalt Processing Facilities to Comply
with Local Zoning Regulations

Gentlemen:

I am urging you to oppose the above-referenced bill. The Montana Department of State Lands does an excellent job of administering existing legislation. They are very responsive to local issues and residents needs.

I believe that further restrictions on business in unwarranted. The restrictions placed on gravel plants, concrete plants, and asphalt plants may be discriminatory.

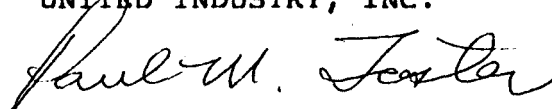
Please take a minute and read the attached article by Senator Symms of Idaho.

If this legislation is passed, I believe the property owners will have the right to sue local zoning agencies and will probably collect claims that these local governments can ill afford.

This is bad legislation. Please do not allow this bill to get out of committee.

Sincerely yours,

UNITED INDUSTRY, INC.



Paul M. Foster
President

cc

Enclosure

IN DEFENSE OF PRIVATE PROPERTY

BY SENATOR STEVE SYMMS (R-IDAHO)



A scholar with the Congressional Research Service called it "inevitable." As American industry expands, resources are developed, and population grows, government will attempt to control

this growth with increasing levels of regulation. Eventually this regulation will "collide with constitutional property rights."

The day of that "collision" is here. Almost every day the federal government issues a new ream of regulations restricting the use of private property. And the courts are finding that this regulation treads on private property rights, necessitating "just compensation" to the owner.

The U.S. Government currently faces more than \$1 billion in claims that it has usurped the private property of individuals. In just three such cases last year, the U.S. Claims Court awarded compensation totaling more than \$120 million. And in California, those property owners who can afford to sue the government are winning in the intermediate appeals courts more than half the time.

The principle that government can "take" private property inadvertently through over-regulation (as compared to official condemnation) is not new. Justice Oliver Wendell Holmes Jr., writing the Supreme Court opinion for the 1922 case, *Pennsylvania Coal vs. Mahon*, made it clear: "If regulation goes too far, it will be considered a taking." In recent years, the Court has not been shy in applying this principle, either. Beginning in 1987, we have seen what another Congressional Research Service legal expert calls "a Court trend supporting increased protection of private property against

governmental controls."

Regulations that interfere with business, development, and construction top the list of those likely to be found violating private property rights. For example, the courts have found that under certain circumstances the U.S. Government "takes" private property rights when it does the following:

☐ Cancels a lease. (*United Nuclear Corporation vs. United States*)

☐ Denies a building permit. (*Nollan vs. California Coastal Commission*)

☐ Prohibits mineral development. (*Whitney Benefits vs. United States*)

☐ Denies a Clean Water Act 404 (wetland) permit. (*Florida Rock vs. United States*)

☐ Restricts an owner's ability to sell property. (*Hudel vs. Irving*)

☐ Denies a water right. (*U.S. vs. Great Falls Manufacturing*)

Some argue that these abrogations of property rights are necessary to address the problems of urban growth and industrial pollution. But there is mounting evidence that American progress on environmental protection may be attributable to, not in spite of, our private property heritage.

The environmental conditions in the newly formed democracies of the world certainly teach us the role that private property plays in environmental protection. The nation's top environmental regulator, EPA Administrator William Reilly, upon returning from an Eastern European tour, noted that "many environmental principles were undefendable in the absence of private property." At a conference last September in Moscow, one speaker said it this way:

Environmental problems are the natural consequences of an absence of property rights. Lacking individual protection, a resource is at risk...Only property rights can effectively integrate environmental and economic values. [After all,]

private property universally tends to be better cared for than common property.

In truth, private property is every bit as essential to a healthy, democratic society as are any of the other basic civil rights guaranteed by our Bill of Rights. Just as we require federal agencies to respect civil rights in the course of regulating, we should demand that they respect private property as well.

That is why a bipartisan group of senators (led by David Boren of Oklahoma and myself) have introduced the Private Property Rights Act of 1991, Senate bill S. 50. The act requires federal agencies to consider the impact of their regulations on private property. The Attorney General has described the bill as "an important commitment to private property, which agencies should heed."

The President's Council on Competitiveness made this finding: "This legislation will give private citizens a chance to be heard in court, if they believe the government has not properly followed its procedures to make sure it does not take private property without just compensation."

Do property rights merit such protection? Consider this: What do we have that Soviet citizens want most? Access to luxury? Technology? No. They are demanding what we can no longer take for granted: the right to private property.

WHAT YOU CAN DO

☐ Contact your senators and representative and ask them to cosponsor the Private Property Rights Act of 1991.

☐ Seek resolutions endorsing S. 50 from trade associations, local governments, chambers of commerce, etc.

☐ Write a "letter to the editor" for your local paper, highlighting S. 50 and calling for support.

BARNARD CONSTRUCTION COMPANY, INC.

P.O. Box 99 • Bozeman, MT 59771-0099 • (406) 586-1995 • FAX (406) 586-3530

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 21DATE 3-19-91BILL NO. HB-952

March 19, 1991

Senate Local Government
Sen. Esther Bengtson, Chairman
State Capitol
Room 442
Helena, Montana

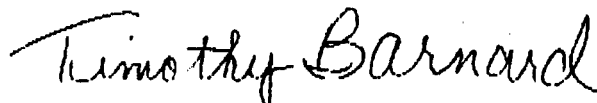
Ladies and Gentlemen:

We oppose House Bill 952, requiring sand and gravel open cut mines and concrete and asphalt processing facilities to comply with local zoning regulations. We are a small business and construction company in Montana and wish to express our concern to your committee concerning this legislation.

We believe this bill can be dangerous for the Montana construction industry. It is taking control away from the Department of State Lands and putting it into control of local zoning boards. This is adding another level of "red tape" and bureaucracy to an already struggling industry in Montana.

Please consider the consequences. This is NOT a good bill, and we urge you defeat this legislation. Thank you for your consideration to this matter.

Sincerely,



Timothy Barnard, President
Barnard Construction
Company, Inc.
Bozeman, Montana

**Fisher
Industries**

March 19, 1991

Mining Our Business

The Honorable Esther Bengtson, Chairman
Capitol Station
Helena, MT 59620

SENATE LOCAL GOVT. COMM.

EXHIBIT NO. 27DATE 3-19-91BILL NO. HB-952

Dear Senator Bengtson:

House Bill 952 will be heard today before the Senate Local Government Committee. This bill puts the control of sand, gravel, concrete and asphalt operations under the control of local zoning boards.

Currently such operations are regulated by the Department of State Lands and the system works quite well. We strongly oppose HB 952. This is a bad bill for the construction industry and a bad bill for local governments.

It is not fair to local governments to expect them to control these activities when they are not qualified to do so. The Department of State Lands is qualified and capable of this activity and it is in the best interest of the state for this regulation to remain with that department.

As a contractor who works in many locations, we would be dealing with as many sets of regulations as locations we work in, by passing this bill. Passing this bill will create problems for the contractors and local governments. The Department of State Lands is adequately regulating this activity now, and as the adage says "If it ain't broke don't fix it."

Please consider the problems passing this bill could create, and oppose HB 952 in today's hearing.
Thank you.

Sincerely,

FISHER SAND & GRAVEL CO.

Amiel Schaff
V.P. Administration

AS:dt



GENERAL STEEL AND SUPPLY CO.

FISHER
MANUFACTURING