

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON BUSINESS & LABOR

Call to Order: By CHAIRMAN BRUCE T. SIMON, on February 13, 1995,
at 8:00 AM.

ROLL CALL

Members Present:

Rep. Bruce T. Simon, Chairman (R)
Rep. Norm Mills, Vice Chairman (Majority) (R)
Rep. Robert J. "Bob" Pavlovich, Vice Chairman (Minority) (D)
Rep. Vicki Cocchiarella (D)
Rep. Charles R. Devaney (R)
Rep. Jon Ellingson (D)
Rep. Alvin A. Ellis, Jr. (R)
Rep. David Ewer (D)
Rep. Rose Forbes (R)
Rep. Jack R. Herron (R)
Rep. Bob Keenan (R)
Rep. Don Larson (D)
Rep. Rod Marshall (R)
Rep. Jeanette S. McKee (R)
Rep. Karl Ohs (R)
Rep. Paul Sliter (R)
Rep. Carley Tuss (D)
Rep. Joe Barnett (R)

Members Excused: None.

Members Absent: None.

Staff Present: Stephen Maly, Legislative Council
Alberta Strachan, Committee Secretary

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

Committee Business Summary:

Hearing: HB 454, HB 537, HB 460, HB 462, HB 463,
Executive Action: HB 458, HB 460, HB 463, HB 462, HB 428,
HB 408, HB 241 HB 269, HB 419

HEARING ON HB 454

Opening Statement by Sponsor:

REP. HAL HARPER, HD 52, Lewis and Clark County said this bill was
an act revising and updated the Uniform Trade Secrets Act;

revising injunctive relief in exceptional circumstances; revising the circumstances for the recovery of damages and clarifying the impact on other law.

Proponents' Testimony:

Joe Mazurek, Attorney General, Department of Justice said the goal of the association is to try to devise uniform laws among the states which will be desirable. States desire to have consistent statutes where needed.

Opponents' Testimony:

None.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 458

Motion/Vote: REP. CARLEY TUSS MOVED HB 458 DO PASS. Motion carried 18-0.

HEARING ON HB 537

Opening Statement by Sponsor:

REP. DON LARSON, HD 58, Flathead County stated this bill was an act prohibiting establishments that have a commonality of interests and the maximum allowable number of video gaming machines from being within 150 feet of each other. **EXHIBIT 1**

Proponents' Testimony:

Mark Staples, Montana Tavern Association said the Association tried to stop the stacking of licenses in 1991. Even though the limit was 20 machines, people would just buy another license and own 20 more machines. At that time they were putting these machines in the same room. The Department of Justice and everyone else in the state realized that was outside the intent and was also creating a need for a new class of licenses because it was escalating the price of licenses so much. All of this was very damaging to the licensing system. In 1991, the anti-stacking bill was put through that said the premises must be separated. Those people who had 40 machines in one room were grandfathered for five years to recoup the investment. He then explained the changes in the bill.

Joe Mazurek, Attorney General, Department of Justice said his department regulated the gambling in the state. The state became a part of the gambling business in 1989. The location of gaming

establishments in the setting of an already regulated industry was the liquor industry. Since the licensees were already investigated, which were restricted essentially to Montana ownership, this was the best way to deal with the growing industry. Problems were starting to be identified in 1991. As gaming started having larger machines and there was more interest, it became more successful. This has been one of the fastest growing segments in the Montana economy. There has been some good economic benefit from this. As it has continued to grow there is a concern. The economic pressure has already started to get to this industry because with only 20 machines people see how successful machines are in a business and they want to acquire more locations. It is a problem which really needs to be looked at. There are problems which arise as a result of the pressure to allow more machines in gambling establishments.

Ellen Engstedt, Don't Gamble With the Future is a statewide organization opposed to the expansion of gambling and in favor of stronger regulations of the gambling currently legal in Montana. Their membership is comprised of small business people and their families. They support this bill with one reservation. The issue of stacking gambling licenses has produced a great deal of controversy among the members of the gambling industry particularly those represented by the Montana Tavern Association. They do appreciate the courage and integrity of those operators who have opposed the concept of stacking because they believe as the Association believes, that stacking circumvents the intent of the gambling laws.

When video gambling machines were first legalized by the legislature in 1985, the permitting of the machines was tied to an individual who had possessed an all-beverage liquor license or an on-premises beer and wine license. It was the intent of the 1985 legislature that gambling should be in bars away from small children. The limit of 20 machines was set by subsequent legislatures. The reason for having any gambling was that it is a small business and should be kept as such. That small business accrued \$450 million through it last year.

The issue facing this committee is whether an individual, through means of using family members, can divide the establishment into parts with common walls, different exterior entries and legally say those are separate entities and thereby acquire 20 gambling machines for each alleged separate entity. Those individuals in the gambling industry who have protested stacking of liquor licenses in order to get the gambling permits will say this is a circumvention of gambling laws. The Association agrees with that protest, they agree with the new section proposed in the bill that there should be at least 150 feet between gambling operations that are owned by the same or nearly the same parties. They would ask for even a greater distance but she said she did not know what had been reached by those in the gambling industry that produced the 150 restriction. The Association proposes a

ten-year period which would allow those establishments that obtain their licenses prior to September 1, 1994 to become legal. Ten years is a very long time to allow anyone to stop acting illegally and get into compliance with the intent of the law that others are already operating under.

Dennis Casey, Executive Director, Gaming Industry Association of Montana stated they support this bill. They recognize that this issue needs to be addressed. Those who have entered into the situations have done so under present law which is clear and specific as to their ability to do so. Sunsetting with ten years is not unfair because investments were made based upon the law at that time. He then discussed the amendments he would propose.

REP. BOB PAVLOVICH stated he was a proponent but desired to discuss his ideas in executive session.

Opponents' Testimony:

Dave Brown said he was testifying against this bill unless there were amendments.

Questions From Committee Members and Responses:

REP. BOB PAVLOVICH said people had \$1 million invested and in turn are establishing casinos. He also questioned the smaller taverns in Montana. **Mr. Brown** said small tavern owners also had money invested and there should be equal access for both. He said he had not seen any big casinos putting the little tavern owners out of business.

REP. ROSE FORBES questioned the proposed amendments on the all beverage.

REP. ALVIN ELLIS stated part of the consideration in the legislature upon the arrival of gambling was to save a failing liquor industry that taverns were having trouble and licenses were dropping to zero value. **Mr. Staples** said the purpose was two-fold. Replenish lost funds for cities and counties because of the loss of federal revenue sharing and save a failing small tavern industry.

REP. ELLIS asked for an explanation of the license values since that time. **Mr. Staples** said they obviously resurrected themselves to a healthy level, but still there was some play in it and availability to the general public and those who wanted to buy a license without gaming. In the last four years when the stacking started, licenses began to increase in monetary value to 70%. Those licenses were no longer being used for the purpose of expanding liquor sales. They were being used only to add 20 more machines. They are essentially taking those licenses out of circulation. The pressure is to create a new class of licenses which threatens the value of all licenses.

REP. ELLIS said recently these licenses doubled in worth prior to the DUI problem and the things tavern owners face that caused their licenses to drop in value. **Mr. Staples** said there was a natural attrition by the inclusion in gaming.

REP. DAVID EWER said the stacking phenomenon was legal. **Mr. Mazurek** said this was a situation of the limits being pushed. The intention was to allow an establishment with a liquor license to have 20 machines. There was an attempt to address this. That was with the premises definition. Buying a premises to avoid combining of licenses, whether it be shared ownership or otherwise, caused the difficulties in the negotiations with Indian gaming. But that was selected as a means to try to ratchet down on the financial ownership. There is another avenue of attack on these as well which is the public convenience and necessity argument. The intention had been to try to maintain 20 machines per establishment.

REP. JON ELLINGSON said he understood that there could be only one liquor license per family. **Mr. Mazurek** said the statute indicates it is per person.

REP. VICKI COCCHIARELLA asked **REP. EWER** to describe the history of stacking. **Mr. Brown** said in 1989 the initial legislation was enacted which legalized gambling across the state. The Attorney General was a member of the conference committee which consisted of both senators and representatives. The law stated proprietors were allowed 20 machines on one side of the room and 20 machines on the opposite side of the room; this was legal. In 1991 that same number of machines in one room was changed. The law was rewritten. The law now is a scenario which the previous legislature tried to avoid, that of too many machines. Now owners are buying buildings close to each other or next door to each other, licensing each place, different people have the license, all very legal. The object in the beginning was trying to protect the small tavern industry and without gambling in Montana, 50% of the small bars in the state would not be here. With gambling, the bulk of those bars are still here and the better businessmen who see the opportunity to take advantage of the system. There is a fight between the "haves and want mores." It is not a fight between trying to protect folks.

REP. PAVLOVICH asked what an all-beverage license cost. **Mr. Mazurek** said \$20,000. If the population goes up there are new licenses eligible based on growth of population. There is initially a hearing requirement of who can best serve the public needs.

REP. PAVLOVICH then asked the price of a beer and wine license. **Mr. Mazurek** said \$5,000 depending upon the population break.

TAPE 1, SIDE B

REP. BOB KEENAN asked for the answer to **REP. EWER'S** question and could it be referred to again. **Mr. Staples** said the courts have been challenged and in the administrative process the grounds of allowing these machines for the sake of public convenience and necessity. Stacking has been legal in terms of pure legal definition. This is the reason for the ten-year grandfathering.

REP. ELLIS said the proponent in the bill obviously wanted to succeed. **Mr. Staples** said creative people will always get around the issue. This goes a long way in addressing the problem. The original stacker, regarding re-couping their investment, did not build separate premises, they brought in 20 more machines. They had to amortize and recover from the investment in the extra license. They have had five years to do that. That license has since appreciated. Plus, now if they put up a wall, they will get grandfathered for ten more years. They do not need an extra ten years to have 40 machines in one room.

REP. DEVANEY asked if the walls were now legal. **Mr. Staples** said except for the two who were grandfathered for five years, the walls are now already up. One of the reasons they left them there and did not separate them at the time was the concern about malls being under the same roof. The mall exception was then created. The concern is the threatening of the license system.

CHAIRMAN SIMON said it seems as if most of the issues are issues which **Mr. Casey**, **Mr. Brown** and **Mr. Staples** seem to be fairly close together on. There are a number of issues and suggestions for amendments where there seems to be general agreement. A list of the amendments would be suggested for the committee that are acceptable to all three men. Perhaps they might even come to some type of agreement straight across the board so that it might not be necessary to have **Mr. Brown's** clients arrive and this committee might have a list of amendments which would be agreed to by all.

Closing by Sponsor:

Sponsor closed.

HEARING ON HB 460

Opening Statement by Sponsor:

REP. JOE QUILICI, HD 36, Silver Bow County said this bill was an act establishing a blue ribbon telecommunications task force to examine Montana's telecommunications infrastructure and to make recommendations to the Governor and the legislature to ensure the implementation of policies, practices, and statutes regarding access to advanced telecommunications services; establishing a state special revenue account; providing a general fund appropriation of \$50,000 and authorizing additional spending of non-general fund revenue.

Proponents' Testimony:

Dwight McKay, State Director, U.S. Senator Conrad Burns' Office, said the comments which had been stated earlier are certainly appropriate for this type of bill. This bill will go a long way towards organizing Montana's telecommunication infrastructure. This bill represents a kind of public/private partnership that will guarantee the success of telecommunications. The Montana Telecommunication Advisory Council has worked long and hard to come up with this bill that has garnered support from a great deal of people. It is a bipartisan support. The signatures on this bill show that this bill is good for Montana. The industry support of this bill can be seen by the contributions totaling 1/3 of the cost of the task force. It is time for state government to show support. These are tough fiscal times and the decisions are being made daily that impact each one of its people. Telecommunications impacts everyone. It is Montana's future and without it, competing on the global marketplace would be more difficult. This bill offers to bring together everyone interested in telecommunications to create a combined assessment of where to go from here.

Betty Hill, Chief of Staff, Governor's Office said she endorsed the proposal in this bill. She supplied written testimony from Governor Racicot in support of this bill. **EXHIBIT 2**

Nancy McCaffee, Chairman, Public Service Commission said they support this bill and supplied written testimony regarding special issues of their concern. **EXHIBIT 3**

Barbara Ranf, U.S. West stated she was a member of the sub-committee that was set up to develop this legislation. While telecommunications is changing dramatically, policies that shape it in many regards are based upon when times were simpler. This bill will provide a process to examine those policies and look at changes that encourage a competitive environment in Montana that will benefit the state and make sure they have the full benefits of an information highway.

Doris Barta, Branch Manager, Deaconess Medical Center, Billings, said she was testifying on the prospective on what telecommunications has been able to do. A video conferencing medical project called the Eastern Montana Telemedician Network was established 15 months ago. The original sites included places in Culbertson, Miles City, Glendive and Billings. In the first year of operation there were 15 medical consultations, the majority of which were requested by Culbertson which was the smallest community on the network. Only two were transferred to a high care facility. The psychiatrists and therapists provided a higher level of care with the network. There were 108 mental consultations in the first 12 months. The preliminary data represents a cost savings for patients who use tele-medicine at \$47,000 the first year. Continuing medical education also received a great deal of interest over the network. There are

3,365 attendees in all of the continuing medical education programs of which 668 were rural participants. Two hundred eighty nine of those participants were members of the medical profession. The cost savings to all of the educational programs were figured at \$175,000 for the participants who were able to stay in the local communities. That cost included travel, average wages lost, mileage, meals and lodging. 73% of the participants would not have participated without the network. A great percentage were satisfied with the system and 93% said they would do it again. Today, there are two other networks that are currently in the process of being built in the state. In the initial start of the telecommunications network, they really did not understand some of the policies and procedures in putting together a network and a great deal of time has been spent in working with these people to try to insure a statewide network which would be established and be compatible with each other.

Mike Mosstan said he was one of the 300 members of the council. He said he supports the measure. Regarding economic development, the continued growth which is currently appearing in the state from an economic standpoint, technology definitely eliminates barriers of distance and time. There is also the potential for this study to come up with recommendations to receive standardizing technology that uses telecommunications in the educational system and state government. The funding for this particular bill can essentially plant the seed for significant dollar returns in the future even in consideration of future activities to re-invent or streamline state and local governments.

Richard Miller, Montana State Librarian said the Billings library has Internet access for its citizens. The link of that project in Lincoln County has a county-wide advanced telecommunications system and the reference point project in the Helena area has a federally-funded system as well. Those are isolated instances around the state. This bill provides an insurance that there is a more cohesive and single enterprise type of approach for what needs to be done in the state. Academic libraries, college libraries, school libraries and even special libraries can share their resources with all of the citizens. Special rates for libraries, because of the access they provide, is something which can be explored if a panel is established.

VICE-CHAIRMAN MILLS said he was also a proponent for this bill.

Opponents' Testimony:

None.

Informational Testimony:

Carl Knudsen, Superintendent, Saco Schools, EXHIBIT 4

Questions From Committee Members and Responses:

REP. TUSS asked to have the barrier removed from Medicaid and Medicare so telecomp conferences could be paid prices on par with consultants.

REP. LARSON said there was an upside to telecommunications as well as a downside and asked if the Task Force is looking at the net job losses that are occurring in Montana as a result of getting on the "information superhighway?" REP. QUILICI said yes. If there are downsides that is something to be considered. If the loss of jobs is anticipated, this will also be addressed.

Closing by Sponsor:

The sponsor closed.

EXECUTIVE ACTION ON HB 460

Motion/Vote: REP. PAVLOVICH MOVED HB 460 DO PASS. Motion carried 17-1 with REP. KEENAN voting no.

HEARING ON HB 462**Opening Statement by Sponsor:**

REP. DAVID EWER, HD 53, Lewis and Clark County presented amendments to this bill in his opening statement. This bill clarifies the meaning of volunteer and how volunteers can be treated under workers' compensation. The committee is trying to clarify the meaning of volunteer and their relationship to workers' compensation. He also discussed the authorization of the State Fund to be able to invest in the reserves in common stock. Every insurance company has as a major component of its business operations, reserves which are received from the sale of their product which is a service and the premiums which they receive.

Proponents' Testimony:

Oliver Goe, Montana Municipal Insurance Authority/Montana School Groups Insurance Authority said the MMIA was the insurer of cities and towns for approximately 94% of all municipal employees. The MSGI is the insurer for workers' compensation for 25,000 school employees. The bill covers a number of different areas. If a volunteer is not getting a wage it would be expected they would not be covered under workers' compensation. That is not necessarily true. The issue arises out of the fact that there is a section in the Workers' Compensation Act that mentions covered volunteers. There is an attorney general opinion that suggests that volunteer firefighters of second class cities and

towns are entitled to workers' compensation benefits even though they do not get a wage. There is also some precedent in the Supreme Court, although not directly addressing the issue of volunteers, that a wage is not required to be an employee depending upon the degree of control that is exercised over the individual. The issues become more and more important as cities and towns and school districts rely more and more on volunteers.

Bob Worthington, Program Administrator, Montana Municipal Insurance Authority, stated his support of the bill because the volunteer portion of the bill is a very important bill to the cities.

Carl Swanson, President, State Fund, said the aspect of this bill that covers the section on debt service is of concern to the Fund. Like all agencies the Fund is required to use the State Auditor's Office for debt collection. However, some aspects of premium collections for insurance are complex. This bill would allow the Fund to be more closely involved and use the expertise of agencies specializing in insurance premium debt collection. The State Fund still intends to use the State Auditor's Office for debt collection. The Montana Insurance Commission contains regulations which allow state regulated insurers to invest 10% inequities and 5% mutual funds to a total of 15%.

Greg Gould, Department of Social and Rehabilitation Services said he supported the amendment which was proposed. That amendment would insure that where Medicaid has already paid for medical expenses for the injured worker, the worker then receives compensation from workers' compensation. Medicaid would then be paid back. The money would not be just a double payment to the injured worker.

David Owen, Montana Chamber of Commerce said the majority of their members were small businesses that rely on the State Fund for workers' compensation insurance. They propose the legislature does not give the State Fund a competitive advantage.

Jacqueline Lenmark, American Insurance Association said they support the portion of the bill which relates to volunteers. They have no position on the remaining portion of the bill. With respect to private carriers being able to invest in common stock, there are a number of other requirements contained in the insurance code limiting the type of common stock which may be invested in.

Opponents' Testimony:

None.

Informational Testimony:

Montana Board of Investments, EXHIBIT 5

Questions From Committee Members and Responses:

REP. JON ELLINGSON asked about the adequacy of the 15% figure and how this figure was determined. Mr. Swanson said the investment return is low in comparison to other state funds. They are investing in equities. The Montana Insurance Commission has regulations on domestic insurance carriers which is 10% private corporate stocks, 5% in mutual funds which could include corporate stocks.

TAPE 2, SIDE A

REP. ROD MARSHALL asked what the certain conditions were in the investment of stock and its type. Carroll South, Executive Director, Board of Investments, said the first part of the bill is a citation from the Constitution and it refers to a unified investment program. In 1972, after the Constitution was ratified, the legislature enacted legislation creating the Board of Investments which was a nine-member board with the members appointed by the Governor. They do not serve at the pleasure of the Governor but serve their entire term. It is a very conservative board. The State Fund is the fourth largest customer. The Board does have a monopoly. State agencies must invest in investment programs. The total invested funds, under the supervision of the Board of Investments, at FY94 was \$4.8 billion market value. By source, the pensions are the largest component at 56% trust which is comprised of the school, permanent coal trust, resource indemnity trust and smaller trusts which comprise 20%. Insurance which includes the State Fund include 8% of the total fund. 58% of the total fund is invested in fixed income. Fixed income instruments are debt instruments that have a maturity of one year or more as opposed to cash equivalents which have a maturity date of one year or less at the time of purchase. Equities are 21% of the total fund and included in that equity portion are common stock, convertible bonds, preferred stock and alternative equities which include leverage buy-outs and venture capital in two pension funds. The smallest component is mortgages and loans which include residential mortgages purchased by the two largest pension funds for asset allocation purposes and also all loans made out of the Coal Trust Fund.

Closing by Sponsor:

The sponsor closed.

HEARING ON HB 463

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, Lewis and Clark County, said this bill was an act submitting to the qualified electors of Montana an amendment to Article VIII, Section 13, of the Montana

Constitution to allow state compensation insurance fund money to be invested in private corporate capital stock.

Proponents' Testimony:

Carl Swanson, President, State Fund, stated his support of this bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

The sponsor closed.

VICE CHAIRMAN MILLS relinquished the chair back to CHAIRMAN SIMON

EXECUTIVE ACTION ON HB 463

Motion: REP. EWER MOVED HB 463 DO PASS.

Discussion:

REP. PAVLOVICH questioned the stocks which would be invested.

REP. EWER said the bill does not specify what stocks and what kind of framework. The framework is established.

REP. ELLIS said he supported this bill but wanted it noted that some members have the Constitutional amendments have "party line" torpedoed in this session and thinks the committee should be more concerned.

Vote: Motion carried 18-0 on HB 463.

EXECUTIVE ACTION ON HB 462

Motion: REP. EWER MOVED HB 462 DO PASS. REP. EWER MOVED THE #1 MCCLURE AMENDMENT.

Discussion:

REP. EWER explained the amendments.

Vote: Motion carried on the #1 McClure amendment 18-0

Motion: REP. EWER MOVED THE #2 MCCLURE AMENDMENT.

Discussion:

REP. EWER explained the second amendment.

CHAIRMAN SIMON stated this electorate would not be able to vote on the amendment until the general election.

Steve Maly stated this amendment is technically not a requirement for any fiscal impact bill.

REP. EWER withdrew the amendment.

Motion: REP. EWER MOVED THE MARSHALL AMENDMENT.

Discussion:

REP. EWER explained the amendment.

REP. ELLINGSON said by reason of the amendment at any given one date there is a book value of the investments. At that time, the Board of Investments wants to make an investment. It cannot invest more than 2%. If it doubles and goes up to 4%, it is not necessary to sell off in order to stay within the status which had been proposed.

REP. EWER said 2% of the State Fund's total invested assets is not exceeded at the time of purchase.

CHAIRMAN SIMON said since this is really an amendment to the conceptual amendment, and without objection, this should be included with REP. EWER'S first amendment as a part of the conceptual amendment.

REP. EWER withdrew his amendment since it was going to be a part of his first amendment.

Motion/Vote: REP. EWER MOVED HB 462 DO PASS AS AMENDED. Motion carried 18-0.

EXECUTIVE ACTION ON HB 428

Motion: REP. EWER MOVED HB 428 DO PASS. REP. EWER MOVED THE INDEPENDENT BANKERS ASSOCIATION AMENDMENTS.

Discussion:

REP. EWER explained the amendments from the Montana Independent Bankers Association.

Tom Hopgood explained further the amendments.

Vote: Motion carried on the amendments 18-0.

Motion/Vote: REP. EWER MOVED HB 428 DO PASS AS AMENDED. Motion carried 17-1 with REP. LARSON voting no.

EXECUTIVE ACTION ON HB 408

Motion: REP. SLITER MOVED HB 408 DO PASS. REP. SLITER MOVED THE SLITER AMENDMENTS.

Discussion:

REP. SLITER explained the amendments.

Beth Baker, Department of Justice explained the amendments further.

Motion: REP. COCCHIARELLA MADE A SUBSTITUTE MOTION TO SEGREGATE THE SLITER AMENDMENTS.

Vote: Motion to adopt the Sliter amendments 1 through 4 carried 18-0.

Motion: REP. SLITER MOVED #5 OF THE SLITER AMENDMENTS.

Discussion:

REP. COCCHIARELLA said the concept was a good idea to try to protect the small business people from frivolous suits by state agencies. It is also important to remember that taxpayers who are also included as small business people also need some protection in this law. By taking out words in amendments 5, the committee is allowing frivolous suits to be made against the state. It should apply both ways because the taxpayers pay the dollars for those state agencies and they deserve the same protection. The adoption of amendment #5 is opposed.

REP. ELLIS said it does not really do what REP. COCCHIARELLA indicates. If the suit is against the state, the state is acting in a manner which may not be right and therefore deserves to be a litigant in this case. He said he feels this amendment should be allowed.

REP. SLITER said the previous concerns are going to come into play with or without this amendment.

REP. COCCHIARELLA said it would have been much more appropriate if she could have proposed the amendment which she wanted.

CHAIRMAN SIMON stated this amendment speaks to the court awarding to a prevailing small business an award if the state takes position which is later found to be, by the new language, not well grounded. The action could be taken by the state. If the

state takes an unreasonable position which is not well grounded the person pursuing the action will be entitled to their attorneys' fees.

REP. SLITER said the state would be encouraging litigation.

TAPE 2, SIDE B

CHAIRMAN SIMON stated as the language is written it would be only if the state takes a position which is not well grounded and warranted by existing law. That is a high standard. That is a standard which goes beyond winning or losing.

REP. SLITER withdrew the motion to adopt the fifth amendment.

Motion/Vote: REP. SLITER MOVED HB 408 DO PASS AS AMENDED.
Motion carried 17-1 with REP. COCCHIARELLA voting no.

EXECUTIVE ACTION ON HB 432

Motion: REP. DEVANEY MOVED HB 432 DO PASS. REP. PAVLOVICH MOVED THE AMENDMENTS BY THE DEPARTMENT OF JUSTICE. REP. DEVANEY MOVED THE WISEMAN AMENDMENTS.

Vote: Motion carried to adopt the Wiseman amendments with REPS. PAVLOVICH and TUSS voting no.

Discussion:

CHAIRMAN SIMON stated the Justice amendments would leave the fire investigation portion in the Department of Justice.

Beth Baker stated if the amendment was approved, the only part of the fire marshall program that would be transferred to the Department of Commerce is the function which they perform in licensing businesses which install and service sprinkler systems and fire protection equipment. That is virtually the only licensing which they perform and that would be more consistent with the other licensing functions.

REP. DEVANEY asked if the local fire departments will still remain with the Department of Justice.

Beth Baker said the Department of Justice would conduct inspections in order to provide information to the Department of Commerce on the licensing aspects.

REP. PAVLOVICH asked if all of the fire departments are in agreement with these amendments and the Department of Justice also agrees.

Beth Baker said yes.

Vote: Motion carried to adopt the Justice amendments 18-0.

Motion/Vote: REP. DEVANEY MOVED HB 432 DO PASS AS AMENDED.

Motion carried 15-3 with REPS. PAVLOVICH, LARSON and COCCHIARELLA voting no.

EXECUTIVE ACTION ON HB 241

A sub-committee report was given by REP. DEVANEY who stated the committee had favored making amendments to this bill and recommending them to pass this bill.

Motion: REP. DEVANEY MOVED HB 241 DO PASS. REP. DEVANEY MOVED THE AMENDMENTS.

Discussion:

Steven Maley explained the amendments which were proposed.

Vote: Motion carried to adopt the amendments 18-0.

Motion: REP. DEVANEY MOVED HB 241 DO PASS AS AMENDED.

Discussion:

REP. MILLS stated portions of the bill indicated there was a restriction on what the department may do from the point of business operations. REP. DEVANEY said they did not want to be able to pay a \$500 membership fee and be able to buy apartments and in turn sublet these apartments to other people. If an apartment is rented the rent charged may not be more than the purchase. REP. MILLS stated some rental units also covered the utilities. This bill should have the ability to recover the utility price also. REP. DEVANEY stated this was also figured into the monthly payment. The owner would be paying all of the expenses which the dwelling cost is in the 100% figure. REP. MILLS then said in the lease agreement that community meters so the utilities will be determined in the lease agreement. REP. DEVANEY stated this would all be determined by the co-op as far as the payment was concerned.

CHAIRMAN SIMON said if a person entered into a cooperative housing development their payments would be based upon maintaining and keeping the apartment, but it would also include monies which would be necessary to pay off a construction loan or purchase of the property. In the future, they might have the portion paid off. Their monthly payment would only be that portion which would satisfy the monthly maintenance of the facilities. Would it be the intent to limit the person from being able to sub-let their apartment for no more than it would require to cover the monthly maintenance fee? REP. DEVANEY said that was correct. These are for low income individuals and for

their permanent dwellings and there would be no possible chance that this could be used for any type of profit basis.

CHAIRMAN SIMON questioned the case of a cooperative that is either getting started and they do not have at least 80% of the units occupied by members. Is the cooperative disbanded? **Steven Maly** said this was built into the agreement whereby the individuals who established this would have the funds of the membership sold prior to occupancy. **CHAIRMAN SIMON** said if in a large building, the first floor was for commercial use and the upper floors are cooperative units, if all of the units are not sold and full, are they able to function. Is this a barrier which may be unintended? **Steven Maly** said because the bill states 80% of the cooperative-occupied units must be occupied by members leaves open the situation where there are vacant units. Because it specified occupied units, there would not be the crisis which has been described in the question if there are an insufficient number of members. There can be vacant space but if 80% of the spaces must be occupied by owners the problem will not arise.

Motion/Vote: REP. DEVANEY MOVED HB 241 DO PASS AS AMENDED. A roll call vote was taken which failed 10-8 with REPS. PAVLOVICH, COCCHIARELLA, DEVANEY, ELLINGSON, EWER, LARSON, MARSHALL and TUSS voting yes.

Motion/Vote: REP. SLITER MOVED TO TABLE HB 241. Motion carried 13-5 with REPS. PAVLOVICH, LARSON, TUSS, ELLINGSON and COCCHIARELLA voting no.

EXECUTIVE ACTION ON HB 269

Motion: REP. ELLINGSON MOVED HB 269 DO PASS. REP. ELLINGSON MOVED THE ELLINGSON AMENDMENTS.

Discussion:

REP. ELLINGSON explained the amendments.

Vote: Motion to adopt the Ellingson amendments carried 18-0.

Motion: REP. ELLINGSON MOVED HB 269 DO PASS AS AMENDED.

Discussion:

REP. TUSS said she favors this bill because in spite of the best of efforts there is still much contention in the relationship between two property owners. This is a positive voluntary step which would avoid court proceedings. Those two groups could work out some of their differences apart from this legislative body. Ombudsmen are extremely valuable.

Vote: Motion carried 10-8 with REPS. SIMON, MILLS, BARNETT, DEVANEY, FORBES, KEENAN, MCKEE and SLITER voting no on HB 269.

EXECUTIVE ACTION ON HB 419

Motion: REP. ELLINGSON MOVED HB 419 DO PASS.

Discussion:

REP. ELLIS said he could not support this bill. This effort had been worked on in previous sessions in which neither was totally satisfied.

REP. COCCHIARELLA said that as a property rental owner she had never been in the situations which are addressed in this bill. There had been problems in renting. It is frustrating for the committee to be put in the middle of the fights that go on in these entities. It is very unfair that property owners can determine the rate that someone can make on their home that is bought and paid for. There are just as many rotten landlords as tenants, it goes both ways. The unfairness which is seen on the part of the landlords or property owners of trailer courts. They have a monopoly now. She said she knows that because of the property she has managed. They can do what they want because there is no place to move a trailer. This bill goes too far.

CHAIRMAN SIMON said that the battles seen before this committee are indicative of an underlying problem which is difficult and expensive to get additional mobile home parks approved and built in this state. That has created a shortage, especially in some areas. Until this is addressed, those issues are not going to be resolved. This issue is how new mobile home parks are going to be built, but that issue is not being dealt with in this bill.

REP. BARNETT said he opposed this bill. It is not the state's responsibility to reach out in any direction on private enterprise. People are at risk when they move onto someone else's property and set up housekeeping. The state has no business being involved in this discussion.

REP. ELLIS said in many localities the problem was created by making it difficult for mobile home parks to be established. That is what really needs to be addressed. Low income housing is very short and it's difficult to find a spot to put a four-plex, a trailer park or anything like that.

Motion/Vote: REP. ELLIS MADE A SUBSTITUTE MOTION TO TABLE HB 419. Motion carried 13-5 with REPS. PAVLOVICH, COCCHIARELLA, ELLINGSON, EWER and LARSON voting no.

ADJOURNMENT

Adjournment: 11:55 AM.



BRUCE T. SIMON, Chairman



ALBERTA STRACHAN, Secretary

BTS/ajs

HOUSE OF REPRESENTATIVES

Business and Labor

ROLL CALL

DATE 2-13-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bruce Simon, Chairman	X		
Rep. Norm Mills, Vice Chairman, Majority	X		
Rep. Bob Pavlovich, Vice Chairman, Minority	X		
Rep. Joe Barnett	X		
Rep. Vicki Cocchiarella	X		
Rep. Charles Devaney	X		
Rep. Jon Ellingson	X		
Rep. Alvin Ellis, Jr.	X		
Rep. David Ewer	X		
Rep. Rose Forbes	X		
Rep. Jack Herron	X		
Rep. Bob Keenan	X		
Rep. Don Larson	X		
Rep. Rod Marshall	X		
Rep. Jeanette McKee	X		
Rep. Karl Ohs	X		
Rep. Paul Sliter	X		
Rep. Carley Tuss	X		



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 458** (first reading copy -- white) **do pass**.

Signed: _____

Bruce Simon
Bruce Simon, Chair

2/14

Committee Vote:
Yes 18, No 0.

381331SC.Hbk



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 460** (first reading copy -- white) **do pass**.

Signed: _____

Bruce Simon
Bruce Simon, Chair

2/14

Committee Vote:
Yes 17, No 1.

381332SC.Hbk



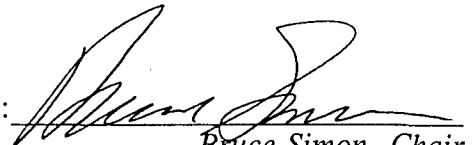
HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 463** (first reading copy -- white) **do pass**.

Signed: _____


Bruce Simon, Chair

2/14

Committee Vote:
Yes 18, No 0.

381333SC.Hbk



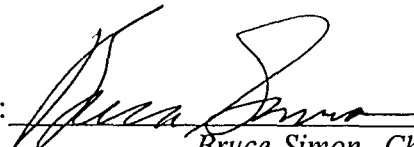
HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 462** (first reading copy -- white) **do pass as amended.**

Signed:


Bruce Simon, Chair

And, that such amendments read:

1. Title, line 9.

Following: "39-71-118,"

Insert: "39-71-743,"

2. Page 4, line 14.

Insert: "**Section 2.** Section 39-71-743, MCA, is amended to read:

"**39-71-743. Assignment or attachment of payments.** (1) ~~No payments~~ Payments under this chapter ~~shall~~ may not be assignable, subject to attachment or garnishment, or be held liable in any way for debts, except:

(a) as provided in 71-3-1118; ~~or~~

(b) a portion of any lump-sum award or periodic payment to pay a monetary obligation for current or past-due child support, subject to the limitations in subsection (2), whenever the support obligation is established by order of a court of competent jurisdiction or by order rendered in an administrative process authorized by state law; or

(c) as provided in 53-2-612 or 53-2-613 for medical benefits paid pursuant to chapter 71 or 72 of this title.

(2) Payments under this chapter are subject to assignment, attachment, or garnishment for child support as follows:

(a) for any periodic payment, an amount up to the percentage amount established in the guidelines promulgated by the department of social and rehabilitation services pursuant to 40-5-209; or

(b) for any lump-sum award, an amount up to that portion of



Committee Vote:

Yes 18, No 0.

381335SC.Hbk

the award that is approved for payment on the basis of a past-due child support obligation.

(3) After determination that the claim is covered under the Workers' Compensation Act or Occupational Disease Act of Montana, the liability for payment of the claim is the responsibility of the appropriate workers' compensation insurer. Except as provided in 39-71-704(7), a fee or charge is not payable by the injured worker for treatment of injuries sustained if liability is accepted by the insurer.""

Renumber: subsequent sections

3. Page 4, line 25.

Following: first "fund"

Insert: "common stock"

Following: second "of the"

Insert: "state"

Following: "fund"

Insert: "total invested assets"

4. Page 4, line 26.

Following: first "the"

Strike: "stock of"

Insert: "book value of common stock investments in"

Following: "fund"

Insert: "total invested assets on the date of purchase"

-END-



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 428** (first reading copy -- white) **do pass as amended**.

Signed: 
Bruce Simon, Chair

And, that such amendments read:

1. Page 3, line 23.

Following: "and"

Insert: "doing business in this state and"

2. Page 5, line 6.

Insert: "(7) A branch bank may be relocated with the approval of the state banking board in the city or within 3,000 feet of the city limits in which it is located. Upon relocation, the branch may not be closer than 200 feet to a branch or detached facility operated by any other bank or closer than 300 feet to the main banking house of any other bank, the measurements to be made in a straight line from the closest points of the closest structures involved. The distances specified in this subsection in relation to a branch or detached facility operated by any other bank and in relation to the main banking house of any other bank may be decreased by mutual written agreement of the banks involved to not closer than 150 feet to a branch or detached facility operated by any other bank or closer than 200 feet to the main banking house of any other bank, the measurements to be made in a straight line from the closest points of the closest structures involved."

3. Page 7, line 9.

2/14

Committee Vote:

Yes 7, No 1.

381336SC.Hbk

Following: "company"
Strike: "with headquarters in another state"

4. Page 8, line 15.

Following: "."

Insert: "Upon completion of the sale, the purchasing bank may
operate a branch bank at the selling bank's former branch
bank location."

5. Page 8, line 25.

Strike: "nonstate"

Insert: "national"

6. Page 11, line 28.

Following: "account"

Strike: "and to impose a surcharge for the transfer"

7. Page 12, line 3.

Following: "telephone"

Strike: ", "

8. Page 14, line 13.

Following: "(3)"

Insert: "The owner of an electronic terminal may impose a
surcharge for the use of its electronic terminal."

Strike: "A financial institution"

Insert: "The owner of an electronic terminal"

Following: "of"

Strike: "an"

Insert: "its"

9. Page 14, line 14.

Following: "terminal, "

Insert: "by a conspicuous disclosure on the terminal or"

-END-



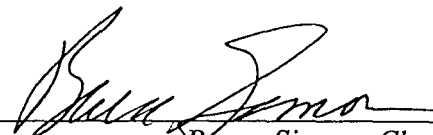
HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 2

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 408** (first reading copy -- white) **do pass as amended.**

Signed:


Bruce Simon, Chair

And, that such amendments read:

1. Page 1, line 27.

Following: "."

Insert: "The term does not include functions performed by a criminal justice agency."

2. Page 2, lines 11 and 12.

Following: the first "hearing" on line 11

Strike: the remainder of line 11 and line 12 in its entirety

Insert: "on a preponderance of the substantive issues in the proceeding."

3. Page 2, line 14.

Following: "with"

Strike: "a net worth of less than \$3 million and"

Following: "than"

Strike: "250"

Insert: "100"

4. Page 2, line 19.

Following: "means"

Strike: "reasonable in both law and fact"

Insert: "well-grounded in fact and warranted by existing law or a good faith argument for the extension or modification of

214

Committee Vote:

Yes 17, No 1.

381323SC.Hbk

existing law"

-END-



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 4

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 432** (first reading copy -- white) **do pass as amended.**

Signed: _____

Bruce Simon, Chair

And, that such amendments read:

1. Title, line 5.

Following: "TRANSFERRING"

Insert: "LICENSURE FUNCTIONS OF THE"

2. Title, line 6.

Following: "INVESTIGATION"

Insert: "PROGRAM"

3. Title, lines 8 and 9.

Strike: "2-15-1519" through "50-3-109, on line 9

Insert: "39-71-201,"

Strike: "50-37-107,"

4. Title, lines 10 through 12.

Strike: "50-61-102" through "50-62-110," on line 12

Insert: "AND"

5. Title, lines 12 through 14.

Strike: "52-2-733" through "77-5-104," on line 13

Following: "MCA;"

Strike: "REPEALING SECTION 2-15-2005, MCA;"

Committee Vote:

Yes 15, No 3.

381325SC.Hbk

6. Page 1, line 18 through page 7, line 11.
Strike: sections 1 through 10 in their entirety
Renumber: subsequent sections

7. Page 7, line 12.

Insert: "Section 1. Section 39-71-201, MCA, is amended to read:

"39-71-201. **Administration fund.** (1) A workers' compensation administration fund is established out of which all costs of administering the Workers' Compensation and Occupational Disease Acts and the various occupational safety acts the department and the boiler inspections the department of commerce must administer, with the exception of the subsequent injury fund, as provided for in 39-71-907, and the uninsured employers' fund, are to be paid upon lawful appropriation. The following money collected by the department must be deposited in the state treasury to the credit of the workers' compensation administrative fund and must be used for the administrative expenses of the department and for the administrative expenses of the department of commerce for the purposes of 50-74-101:

(a) all fees and penalties provided in 39-71-205 and 39-71-304;

(b) all fees paid for ~~inspection of boilers and~~ issuance of licenses to operating engineers as required by law;

(c) all fees paid from an assessment on each plan No. 1 employer, plan No. 2 insurer, and plan No. 3, the state fund. The assessments must be levied against the preceding calendar year's gross annual payroll of the plan No. 1 employers and the gross annual direct premiums collected in Montana on the policies of the plan No. 2 insurers, insuring employers covered under the chapter, during the preceding calendar year. However, an assessment of the plan No. 1 employer or plan No. 2 insurer may not be less than \$200. If at any time during the fiscal year a plan No. 1 employer is granted permission to self-insure or a plan No. 2 insurer is authorized to insure employers under this chapter, that plan No. 1 employer or plan No. 2 insurer is subject to assessment. The assessments must be sufficient to fund the direct costs identified to the three plans and an equitable portion of the indirect costs based on the ratio of the preceding fiscal year's indirect costs distributed to the plans, using proper accounting and cost allocation procedures. Plan No. 3 must be assessed an amount sufficient to fund the direct costs and an equitable portion of the indirect costs of regulating plan No. 3. Other sources of revenue, including unexpended funds from the preceding fiscal year, must be used to reduce the costs before levying the assessments.

(2) The administration fund must be debited with expenses incurred by the department in the general administration of the

provisions of this chapter, including the salaries of its members, officers, and employees and the travel expenses of the members, officers, and employees, as provided for in 2-18-501 through 2-18-503, as amended, incurred while on the business of the department either within or without the state.

(3) Disbursements from the administration money must be made after being approved by the department upon claim therefor."

Renumber: subsequent sections

8. Page 7, line 23.

Strike: "commerce"

Insert: "justice"

9. Page 8, line 19 through page 9, line 6.

Strike: section 12 in its entirety

Renumber: subsequent sections

10. Page 10, line 11.

Strike: "The"

Insert: "When requested by the"

11. Page 10, line 12.

Following: "commerce"

Strike: "may"

Insert: ", the department of justice shall"

Following: "inspections"

Strike: ", "

Insert: "of the applicant's business facilities and shall report to the department of commerce the results of its inspection. The department of commerce may consider the inspection report and conduct"

Following: "examinations"

Strike: ", "

12. Page 10, line 22.

Strike: "department"

Insert: "departments of commerce and justice"

13. Page 10, line 28 through page 18, line 10.

Strike: sections 19 through 35 in their entirety

Renumber: subsequent sections

14. Page 18, line 20 through page 25, line 15.
Strike: sections 37 through 47 in their entirety
Renumber: subsequent section

-END-



HOUSE STANDING COMMITTEE REPORT

February 14, 1995

Page 1 of 4

Mr. Speaker: We, the committee on **Business and Labor** report that **House Bill 269** (first reading copy -- white) do pass as amended.

Signed: _____

Bruce Simon
Bruce Simon, Chair

And, that such amendments read:

1. Title, lines 4 through 7.

Following: "OMBUDSMAN" on line 4

Strike: "AND HEARING BOARD"

Following: "OMBUDSMAN" on lines 5, 6, and 7

Strike: "AND BOARD"

2. Page 1, lines 11 and 23.

Page 4, line 1.

Strike: "3 and 5 through 12"

Insert: "7"

3. Page 1, line 12.

Following: "Ombudsman"

Strike: "and Hearing Board"

4. Page 1, line 18.

Following: "ombudsman"

Strike: "and a hearing board"

Following: "to"

Strike: "resolve the"

Insert: "collect data and provide information regarding"

5. Page 1, line 20.

2/14

Committee Vote:

Yes 10, No 8.

381327SC.Hbk

Following: "in"
Strike: "an equitable implementation of"
Insert: "providing information on"

6. Page 1, line 25.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

7. Page 2, line 2.
Strike: "5"
Insert: "4"

8. Page 2, lines 8 through 22.
Strike: section 4 in its entirety
Renumber: subsequent sections

9. Page 2, line 25.
Following: first "and"
Strike: "resolve"
Insert: "collect data and provide information regarding"

10. Page 2, line 26.
Following: "by the"
Strike: "board"
Insert: "governor"

11. Page 2, line 27.
Following: "The"
Strike: "board"
Insert: "governor"

12. Page 2, line 29.
Following: "and"
Strike: "resolve"
Insert: "collect data and provide information regarding"

13. Page 3, lines 9 through 17.
Strike: subsections (3), (4), and (5) in their entirety
Renumber: subsequent subsections

14. Page 3, line 24.
Strike: "least 48 hours prior to"
Insert: "the time of"

15. Page 3, line 25.
Strike: "least 48 hours prior to"
Insert: "the time of"

16. Page 3, line 27.
Following: "subsection"
Strike: "(6)"
Insert: "(3)"

17. Page 3, line 28.
Strike: "12"
Insert: "7"

18. Page 4, line 4 through line 23 on page 5.
Strike: sections 6 through 9 in their entirety
Renumber: subsequent sections

19. Page 5, lines 26 and 27.
Following: "ombudsman" on line 26
Strike: the remainder of lines 26 and 27

20. Page 6, lines 1 and 2.
Following: "through"
Strike: "12"
Insert: "7"

21. Page 6, line 3.
Strike: "at least 48 hours before"
Insert: "when"

22. Page 6, lines 12 through 17
Strike: "and the board" in three places

23. Page 6, lines 20 through 22.
Strike: section 14 in its entirety

Renumber: subsequent section

-END-

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 2-13-95 BILL NO. HB419 NUMBER _____

MOTION: ~~to pass~~ Table

NAME	AYE	NO
Rep. Bruce Simon, Chairman	✓	
Rep. Norm Mills, Vice Chair, Maj.	✓	
Rep. Bob Pavlovich, Vice Chair, Min.		✓
Rep. Joe Barnett	✓	
Rep. Vicki Cocchiarella		✓
Rep. Charles Devaney	✓	
Rep. Jon Ellingson		✓
Rep. Alvin Ellis, Jr.	✓	
Rep. David Ewer		✓
Rep. Rose Forbes	✓	
Rep. Jack Herron	✓	
Rep. Bob Keenan	✓	
Rep. Don Larson		✓
Rep. Rod Marshall	✓	
Rep. Jeanette McKee	✓	
Rep. Karl Ohs	✓	
Rep. Paul Sliter	✓	
Rep. Carley Tuss	✓	

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 2-13-95 BILL NO. HB 269 NUMBER _____

MOTION: Do pass as amend

NAME	AYE	NO
Rep. Bruce Simon, Chairman		✓
Rep. Norm Mills, Vice Chair, Maj.		✓
Rep. Bob Pavlovich, Vice Chair, Min.	✓	
Rep. Joe Barnett		✓
Rep. Vicki Cocchiarella	✓	
Rep. Charles Devaney		✓
Rep. Jon Ellingson	✓	
Rep. Alvin Ellis, Jr.	✓	
Rep. David Ewer	✓	
Rep. Rose Forbes		✓
Rep. Jack Herron	✓	
Rep. Bob Keenan		✓
Rep. Don Larson	✓	
Rep. Rod Marshall	✓	
Rep. Jeanette McKee		✓
Rep. Karl Ohs	✓	
Rep. Paul Sliter		✓
Rep. Carley Tuss	✓	

HOUSE OF REPRESENTATIVES

BUSINESS AND LABOR COMMITTEE

ROLL CALL VOTE

DATE 2-13-95 BILL NO. 241 NUMBER

MOTION: Do pass as amend

NAME	AYE	NO
Rep. Bruce Simon, Chairman		✓
Rep. Norm Mills, Vice Chair, Maj.		✓
Rep. Bob Pavlovich, Vice Chair, Min.	✓	
Rep. Joe Barnett		✓
Rep. Vicki Cocchiarella	✓	
Rep. Charles Devaney	✓	
Rep. Jon Ellingson	✓	
Rep. Alvin Ellis, Jr.		✓
Rep. David Ewer	✓	
Rep. Rose Forbes		✓
Rep. Jack Herron		✓
Rep. Bob Keenan		✓
Rep. Don Larson	✓	
Rep. Rod Marshall	✓	
Rep. Jeanette McKee		✓
Rep. Karl Ohs		✓
Rep. Paul Sliter		✓
Rep. Carley Tuss	✓	

TESTIMONY FOR REPRESENTATIVE DON LARSON
REGARDING HOUSE BILL 537
THE ANTI-STACKING OR CLUSTERING BILL

EXHIBIT 1
DATE 2-13-95
HB 458

INTRODUCTION:

AS YOU MEMBERS ARE MOST PROBABLY AWARE WITH REGARD TO GAMBLING IN MONTANA, VIDEO GAMBLING CAN ONLY OPERATE ON THE PREMISES OF A LICENSED ALCOHOLIC BEVERAGE ESTABLISHMENT. IN TURN, THAT LICENSED PREMISE IS STRICTLY LIMITED TO A MAXIMUM OF 20 GAMBLING MACHINES. THIS INTENT TO LIMIT GAMBLING IN MONTANA TO SMALLER OPERATIONS AND SMALLER STAKES HAS BEEN EMPHASIZED OVER AND OVER AGAIN BY THIS LEGISLATURE.

ALTHOUGH IT IS CLEAR THAT EACH LICENSED PREMISE AND THE OPERATOR OF THAT LICENSED PREMISE IS TO BE LIMITED TO 20 GAMING MACHINES, YOU KNOW AS WELL AS I DO THAT WITH REGARD TO STATUTORY LAW, PEOPLE ARE VERY CREATIVE AND SUCCESSFUL BUSINESS PEOPLE WILL SEEK TO BECOME MORE SUCCESSFUL. IN 1991, WE HAD TO ADDRESS IN THIS LEGISLATURE A PHENOMENA THAT WAS OCCURRING WITH REGARD TO THE LIMITS ON GAMING MACHINES. WHAT WAS HAPPENING WAS THAT INDIVIDUALS WERE PUTTING 20 MACHINES IN THEIR PLACES (THE LEGAL LIMIT), BUT THEN SIMPLY BUYING ANOTHER ALCOHOLIC BEVERAGE LICENSE, PLACING IT IN THE SAME PREMISE, SOMETIMES BY ADDING A SECOND ADDRESS OR SOMETIMES NOT, AND THEREBY CREATING A SITUATION WHERE THEY HAD 40 MACHINES OR MORE IN THE SAME PREMISE LIMITED ONLY TO THE NUMBER OF LICENSES THEY COULD FIND TO BUY.

THE JUSTICE DEPARTMENT AND THE LEGISLATURE FELT CLEARLY THAT THIS FLEW IN THE FACE OF THE INTENT TO LIMIT OPERATORS TO 20 MACHINES PER LOCATION. IT ALSO WAS CREATING A PROBLEM BECAUSE OPERATORS WERE BUYING MORE AND MORE ALCOHOLIC BEVERAGE LICENSES THAT THEY ESSENTIALLY WERE NOT USING FOR ALCOHOLIC BEVERAGE PURPOSES, BUT RATHER SIMPLY TO ACQUIRE 20 MORE MACHINES ON THEIR PREMISES. THUS, ALCOHOLIC BEVERAGE LICENSES, BOTH ALL-BEVERAGE AND BEER AND WINE, WERE ESSENTIALLY BEING TAKEN OUT OF CIRCULATION THEREBY CAUSING AN ESCALATION IN PRICE, AND THEREBY CREATING A REAL PRESSURE TO CREATE NEW LICENSES, WHICH IN TURN WOULD DEVALUE EVERYONE'S CURRENT LICENSES.

THE TAVERN ASSOCIATION AND OTHERS WORKED ON A BILL IN 1991 TO STOP THIS PRACTICE OF "STACKING," AS IT IS CALLED, OF LICENSES. NEW PREMISES DEFINITIONS WERE CREATED WHERE PREMISES HAD TO BE SEPARATED BY FULL STANDING WALLS AND HAD TO HAVE SEPARATE ENTRANCES, AND COULD NOT SHARE FACILITIES. RECOGNIZING THAT SOME

PEOPLE HAD MADE SOME INVESTMENT IN BUYING THE EXTRA LICENSE TO PUT THE EXTRA MACHINES IN THEIR PLACE, THEY WERE GIVEN A 5-YEAR GRANDFATHER TO RECOUP THAT INVESTMENT, EVEN THOUGH DURING THAT 5 YEARS THE WORTH OF THAT LICENSE HAS GONE UP SIGNIFICANTLY.

SINCE 1991, DESPITE THE BEST INTENTIONS OF THOSE WHO CRAFTED THAT ANTI-STACKING LEGISLATION, THERE WERE CONSIDERATIONS THAT WERE OMITTED. AGAIN, PEOPLE ARE CREATIVE AND PEOPLE ARE AMBITIOUS. IN AND OF ITSELF, THERE'S NOTHING WRONG WITH THOSE TRAITS, BUT IN THIS INSTANCE, STACKING HAS NOW RE-EMERGED IN A DIFFERENT FORM, ALTHOUGH THOSE WHO PRACTICE IT SAY IT ISN'T STACKING, THEY NOW CALL IT "CLUSTERING." THIS IS WHERE THEY GO AHEAD AND STILL BUY THE EXTRA LICENSES, STILL TO PUT IN ANOTHER 20 OR 40 OR 60 MACHINES, BUT NOW THEY SEPARATE THEM BY A WALL AND A SEPARATE ENTRANCE, SO YOU HAVE "BIG LOUIE'S" AND "LITTLE LOUIE'S" OR WHATEVER, AND WHAT'S BEING CREATED ARE GAMBLING MALLS AND WHERE ONE OPERATOR, NOW, THROUGH HOLDING TWO OR THREE OR FOUR LICENSES, HAS MULTIPLE SETS OF 20 MACHINES.

UNLIKE IN 1990 AND 1991, WHERE THE INSTANCES WERE JUST STARTING TO OCCUR AND WERE NIPPED IN THE BUD BEFORE IT BECAME TOO WIDESPREAD, IN THE 4 YEARS SINCE 1991, THE PRACTICE OF STACKING OR CLUSTERING, IF YOU WILL, HAS TAKEN OFF. THIS PAST YEAR IT REACHED PROPORTIONS WHERE IT WAS REALLY STARTING TO CAUSE PROBLEMS AND THREATEN TO JEOPARDIZE THE WHOLE LICENSING SYSTEM. IN BILLINGS ALONE, THERE ARE 8 APPLICATIONS FOR STACKING OR CLUSTERING PENDING. DURING THE TIME THAT STACKING HAS REALLY TAKEN OFF, IN THE LAST TWO YEARS, THE PRICE OF LICENSES IN BILLINGS HAS GONE UP NEARLY 60%. CLEARLY, THIS IS NOT WHAT WAS INTENDED AND THE RAMIFICATIONS ARE OBVIOUS BOTH FOR UNINTENDED EXPANDED GAMBLING IN MONTANA AND DESTRUCTION OF THE LICENSING SYSTEM.

THIS NEW BILL IS TO COMPLETE THE INTENT OF THE ORIGINAL LEGISLATION, AND DEFINITELY THE LEGISLATION OF 1991, AND STOP THIS PRACTICE OF STACKING LICENSES. THE MONTANA TAVERN ASSOCIATION AND OTHER SUPPORTERS OF THIS BILL, INCLUDING THE DEPARTMENT OF JUSTICE, BELIEVE THAT CLEARLY THIS PRACTICE OF STACKING OR CLUSTERING UNQUESTIONABLY EXCEEDS THE LEGISLATIVE INTENT OF LIMITING MACHINE OWNERSHIP TO 20 MACHINES PER LOCATION. THE MONTANA TAVERN ASSOCIATION ALSO BELIEVES IF PEOPLE FEEL STRONGLY ENOUGH THAT THEY NEED MORE THAN 20 MACHINES PER LOCATION TO SATISFY PLAYER DEMAND, THAT THEY OUGHT TO MAKE A PRESENTATION TO THE LEGISLATURE ASKING FOR MORE MACHINES RATHER THAN CAUSING SUCH TURMOIL.

IN THE LICENSING SYSTEM. THERE ARE PEOPLE HERE TO EXPLAIN FURTHER WHAT THE BILL IS ABOUT, AND I ASK YOU FOR THE OPPORTUNITY TO CLOSE.

THANK YOU.

EXHIBIT

1

DATE

2-13-95

1

HB 458

OFFICE OF THE GOVERNOR
STATE OF MONTANA

EXHIBIT 2
DATE 2-13-95
HB 460

MARC RACICOT
GOVERNOR



STATE CAPITOL
HELENA, MONTANA 59620-0801

February 13, 1995

To the members of the House Business & Industry Committee:

As co-chairman of the Montana Telecommunications Advisory Council, I am delighted to endorse the proposal of the creation of a Blue Ribbon Telecommunications Task Force.

Whether our communication is on a super-highway or a simple roadway, whether it is by wire, microwave or in person, I strongly believe that there is nothing more important to our joint future here on this earth than communication.

In a state as vast as Montana, telecommunications is crucial in everything we do. Whether it be in our schools, our hospitals, our libraries, our businesses, or in our government, telecommunications plays an important role in our lives. As we encounter the revolution known as the Information Age, we see that in much the same way that telephones, railroads and highways improved Montana's economic climate, the advance technologies of the information superhighway promise to remove many of the remaining barriers to living, learning, and prospering in Montana.

The only problem with this exciting evolution is the absence of direction for the industry. The Blue Ribbon Task Force proposed by HB460 will be charged with the challenge of carefully examining every aspect of the telecommunications industry in Montana. By doing so, it will be able to provide a thoughtful transition to a competitive environment. This task force will be able to identify what policies and practices can be promoted to ensure an orderly and successful progression for the industry.

Many other states have already completed similar studies, and several others currently are in the process of conducting theirs. It is important that Montana not be the last to become involved in this process.

As a result of this effort, I believe that we will be able to provide an environment in which this industry can continue to grow and prosper while the citizens of Montana can realize the benefits and choices of a truly competitive marketplace.

Thank you for your consideration of HB460.

Sincerely,

A handwritten signature of Marc Racicot in dark ink.
MARC RACICOT
Governor

EXHIBIT 3
DATE 2-13-95
HB 460

Testimony House Bill 460
13 February 1995
Room 104 - 8:00 a.m.

NANCY McCAFFREE, CHAIR
Pub. Serv. Comm

House Bill 460 is an important piece of legislation whose time has come. The Public Service Commission supports the proposed bill. Montana needs and deserves a strong focus on the fast changing horizon of telecommunications.

I would like to bring one section to your attention.

On page 2, Section 1 (e) states the task force shall examine policies regarding extended local calling areas. Public Service Commission Docket 94.2.5 was opened to study possible changes to our rules for extended area service. Stage one of this procedure will conclude on April 28. At this time the Commission may establish new EAS rules.. A stage 2 schedule has not been established. It is anticipated that it will encompass paralleling contested case and rulemaking procedures.

Thank you.

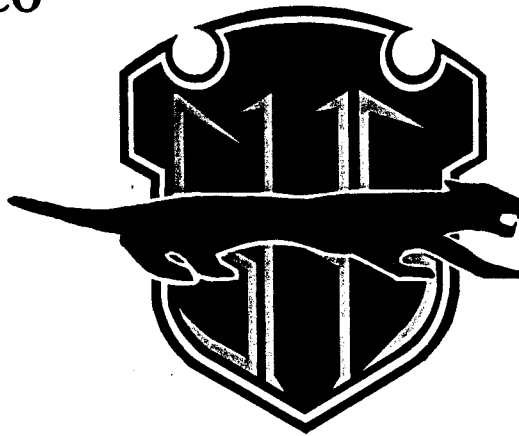
SACO

PANTHER

EXHIBIT 4
DATE 2-13-95
SCHOOLS RB 460

P.O. Box 298
321 Highway 243
Saco, MT 59261

District #12
Phillips County
(406) 527-3531



TO: House Business and Industry Committee Members
FROM: Carl Knudsen, Superintendent
RE: House Bill 460
DATE: February 9, 1995

We at Saco have been involved in telecommunications for the past ten years. We were the first school in the State of Montana to use distance learning via an educational electronic bulletin board. Saco hosts EDUNET, a computer accessed course delivery system, we are one of the nine regional telecommunications centers for the METNET and the state E-mail system, have three satellites dishes providing courses and information to our students and community members. We are a member of a consortium that recently received a telecommunications grant to implement ITV (interactive television) between eight schools in Northeastern Montana. Other groups of schools are implementing similar projects, We need to ensure connectivity and provide for the compatibility of systems so they can communicate with each other, Technology has surpassed the ability of current statutes to control or remove barriers that prohibit cost effective use of our state telecommunications infrastructure.

The task force could address the needed changes in policies, practices and statutes that would remove barriers, study ways to ensure that Montana's K-12 and university educational system and public libraries have access to advanced telecommunications services and make their recommendations to the Governor and legislature.

We encourage your support for the passage of this bill. Thank you for your time and consideration.

WE CAN'T HIDE OUR PANTHER PRIDE!

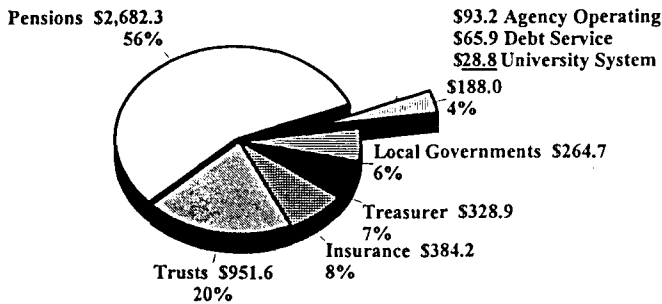
format

EXHIBIT 5
 DATE 2-13-95
 HB 460

Total Invested Funds By Source

\$4.80 Billion Market Value At Year-End 1994

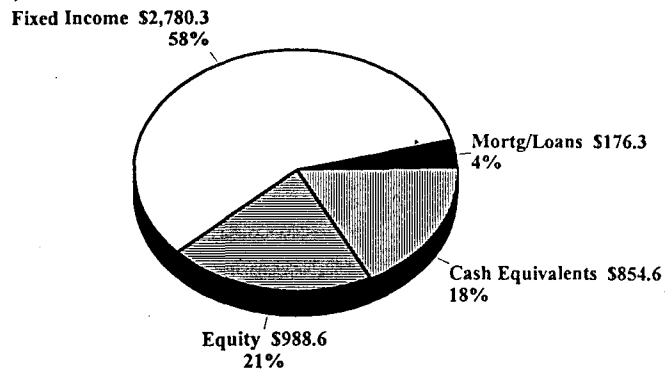
(In Millions)



Total Funds By Investment Type

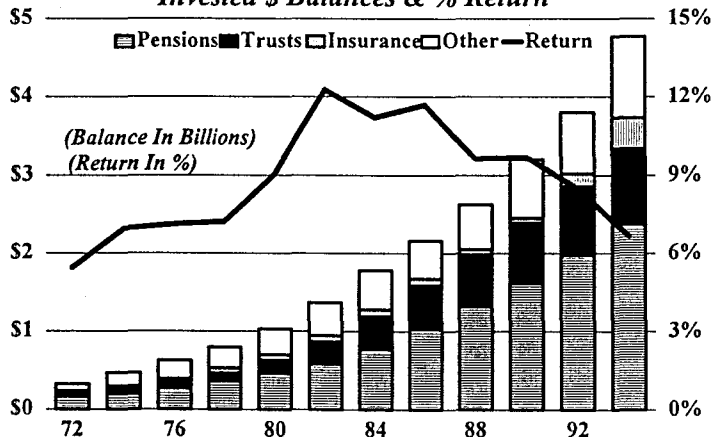
\$4.80 Billion Market Value At Year-End 1994

(In Millions)



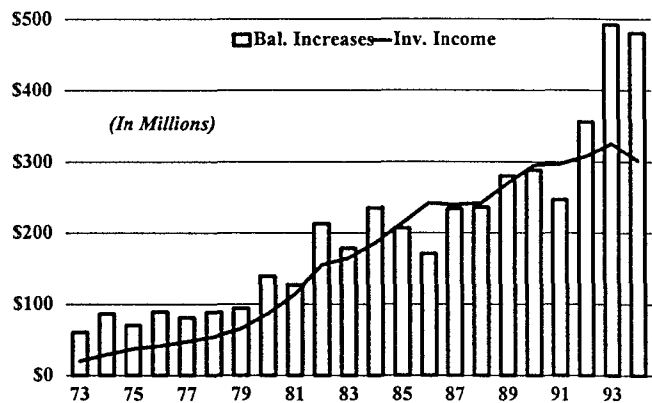
Total Invested Funds

Invested \$ Balances & % Return



Total Invested Funds

Invested Balance Increases & Investment Income

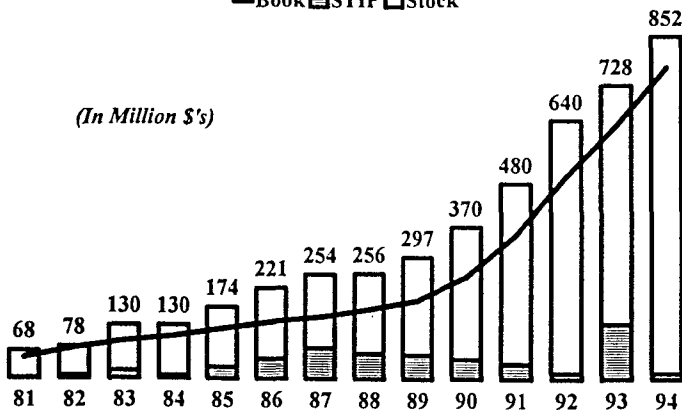


Montana Common Stock Pool

Book Values And Net Asset Values

—Book □STIP □Stock

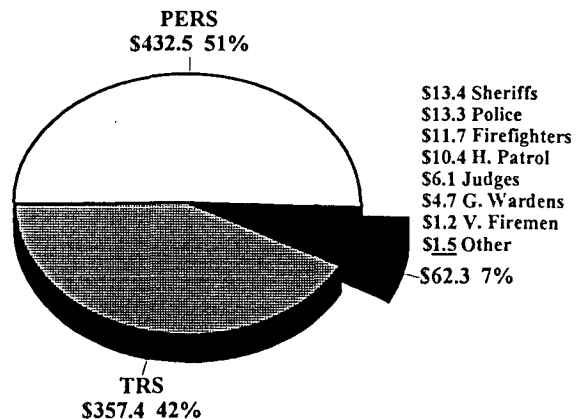
(In Million \$'s)



1994 MTCP Pension Participants

MTCP Net Asset Value \$852.21 Million

(\$'s In Millions)



MTCP Investments By Industry Sector

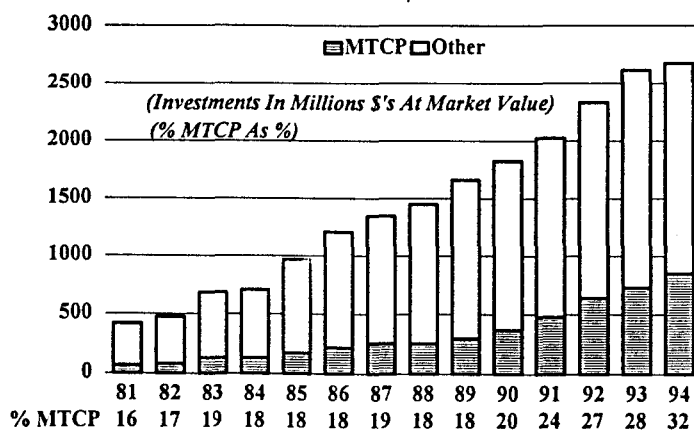
Industry Sector	Market Value	% Total
TELECOMMUNICATIONS	\$87,855,625	10.56%
FOOD & HOUSEHOLD PRODUCTS	76,677,622	9.22%
BANKS	75,946,888	9.13%
OIL--INTEGRATED & PRODUCING	61,473,013	7.39%
DRUGS	59,443,125	7.15%
CHEMICALS	52,353,160	6.29%
ELECTRICAL EQUIPMENT	46,499,925	5.59%
MERCHANDISING	37,901,238	4.56%
BUILDING MATERIALS	36,828,068	4.43%
HOSPITAL SUPPLY & MANAGEMENT	30,712,500	3.69%
CONSUMER DURABLES	26,905,000	3.23%
FINANCE	23,124,845	2.78%
ELECTRONICS	22,950,000	2.76%
INFORMATION PROCESSING	22,355,375	2.69%
NATURAL GAS	22,213,475	2.67%
REAL ESTATE	21,091,275	2.54%
RAIL & AIR TRANSPORT	19,508,950	2.35%
INSURANCE	18,901,250	2.27%
AEROSPACE	18,866,250	2.27%
POLLUTION CONTROL	16,169,063	1.94%
MEDIA & ENTERTAINMENT	15,361,875	1.85%
OIL SERVICES	13,355,000	1.61%
EQUITY COUNTRY FUNDS	13,115,025	1.58%
PAPER	7,048,750	0.85%
UTILITIES--ELECTRIC	5,244,500	0.63%
TOTAL EQUITIES	831,901,795	100.00%

PERS Historical Returns

Period	Stocks *	Bonds *
1994	6.42%	0.07%
1993	8.04	13.82
1992	12.82	15.91
3 Years	9.06	9.70
5 Years	10.52	9.88
10 Years	16.51	14.11
15 Years	15.60	11.78

* Time-Weighted Annual Rates of Return

Pension Investments In MTCP



HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 2-13-95

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
Bob Northington	MMIA	✓	
Oliver Goo	MSGIA-MMIA	✓	
Carl Vransky	State Fund	✓	
David Owen	mt Chamber	✓	

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

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VISITORS REGISTER

Business & Labor

DATE 2/13/95

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PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
William	Re...		
Carl Swanson	State Fund	✓	
A.D. PRAITH 28289 NORRIS RD, Bogen Mt	Fulltime	✓	
David Quard	mt chamber	✓	
Carroll Suck	mt. Bond & Trust	✓	
Beth Ann (460)	Gov	✓	
Joan McNeill (460)	Mont. Tel Assoc	✓	
DORIS BARTA (460)	DEACONESS - BIGGS	✓	
Barbara Ryan (460)	US WEST	✓	
Don Walker (460)	US WEST	✓	
Tom Hargood (460)	MTAC	✓	

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HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 2-13-95

BILL NO. 537

SPONSOR(S) _____

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
ELLEN ENGSTEDT	DON'T GAMBLE WITH THE FUTURE	X	
DAVID HENION	MAC	X	
MIKE CETERA 52 N. MAIN HELINA MT.	RIALTO VILLAGE INN PIZZA PARLOR	X	
DANIEL CASH	GIA	X	
DAVE BROWN	2 casinos - Missoula - Betty several casinos owner - Kalispell		X

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ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business & Labor

DATE 2-13-95

BILL NO. 460

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	Support	Oppose
<i>James McPhee</i>	<i>PSC</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>MIKE MOSPAN</i> <i>PO BOX 1685, HELENA, MT 59604</i>	<i>SELF & MTAC</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>David Owen</i>	<i>MT Chamber</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Ken Willia</i>	<i>Entech</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Richard Miller</i>	<i>MT State Library</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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